

ORDINANCE NO. 21-_____

AN ORDINANCE AMENDING THE CITY OF HARLINGEN CODE OF ORDINANCES CHAPTER 111, ARTICLE X, SIGN REGULATIONS REMOVING ALL REFERENCES TO POLITICAL SIGNS AND REMOVING REFERENCES TO ON-PREMISE AND OFF-PREMISE SIGNS THAT ARE CONTENT BASED AND CONVERT TO FORM BASED REGULATION; AND PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING

WHEREAS, The amendments are also consistent with the purpose of the One Vision One Harlingen Comprehensive Plan which is to provide a growth-friendly environment that also preserves and enhances the architectural character of the area; and

WHEREAS, major amendments to the sign regulations removing content-based are necessary to protect freedom of speech under the United States Constitution; and

WHEREAS, elimination of the on-premise, off-premise sign distinction will allow the City to avoid any issues or concerns about content-based regulation that could implicate First Amendment regulatory issues; and

WHEREAS, The City Commission of the City of Harlingen desires to amend the City's sign regulations to keep abreast of current developments in sign regulation that depend on objective regulatory criteria.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, THAT:

SECTION I: That the City of Harlingen Code of Ordinances, Chapter 111, Zoning, Article X, Sections 111-275 thru 284, are hereby amended to read in full as follows:

ARTICLE X. - SIGN REGULATIONS

Sec. 111-275. - Sign definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and phrases not defined in this section but defined elsewhere in this chapter shall be given the meanings set forth in the chapter. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

Animated sign means any sign that uses movement or change of lighting to depict action or create a special effect or scene, or which is designed and constructed to give a message through a sequence of progressive changes in parts by either action or motion, flashing or color changes, requiring electrical or manual energy. This definition includes, but is not limited to, digital signs.

Balloons means any sign that floats above the ground, motorized or nonmotorized.

Banner means any sign of lightweight fabric or similar material that is permanently mounted in accordance with section 111-280(e). Flags without a commercial message or intent shall not be considered banners.

Beacon means any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move (contact airport management before placement).

Bench sign means any sign painted on street furniture, especially bus stop benches.

Billboard sign means an outdoor board for displaying advertisements.

Building marker means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Canopy sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. (A marquee is not a canopy.)

Changeable copy sign means a sign, or portion thereof, with characters, letters, numbers, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this article. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this article.

Commercial message means any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Digital Signs – see animated sign

Flag means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other noncommercial entity.

Freestanding sign means any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from (i.e., not attached to) any building or other structure.

Incidental sign means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Landmark sign means any sign of artistic or historic merit, uniqueness, or of extraordinary significance as may be identified by the national, state, or local historic commission, or other official agency or board identified in this article to make such a determination.

Lot means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as *Premises*).

Marquee means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Pennant means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent sign means a sign that is securely attached to a building or premises according to building codes.

Political sign means any sign which promotes a candidate for any public office or which advocates a position on any social issue as its primary purpose. Political signs are considered a special category of temporary sign.

Portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to, leaning against, placed inside of, or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Premises means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as *Lot*).

Projecting sign means any sign built in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Real estate sign means any sign used for the primary purpose of advertising the availability of real property for sale.

Residential sign means any sign located in a district zoned for residential uses that contains no commercial message.

Roof sign means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral, means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

Sandwich board sign means self-supporting A-shaped portable signs with only two visible sides that are situated adjacent to a business, typically on a sidewalk, that contains commercial speech.

Sign means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity or product, or to communicate information of any kind to the public and visible from the public right-of-way or another property.

Street frontage means the distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary construction sign means a sign used to promote the contractor, bank or other business involved in or responsible for construction taking place on the premises.

Temporary sign means any sign that is used only temporarily in accordance with this section and is not permanently mounted according to building codes.

Wall sign means any sign attached parallel to, but within 12 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window sign means any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside or outside of a window or on the window panes or glass and is visible from the exterior of the window.

(Code 1997, § 159.096; Ord. No. 02-09, 1-19-2002; Ord. No. 03-58, 9-3-2003; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

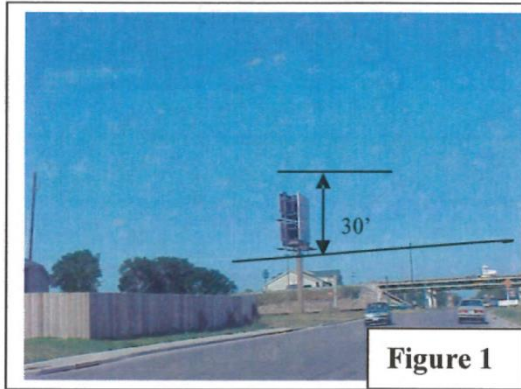
Sec. 111-276. - Purpose and applicability.

