

Sec. 71-28. - Outdoor advertising sign regulation.

(a) *Purpose* . The purpose of these sign regulations is to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and La Marque's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This section is adopted under the zoning authority of La Marque in furtherance of the more general purposes set forth in this section. This section is adopted in accordance with V.T.C.A. Local Government Code tit. 7, ch. 216. This Section is specifically aimed at achieving the goals, objectives, and public policies enumerated in the city's zoning ordinance.

(b) *Definitions* .

Abandoned sign: A sign which no longer identifies or advertises a bona fide business, owner, lessor, lessee, service, product, or activity, or for which no legal owner can be found, or if found, disclaims any interest in the sign.

Automatically changeable advertising: Signs with text lines that can be changed using electronic means, signs with electronic reader boards using LED lights are not considered digital signs.

Billboard: A large outdoor advertising structure with any sign face greater than 100 square feet, typically found in high traffic areas such as alongside busy roads advertising goods or services not necessarily sold where the sign is located.

Business directory sign: An outdoor sign used solely for the purpose of identifying the building name, address, number, primary business or activity conducted on the immediate premises. When a facility contains two or more tenants, a director sign may also identify individual tenants.

Construction sign: A sign stating the name of the architect, engineer, financing company, owner, construction company and a brief description of the project.

Digital sign: Plasma display panels (PDPs), liquid crystal displays (LCDs), light emitting diode signs (LEDs), or traditional television (CRTs) being used like signage. Instead of tuning in to a television station, they are showing specially prepared dynamic visual images to make them function like signs.

Display surface (sign): The surface made available for the direct mounting or application of letters, graphics and decoration including the mounting and framework surrounding said surface. The supporting standards are not a part of the display surface.

Indirect lighting: A light source separated from the surface and illuminating the sign surface by means of spot lights or similar fixtures.

Portable sign: A sign mounted on wheels, skids, or legs intended to be moved from location to location and used as a short-term temporary advertising device. Limited to two sign faces with a maximum area of 32 square feet per sign face.

Reflective surface: Any material or device which has the effect of intensifying reflected light, including but not limited to scorch light, lamp glow, glass beads and luminous paint.

Sign: Any outdoor display, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for advertising.

Sign face: That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by open space or by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign module: Each portion or unit of a sign face that is clearly separable from other such units by virtue of the expression of a complete thought, message, logo, or idea.

Sign size: The area of the display area expressed in square feet.

Sign structure: The supports, uprights, bracing and structural framework of any outdoor advertising sign.

Signs, off-premises: Any outdoor advertising sign which directs attention to a person, business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises on which the sign is located, or which directs persons to any location not on the premises, or which is sold, offered or conducted on such premises only incidentally, if at all. The term shall include all structures of whatever material which are erected, maintained and established for public display of posters, printed signs, pictures or other pictorial or reading matter.

Signs, on-premises: Any outdoor advertising sign which directs attention to a person, business, commodity, service, entertainment, industry or activity which is sold, offered or conducted, other than incidentally, on the premises upon which the sign is located.

Signs, on-premises real estate: Signs advertising a parcel of land or building for sale or lease and affixed to the subject building or land.

Signs, outdoor advertising: Any arrangement of letters, figures, symbols or other devices used for advertising, announcements, direction or declaration intended to attract or inform the public, whether such signs are affixed to a building or structure or free standing, whether anchored or not anchored to foundations, paving or other structures, and outside the weather surface of any enclosed building.

Signs, permanent: All signs greater than six square feet per face in area, including on-premises real estate signs greater than six square feet shall be categorized as permanent signs regardless of their physical characteristics or original intended purpose and shall conform to all provisions controlling permanent signs.

Signs, temporary: Signs falling in, but not limited to, the following categories shall be interpreted as temporary signs: Those advertising community events, grand openings, garage sales, of any size and when constructed of fabric or flexible plastic film; banners and flags; any sign, six square feet or less in area, intended to be easily removable or intended to be erected at successive locations; and on-premises real estate signs six square feet or less per face in area (intended to sell, lease or rent the property to which such real estate sign is affixed).

