
CITY OF HEMPHILL, TEXAS

ORDINANCE #2023-002

**CREATING A NEW CHAPTER USING THE RESERVED CHAPTER 7 AND SECTIONS 7-1
THROUGH 7-100 IN THE CITY OF HEMPHILL'S CODE OF ORDINANCES; CHAPTER 7 –
SIGNS**

WHEREAS, the City of Hemphill's Code of Ordinances does not have an official sign ordinance;

WHEREAS, the City Council and the City Manager want to establish a sign ordinance which helps to regulate aesthetics, preserve property values, improve traffic safety, and support economic development; and

WHEREAS, signage rules and regulations should be clear to all business and property owners as well as to administrators and municipal enforcement personnel.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPHILL, TEXAS, THAT: Chapter 7. Signs is amended to read as follows:

Chapter 7 SIGNS

ARTICLE I. General Provisions

Sec. 7-1. Sign regulations.

- (a) *Purpose.* Signs use private land near the public rights-of way to inform and persuade the general public by publishing a message. This section provides standards for the erection and maintenance of private signs, primarily those used for commercial purposes. All private signs that are not exempt as provided below shall be erected and maintained in accordance with these standards. The general objectives of these standards are to promote health, safety, welfare, convenience and enjoyment of the public and, in part, to achieve the following:
- (1) *Safety:* To promote the safety of persons and property by providing that signs:
 - a. Do not create a hazard due to collapse, fire, collision, decay or abandonment;
 - b. Do not obstruct firefighting or police surveillance; and
 - c. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.
 - (2) *Communication efficiency:* To promote the efficient transfer of information in sign messages by providing that:
 - a. Those signs which provide messages and information most needed and sought by the public are given priorities;

-
- b. Businesses and services may identify themselves;
 - c. Customers and other persons may locate a business or service;
 - d. No person or group is arbitrarily denied the use of the sight lines from the public rights-of-way; and
 - e. 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.
- (3) *Landscape quality and preservation:* To protect the public welfare and to enhance the appearance and economic value of the cityscape, by providing that signs:
- a. Do not interfere with scenic views;
 - b. Do not create a nuisance to persons using the public rights-of-way;
 - c. Do not create a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement; and
 - d. Are not detrimental to land or property values.
- (b) *Administration.* The provisions of this section shall be administered and enforced by the city manager (or his/her designee) of the City of Hemphill.

The permittee, owner, agent, person or persons having the beneficial use of the sign, the owner of the land or structure upon which the sign is located, and the person in charge of erecting the sign are all subject to the provisions of this section.

(c) *Permit procedures and fees.*

- (1) *Requirements:* It shall be unlawful for any person to erect, alter, replace, enlarge or relocate any sign within the city without first obtaining a permit to do so from the city manager (or his/her designee), except as may be hereinafter provided. All sign construction shall conform to the adopted building code.
 - (2) *Applications for permits:* All applications for permits shall include a drawing to scale of the proposed sign (including size, colors and design) and all existing signs maintained on the premises and visible from the right-of-way, a drawing(s) of the lot plan and/or building facade indicating the proposed location(s) of the sign, and sign specifications. Applications shall be made to the city manager (or his/her designee) on forms provided by the city. If a site plan is required, the sign location shall also be shown on the site plan drawing.
 - (3) *Fee required:* Fees for a permit to erect, alter, replace, enlarge or relocate a sign shall be as provided in the City of Hemphill's List of Current Fees.
 - (4) *Repair permit (nonconforming signs):* It shall be unlawful for any person to repair or make alterations to any nonconforming sign without first obtaining a repair permit and making payment of the required fee. Fees for a permit to repair shall be as provided in the City of Hemphill's List of Current Fees.
 - (5) *Permit revocable:* The city manager (or his/her designee) may suspend or revoke any permit issued under the provisions of this section whenever he/she shall determine that the permit is issued in error or on the basis of incorrect or false information supplied, or whenever such permit is issued in violation of any of the provisions of this section or any other ordinance of the City of Hemphill or the laws of this state or of the federal government. Such suspension or
-

revocation shall be effective when communicated in writing to the person to whom the permit is issued, the owner of the sign, or the owner of the premises upon which the sign is located. Any sign installed under a revoked permit shall be removed by the permit holder, sign owner or property owner within fifteen (15) days of written notice of the revocation.

(6) *Inspections:*

- a. All signs for which a permit is required shall be subject to inspection by the city manager (or his/her designee).
- b. Footing inspections may be required by the city manager (or his/her designee) for all signs having footings.
- c. All signs containing electrical wiring shall be subject to the provisions of the National Electrical Code, and the electrical components used shall bear the label of an approved testing agency.
- d. The city manager (or his/her designee) may order the revocation of any sign permit and/or the removal of any sign that is not maintained in accordance with the provisions of any city ordinance.
- e. The city manager (or his/her designee) may inspect annually, or at such other times as he/she 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.

(d) *Special definitions—General.* The following definitions are generally specific to the sign regulations section.

Alter: To change the size, shape or outline, intent or type of sign.

Awning: A structure hung from the surface of a building, designed to provide protection from sun, rain, wind and other climatological conditions or to provide decoration to the building facade. An awning is typically composed of canvas, fabric, or other similar lightweight material supported and shaped by a metal or wood frame.

Building line: A line parallel, or approximately parallel, to any lot line at a specific distance therefrom, marking the minimum distance from the lot line that a building may be erected.

Canopy: A roof-like structure which is supported by the building to which it is attached, and which is generally open on two (2) or more sides.

Changeable electronic variable message sign (CEVMS): A sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A 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 Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Commission: The State Highway and Public Transportation Commission.

Dilapidated or deteriorated condition: Dilapidated or deteriorated condition shall include instances where:

-
- (1) Elements of the surface or background can be seen, as viewed from a normal viewing distance (i.e., the intended viewing distance), to have portions of the finished material or paint flaked, broken off, missing and/or otherwise not in harmony with the rest of the surface;
 - (2) The structural support or frame members are visibly bent, broken, dented or torn;
 - (3) The sign panel is visibly cracked or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition;
 - (4) The sign and/or its elements are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown by high winds or from the failure of a structural support);
 - (5) The message or wording can no longer be clearly read by a person with normal eyesight under normal viewing conditions; and/or
 - (6) The sign and/or its elements are not in compliance with the requirements of the National Electrical Code and/or the current Building Code of the City of Hemphill.

Erect: To build, construct, attach, hang, place, suspend or affix a sign, and shall also include the painting of signs on the exterior surface of a building or structure.

Face panel or surface: A surface(s) of the sign upon, against or through which the message is displayed or illustrated on the sign.

Framework: A support structure which meets all existing wind and load requirements as stated in applicable Hemphill codes and ordinances, and which is designed to secure a banner or an interchangeable sign on any or all sides.

Illegal conforming sign: A sign erected within the city that meets current sign regulations but does not have a required permit.

Illegal nonconforming sign: A sign erected within the city that does not meet current sign regulations and does not have a required permit.

Illegal sign: A sign that was erected in violation of any regulation applicable at the time of erection of such sign. Any sign which does not comply with the provisions of this section of the zoning ordinance.

Legal sign: A sign that, when erected, meets all Hemphill codes and ordinances pertaining to signs

Logo: A formalized design or insignia (i.e., symbol) of a company or product, which is commonly used in advertising to identify that company or product.

Noncombustible material: Any material which will not ignite at or below a temperature of one thousand two hundred (1,200) degrees Fahrenheit and will not continue to burn or glow at that temperature, and which would have a flame spread of twenty-five (25) feet or less.

Nonconforming sign: A sign that was lawfully installed in compliance with all city codes and ordinances that were applicable at the time of installation, but that does not comply with the provisions of this section of the zoning ordinance (and/or other codes or ordinances) of the City of Hemphill.

Non-structural trim: A retainer, batten, capping, nailing strip, latticing, platform or other similar trim component which is attached to the sign or its structure.