- (a) This section is to establish a permit system for signs to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this article.
- (b) The purpose of these sign regulations are to protect, promote, improve and provide for the public health, safety and general welfare of the citizens of the City and:
 - (1) To encourage the effective use of signs as a means of communication;
 - (2) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
 - (3) To improve pedestrian and traffic safety;
 - (4) To minimize the possible adverse effect of signs on nearby public and private property;
 - (5) To enable the fair and consistent enforcement of these sign restrictions;
 - (6) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this article, but without a requirement for permits;
 - (7) To prohibit all signs not expressly permitted by this article; and
 - (8) To provide for the enforcement of this article.

(Code 1997, § 159.085; Ord. No. 02-09, 1-19-2002; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-277. - Height, area and distance requirements and restrictions.

(a) *Height.* The height of a freestanding sign shall be computed as the vertical distance from the base of the sign at the roadbed grade (or the surface grade beneath the sign if not flush with the ground) to the top of the highest attached component of the sign. Along elevated expressway sections, the height shall be measured from the centerline of the main traveled way (see Figure 1).



Maximum Sign Heights

Zoning Designation *	N	R1	R2	RPH	M1	M2	MH	PD	O	NS	GR	LI	HI
Sign	na	10 feet	10 feet	10 feet	15 feet	15 feet	15'	**	25 feet	30 feet	50 feet ^	50 feet ^	50 feet ^

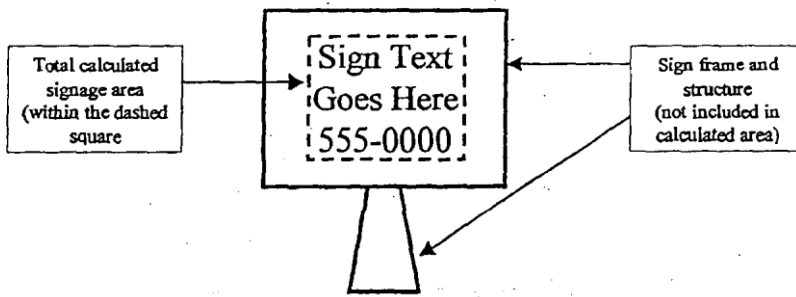
* For zoning designation explanations, see section 111-59.

** For planned development requirements, see section 111-332.

^Within 600 feet of Expressway 77/83, Expressway 83 or Future Interstate 1-69, maximum sign height is 80 feet (Distances are measured along public rights-of-way at 90 degree angles).

(b) *Area.*

(1) *Individual signs.* The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets chapter regulations and is clearly incidental to the display itself (see example below).



- (2) *Multi-faced signs.* When two or more sign faces are placed back to back, so that only one face can be seen by approaching traffic at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- (3) *Total permitted sign area.* The permitted sum of the area of all individual signs on a premise shall be computed by adding the area of each individual sign. Total sign area permitted is based on linear foot building frontage on either a street, access easement or side of a building visible from a public street as defined in the table in subsection (b)(6) of this section. Lots fronting on either two or more streets, or access easements are allowed the permitted sign area for each street frontage. In addition, multiple lots may pool together their frontages to allow for a larger shared sign at an appropriate location.
- (4) *Painted signs.* Lettering painted on buildings will require a permit and will be counted toward maximum sign area allowed.
- (5) *Placement.* No sign shall obstruct traffic or violate the sight triangle visibility as defined in section 111-581. No sign with a commercial message shall be placed in the right-of-way without first obtaining a license to encroach.
- (6) *Existing multi-tenant and/or retail/shopping centers in "GR" zones.* Such centers in existence on June 2, 2010, shall follow the total permitted sign area requirements of this section, except as follows:
 - a. New tenants in a tenant space with no existing signage (from a previous tenant) shall be allowed a minimum of 32 square feet of signage on said tenant space, regardless of the total permitted sign area calculation for the center;
 - b. New tenants in a tenant space with existing defunct signage shall be allowed to replace said defunct sign with no more sign area than that of the defunct sign, unless an increase would be allowed under the total permitted sign area for the center; and/or
 - c. New tenants in the anchor tenant space shall be allowed signage under the total permitted sign area calculation for the center, or a no more than a 30 percent increase in sign area on the anchor tenant space from that of the previous anchor tenant, whichever is greater. The latter option (30 percent) shall be allowed on one occasion only (i.e., if the 30 percent option is used by a new anchor tenant, future anchor tenants in the same space may not repeat the option).