(c) *Other laws and ordinances .* Scope of regulations and regulatory bodies: Signs under this section shall conform to the provisions of the International Building Code, the laws of Texas, and such other ordinances of the city as may apply. These provisions shall govern signs and display structures with respect to location, safety, size, design, construction, erection, attachment, alteration, repair, support, anchorage and maintenance. The building official shall have and is given jurisdiction over the erection, construction, location, relocation and structural maintenance of all outdoor advertising signs within the city limits of the city.

(d) *General restrictions .* The following general restrictions shall apply to all signs:

(1) *Obstruction by signs :* No person shall erect, construct, suspend or maintain any sign across, over or above any public right-of-way, sidewalk or any portion thereof except banners for public events when approved by the chief of police or his designee. No sign shall be erected, constructed or maintained in any manner that obstructs a means of egress, any opening necessary for required light or ventilation, or any access required for fire fighting. No sign shall be erected in a manner that obstructs the safe flow of pedestrian or vehicular traffic. No sign shall be constructed on any exterior yard so as to constitute a hazardous visual obstruction to traffic in any direction.

(2) *Vehicular signs :* No sign shall be displayed on or attached to any vehicle that requires a state inspection sticker other than for immediate transfer from or to a permitted location. This subsection shall not be construed as prohibiting the customary commercial or industrial logo, location, phone numbers, identification numbers and slogan carried on the sides of a

commercial vehicle and intended for identification. Any vehicle displaying advertising and parked off-premises of the business so advertised, that does not carry a valid state inspection sticker or a valid license and is parked in such a manner as to be conspicuous to the motoring public shall be considered an off-premises sign for the purposes of this section.

- (3) *Spectacular signs* : The following restrictions apply to spectacular signs:
 - a. Signs with flashing, glaring, strobe, chasing, rotating or blinking lights shall be prohibited.
 - b. Signs which interfere with the safe operation of motor vehicles by the nature of their design or the manner of their operation are prohibited.
 - c. Automatically changeable advertising shall be limited to no more than one message every eight seconds.
 - d. Signs which alternately display time and temperature shall conform to standard industry design for such signs. The message shall not change in less than a ten-second interval.
 - e. Digital signs, with display areas of less than 100 square feet, shall not change message in less than a five-minute interval.
 - f. All spectacular signs shall be placed parallel to the roadway with a deviation of not greater than 20 degrees with the exception of:
 1. Automatically changeable advertising,
 2. Signs which alternatively display time and temperature.
- (4) *Signs confusingly similar to traffic-controlled devices* : No sign confusingly similar to a traffic control sign or device shall be placed in the view of any street or thoroughfare. The words "stop," "danger," "yield" and similar words, phrases and symbols that may interfere with, mislead or confuse vehicular traffic are also prohibited.
- (5) *Sign illumination* : Only internal, direct, indirect, diffuse or neon lighting shall be permitted.
- (6) *Exemption from building setback restriction* : Signs permitted under this section shall be exempted from the setback restrictions imposed by the zoning ordinances.
- (7) *Signs prohibited on easements and rights-of-way* : No signs shall be placed on or over any public right-of-way, water, sewer or drainage easements except signs erected by the Texas Highway Department, Galveston County, the City of La Marque and signs identifying underground pipeline structures. No signs in this category shall be allowed to maintain a pre-existing nonconforming status.
- (8) *Signs prohibited on public property* : No signs shall be placed, posted or displayed or other wise attached upon any street lamp post, street sign, traffic sign or signal, hydrant, tree, shrub, fence or utility pole.
- (9) *Re-inspection* : Signs shall be subjected to a re-inspection. The sign face shall be kept in good repair. If portions of the sign face or structure are incomplete or missing, and upon notice to the permit holder, the sign face is not repaired within a period of 30 days or if a structural defect exists and is not repaired within 15 days from notice, the sign shall be considered to be an abandoned sign.
- (10) *Emergency abandonment* : When a sign has been found to have structural design flaws or to have structural defects constituting a clear and immediate threat to the public or to adjacent property owners, the code enforcement officer shall take action to secure or dismantle the threatening sign at city expense and to charge the owner such cost. A first lien can be secured against the property owner for nonpayment.
- (11) *Temporary sign removal* : Temporary signs shall be removed within 24 hours after the event advertised,

(12) *Sign lettering* : Professional even lettering with clearly legible font styles is required on all permanent or temporary signs within the city.