Obsolete sign: A sign which no longer serves a bona fide use or purpose.

Off-premises sign: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service and/or product not principally located or primarily manufactured or sold on the premises upon which the sign is located.

On-premises sign: A detached sign identifying or advertising a business, person or activity on the premises, and which is installed and maintained on the same premises as the business, person or activity it advertises.

Person: A person, firm, partnership, association, corporation, company or organization of any kind.

Primary highway systems: A portion of the system of connected main highways located in this state that is designated officially by the State Highway and Public Transportation Commission.

Private premises: A dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited/vacant. A private premises shall include any yard, ground, lawn, walk, driveway, porch, steps or mailbox belonging to or appurtenant to such dwelling, house, building or other structure.

Projecting structure: A covered structure of a permanent nature which is constructed of approved building materials, specifically excluding canvas or fabric material (i.e., an awning), and where such structure is an integral part of the main building or is permanently attached to a main building and does not extend over public property. A projecting structure is defined to include marquee and fixed canopy types of structures. A projecting structure shall have a minimum clearance of eight (8) feet above any sidewalk/pedestrian travel surface, and fourteen (14) feet above any vehicular parking or circulation surface.

Promotional signage: A type of temporary signage that is typically used for (but not limited to) special events and promotions or for business grand openings. Promotional signage may include banners, flags, pennants, streamers, balloons, inflatable signs/devices and any other legal types of signs allowed by this section. A searchlight may be used provided it complies with all other provisions of this section (see "Searchlights").

- (1) Any device described as promotional signage shall not exceed an overall height of thirty-five (35) feet.
- (2) Promotional signage shall be contained on the property of the legal business which it advertises, and shall not extend into the city right-of-way, required parking spaces, drive aisles or onto other adjacent property(s). Signage shall not be located in any sight visibility triangle/area, nor shall any combustible materials be placed in contact with lighted signs or any electrical fixtures.

Property line: The line denoting the limits of legal ownership of property.

Public place: Any and all streets, boulevards, avenues, lanes, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

Rear wall: A wall with no main entrances or store fronts, and which does not face the front of the lot (i.e., the street). A building may have a maximum of one (1) rear wall (either in a single wall segment or in several segments which are more or less parallel to one another or which follow the curvature of the overall building).

Roof line: The height which is defined by the intersection of the roof of the building and the wall of the building with the following exception: for mansard-type roofs having two (2) slopes, the "roof line" shall

be defined as the top of the lower slope of the roof. For mansard-type roofs having parapet walls, the "roof line" shall be the top of the parapet.

Setback: The horizontal distance between a sign and the front, rear or side property line, as measured from that part of the sign, including its extremities and supports, nearest to any point on any imaginary vertical plane projecting vertically from the front, rear or side property line.

Sight visibility triangle/area: An area within which visibility clearance must be maintained for safety.

Sign (general): A name, number, identification, description/announcement, declaration, demonstration, device, display, flag, banner, pennant, illustration, beacon, light or insignia, and structure supporting any of the same, affixed directly or indirectly to or upon any building, window, door or outdoor structure, or erected or maintained upon a piece of land, which directs attention to any object, product, service, place, activity, person, institution, organization or business. Any interior illuminated or moving sign or light which is visible from the exterior may be determined as being erected on the exterior of the building or structure. (See section 22-41(e), "Definitions and Regulations for Specific Types of Signs" for each particular type of sign.)

Sign area: The area (i.e., square footage) of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame itself. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one (1) side only. Three-dimensional or multi-faceted signs shall be calculated as the maximum area visible from any single direction at any point in time. Signs may be V-shaped, not to exceed a forty-five (45) degree angle, and can have only two (2) sign faces (i.e., one (1) sign face, or panel, in each of two (2) different directions only; the sign cannot have sign panels in three (3) different directions).

Vehicle: For the purpose of this section, "vehicle" shall mean any automobile, truck, camper, tractor, van, trailer or any other device capable of being transported, and such device shall be considered a "vehicle" in both moving and stationary modes, irrespective of its state of repair or its physical condition.

(e) *Definitions and regulations for specific types of signs.* The following definitions and regulations generally pertain to specific types of signs. The definitions of other general terms used within this section may be found in subsection 7-1(d).

Attached sign: A sign that is painted on, permanently anchored, or moored to a structure.

Awning/canopy sign: an awning/canopy sign is a sign that is attached to or painted on an awning/canopy. The copy/artwork on an awning/canopy sign shall not exceed the area and size that is allowed for a wall sign on the wall upon which it is attached. The copy/artwork may be illuminated by either an internal or external light source. However, the total area of wall signs and awning/canopy signs shall not exceed the area and size allowed for a single wall sign, and any awning/canopy sign shall not exceed seventy-five (75) percent of the awning's/canopy's surface area. An awning/canopy and/or awning/canopy sign shall have a minimum clearance of eight (8) feet above any sidewalk/pedestrian travel surface, and fourteen (14) feet above any vehicular parking or circulation surface.

- (1) Maximum height: Not applicable.
- (2) Maximum size/area: Not to exceed seventy-five (75) percent of the awning's/canopy's surface area.
- (3) Permitted: In all nonresidential districts.

-
- (4) Placement: Applied flat against the awning/canopy surface without extending beyond the awning's/canopy's height or width.
 - (5) Maximum number: One per awning/canopy, however, when an awning/canopy runs continuously in front of separate businesses, each business shall be allowed to have a sign upon the awning/canopy in front of their business. The width of the awning/canopy shall be equal to the width of the front of the store for which the awning/canopy is being used.
 - (6) Duration: No limit.

Banner: A type of temporary sign that is generally constructed of lightweight plastic, fabric or a similar non-rigid material, and that is mounted/tethered to a pole(s), building or other structure at one or more edges. A banner typically (but not always) exhibits a text message and/or a symbol(s) for the business located on the property, or for a product or service provided by that business. National/State or local government flags are not considered banners (see "Flag"). One (1) banner is allowed at a time per business premises, and shall be securely attached to the front or side of a building structure (i.e., not to a fence, screening wall, tree, etc.). Banners shall be kept in good repair and shall remain firmly anchored or secured at all corners.

Billboard sign: A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service and/or product not principally located or primarily manufactured or sold on the premises upon which the sign is located (i.e., off-premises).

Construction sign: A temporary, accessory sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator and/or mortgagee engaged in the design, construction and/or improvement of the premises upon which the sign is located. A construction sign shall be removed prior to the issuance of a certificate of occupancy or, in the case of a residential dwelling, prior to the final building inspection. (See "detached sign" provisions.)

Decorative Display: See "promotional flags/pennants" and "promotional signage".

Detached sign: A sign which is supported by structures, supports, or a foundation in or upon the ground and independent of support from any building.

- (1) Max. height, size/area: Determined by the street speed limit of the vehicular traffic traveling along the street which the sign fronts:

<u>MPH</u>	<u>Max. Total Height</u>	<u>Max. Size/Area of Sign Faces</u>
0—39 mph	20 feet	60 square feet
40—54 mph	25 feet	80 square feet
55—69 mph	30 feet	100 square feet
70+ mph	30 feet	200 square feet

Exception : Shopping centers with multiple tenants shall have a maximum total height of thirty (30) feet and a maximum size/area of 240 square feet.

- (2) Permitted: In all districts.
- (3) Placement: A minimum setback from the property line of ten (10) feet for signs not exceeding twenty-five (25) feet in height. For signs over twenty-five (25) feet in height, an additional

setback of one (1) foot for every foot over twenty-five (25) feet will be required. A minimum setback of ten (10) feet from any other property line shall also be required. Example: A sign thirty (30) feet in height would need a setback of fifteen (15) feet from the property line, the required ten (10) feet and then five (5) feet ($30 - 25 = 5$).

