

ORDINANCE 5-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARION, TEXAS, REGULATING THE ERECTION, SIZE, AND LOCATION OF SIGNS WITHIN THE CITY, REQUIRING A PERMIT, ESTABLISHING SIGN CRITERIA, AND DECLARING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS:

Section 1: Findings

- a. The City Council of the City of Marion, Texas, finds that the regulation of signs within the City will promote the public health, safety, morals and general welfare, and protect and preserve places and areas of historical, cultural and/or architectural importance and significance within the City limits; and,
- b. The City Council further finds that sign regulation can lessen visual congestion in, on, and around City streets, making traveling on City streets less dangerous; and,
- c. The City Council further finds that sign regulation can enhance the appearance of the City, conserve the value of buildings and environmentally sensitive features, and reduce visual pollution; and,
- d. The City Council further finds that sign regulation can provide more orderly, safe, and healthful development of land located within the City limits and its extraterritorial jurisdiction, and is necessary to enhance the community's ecological, environmental, and aesthetic qualities; and,
- e. The City Council further finds that sign regulation will provide for the government, interest, welfare and good order of the City, and prevent nuisances.

Section 2: Definitions

- a. "Changeable electronic variable message sign (CEVMS)" shall mean a sign which permits light to be turned on and 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 or digital sign and which varies in color and intensity. A CEVMS sign does 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 Uniformed traffic Control devices approved by the Federal Highway Administrator as the National Standard.

b. "Portable Temporary" sign means a sign that is placed for a short period of time, no more than three (3) months

c. "On-premise sign" means a sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity, whether freestanding or attached to a building.

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

e. "Sign" means an outdoor structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

Section 3. Sign permit

a. *Purpose.* The purpose of a sign permit is to authorize the display, erection, rebuilding, restructuring, expansion, relocation, or structural alteration of any on-premise or off-premise sign.

b. *Applicability.* A sign permit is required within the City limits and in the City's extraterritorial jurisdiction for on-premise and off-premise signs erected after the date this ordinance takes effect.

c. *Electrical permits.* Electrical permits issued under the City's electrical regulations are also required for electric signs, except those designed to be plugged into an existing electric outlet.

d. *Exemptions.* The following signs and activities do not require a sign permit:

(1) Signs not visible from the nearest public street toward which they are oriented.

(2) Temporary window displays consisting of merchandise or posters.

(3) National, state, or other governmental flags up to 60 square feet in area.

(4) Balloons not exceeding 12 inches in greatest dimension.

(5) On-premises directional signs up to four square feet in area and up to four feet in height. Only two of these signs may be used on each street frontage of a premise.

- (6) Unlighted letters, numbers, or symbols up to 24 inches in height that form an architectural detail of a building.
- (7) Signs facing the interior of athletic stadiums or fields or facing the exterior of athletic stadiums or fields operated by nonprofit organizations or governmental entities.
- (8) Signs up to 32 square feet in area, on the premises of a governmental, religious, educational, or other noncommercial institution, which function solely as community information signs, such as billboards.
- (9) Signs that are displayed on vehicles that are being operated or stored in the normal course of a business, such as signs indicating the name or the type of business, that are located on moving vans, delivery trucks, trailers, and other commercial vehicles; but only if the primary purpose of such vehicles is not for the display of the signs thereon, and only if such vehicles are parked or stored in properly designated and paved parking spaces that are located in areas appropriate to their use as commercial or delivery vehicles, such as service areas or locations close to the business building(s) away from public traffic.
- (10) Signs displayed on a vehicle for the sole purpose of advertising the vehicle for sale, lease, or hire.
- (11) Signs consisting of a plaque or historical marker commemorating a person, event, structure, or site.
- (12) Governmental signs.
- (13) Temporary signs customarily associated with a recognized national, state, local, or religious holiday.
- (14) Signs on vending machines, gasoline pumps, and amusement equipment pertaining to the function of the facilities.
- (15) Signs carried by humans.
- (16) Signs displayed by aircraft in flight.
- (17) Spotlighting, landscaping features, and works of fine art which display no words or symbols of a commercial nature.
- (18) Unlighted attached signs up to 32 square feet in area on trailers or portable buildings containing an accessory use temporarily located on the premises, provided the signs pertain to the use of the trailer or portable building.

(19) Temporary signs, except for banner signs over public rights-of-way.

(20) Unlighted signs located on property used for agricultural purposes which pertain to the sale of agricultural products produced on the premises;

(21) Unlighted signs or electric signs plugged into an existing electric outlet, in first or second story windows provided that the signs do not exceed 50% of the window's size;

(22) Change in the sign copy on an existing sign or the replacement of a nonstructural panel or sign face within a fixed frame, provided that the change does not create an off-premise sign from a sign previously classified as on-premise, or vice versa;

(23) Painting, repainting, cleaning or other normal maintenance and repair of a sign not involving restructuring or a structural alteration.