(13) *Sign design and color* : The design of all signs shall be unobtrusive and of a design, material and color that blend harmoniously with the natural surroundings, and the scale of neighboring architecture.

Predominant color design shall be compatible and traditional historic colors, earth tones (greens, tans, light browns and terracotta), grays, pale primary and secondary colors, white and cream tones. Accent color design (i.e., black, dark blue, grays and other primary colors) may be used on a limited basis.

(e) *Categorizing of all signs* . The building official shall categorize all signs into either on-premises or off-premises sign categories. Once so categorized, the sign thereafter shall be judged according to the applicable limitations as set forth hereafter.

(f) *On-premises* .

(1) *Permanent on-premises signs* : All signs in this category with a combined sign structure and display area over 32 square feet shall be anchored against up-lift and overturning resulting from winds of not less than 120 miles per hour. Such signs of this size shall also have construction plans designed and certified by a qualified engineer. Sign standards shall be in conformance with restrictions set out elsewhere in this section.

(2) *Temporary on-premises signs* : The following restrictions are placed on temporary signs:

- a. Temporary signs shall be secured against dislodgment by wind.
- b. Temporary signs, including portable signs, shall be removed after the event they advertise has passed or 30 days, whichever is the lesser.
- c. Temporary signs shall be removed when faded or otherwise deteriorated.
- d. Only one construction sign is permitted per general construction permit. Construction signs shall be considered on-premises signs when placed on the construction site.
- e. Temporary signs shall not be erected on public property and equipment, rights-of-way, utility poles and equipment, traffic control signs, and on other property of the foregoing nature.
- f. Portable signs shall not exceed 32 square feet per sign face with a limit of two sign faces.

(3) *Political signs* : A political sign is a sign that contains a primarily political message. Such signs are allowed subject to the following regulations:

- a. Political signs may be placed only on private property and only with the property owner's permission.
 1. All written political signs meant to be seen from a road must carry a "right-of-way" notice as prescribed by V.T.C.A. Election Code § 255.007:
"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."
- b. Political signs shall not exceed eight feet in height.
- c. Political signs shall not have an effective area greater than 36 square feet.
- d. Political signs cannot be artificially illuminated.
- e. Political signs shall not have any moving elements.
- f. No permit is required to place a political sign on private property.

- g. Signs placed on public property or the public right-of-way are subject to immediate removal.

(g) *Off-premises* .

- (1) *Permanent off-premises signs* : Effective on the date of passage of this article, no new permanent off-premises signs shall be erected or re-erected within the city limits of the city except as provided for in this article or as installed by the city. This provision does not prohibit the ordinary maintenance or the conversion to digital billboards, to such previously erected signs, but such signs shall otherwise not be improved nor enlarged. Excluding digital billboards, if a sign is 50 percent or more destroyed, as determined by the building official, it shall be removed by the owner and not re-erected.
- (2) *Temporary off-premises signs* : No temporary off-premises signs shall be erected within the city.
- (3) *Billboards* : All billboard signs are prohibited. This provision does not prohibit the ordinary maintenance of such previously erected signs during the amortization schedule for removal, but such signs shall not be improved nor enlarged. Excluding billboard signs constructed or reconstructed in conformance with this section and through a Digital Billboard Conversion Agreement, if a billboard sign is 50 percent or more destroyed, as determined by the building official, it shall be removed by the owner and not re-erected.
 - a. Notwithstanding any other provision of this article, an existing off-premises billboard may be converted to a digital billboard sign subject to the provisions of this section. Only a billboard sign constructed or reconstructed in conformance with this section and a Digital Billboard Conversion Agreement will be considered a conforming sign and all requirements of this section are met.

Digital billboard means an off-premises sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A digital billboard may be internally or externally illuminated. Digital billboards shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign. Each static message shall not include blinking, flashing, scintillating lighting or the varying of light intensity.