- (4) Maximum number: One (1) sign per street frontage; however, for a lot having more than four hundred fifty (450) linear feet of street frontage, one additional sign shall be allowed for every three hundred (300) feet of frontage above four hundred fifty (450) feet.
- (5) Duration: Permanent.

Development signs: A temporary, accessory sign identifying the name and general nature of the development project that is being constructed on the premises upon which the sign is located. Such signs must relate only to the property on which they are located. Each development may have one such sign, or one (1) for each fifty (50) acres of total project size. A development sign shall be removed when the project is ninety (90) percent complete. In the case of a commercial project, "90 percent complete" means when a certificate of occupancy is issued for a shell building. For a residential project, "90 percent complete" means when ninety (90) percent of the subdivision lots have been issued building permits. (See "detached sign" provisions.)

Directional sign (on-site): A sign designated specifically for the purpose of directing or providing guidance to vehicular and/or pedestrian traffic on private property.

Directory/informational sign (on-site): A sign used for the purpose of directing vehicular and/or pedestrian traffic to specific occupants/businesses on private property (i.e., within shopping centers, industrial parks, retail districts, office complexes and commercial sites).

Flag: A fabric, banner or bunting containing distinctive colors, patterns, words and/or insignia which is used as a symbol for a government, political subdivision or some other professional, religious, educational or nonprofit entity, provided that such device is displayed for noncommercial (i.e., not-for-profit) purposes.

Garage sale sign: Any temporary sign for the occasional (i.e., not on-going) sale of personal household goods, typically displayed in a residential area or on the property of a non-profit organization. Garage sale signs must be recovered (i.e., removed) by 8:00 a.m. on the day following the last day of the sale. A fine will be assessed for each garage sale sign left after 8:00 a.m. on the required removal date.

- (1) Maximum height: Three (3) feet.
- (2) Maximum size/Area: Two hundred eighty-eight (288) square inches.
- (3) Permitted: In all districts.
- (4) Placement: On private property only; cannot be mounted on public/utility structures
- (5) Duration: 8:00 a.m. the day after the sale.

Hanging sign: A sign which is suspended from an awning or canopy. Hanging signs shall have a minimum clearance of eight (8) feet above any sidewalk/pedestrian travel surface, and fourteen (14) feet above any vehicular parking or circulation surface. Each face shall not exceed twelve (12) square feet in area.

Identification sign: A sign which is used to identify the name of a multi-tenant retail shopping center, business park or industrial, commercial or office center.

Illuminated sign: A sign which has characters, letters, figures and/or designs that are illuminated by electric lights, luminous tubes or other means, and that are specifically placed to draw attention to, or to provide nighttime viewing of, the subject matter on the sign face.

Incidental sign: A small sign, less than two (2) square feet in surface area, of a noncommercial nature which is intended primarily for the convenience of the public. Included are signs designating restrooms, address numbers, hours of operation, entrances to buildings, public telephones, directions to locations, "Help Wanted" signs and so forth. Also included in this group of signs are those designed to guide or direct pedestrians or vehicular traffic to an area or place on the premises of an office building or a business development by means of a directory designating names and addresses only (see "directional sign").

Inflatable sign: A temporary balloon or hollow sign expanded or enlarged by the use of air or gas.

Menu Board: A sign, not exceeding two (2) square feet in area, that is used to list items, dishes, meals or specialties to be served.

Mobile (or portable) sign: See "portable sign".

Model home sign: Model home signs may be erected in residential zoning districts, and shall not exceed sixteen (16) square feet with a maximum height of six (6) feet. Required setback shall be fifty (50) percent of the distance between the front property line and the building, but no less than ten (10) feet from the front property line. Model home signs are limited to one (1) per premises. Each builder within the subdivision may have one (1) model home sign, and the permit for such sign shall be granted for a period of time to coincide with the validity of the model home's certificate of occupancy.

Monument sign: A sign having a low profile and made of stone, concrete, metal, routed wood planks or beams, brick or similar materials. A monument sign shall be solid from the ground up; pole(s) or supports shall be concealed.

- (1) Maximum height: Seven (7) feet, including the monument base, as measured from the average ground level at the base to the topmost portion of the sign. The ground upon which a monument sign is located may be bermed up (or designed as a raised planter) a maximum of three (3) feet from the top of the adjacent street curb.
- (2) Maximum size/area: Fifty (50) square feet.
- (3) Permitted: In all nonresidential districts.
- (4) Placement: A minimum setback from the edge of street ten (10) feet. No sign shall encroach across the property line or right-of-way.
- (5) Maximum number: One (1) per street frontage.
- (6) Duration: Permanent.

Municipally owned sign: A sign which identifies a park, an entrance into the city, a place of interest within the city, a city-sponsored event or any municipally owned site or facility. A municipally owned sign does not include traffic or street identification/name signs.

Nameplate: A sign showing only the name and address of the owner or occupant of the premises upon which it is erected or placed. A nameplate shall not exceed two (2) square feet in size.

Neon sign: A sign or advertising device formed from neon (or other gaseous, such as argon) lamps/tubing.

Pole sign: A free-standing sign that is detached from a building (i.e., independent of any structure or building) and that is supported by a pole (or poles) having no guys or braces to the ground or to any other structure. (See "detached sign" provisions.)

Political sign: Political signs are allowed on private property, and shall be prohibited within rights-of-way, on any other public property, and on any public/utility structure (e.g., telephone poles, street light standards, street sign poles, public buildings, etc.) or on trees, fences, etc. Political signs placed within the rights-of-way or upon public/utility property or structures may be removed and disposed of by the City of Hemphill (or the applicable utility company) personnel, and removal costs and/or fines may be assessed for removal of the signs and/or noncompliance with this section.

Portable sign: An outdoor advertising display sign supported by uprights or braces in or on the ground, or mounted on a vehicle, trailer or mobile structure, principally used for the purpose of advertising; or any advertising device that is not permanently attached to its support structure via commonly used construction standards. Portable signs shall also comply with the following:

- (1) Portable signs are allowed for a single, 30-day period each quarter of the calendar year. Permitted periods cannot run consecutively. A new business opening for the first time is allowed one (1) permitted portable sign for a maximum of thirty (30) days prior to initial business opening, and for a maximum of thirty (30) days after opening. Portable sign usage for a new business opening shall not be counted against the 30-day time period stated above.
- (2) Portable sign permit applications shall be accompanied by a drawing indicating what the proposed sign will look like and how it will be secured in place. Portable signs will be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot. Electrical wiring and related components within and connected to portable signs shall be installed in accordance with the National Electrical Code, latest edition. Sign illumination will be restricted to non-flashing internal light fixtures with lamps not to exceed a maximum of sixty (60) watts each. External lighting is prohibited.
- (3) Portable signs shall not be located within or on any public right-of-way, property, sidewalks, driveways, fire lanes and required off-street parking spaces. Portable signs shall be located a minimum of thirty-five (35) feet from adjacent fire hydrants, driveways, approaches and street intersections (measured from the property line adjacent to each street) and a minimum of five (5) feet from curbs located at the right-of-way property line. All portable signs shall be at least thirty-five (35) feet apart. Approved portable signs shall be used to advertise or promote commodities and services offered on the premises where the sign will be located. Portable signs shall not be used for off-premises advertising.
- (4) Removal/impoundment. The owner or occupant of any property upon which there is located a portable sign in violation of this section, or the owner or lessee of any portable sign, or the owner and/or manager of any business advertised on a portable sign which is in violation of this section as herein defined, shall be given written notice by the city manager (or his/her designee) or his designee stating the nature of the violation, and ordering that the violation be corrected or removed from said property within seventy-two (72) hours.