Maximum Total Sign Area												
Zoning Designation *	N	R1	R2	M1	M2	MH	PD	O	NS	GR	LI	HI
Signs												
Square feet of sign allowed per linear foot of building facing street, access easement or side of building visible from a public street (regardless of height)	N/A	0.3	0.4	0.4	0.4	0.4	**	1.0	0.5	3.0 ^{***}	1.2 ^{****}	1.2

* For zoning designation explanations, see section 111-59.

** For planned development requirements, see section 111-332.

*** All properties in the GR District are allowed to have a minimum of 100 square feet of total sign area. Properties adjacent to the Expressway 77/83 or within 600 feet of the Expressway shall be allowed 6 square feet of total sign area per linear foot of building facing a public street, access easement or a side of building visible from a public street.

**** Commercial use in a LI District is allowed 3.0 square feet per linear foot of building facing either a street or access easement.

- (7) Sandwich board signs. The maximum area of such sign shall be no more than six square feet per side with the maximum height being 42 inches. Sandwich board signs shall not be illuminated, nor shall they contain moving parts or have balloons, streamers, pennants, or similar adornment attached to them. Sandwich signs are only allowed within the Downtown District Overlay.

(c) *Lighting.* Signs may be illuminated subject to the following restrictions:

- (1) No revolving or rotating beam or beacon of light that simulates any emergency light or traffic device shall be permitted as part of any sign. Flashing devices shall not be permitted upon a sign; however, illuminated signs that indicate customary public information, such as time, date, temperature or other similar information, shall be permitted.
- (2) External lighting, such as floodlights, thin line and goose neck reflectors, are permitted, provided the light source is directed on the face of the sign and is effectively shielded so as to prevent beams or rays of light or glare or other unsafe conditions from being directed into any portion of the traveled roadway.
- (3) The illumination of any sign within 200 feet of a residential lot line shall be diffused or indirect in design to prevent direct rays of light from shining into adjoining residential districts or lots.
- (4) Any extension or power cords used shall not be visible or accessible but secured in rigid conduit or otherwise safely secured as required by the currently adopted city electrical code.
- (5) No sign shall be illuminated to such intensity to exceed a maximum of one (1) footcandle measured at the property line.
- (6) Sign permits for such signs shall only be issued for the conversion of existing signs to animated signs subject to the other provisions of this section.
- (7) The dwell time, defined as the interval of change between each individual static message, shall be at least eight seconds, and a change of message must be

accomplished within one second or less. The dwell time shall not include the one second or less required to change a message.

- (8) The sign shall contain a default mechanism that will freeze in one position if a malfunction occurs.
- (9) The sign must contain a control system which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign 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.
- (10) The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
- (11) No animated signs shall be permitted within 75 feet of a residentially-zoned property or property used for residential purposes.
- (12) Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.

(d) *Additional Sign Regulations for Billboards.*

- (1) Signs having a face area of greater than 242 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.
- (2) Signs having a face area ranging from 100 to 242 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply. Signs within this range of size are allowable only on streets designated by the comprehensive plan thoroughfare map as a major arterial, minor arterial or collector.
- (3) Signs having a face area of less than 100 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.
- (4) Signs are not in violation of this section because of their proximity to one another if they are located so that their messages are directed toward traffic flowing in different directions, but in no case may be within a radius of 1,500 radial feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.
- (5) Bench signs with advertising shall not be used in the calculation of distances between signs due to specific placement requirements usually affixed to bench signs.
- (6) No sign shall be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or

- device, or interfere with a driver's view of approaching or intersecting traffic.
- (7) No new billboard signs shall be allowed within 500 feet from any church, religious institution, cemetery, preschool, school, college, public park, public playground or designated scenic area.
 - (8) Signs are not allowed on tracts of land not platted in accordance with chapter 109.
 - (9) Signs shall only be freestanding and shall not be placed on or through buildings or roofs.
 - (10) The total sign area of all signs on a developed lot or tract cannot exceed the maximum sign area otherwise allowed on that particular developed lot or tract.
 - (11) Animated signs shall comply with the following additional regulations:
 - a. Sign permits for such signs shall only be issued for the conversion of existing signs to animated signs, subject to the other provisions of this section.
 - b. The dwell time, defined as the interval of change between each individual static message, shall be at least eight seconds, and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less required to change a message.
 - c. The sign shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
 - d. The sign must contain a control system which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign 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.
 - e. The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
 - f. Animated signage shall not exceed a maximum of one (1) footcandle illumination at the property line.
 - g. No animated signs shall be permitted within 150 feet of a residentially-zoned property or property used for residential purposes.
 - h. Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.

