

AN ORDINANCE OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 118 "SIGNS," ARTICLE I "IN GENERAL," SECTION 118-1 "DEFINITIONS" AND SECTION 118-4 "CLASSIFICATION," SUBSECTION (C) "SPECIAL FUNCTION SIGNS"; ARTICLE III "REGULATIONS," DIVISION 1 "GENERALLY," SECTION 118-176 "CHANGE OF ORNAMENTAL FEATURES, ELECTRIC WIRING OR ADVERTISING DISPLAY"; ARTICLE III "REGULATIONS," DIVISION 4 "LOCATION," SUBDIVISION IV "OFF-PREMISE SIGNS," SECTION 118-358 "NEW SIGNS" OF THE CODE OF ORDINANCES, CITY OF BAYTOWN, TEXAS, TO ALLOW FOR DIGITAL BILLBOARDS IF CERTAIN CONDITIONS ARE MET, INCLUDING REMOVAL OF EXISTING OFF-PREMISE SIGNS; PRESCRIBING A MAXIMUM PENALTY OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00); PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

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

Section 1: That Chapter 118 "Signs," Article I "In General," Section 118-1 "Definitions" of the Code of Ordinances, City of Baytown, Texas, is hereby amended to add the definitions of "dwell time," "nit" and "sign area," which definitions shall read as follows:

## **CHAPTER 118. SIGNS**

### **ARTICLE I. IN GENERAL**

#### **Sec. 118-1. Definitions.**

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

*Dwell time* shall mean the interval of change between each individual message. Dwell time shall not include the one (1) second or less required to change a message.

*Sign area* shall mean the entire advertising area of a sign excluding any framing, trim, or molding and the supporting structure.

Section 2: That Chapter 118 "Signs," Article I "In General," Section 118-4 "Classification," Subsection (c) "Special function signs" of the Code of Ordinances, City of Baytown, Texas, is hereby amended to read as follows:

## CHAPTER 118. SIGNS

### ARTICLE I. IN GENERAL

#### Sec. 118-4. Classification.

- (c) *Special function signs.* Any on-premises or off-premises sign of any type may also be included within one or more of the following additional classifications, according to special functions:
- (1) *Electrical sign* means any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.
  - (2) *Portable sign* means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier or other nonmotorized mobile structure; a portable sign that has its wheels removed shall still be considered a portable sign. For the purpose of this chapter, trailer signs and signs on benches are portable signs.
  - (3) *Spectacular sign* means any sign, other than a digital billboard, that:
    - a. Has automatically changing advertising,
    - b. Is equipped with glaring or rotating strobe lights or spotlights,
    - c. Uses flashing intermittent or moving lights,
    - d. Uses an electronic image on a digital display device capable of changing messages or copy by programmable electronic or mechanical processes, or
    - e. Has any moving message whatsoever, including animated, moving video and scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the message is stationary.
  - (4) *Temporary sign* means any sign constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, not to exceed six square feet in size. A portable sign shall not be considered a temporary sign.
  - (5) *Digital billboard* means an off-premise sign, display, or device, which changes the "static" message or copy on the sign by electronic means.

Section 3: That Chapter 118 "Signs," Article III "Regulations," Division 1 "Generally," Section 118-176 "Change of ornamental features, electric wiring or advertising

display” of the Code of Ordinances, City of Baytown, Texas, is hereby amended to read as follows:

## **CHAPTER 118. SIGNS**

### **ARTICLE III. REGULATIONS**

#### **DIVISION 1. GENERALLY**

##### **Sec. 118-176. Change of ornamental features, electric wiring or advertising display.**

No sign permit is required for the change of any of the ornamental features or devices or the advertising display of a sign previously permitted. This section shall not release a person from complying with all other applicable permitting requirements of the city, including those of the city building code and the city electrical code.