If the owner, lessor, lessee, or the representative of the lessor or the owner and/or manager of any business advertised on a portable sign fails to remove such sign within seventy-two (72) hours of written notification, or by publication if the address is unknown, the sign may be removed by the city at the expense of the sign owner or the person erecting, leasing, using or

maintaining it. Any portable sign so removed shall be subject to a fee for hauling the sign to the city's storage area, plus a per day storage fee for each day the sign is stored by the city, fees shall be provided in the City of Hemphill's List of Current Fees. Any sign so removed from public or private property shall be stored or impounded by the city until all applicable charges have been paid, or until thirty (30) days have passed. If any sign remains unclaimed for a period of thirty (30) days after its removal, or if the removal and storage cost are not paid within such thirty (30) day period, the city may destroy, sell or otherwise dispose of the sign. If sold, the sign shall be marked by city personnel and shall not be brought back inside the city limits for display. In calculating the length of the storage period and the storage fee, the first working day after the date of the impoundment shall be considered day number one; thereafter, all days including weekends and holidays shall be counted.

The city manager (or his/her designee) may enter upon private property which is accessible to the public for the purposes specified in this section to examine signs at their location, to obtain information as to the ownership of signs, and/or to remove or cause the removal of a sign declared to be a nuisance pursuant to this section.

Promotional flags/pennants: A type of temporary sign that is generally constructed of lightweight plastic, fabric or a similar material; that is mounted/tethered to a pole(s), building or other structure by a rope, wire, string or similar device, usually in series (i.e., more than one (1) on a string); and that is designed to move in the wind (i.e., flutter) to attract attention. Promotional flags/pennants may or may not exhibit a text message or symbol of any kind, and may be a single color or several colors. For the purposes of this section, a string of multiple pennants and/or streamers, of whatever length, shall also constitute a "promotional pennant".

Promotional signage: A type of temporary signage that is typically used for (but not limited to) special events and promotions or for business grand openings. Promotional signage may include banners, flags, pennants, streamers, balloons, inflatable signs/devices and any other legal types of signs allowed by this section. A searchlight may be used provided it complies with all other provisions of this section (see "searchlights"):

- (1) Any device described as promotional signage shall not exceed an overall height of thirty-five (35) feet.
- (2) Promotional signage shall be contained on the property of the legal business which it advertises, and shall not extend into the city right-of-way or onto other adjacent property(s). Signage shall not be located in any sight visibility triangle/area, nor shall any combustible materials be placed in contact with lighted signs or any electrical fixtures.

Pylon sign: A free-standing sign supported by a solid, ground up, tall monumental structure (see "pole sign").

Reader-board sign (also called "Changeable Message Sign"): A permanent marquee-type sign having alternating electronic data, messages and/or control components.

Real estate sign: A temporary accessory sign pertaining to the sale or rental of property, and which advertises property only for a use for which it is legally zoned. A real estate sign shall be removed upon the sale/rental of the property. (See "detached sign" provisions.)

Roof sign: A sign erected upon or above a roof or parapet of a building or structure.

Searchlights: Searchlights may be permitted in accordance with any other applicable city regulations, and may include traditional searchlight devices or laser-type devices. A permit for use of an advertising searchlight may be granted under the following additional regulations:

- (1) A searchlight shall be located a minimum distance of fifty (50) feet from any public right-of-way and from side or rear property lines, and shall be positioned so as to project all beams at minimum angle of thirty (30) degrees upward from grade level. No searchlight beam may project onto adjacent property or onto property or buildings not owned/operated by the business utilizing the searchlight.
- (2) The maximum light intensity generated by searchlights on any premises may not exceed a total of one thousand six hundred (1,600) million footcandle power. No more than four (4) beams of light may be projected from any premises at any point in time.
- (3) All searchlights must be designed and maintained so as to prevent beam rays of light (or laser beams) from being directed at any portion of the traveled ways, and no light shall be of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle, or to create any other type of traffic hazard (i.e., cannot be such an unusual, eye-catching display that would distract the attention of motorists).
- (4) No advertising searchlight may be operated between the hours of 11:00 p.m. and 7:00 a.m.
- (5) No advertising searchlight may be operated on a premises for more than seven (7) consecutive days nor for more than fourteen (14) days within any calendar year. No permit for an advertising searchlight may be issued for any business entity for which a permit has been issued for a searchlight on the same premises within the last six (6) months preceding the date of the permit application.

Shingle (projecting) sign: A sign attached to and placed perpendicular to a building. Projecting signs shall have a minimum clearance of eight (8) feet above any sidewalk/pedestrian travel surface, and fourteen (14) feet above any vehicular parking or circulation surface. Projecting signs shall not exceed twelve (12) square feet in area.

Stake sign: A sign that is not permanently attached to the ground or designed to be permanently attached to the ground, including (but not limited to) temporary real estate directional (i.e., "bandit") signs. A stake sign is typically placed for the off-premises advertising of, and directing traffic toward, a real estate project/subdivision or a sales event. Off-premises stake signs are permitted, provided they have the name of the business entity (e.g., home builder) upon them, they are self-supporting, and they are not placed within public rights-of-way or mounted upon public/utility structures (e.g., telephone poles, street light standards, street sign poles, public buildings, etc.) or on trees, fences, etc.

- (1) Maximum height: Three (3) feet.
- (2) Maximum size/area: Six (6) square feet.
- (3) Zoning permitted: In all districts.
- (4) Placement: On private property (off-premises signs require the property owner's permission); cannot be mounted on public/utility structures or located within public rights-of-way or easements.

-
- (5) Maximum number: One (1) for each fifty (50) feet of street frontage, with a maximum of four (4) signs per lot.

- (6) Duration: Reviewed every two-weeks for continued relevance.

Temporary sign: A sign, banner, pennant, valance, inflatable sign or other advertising device constructed of cloth, canvas, light fabric, cardboard, wallboard or other like materials, with or without a frame, and any type of sign that is not permanently attached to the ground, wall or building, and which is intended to be displayed for a short period of time only (i.e., changeable; not permanent). (Also see "promotional signage"). The use of a temporary sign or banner is allowed for one (1) calendar year.

Wall sign: A sign attached to or painted upon a wall surface with the sign facing parallel to and not more than twelve (12) inches from the wall surface. A sign attached to or painted upon an awning/canopy and visible to the exterior shall be considered a wall sign (also see "awning/canopy sign"). Neon (or other gaseous) tubing attached directly to a wall surface shall be considered a "wall sign" when forming a border for the subject matter, when directing attention to the subject matter or when forming letters, logos, symbols or pictorial designs.

- (1) Maximum height: Sign must not extend above the roof line of a building.
- (2) Maximum size/area: Shall not exceed eighty percent (80%) of the square footage of the wall and remain within the foot print of the wall.
- (3) Permitted: In all nonresidential districts.
- (4) Placement: Upon the wall of the building, painted or attached directly to the surface.
- (5) Maximum number: One (1) sign for each business; however, a business that adjoins two (2) streets may have a wall sign for each street it adjoins. The area of the signs shall not exceed the area as outlined in (2) above for each business side. For businesses sharing common wall frontage (i.e., strip shopping center), each business shall be allowed a wall sign with an area not to exceed the area as outlined in B above for each business. Architectural features such as decorative molding or medallions which have words, letters or symbols incorporated into them shall not be counted as a wall sign.
- (6) Duration: permanent.

Window sign: A sign painted or affixed to the exterior (or interior) surface of a window and visible from outside the building (e.g., from the street or parking lot).

- (1) Maximum height: Not applicable.
- (2) Maximum size/area: forty (40) percent of the total window area.
- (3) Permitted: In all nonresidential districts.
- (4) Placement: Interior or exterior surface of the window.
- (5) Maximum number: Not applicable.
- (6) Duration: No limit.