Digital Billboard Conversion Agreement : An existing traditional face off-premises billboard sign may be modified to support an electronic face(s) as a digital billboard if the owner presents the city manager with pictorial proof and a sworn affidavit evidencing the removal of at least two square feet of traditional face from within the city for every one square foot of digital face display area to be erected. (Example: for a 576 square feet digital face, an owner would have to remove at least 1,152 square feet of existing traditional sign face area.) The removal of the face of which the digital face will replace does not count toward the removal total. Prior to issuance of a building permit the city manager or their designee must approve a Digital Billboard Conversion Agreement which outlines which static billboards are being removed and the location and the dimensions of the digital billboards being constructed.

The owner of an existing off-premises billboard sign may replace any or all the structural components necessary to support a digital face(s). The sign structure that is modified or replaced:

- 1. Shall not increase the number of physical faces on the structure.
- 2. Shall not have a digital face with an active copy area that exceeds 580 square feet or has an active copy area greater than the original sign face.
- 3. Shall obtain all necessary electrical permits from the city.
- 4. Must comply with all state regulations, if there is any conflict between state and city regulations, the more restrictive shall apply.

The owner of an off-premises digital sign(s) shall coordinate with local authorities to display, when appropriate, emergency information important to the traveling public such as Amber Alerts, alerts concerning terrorist attacks, natural disasters or as authorized by the office of emergency management. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information. The owner of an off-premises digital sign(s) shall also coordinate with the city to display community information for 0.005 percent of the annual display time. At least 50 percent of the Community information will be displayed during peak times.

b. *Digital billboard requirements:*

1. *Maximum display area* : Five hundred eighty square feet, or the active copy area shall not be greater than the original sign face.
2. *Maximum height* : Thirty-five feet.
3. *Location* : Must maintain a 1,000-foot separation from other billboards, as measured along the same side of the road the sign is designed to be visible from and setback a minimum of 500 feet from a platted residential area, at the time the digital billboard is permitted.
4. *dwelt time* : Messages shall remain static for at least eight seconds and change message shall be accomplished within two seconds.
5. *Display* : No display shall include animation, full motion video, dissolving or fading images, moving light, scrolling images or text, nor shall it project a static image upon a stationary object.
6. *Change of message* : Must occur simultaneously on the entire sign.
7. *Brightness* : Limited to 0.3 foot candles over ambient light conditions measured at a distance of 150 feet from the sign for a nominal size 12-foot by 25-foot sign face.
8. *Malfunction* : Sign shall contain a default mechanism built in to either turn off the display or show "full black" or company logo only on the display if a malfunction occurs.
9. *Automatic dimmer* : Sign face shall be equipped with both a dimmer control and photocell that automatically adjusts the face's intensity according to natural ambient light conditions.
10. *Windstorm requirement* : All signs in this category shall be certified by a qualified engineer as anchored against up-lift and overturning resulting from winds of not less than 120 miles per hour.

(h) *Sign permits* .

- (1) *General permit requirements* : Any person desiring to erect or alter any regulated sign within the city shall make application for a permit to the building official of the city. The application fee is due at the time of the permit application is submitted.
- (2) Applications shall be in writing and the initial application shall be accompanied by a sketch of the sign to be erected showing dimensions and structural details and a description of the property upon which the sign is to be located, together with a statement and plot plan describing the location of the sign upon said property, in addition to all existing signs maintained on the premises and visible from the right-of-way.
- (3) The written consent of the property owner where the sign is to be erected shall also be submitted to the building official.
- (4) All signs erected before the enabling of this section which do not meet the regulations herein contained, shall be registered with the city as pre-existing, nonconforming signs. It is the intent

of this section to permit such nonconforming signs to continue until the same are removed, but not to encourage their survival.

(5) Sign permit fees shall be established by separate council resolution.

(i) *Nonconforming and abandoned signs* .

(1) *Enlargement prohibited* : Except as herein provided, no nonconforming sign shall be enlarged, changed, altered, or repaired except in conformity with the regulations contained in this article.

(2) *Nonconformance status* : Any sign which does not conform to the regulations contained in the zoning district in which it is located is deemed to be a legal nonconforming sign when:

- a. The sign was in existence and lawfully operating at the time of the passage of this article, and has since been in regular and continuous use; or
- b. The sign was in existence at the time of annexation to the city and has since been in regular and continuous use.