Section 4: That Chapter 118 “Signs,” Article III “Regulations,” Division 4 “Location,” Subdivision IV “Off-Premise Signs,” Section 118-358 “New signs” of the Code of Ordinances, City of Baytown, Texas, is hereby amended to read as follows:

## **CHAPTER 118. SIGNS**

### **ARTICLE III. REGULATIONS**

#### **DIVISION 4. LOCATION**

##### **SUBDIVISION IV. OFF-PREMISE SIGNS**

##### **Sec. 118-358. New signs.**

- (a) *New off-premises signs prohibited.* Except as provided for in subsections (c), (e), or (g) of this section, from and after June 27, 1996, no new construction permits shall be issued for off-premises signs and no new off-premises signs shall be allowed within the city limits. This prohibition shall apply to all classifications of signs, types of signs, and special function signs and all other signs used as off-premises signs, including portable signs.
- (b) *New off-premises, spectacular signs prohibited.* From and after May 29, 2008, no new off-premises signs which are classified as spectacular signs and no upgrades of existing off-premises signs to spectacular signs shall be allowed in the city limits or in the extraterritorial jurisdiction of the city.

(c) *Exceptions.*

- (1) Construction permits may be issued for off-premises signs proposed to be constructed within 200 feet of the interstate highway system if all other applicable requirements have been satisfied.
- (2) New signs may be attached, painted, or fastened on off-premises signs which were properly permitted on June 27, 1996, and have continuously remained permitted from and after such date; provided that such new sign does not change the classification of the off-premises sign.
- (3) Temporary use directional signs shall be allowed only if in conformity with section 118-138
- (4) Political signs shall be allowed only if in conformity with section 118-139
- (5) Other off-premise signs may be allowed only if such signs are:
  - a. Erected solely for and relating to a city sponsored or co-sponsored event, which is designated by resolution of the city council as an event for which off-premise signs may be placed on city property;
  - b. Erected on properties owned by the city for which council has designated by resolution as appropriate for the advertising of the city sponsored or cosponsored event; provided that there may be only one sign per property unless otherwise specified in the resolution designating the event;
  - c. Erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign, unless a different period of time is specified in the resolution designating the event;
  - d. Limited to a size no greater than four feet by eight feet or, if an overhead street banner, to the size necessary to fit the hardware on the lighting standards to which it will be attached;
  - e. Limited to providing information concerning the event, which shall include the event's name, activities, along with the time, date, places of the same; however, no business or sponsor advertising shall be allowed; and
  - f. In compliance with all other requirements of this chapter and of the director of parks and recreation in consultation with the city manager and other city staff.

(d) *Application.* In order for an event to be designated by the city council in accordance with subsection (c)(5), a person must submit an application in writing on a form prescribed by

the city clerk. The application must be filed with the city clerk at least 30 days before the scheduled event and shall include, but shall not be limited to, the following:

- (1) The name, address and telephone number of the applicant;
- (2) If the applicant is a corporation, the name and address of the major officers of the corporation and the major stockholders;
- (3) If a partnership, the names and addresses of partners;
- (4) If a sole proprietorship, the name and address of the owner;
- (5) The name of the manager or other officer in charge of the event;
- (6) The date of the event;
- (7) The number of signs requested to be placed on city property;
- (8) The name and description of the event, which shall state in detail the different component parts of the event, including, but not limited to, all concessions, shows, amusements, businesses exhibiting at the event, location of the event, the times of the event, along with a description of the products and services to be sold at the event;
- (9) An agreement whereby the applicant agrees:
  - a. To purchase, install and remove any signs which may be authorized to be placed on city property at no cost to the city; and
  - b. To remove all signs which may be authorized to be placed on city property within three days following the event or face criminal penalties for the failure to do so; and
- (10) A sworn statement by the applicant that the information provided in the application is true and correct,

(e) *Signs advertising city-sponsored events.* For purposes of this section, a sign advertising a city sponsored or co-sponsored event located on the property of a sponsor or co-sponsor of a city sponsored or co-sponsored event shall not be construed as an off-premise sign so long as:

- (1) The sign does not advertise another business, person, activity, good, product or service not located on the sponsor or co-sponsor's premise;
- (2) The sign is erected for a period commencing 14 days prior to and three days following the city sponsored or co-sponsored event advertised by the sign;