(f) ***General provisions for signs.***

- (1) *Removal of signs.*

-
- a. *Removal of obsolete signs.* Any sign which the city manager (or his/her designee) determines no longer serves a bona fide use conforming to this section, shall be removed by the owner, agent or person having the beneficial use of the land, buildings or structure upon which such sign is located within fifteen (15) days after written notification to do so from the city manager (or his/her designee). Upon failure to comply with such notice, the city manager (or his/her designee) is hereby authorized to cause the removal of such sign, and any expense incurred thereto shall be paid by the owner of the land, building or structure to which such sign is attached or upon which it is erected.
 - b. *Removal or repair of unsafe signs.* If the city manager (or his/her designee) shall determine that any sign is unsafe or unsecure, or is a menace to the public, he shall give written notice to the person or persons responsible for such sign. If the sign permit holder, owner, agent or person having the beneficial use of the premises and/or the sign fails to remove or repair the sign within fifteen (15) days after such notice, such sign may be removed by the city manager (or his/her designee) at the expense of the permit holder, sign owner, or owner of the property upon which the sign is located. The city manager (or his/her designee) may cause any sign which is deemed to be an immediate hazard to persons to be removed summarily and without notice.
 - c. *Removal expenses.* Upon failure of the sign permit holder, owner, agent or person responsible for a sign to remove it upon fifteen (15) day notice to do so by the city manager (or his/her designee), the city manager (or his/her designee) is hereby authorized to enter the property upon which such sign is located, and to cause the removal of such sign. The owner of the land, building or structure to which such sign is attached and upon which it is erected and/or the owner/permit holder of such sign are jointly and separately liable for any expense incurred in removal of the sign.
- (2) *Maintenance of signs:* All signs and sign support structures, together with all of their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of appearance and preservation. No sign will be allowed to be kept in a dilapidated or deteriorated condition. Any sign which the city manager (or his/her designee) determines is in an unacceptable, deteriorated condition shall be removed by the owner, agent or person having the beneficial use of the land, buildings or structure upon which such sign is located within fifteen (15) days after written notification to do so from the city manager (or his/her designee). Upon failure to comply with such notice, the city manager (or his/her designee) is hereby authorized to cause the removal of such sign, and any expense incurred thereto shall be paid by the owner of the land, building or structure to which such sign is attached or upon which it is erected.
 - (3) *Noninterference with traffic:* No sign shall be located or constructed as to interfere with or confuse the flow or control of traffic on the public streets, and no sign shall use a rotating beacon, beam or flashing illumination resembling an emergency signal. It shall be unlawful to erect, relocate or maintain any sign in such a manner as to obstruct free and clear vision at any location whereby, by reason of position, size, movement, shape, color, flashing, manner or intensity of illumination, such sign may interfere with vehicular or pedestrian traffic. Further, it shall be unlawful to erect or maintain any sign in such a manner as to interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Accordingly, no sign shall make use of the words, "Stop", "Go", "Look", "Slow", "Danger", or any other similar word, phrase, symbol or character or employ any red, yellow, orange, green or other colored
-

lamp or light in such a manner as to cause confusion to or otherwise interfere with vehicular or pedestrian traffic.

- (4) *Signs projecting into rights-of-way:* No sign shall be erected so as to project into the public right-of-way of any street or alley, without specific approval listed in the permit.
- (5) *Number of sign face panels/surfaces:* Sign structures shall be allowed to contain multiple sign face panels/surfaces facing in the same direction. The area of all the sign face panels/surfaces shall not exceed the area as allowed in other sections of this chapter.
- (6) *Flags:* American, State of Texas, or local government flags shall be exempt from this section.
- (7) *Wind pressure and dead load requirements:* All signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area, and shall be constructed to receive dead loads as required by building code.
- (8) *Illegal signs:* Owners with/of illegal (either conforming or nonconforming) signs must obtain a permit from the City of Hemphill within fifteen (15) days of notification of non-compliance. If the owner has not obtained a permit for the illegal sign by the 16th day following notification, the owner will be cited for noncompliance.
- (9) *Nonconforming signs:* A sign which does not conform to the regulations prescribed in this section and which existed lawfully on the date of adoption (i.e., on the effective date) of this chapter, or amendment hereto, shall be deemed a nonconforming sign. A nonconforming sign shall be allowed to remain as is in the same location wherein it existed on the effective date of this chapter unless/until one or more of the conditions stated in subsection a. below exists/occurs.
 - a. The right to continue all nonconforming signs shall cease and such sign shall be removed within fifteen (15) days whenever:
 - 1. The area and/or height of a sign is increased. Any sign which existed lawfully on the date of adoption of the ordinance, or amendment hereto, shall be allowed to continue to be used regardless of a change of property ownership, business ownership and/or business occupancy. Sign faces/surfaces are allowed to be changed as long as neither the area nor the height of the sign is increased. This applies to all signs which are allowed by this chapter. Once a sign is removed from its original placement on the property/business, then it must comply to the regulations of this chapter;
 - 2. A sign is altered, moved or relocated without a permit pursuant to the provisions of this section;
 - 3. A sign is damaged, defaced or destroyed and the cost to repair it exceeds fifty (50) percent of the replacement/repair cost of the sign on the date of repair (if an existing nonconforming sign is already in a dilapidated/deteriorated condition or if it represents a public safety hazard as of the effective date of this chapter, then it must either be repaired/refinished to a reasonable state of repair or removed at the owner's expense); or
 - 4. A sign which is normally perpendicular ninety (90) degrees to the ground leans such that an angle between the sign and the ground is seventy-five (75) degrees or less (or, for a sign that was purposefully placed at an angle upon installation, its angle to the ground

decreases by fifteen (15) degrees or more; no sign, regardless of its original installation angle, shall be allowed to exist at less than a forty-five (45) degree angle to the ground for public safety reasons).

- b. Any sign designated by official action of the city as having special historic or architectural significance is exempt from the provisions of this chapter.
 - c. *Illegal nonconforming signs:*
 - 1. Owners with/of illegal nonconforming signs which require a permit and which have been in place less than three (3) months prior to notification of violation must apply for a permit and must upgrade the sign to conforming within thirty (30) days of original notification. If a permit is not granted, then the sign must be removed within sixty (60) days of original notification.
 - 2. Owners with/of illegal nonconforming signs which require a permit and which have been in place for longer than three (3) months prior to notification of violation must apply for a permit and upgrade the sign to conforming within thirty (30) days of original notification. If a permit is not granted, then the sign must be removed within twelve (12) months of original notification.
 - 3. In the case of painted wall signs, such signs shall be removed or painted over within thirty (30) days of original notification of violation.
- (10) *Signs exempt from permit:* A permit shall not be required for the following signs provided, however, such signs shall otherwise comply with all other applicable provisions of this sections and with any other applicable city code/ordinance:
- a. Temporary construction or real estate signs not exceeding eight (8) square feet in area when located in residential districts, and thirty-two (32) square feet in area when located in any other zoning district.
 - b. Memorial plaques, building identification signs and building cornerstones when cut or carved into the masonry surface or when made of noncombustible material and made an integral part of the building or structure. These signs shall not exceed four (4) square feet in area.
 - c. On-site directional and directory/informational signs not exceeding eight (8) square feet in area and three (3) feet in height, provided that such directional or directory/informational signs do not contain advertising and are not used as such. On-site directional and directory/informational signs are only permitted behind the front building line.
 - d. Political signs.
 - e. Traffic or other municipal signs, legal notices, danger and such emergency, temporary or non-advertising signs as may be approved by the city council or the city manager or his authorized representative, when placed in compliance with the "Uniform Manual of Traffic Control Devices" and with applicable city codes/ordinances.
 - f. Temporary special occasion announcement signs (e.g., spirit signs, graduation, congratulatory, welcome home, etc.) on residential lots for a maximum time limit of five (5) days.
 - g. Religious emblems when installed in compliance with this section and with other applicable City codes/ordinances.
-

-
- h. Seasonal decorations for a maximum of sixty (60) days, provided traffic visibility is not affected.
 - i. Nameplates.
 - j. Incidental signs.
 - k. Menu boards.
 - l. Governmental signs erected by the city, county, state or federal government in furtherance of their governmental responsibility.