(24) On-premise political signs.

e. *Effect.* Approval of a sign permit authorizes the placement, construction, repair, or other activity authorized by the permit in accordance with its terms.

f. *Prohibited signs.* The following signs are prohibited within the corporate limits or extraterritorial jurisdiction of the city:

(1) Any sign on public property, except those erected or approved by the City. Public property includes easements or encumbrances on property which the City may use for a public purpose.

(2) Any off-premise sign on private property for which a permit has not been issued under this ordinance.

(3) Changeable electronic variable message sign (CEVMS) from and after the effective date, no CEVMS shall be not be allowed within the corporate city limits and the Extra Territorial Jurisdiction as defined by Section 42.021 of the Local Government Code

(4) Any on-premise sign on private property for which a permit has not been issued under this ordinance, except for signs that contain primarily a political message.

(a) As used in this ordinance, "private property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.

(b) This exclusion of political signs from regulation under this ordinance does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(5) Nothing herein shall require the relocation, reconstruction, or removal of any sign located within the corporate limits or extraterritorial jurisdiction of the City on the date this ordinance takes effect,

(6) If any sign located within the corporate limits or extraterritorial jurisdiction of the city on the date this ordinance takes effect does not meet the requirements of this ordinance, including the requirement that it be erected under a permit, it shall be termed a "nonconforming use." Any sign that was permitted to remain in place as a nonconforming use, is required to be removed if the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign. For purposes of this subsection, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location.

Section 4. Application Requirements

a. *Responsible Official.* The Public Works Director of the City of Marion, or such other person appointed by the Mayor, as needed, is the responsible official for a sign permit. References to the Public Works Director means the Public Works Director or such other person appointed by the Mayor under this ordinance to approve sign applications.

b. *Contents.* An application for a sign permit can be obtained from the City Secretary and shall be completed in its entirety before it can be considered.

c. *Permit fee.* A permit fee of:

1. \$ 0 is required for non-profit
2. \$10 is required for residential on-site
3. \$20 is required for commercial on-site (yearly)
4. \$25 is required for portable temporary sign

to be paid at the time an application for a sign permit is filed.

Section 5. Sign standards

Except as provided elsewhere in this ordinance, all signs displayed, erected, rebuilt, restructured, expanded, relocated, or structurally altered within the city limits and the extraterritorial jurisdiction of the City of Marion shall adhere to the following standards:

a. On-premise signs

1. Residential: No sign shall exceed two (2) square feet in size.
2. Commercial: No sign shall exceed thirty-two (32) square feet.
3. Subdivision signs: No sign shall exceed 200 square feet in area and must be located on the premises of the subdivision. Any such sign shall be placed so as not to interfere with the occupancy or use of any lots in the subdivision, and shall be removed upon completion of sale of 85% of the lots in the subdivision.

b. Off-premise (Temporary/ Portable) signs shall not exceed fifty-five (55) square feet.

c. Signs which flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of parts, or through the impression of movement or flashing, are prohibited.

d. Height shall not exceed fifteen (15) feet.

e. Placement signs shall be placed no closer than four (4) feet from property line

f. Nuisance. Any sign erected after the effective date of this ordinance that does not comply with this ordinance is declared to be a nuisance and subject to any and all remedies provided in this ordinance or any other law.

g. Inspection. Yearly inspection will be made of all signs to insure that signs are not faded or damaged and are neat and pleasing to the public. If the sign is faded or damaged the sign shall be repaired or removed within thirty (30) days

Section 6. Decision on sign application

a. Decision. The Public Works Director shall either approve, conditionally approve, or deny the application for a sign permit.

b. Time for Decision. The Public Works Director shall make a decision on the permit within five (5) working days after the official filing date.

c. *Amendments.* After the approval of a sign permit, an applicant shall not be required to submit an amended application, if proposed amendments do not involve changes to the location, sign type, electrification, or increase in size or height of the sign.

Section 7. Appeal and Relief Procedures

a. *Appeal.* The applicant and any interested person may appeal the Public Works Director's decision on a sign permit to the Mayor, who is authorized to approve, conditionally approve, or deny the application for a sign permit, or submit a request for a variance to the City Council under the terms and conditions hereafter provided.

b. *Conditional approval.* A sign application may be approved conditioned on the applicant making any reasonable change to the sign that is proposed, consistent with the standards and purposes found in this ordinance. For example, the sign may be proposed to be located in a place that would create a safety hazard to motorists and could be approved on the condition that the sign is relocated to a safer position as determined by the Public Works Director, or in the case of an appeal, as determined by the Mayor.

c. *Variances.* The applicant may file a request for variances to the standards applicable to a sign permit based on the following standards, conditions, and criteria:

(1) *Purpose.* The purpose of a variance petition is to vary one or more standards applicable to a sign application, subject to the limitations set forth in this section or elsewhere in this ordinance. A variance petition shall not be used as a means of amending the text of this ordinance.