- (3) The sign is limited to a size no greater than four feet by eight feet;
  - (4) There is not more than one such sign on the premises of the sponsor or cosponsor;  
and
  - (5) The sign meets all other requirements of this chapter.
- (f) *Permit not required for certain signs.* No permit as required in division 4 of this article shall be required for a sign satisfying the requirements referenced in subsection (c)(5) or subsection (e) herein; provided that such sign is erected and maintained in a safe condition in conformity with the building code as well as the fire prevention code and rules and regulations for fire safety promulgated by the fire marshal.
- (g) *Digital billboards.* Digital billboards are prohibited within the jurisdiction of the city, provided however, that the sign administrator may issue digital billboard sign permits for conversion and reconstruction of existing off-premise sign faces as authorized by this subsection upon the submission of a completed application if (i) the same are located within 200 feet of the interstate highway system, (ii) four square feet of existing off-premises sign area from existing permitted off-premises signs are removed from within the city limits for each square foot of digital billboard sign area proposed, and (iii) if all other applicable requirements have been satisfied. All such digital billboards shall be subject to this section and all other relevant provisions of this chapter.
- (1) *Application.* An applicant for a digital billboard must file a building permit application in accordance with section 118-127 and obtain an operating permit in accordance with section 118-128. The building permit application must identify the demolition permit numbers for existing off-premises signs. The building permit for a digital billboard may be issued only after removal of the existing permitted off-premises signs in accordance with the four-to-one conversion ratio specified in this section. In the application for a digital billboard, the sign administrator may request information necessary to ensure compliance with this subsection and shall require a certificate of compliance be included in each application for an operating permit. In the certificate of compliance, the sign operator shall warrant that it is in full compliance with this chapter.
- (2) *Requirements.* Sign operators installing, testing, or maintaining off-premise digital billboards shall comply with the following requirements:
- a. *Static messages.* The digital billboard shall contain static messages only, and not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure. Each static message shall not include flashing or the varying of light intensity.
  - b. *Dwell time.* The dwell time shall be at least eight (8) seconds, and a change of message must be accomplished within one (1) second or less.

- c. *Display upon malfunction.* The digital billboard shall be operated with systems and monitoring in place to either turn the display off or freeze the display image in one position in the event of a malfunction.
- d. *Brightness level.* The digital billboard may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver and is subject to all existing restrictions on light intensity, brilliance, or glare contained in the section 3.08 (d)(1), (4), and (5) of the Unified Land Development Code.
  - 1. Digital Signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter the following pre-set distances:

Nominal Face Size	Distance from which to be Measured
12' x 25'	150'
10'6" x 36'	200'
14' x 48'	250'

Prior to the issuance of a permit under this chapter, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the brightness level specified in subsection (g)(2)d.1 and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the sign administrator.

- e. *Dimmer.* A digital billboard must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
- f. *No resemblance to traffic control device.* The digital billboard shall not be configured to resemble a warning or danger signal, to simulate any lights or official signage used to control traffic, or to cause a driver to mistake the digital billboard for a warning or danger signal.
- g. *Dimensions.* Off-premise digital billboard sign area may have dimensions of up to six hundred seventy-two (672) square feet and otherwise subject to section 118-246.
- h. *Spacing requirements.* A digital billboard may not be within one thousand five hundred (1,500) feet of another off-premise sign or digital billboard facing the same traveled way. Spacing requirements for off-premise digital

billboards in relation to other classifications of signs shall comply with section 118-359.

- i *Public safety/emergency notices.* The city, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital billboards. Emergency information includes, but is not limited to, AMBER Alerts, FBI wanted messages, dangerous criminal alerts, fugitives from justice, weather alerts, and emergency management information. Upon notification and at no cost to the city, the sign operator shall exclusively display the emergency alert for the period of (1) hour, which may be extended by the city. Thereafter, emergency alerts are to remain in rotation according to the designated issuing agencies protocols.

Section 5: Any person who fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 6: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 7: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or the set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

Section 8: This ordinance shall take effect from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ, and PASSED by the affirmative vote of the City Council of the City of Baytown, this the 11<sup>th</sup> day of December, 2014.

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STEPHEN H. DONCARLOS, Mayor

ATTEST:

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LETICIA BRYSCH, City Clerk

APPROVED AS TO FORM:

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IGNACIO RAMIREZ, SR., City Attorney