(11) *Prohibited signs and activities:*

- a. Traffic - A sign shall not be erected in a manner that would confuse motorists, or that would obstruct the view or interpretation of any official traffic sign, signal or device.
- b. Obscene, indecent and immoral matter - It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral matter.
- c. All changeable electronic variable message sign (CEVMS) billboard signs and the conversion of any existing billboard (off-premises) sign to a CEVMS.
 - 1. Exempt: non-profit organizations. Signs shall not exceed six (6) square feet in area, shall not interfere with vehicular traffic in any manner and shall be placed only on private property with permission of property owner. Each non-profit organization is limited to a total of six (6) signs.
- d. Advertising matter placed or suspended from buildings, poles, sidewalks, fences and the like.
 - 1. No person shall place or suspend from any building, light pole, utility pole, structure, sidewalk, parkway, driveway or parking area, any display of items other than a sign, as defined, regulated and permitted by this section.
- e. Painting, marking or otherwise inscribing streets, sidewalks, utility poles, and the like. No person shall attach any sign, paper or other material, or paint, stencil or write any name, number (except address numbers) or otherwise mark on any sidewalk, curb, gutter, street, utility pole, public building, fence or structure except as otherwise allowed by ordinance.
- f. Attaching advertising matter to utility poles and the like; scattering advertising matter on streets and sidewalks.
 - 1. No person, firm, corporation, association or person shall paste, stick, stack, nail, or otherwise place any advertisement, handbill, placard or printed, pictured or written matter or thing for any purpose upon any fence, railing, sidewalk or public telephone, electric or other utility pole or any other public property, including trees thereon, with the exception of a public school or public college promoting their facility shall be limited to placement on electric poles located on rights-of-way adjoining their campus.
 - 2. Exempt public school or public college banners shall not exceed twelve (12) square feet in area, shall not interfere with the safe maintenance of mounting pole, shall not be located within eight (8) feet of any energized electrical wire, shall not be located within ten (10) feet of ground, shall not interfere with vehicular traffic in any manner and shall

be limited to placement on electrical poles located on rights-of-way adjoining their campus.

- g. Roof sign prohibited - Any sign erected on a vertical framework supported by and located immediately and entirely over the roof of a building is prohibited.
 - h. Signs attached to or upon any vehicle shall be prohibited where any such vehicle is allowed to remain parked in the same location, or in the same vicinity, at frequent or extended periods of time where the intent is apparent to be one of using the vehicle and signs for purposes of advertising an establishment, service or product. Vehicles operating under a city franchise shall be excluded from this provision.
 - j. Off-premises attached signs.
- (12) *Signs in the CBD District.* Most private signs shall be designed for and in scale with the pedestrian, and it shall be constructed in keeping with character of the building upon which it is placed. Materials should be compatible with the materials used on the building facade upon which they are associated. Sign colors should complement the colors and theme of the entire street scape. Signs shall not be of a misleading nature. The key provisions for various types of signs are as follows:
- a. Attached signs - except as noted, all attached signs shall be flush with the building facade, shall not extend above the top of the second-story window, shall not project above the roof line, shall not extend outside the edge of a building corner and shall not cover or compete with the architectural features of the building. Internally illuminated plastic cabinet signs are prohibited.
 - b. Awning/canopy signs - limited to the valance or small logos on the awning/canopy itself.
 - c. Wall signs - wall signs may be illuminated by either an internal or external light source. Wall signs shall also conform to the following:
 - 1. Minimum height (clearance over sidewalk): eight (8) feet, six (6) inches.
 - 2. Maximum height: shall not exceed the roof line of the building or above the top of the second-story window.
 - 3. Maximum thickness: one (1) foot.
 - 4. Maximum area: for every one (1) linear foot of building frontage or entrance frontage, one and one-half (1.5) square feet of sign area shall be allowed.
 - d. Shingle/projecting signs:
 - 1. Minimum height (clearance over sidewalk): eight (8) feet, six (6) inches and shall not project more than five (5) feet from the building.
 - 2. Maximum sign height of three (3) feet from top of the sign to bottom.
 - 3. Sign area shall not exceed twelve (12) square feet.
 - 4. Decorative iron or wooden brackets are encouraged.
 - e. Hanging sign:
 - 1. Minimum height (clearance over sidewalk): seven (7) feet, six (6) inches.
 - 2. Shall not extend beyond awning or canopy projection.
-

-
3. Maximum area of five (5) square feet.
- f. Menu boards/display signs (signs which are removed daily):
 1. One (1) sign per primary entrance.
 2. Sign may extend out a maximum of two (2) feet from the building.
 3. Maximum of six (6) square feet shall be permitted for the area of the sign or the area of sidewalk used.
 - g. Monument signs - A sign having a low profile made of stone, concrete, brick, routed wood, planks, beams or similar material:
 1. Maximum height shall be seven (7) feet, including the monument base, as measured from the average ground level at the base to the topmost portion of the sign. The ground upon which a monument sign is located may be bermed up (or designed as a raised planter) a maximum of three (3) feet from the top of the adjacent street curb.
 2. Maximum area of fifty (50) square feet.
 3. Minimum setback from the edge of street ten (10) feet. No sign shall encroach across the property line or right-of-way.
 4. One per street frontage.
 - h. Window signs:
 1. Shall not cover more than forty (40) percent of the total glass area.
 2. Individual letters placed or painted on interior of window.
 3. Paper or cardboard signs are prohibited in or on windows.
 - i. Temporary signs - A sign, banner, pennant, valance or other advertising device constructed of cloth, canvas, wallboard or other like materials, with or without a frame that is not permanently attached to the ground, wall or building and which is intended to be displayed for a period not to exceed fourteen (14) days:
 1. A temporary sign should be limited to a maximum of twenty-four (24) square feet in area with a maximum height of three (3) feet.
 2. A temporary sign, when installed, should not obscure architectural details of building.
 3. A maximum of two (2) temporary signs may be displayed at the same time.
 4. Under no circumstances shall a temporary sign be allowed to substitute as a permanent sign.

Article II. ADMINISTRATION

Sec. 7- 2. Permit required.

Applications for a sign permit must be filed at city hall and will be processed by the city manager or the city manager's designee.

- (1) Requirements. Except as otherwise provided for herein, no sign shall be erected, posted, painted, or otherwise produced, changed, refaced, remodeled, or reconstructed, in whole or in part, within the city limits of the city without first obtaining a permit.
-

-
- (A) Applications. Application for a permit required by this article shall be made as required by the city council. The application for sign permits shall contain all information, drawings, and specifications necessary to fully advise the city manager of the type, size, shape, location, zoning district (if applicable and if within city limits), construction, and materials of the proposed sign and the building structure or premises upon which it is to be placed. Drawings shall also show all existing signs on the property. An application is not considered complete until all necessary information listed in this code are provided with the application.
- (B) Application for permit. An application for a sign permit must be filed at city hall. An application for any sign must state the date when the owner intends to erect the sign.
- (C) Proof of property interest. All applicants must provide sufficient proof of a real property ownership interest in the property on which the sign will be located or sufficient proof of authorization from the real property owner for sign placement on the property.
- (D) Refacing permit for refacing, remodeling, or repainting sign. A permit is required for anything more than routine maintenance that results in refacing, remodeling, or repainting a sign. The permit fee shall be as listed in the fee schedule. A refacing permit is only available if: (i) the size of the face remains the same; and (ii) the sign is compliant with the outdoor lighting requirements.
- (2) An application shall include sufficient information for the city manager to make an informed decision.
- (3) The city manager shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 21 calendar days after receipt. Any application that complies with all provisions of this article, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved after inspection and approval of the plans and the site.
- (A) If the application is rejected, the city council shall provide in writing a list of the reasons for the rejection. An application shall be rejected for noncompliance with the terms of this article, the zoning ordinance, building code, or other applicable law, regulation, or ordinance. If the permit application does not comply with the city ordinances after resubmission and review by the city council, and no variances have been applied for, the applicant must pay a reapplication fee before the application will be reviewed again.
- (B) If no action is taken by the city manager within the stated time period after receipt, the city shall not collect a fee for the sign permit application. The city manager then shall approve or reject the application as soon as practical after the 21-day deadline. A new 21-day deadline begins at each submission. However, if the city manager has not approved or rejected the permit within 45 calendar days after the completed application is filed, the applicant can file a complaint as an appeal to the city council as if the permit had been denied.
- (4) Permit fee. A nonrefundable fee as set forth in the fee schedule adopted by the city council shall accompany all sign permit applications. A reapplication fee may be charged as designated in this article. No permit shall be issued until applicable fees have been paid to the city. Fees may be subject to change without prior notification. The sign permit fee schedule shall be in accordance with the fee schedule enacted by the city council and located at city hall.
-