(2) *Criteria.* In deciding the variance petition, the decision-maker shall apply the following criteria:

(a) There are special circumstances or conditions arising from the physical surroundings, shape, topography, or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this ordinance to the sign application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in erecting a sign or deprive the petitioner of the reasonable and beneficial use of the land for such purpose;

(b) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;

(c) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(d) Granting the variance petition will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area;

d. Appeal and variance.

(1) *Time for Filing Appeal or variance.* A written appeal or request for a variance must be filed with the City Secretary within ten days from the date the applicant receives notice of the decision denying a sign permit.

(2) *Time for decision on appeal.* The City Council shall render a decision on the appeal or variance request within thirty days after they receive notice of the appeal or variance request, basing their decision on the same criteria that govern the initial decision on the application under the provisions of this ordinance, or on the provisions of this ordinance pertaining to a variance, whichever is applicable.

Section 8. Expiration and Extension

a. *Expiration.* A sign permit shall expire within 90 days of approval of the permit, if construction or other authorized activity has not commenced on the sign. If a sign permit is issued in conjunction with a building permit, the sign permit shall expire upon expiration of the building permit, and the sign must be completed at the time the structure is completed. If a conforming on-premise sign is removed for a period of ninety (90) days, a new sign permit shall be required.

b. *Extension and Reinstatement.* The Public Works Director may grant an extension of the expiration date or reinstate an expired sign permit for a period not to exceed ninety (90) days.

Section 9: Compliance required; penalty for violation of Ordinance.

a. Any person owning or managing property in the City shall comply with the provisions of this Ordinance.

b. Violation of any provisions of this Ordinance shall be deemed a municipal civil infraction, punishable by a fine of not less than \$100.00, or more than \$500.00; plus any costs, damages, and expenses of investigation and prosecution. This Ordinance is further subject to increased penalties for repeat offenses. As used herein, "repeat offense" means a second (or any subsequent) violation of the

same requirement or provision (i) committed by a person and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

(1) The fine for any offense, which is a first, repeat offense shall be not less than \$300.00, plus costs, damages, and expenses of investigation and prosecution.

(2) The fine for any offense, which is a second repeat offense or any subsequent repeat offense shall be not less than \$500.00, nor more than \$2,000.00, plus costs, damages, and expenses of investigation and prosecution.

c. Each day on which any violation of this ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition, upon a finding of responsibility for violating this ordinance, the city may seek in the appropriate court an injunction against an owner, person, or company to restrain, prevent, or abate any violation of this ordinance and to compel compliance. This does not bar the City from any other applicable remedy at law or equity.

Section 10: Severability.

This Ordinance and the various parts, sections and clauses are hereby declared to be severable. If any part, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected, impaired, or invalidated thereby.

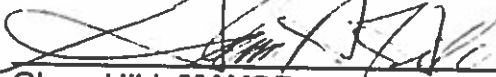
Section 11. Repealer and Inconsistencies

Any Ordinance or parts of Ordinances in conflict herewith are hereby repealed, to the extent that they are inconsistent with the provisions herein provided, however, if any other Ordinance of the City or State Law shall provide a higher standard of protection of the public health, safety and welfare than the provisions hereof, then those provisions shall prevail and are not repealed.


Section 12. Effective Date.

This Ordinance shall take effect from and after the date of passage by the City Council of the City of Marion, and after it is signed by the Mayor, or as otherwise provided by law, and a caption that summarizes the purpose of the ordinance and the penalty for violating the ordinance shall be published in a weekly newspaper with general circulation in the City of Marion, Texas.

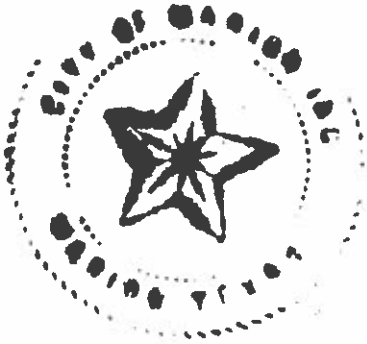
PASSED AND APPROVED on the 21st day of April, 2008.



Glenn Hild, **MAYOR**

ATTEST:


Laurie Huebinger, **CITY SECRETARY**



CITY OF MARION

Signs Permit

Date _____

Location _____

Description of Sign _____

- 0\$ - Non-Profit
- 10\$ - Residential on-site
- 20 \$ - Commercial on-site (yearly)
- 25 \$ - Temporary (Portable Sign) (90 days)

Date to be Removed _____

Permit Fee \$ _____

Signature _____

Contact Phone # _____

Approved _____ Date _____