(3) *Continuing lawful use of sign* :

- a. The lawful use of a sign existing at the time of the passage of this section, although it does not conform to the provisions herein, may be continued until termination is required in accordance with the provisions of this article. During the period between designation as a nonconforming sign and notification of a prescribed termination date, if discontinuance occurs, any future sign must be in conformity with the general provisions of this article.
- b. A legal nonconforming sign, when discontinued or abandoned, cannot be resumed. Prima facie evidence of continuance or abandonment is as follows:
 1. When land associated with a legal nonconforming sign ceases to be used in such described by the sign a manner for a period of 90 days.
 2. When a business housed in a structure associated with a nonconforming sign ceases to be used in such a manner described by the sign for a period of 90 days.
- c. Abandonment of a nonconforming sign shall be determined by the code enforcement officer.

(4) *Removal of abandoned signs* : Abandoned signs shall be removed at the discretion of the city manager and/or his or her designee. If not removed by owners or occupants of the property within ten days of notice, the city manager and/or his or her designee shall cause the signs to be otherwise removed and the cost of removal shall become a lien against the property until satisfied.

(5) *Proof of legal nonconformance* : It shall be the responsibility of the owner, operator, or occupant to provide proof that a nonconforming sign existed prior to the enactment of this article.

(6) *Restoration of damaged sign* : Nothing in this article shall prevent the restoration of a sign destroyed to the extent of not more than 50 percent of its reasonable value by fire, explosion, or other casualty or Act of God, or a public enemy, nor the continued use of such a sign which existed at the time of such destruction. However, the preceding allowance for the restoration of damaged nonconforming sign has no bearing on an approved amortization schedule for the termination of nonconformance as described in this article.

(7) *Survey and certification* : The code enforcement officer is responsible for the production of an annual survey and report on the status of signs in nonconformance in La Marque. The officer's report shall be sent to the planning and zoning commission at its first regular meeting of the official municipal year. The commission shall review the report and shall approve or reject the certification of each sign that the officer has identified as being nonconforming. Once certified by the commission as nonconforming, a sign shall be given an alpha-numeric designation for future reference. Upon receipt of the approved certified report from the commission, the officer shall notify each tenant and property owner of such nonconforming sign status.

(8) *Amortization of nonconforming signs* :

- a. *Responsibility of the board of adjustment* : It shall be the responsibility of the board of adjustment to provide a program for the orderly and fair termination of all nonconforming signs in La Marque. The board shall cooperate with the code enforcement officer in reviewing the status of certified nonconforming signs for amortization scheduling and termination.
- b. *Public hearing required* : Prior to the establishment of an amortization schedule for a nonconforming sign, the board of adjustment shall hold a public hearing. Notice of the hearing shall be given in written form to the tenant and owner of the certified nonconforming sign and shall be published in a newspaper of general circulation in La Marque. The notice shall state the time and the place of the hearing. The notice shall appear in said newspaper at least 15 days prior to the date set for the public hearing.
- c. *Factors to be used by the board of adjustment in amortization scheduling* : In determining the amortization schedule for the termination of a certified nonconforming sign, the board of adjustment shall consider the following factors:
 1. The length of time required for the user or owner of the sign to amortize his/her capital investment.
 2. The general condition of the sign.
 3. The length of time that the sign has been used.
 4. The land use activities surrounding the sign in question.
- d. *Notification and recordation* : The board of adjustment shall send a copy of all approved amortization schedules for the termination of nonconforming signs to the owners and lessees of affected sites. The termination date and the reasons for the schedule term shall be clearly described in the notification. The code enforcement officer shall keep a permanent record of all amortization schedules for nonconforming signs for the city.
- e. *Violation of an amortization schedule* : The failure of an owner or a tenant of a certified nonconforming sign to comply with the termination date of a recorded amortization schedule shall constitute a violation of this article and shall be punishable in accordance with the terms of Article G, [of the ordinance from which this section derives].

(Ord. No. O-2016-0013, § 2, 9-19-2016)

Editor's note— Ord. No. O-2016-0013, § 2, adopted Sept. 19, 2016, amended Ch. 71 by adding provisions intended for use as § 71-27. Inasmuch as said section already exists in the Code, provisions have been added as § 71-28, at the editor's discretion.