-
- (5) Duration and revocation of permit. If a sign is not completely installed within six months following the issuance of a sign permit, the permit shall be void. The city may revoke a sign permit under any of the following circumstances:
- (A) The city determines that information in the application was materially false or misleading;
 - (B) The sign as installed does not conform to the sign permit application;
 - (C) The sign violates this article, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or
 - (D) The city council determines that the sign is not being properly maintained or has been abandoned.
- (6) Appeals. If a permit is denied, the applicant may appeal in writing to the city council. The city council shall make the final decision on the approval or denial of any permit.
- (7) All applications for permits shall include a drawing to scale of the proposed sign and all existing signs maintained on the premises and visible from the right-of-way, a drawing of the lot plan or building facade indicating the proposed location of the sign, and specifications for its construction, lighting, motion, and wiring, if any. All drawings shall be of sufficient clarity to show the extent of the work.
- (8) Conditions for issuing permits. No permit for the erection or alteration of any sign over any sidewalk, alley, or other public property, or on or over any roof or building shall be issued to any person except upon the condition that the permit may be withdrawn at any time, in which case the sign shall be immediately removed by the responsible party, who will also be liable under the penalties provided for in this article.
- (9) Issuance. A permit shall not be issued when:
- (A) An existing billboard sign is in a deteriorated, unsafe, or unsightly condition.
 - (B) A sign on the premises is not in compliance with this article.
 - (C) A sign on the premises is proposed for construction in an area not zoned for such a sign.
 - (D) Authorization of the property owner on which the sign is to be placed has not been obtained.
- (10) Inspection. Any sign for which a permit is issued shall be inspected after its erection for conformity to the provisions of this article.
- (11) Before any permit may be issued for a new sign under this chapter, the responsible party shall modify or remove any of its own nonconforming signs and sign structures displayed or erected on the same property for which the permit is being sought, so that all the signs and sign structures they are responsible for on the property conform to the provisions of this chapter. This provision does not apply to real estate signs, banners, temporary signs, or daily display signs. This provision does not apply to nonconforming signs with a variance.

Sec. 7- 3. Permit not required.

A permit shall not be required for:

- (1) Simple routine maintenance, adjustments, replacement of compliant light bulbs, etc., on existing signs.

-
- (2) When a sign has been damaged by fire, windstorm, or other causes, immediate work may be done to prevent damage to property or hazard to persons, and to this extent only. Notice will be given as soon as practical to the city council.
 - (3) Changing a commercial message to a noncommercial message on any legal sign surface. Any sign surface on which a commercial message may contain a noncommercial message.
 - (4) Changing of permitted copy of an existing sign, provided that no increase occurs with respect to either the sign area or the manner in which the sign is structurally supported.
 - (5) Any sign or display exempted from the sign article or permit requirement.

Sec. 7- 4. Variances.

- (a) A responsible party that wants a variance from this article must file a request for variance with the city manager along with a variance application fee, as stated in the city's most recent fee schedule. The city manager will indicate what documentation the responsible party must provide in support of the request.
- (b) Once the complete and necessary documentation has been provided to the city manager, the city manager shall review the request and make a determination based on the documentation provided by the responsible party.
- (c) The city manager may, in specific cases and subject to appropriate conditions, and only after a finding based on the evidence presented that strict compliance with the requirements of this article will result in substantial undue hardship, sufficient mitigation, or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of this article:
 - (1) Permit a variance for a noncommercial or commercial sign of the setback, effective area, size of internal components of a sign so long as total size of sign face is compliant, or height requirements of this article;
 - (2) Authorize one additional sign on premises more than the number permitted by this article;
 - (3) Approve an increase in height up to four feet;
 - (4) Approve an electronic or LED sign for the display of illuminated, changeable copy sign that consists of electronically changing alphanumeric text; or
 - (5) Approve a roof sign.
- (d) Other requests for variances require a variance application to the city council. The city council may decide, subject to appropriate conditions, and only after a finding based on the evidence presented that strict compliance with the requirements of this article will result in substantial undue hardship, sufficient mitigation, or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of this article.
- (e) The city manager and city council shall consider:
 - (1) Special or unique hardship because of the size or shape of the property on which the sign is to be located, or the visibility of the property from public roads.
 - (2) Hardship claim based on the exceptional topographic conditions or physical features uniquely affecting the property on which a sign is to be located.

-
- (3) Proposed sign location, configuration, design, materials and colors are harmonious with the surrounding setting.
 - (4) Natural colors (earth tones) and muted colors are favored. Color schemes should be compatible with the surrounding structures. Predominate use of bold and/or bright colors is discouraged under this section.
 - (5) The sign and its supporting structure is in architectural harmony with the surrounding structures.
 - (6) Mitigation measures related to the sign in question or other signs on the same premises.
 - (7) Demonstrated and documented correlation between the variance and protecting the public health and safety.
 - (8) The stage at which the variance is requested. The city will be more inclined to consider a variance request when it is sought during an earlier stage of the construction approval process, for instance when the responsible party is submitting/obtaining a plat, planned unit development, development agreement, or site plan.
 - (9) The city manager may authorize the remodeling, renovation, or alteration of a sign when some nonconforming aspect of the sign is thereby reduced.
- (f) Where a permit was required for a sign's erection according to the law in effect at the time the sign was erected and where the city manager finds no record of a permit being issued, the city manager may authorize the issuance of a replacement permit when, from the evidence presented, the city manager finds either that a permit was issued or that arrangements were made with a sign company to obtain such permit.
 - (g) If a variance applicant wishes to appeal the decision of the city manager, the applicant shall file for an appeal with the city council within ten days of receipt of the city manager's decision. The city council shall consider the appeal at its next regular meeting or as soon as practicable. The city council shall either: (1) approve, reject, or approve upon condition the variance application, if any, at its meeting; (2) postpone its decision on the request of the applicant; or (3) postpone its decision to its next regular meeting for good cause based on need for further review by the city council. Upon approval by the city council, the sign permit and variances, if any, the permit shall be issued by the city manager.

Sec. 7- 5. Conditions.

The city manager may impose conditions upon the granting of a variance under this chapter. Such conditions must be related to the variance sought and be generally intended to mitigate the adverse effects of the sign on neighboring tracts and the general aesthetic ambiance of the community. A non-exhaustive list of examples of conditions include increased setbacks, added vegetation, muted colors, and decreased lighting. Sign variances may be conditioned on the responsible party bringing other existing, nonconforming signs into compliance with current regulations. A responsible party's failure to comply with conditions placed on a variance may result in the city council voiding the variance and authorizing all available code enforcement actions and other remedies available in equity or at law.

Sec. 7- 6 through 7-10. Reserved

ARTICLE III- EXISTING SIGNS

Sec. 7- 11. Existing signs.

Existing signs within the city limits at the time the sign ordinance is adopted, shall be treated as nonconforming signs. If required for the type of existing sign, a permit shall be issued upon application. The signs shall be held to the amortization period addressed below of ten years so that the beginning of the amortization period is the time of adoption and approval by the council.

Sec. 7- 12. Maintenance of existing signs.

- (a) All signs in the city shall be properly maintained at all times to the satisfaction of the city manager. The city manager shall have the authority to order the painting, repair, or removal of a sign which constitutes a hazard to the safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment. The city manager's decision shall be subject to the review of the city council under the procedure for appeal. If within 15 days the maintenance orders are not complied with, the city manager may order the sign removed at the owner's expense under the provisions of this article.
- (b) It is an offense for a responsible party to fail to maintain signs and sign structures in a good and sound condition as determined by the city manager. Responsible parties must repair or replace signs and sign structures that are rotting, peeling, rusting, fading, becoming discolored, covered in dirt, or filled with holes. Responsible parties shall not allow signs or sign structures to become dangerous, as a result of inadequate design, construction, repair, or maintenance. The city can seek to compel immediate removal of signs that are in such a state of disrepair as to constitute an imminent threat to public health, safety and welfare.

Sec. 7- 13. Newly annexed signs.**Reserved****Sec. 7- 14. Off-premises pole signs (billboards).**

Permit for alteration or relocation may be issued for an off-premises sign.

- (1) Alteration. An off-premises sign may not be altered regarding amount of surface area, shape, orientation, height, illumination, or location without the prior issuance of a sign alteration or relocation permit. Ordinary and routine necessary repairs that do not change the size, shape, orientation, height, illumination, or location of an inventoried off-premises sign do not require an alteration permit. A sign alteration permit expires if the approved modifications are not completed within 90 days of permit issuance.
- (2) Maintenance. If the city manager finds that any off-premises sign is not maintained in good repair, the city manager or designee will notify the owner to repair the sign within 30 calendar days. If the sign structure or sign area of an off-premises sign has deteriorated more than 50 percent of its replacement value, or is not repaired within 30 calendar days, the city manager shall notify the owner of the off-premises sign and/or the owner of the real property on which the off-premises sign is located to remove the off-premises sign or poster panel from the property within a specified time. Replacement of more than 50 percent of an off-premises sign during one calendar year shall void the legal nonconforming status of the sign and require immediate removal or conformance with current standards.

-
- (3) No existing billboard shall exceed 40 feet in height from the ground level. No existing billboard shall interfere with the visibility of pedestrians or drivers of motor vehicles at street intersections or otherwise obstruct traffic or create a traffic hazard.

Sec. 7- 15. Destroyed nonconforming signs.

An existing nonconforming sign in the city limits may not be repaired or rebuilt in the case of obsolescence or destruction by fire or other causes. In case of partial destruction by fire or other causes, where the cost of repairing the sign is less than 50 percent of the cost of erecting a new sign of the same type at the same location, the city manager may issue a "no fee" permit for the necessary repairs to be made to the sign. If the necessary repairs are not completed within 60 days of the receipt of written notification to the responsible party by the city manager, then the sign shall be removed either by the responsible party or by the city at the responsible party's expense. Criminal or civil penalties may also be initiated against the responsible party as provided for in this article. Under unusual circumstances and/or where the responsible party has shown "good faith" in attempting to comply with the provisions of this article, an extension period of 30 days may be granted to the responsible party to facilitate repairs. If the cost of rebuilding or repair of an existing nonconforming sign exceeds 60 percent of the cost of erecting a new sign of the same type at the same location, the sign shall be removed at the responsible party's expense. If the sign is not removed within 30 days of written notification to the responsible party, then it shall be removed by the city or its designated agent(s) at the responsible party's expense. A sign so removed under the provisions of this section shall be kept in storage for a period of 60 days, and if it is not claimed within said period, it may be disposed of in a lawful manner by the city.

Sec. 7- 16. Abandoned or discontinued signs.

An abandoned or discontinued sign is a sign that advertises a business or project that has ceased operations more than one year, unless the property is leased, in which case the sign shall be removed after two years. The responsible party shall remove any sign and/or sign structure that has not been used for advertising or promoting a going concern for at least one year. For the purposes of this section, a business or project has ceased to operate when it is no longer engaged in the sale of products or services in the normal course of business.

Sec. 7- 17. Signs and modifications.

- (a) Signs lawfully in existence on the date the provisions of this article are adopted that do not conform to the provisions of this article, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed, or maintained, must be regarded as nonconforming.
- (b) For the purpose of amortization, these signs may be continued from the effective date of this article for a period not to exceed ten years, unless under a previous regulation the signs were to be amortized as allowed by law. In that case the amortization period must be as previously required or ten years, whichever is less. Signs that cannot be amortized by the city may continue in existence so long as the sign continues to be properly maintained as required by this code.

Sec. 7- 18. Altered, relocated, or replaced signs.

Any sign which is altered, relocated, or replaced must be brought immediately into compliance with all provisions of this article.

Sec. 7- 19. Additional temporary signs.

Reserved

Sec. 7- 20. Incentives for compliance.

- (a) Variance incentive. When considering granting a requested variance under this chapter or any other chapter, the city may take into consideration an applicant's commitment to bring pre-existing nonconforming signs into compliance with this chapter, and/or remove pre-existing nonconforming signs.
- (b) Permit incentive. If a responsible party voluntarily elects to bring a pre-existing nonconforming sign into compliance with this chapter, the city manager may waive the application fee for any required sign permits related to the specific property.

ARTICLE IV- VIOLATIONS AND PENALTIES

Sec. 7- 21. Violations.

Should the responsible party or parties, after receiving written notice from the city manager or authorized official of a violation of this chapter, fails to correct a violation of this chapter within the time stated in the written notice, the city manager may cause such signs and supports to be removed. The city manager may also take necessary action to file a lien against the property to recover the cost of removal if the removal costs are not paid by the property owner within 15 days after the property owner is billed. The city manager may also pursue criminal penalties and/or civil action as provided for under this article and state law. No notice by the city is required to remove improperly placed signs that are:

- (1) In the right-of-way;
- (2) In another person's property without that person's written permission;
- (3) In a place that causes a safety issue due to its placement; or
- (4) In a place that encumbers use of a street, path, trail, or sidewalk or encumbers entry or exit from a property.

Sec. 7- 22. Offense.

- (a) A person who violates, causes, allows or permits a violation a section of this chapter designated as an offense commits a misdemeanor punishable by a fine not exceeding \$100.
- (b) Each violation of this chapter designated as an offense constitutes a separate offense.
- (c) No culpable mental state is required to prove an offense under this chapter if the offense involves: (1) placement of a sign in the right-of-way; (2) placement of a sign in another person's property without the person's permission; (3) placement of a sign that encumbers access to a person's property or encumbers use of a street, sidewalk, trail, path, or driveway.

Sec. 7- 23. Liability.

The provisions of this chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person that erects or owns any sign, from personal injury or property damage resulting from the placing of the sign, or resulting from the negligence or willful acts of such person in the design, construction, maintenance, repair or removal of any sign erected in accordance with a permit issued under the provisions of this chapter. Nor shall it be construed as imposing upon the city or its officers, employees or agents any responsibility or liability by reason of the approval of any signs, materials, or devices under these provisions.

Sec. 7- 24. Civil remedies.

Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the chapter, including removal of signs that violate this chapter at the expense of the responsible party;
- (2) A civil penalty up to \$100 a day when it is shown that the defendant was notified of the provisions of the chapter and after receiving notice committed acts in violation of the chapter or failed to take action necessary for compliance with the chapter; and other available relief; and
- (3) An impoundment fee may be charged to recover a sign that has been impounded based on the current city fee schedule.

Sec. 7 – 25 through 7 – 100. Reserved.

This ordinance shall become effective on and after its passage, approval, and publication, as provided by law.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Hemphill, Texas this the 19th day of September, 2023.

APPROVED:

ROBERT HAMILTON, MAYOR

ATTEST:

SEAL

KELLI BEALL, CITY SECRETARY/ACCOUNTANT