(Code 1997, § 159.097; Ord. No. 02-09, 1-19-2002; Ord. No. 02-40, 5-1-2002; Ord. No. 03-31, 5-21-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011; Ord. No. 12-52, § 1, 8-15-2012)

Sec. 111-278. - Permits required.

- (a) The owner, leaseholder or his agent shall secure a sign permit prior to the construction, placement, erection, or modification of a sign in accordance with the requirements of this section.
- (b) All signs require a city sign permit prior to being erected, placed, installed or modified except:
 - (1) Political signs placed on private property (in accordance with state law);
 - (2) Garage sales signs in accordance with section 111-334; and
 - (3) Banners no greater than 80 square feet and mounted in accordance with section 111-280(e);
 - (4) Sandwich board signs within the downtown district overlay so long as said signs do not cause the width of the pedestrian sidewalk to be reduced to less than four feet in width, and the sign is removed at the end of each business day; and
 - (5) Signs that are inside a building, or signs that do not have a primary purpose of being legible from a public street or another property.
- (c) General.
 - (1) Repairs or modifications of a legal nonconforming sign cannot increase the amount of nonconformance.
 - (2) A sign shall not be erected without first having obtained a permit from the department of planning and development of the city. A permit application must be submitted to be reviewed and appropriate fees paid prior to review, approval and construction.
 - (3) An engineering seal shall be required on any freestanding sign when the wind load design requires it by the adopted building codes. All signs requiring permits, except for banners, shall be erected only by a sign contractor registered annually with the City of Harlingen as specified in article III, division III, of this chapter. All electrical and structural specifications shall meet the currently adopted codes of the City of Harlingen.
 - (4) Permits issued for all signs shall expire within 90 days of issuance.

(Code 1997, § 159.098; Ord. No. 02-09, 1-19-2002; Ord. No. 03-39, 6-18-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-279. - Design, construction, and maintenance.

- (a) All signs shall comply with applicable provisions of the International Building Code and the National Electrical Code, as currently adopted by the city, at all times.
- (b) All signs requiring a permit must be marked in some permanent manner with the name of the contractor upon completion of the project. This marking must be visible and able to be read from the ground except in cases where design restrictions forbid visible placement. In that case, the contractor must include on the sketch where the permanent marker will be placed (e.g., mall sign markers may be placed on the top of the channel letters).
- (c) Except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this article, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

- (d) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes at all times.
- (e) All signs must be maintained current, that is, must be legible and in good repair without broken faces.

(Code 1997, § 159.099; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-280. - Special sign categories, permitted, and prohibited signs.

- (a) *Political signs.* Political signs are a special type of temporary sign. Political signs shall not be placed adjacent to a roadway such that placement would create an obstruction of view for vehicular traffic.
- (b) *Painted signs.* Signs painted on buildings require a sign permit and will be counted toward overall square footage of signs allowed.
- (c) *Real estate signs.* Real estate signs will be exempt from permitting if less than 36 square feet. These signs may be in place until such time the real property is no longer offered for sale or lease.
- (d) *Construction signs.* Construction signs are used to promote the contractor, bank or other business/service involved or responsible for construction taking place on the premises and are allowable without permits until such time as construction is complete and the building is occupied by tenant or user. Such businesses/services include, but are not limited to, landscaping, financing, and subcontractors of all types.
- (e) *Banners.* Banner signs, as defined in section 111-275, are allowed subject to the following:
 - (1) Such signs no greater than 80 square feet do not require city sign permits.
 - (2) Such signs no greater than 80 square feet are exempt from the total permitted sign area calculation described in section 111-277(b).
 - (3) The total area of all such signs on a building or tenant space mounted to or attached to any portion of the building or building support columns shall not exceed 20 percent of the area of the wall on which said signs are attached.
 - (4) All such signs shall be removed and/or replaced no longer than one year from the date of placement or when such signs become tattered, torn, or otherwise contrary to the requirements of section 111-279, whichever occurs first.
 - (5) Such signs shall be mounted in one of the following manners:
 - a. Flat against the wall of a building or fence and securely attached to said building or fence at all corners and every three feet along the length and width of said banner; or
 - b. Securely attached at all corners between two permanent mounting structures such as masonry support columns, steel support columns, or an approved permanent frame.
 - (6) Banner signs commonly referred to as "wind flags," "feather flags," or similar, are prohibited.
- (e) *Exempt signs.* The following items shall not be considered signs and are exempt from regulations under this article:

- (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
 - (2) Any advertising sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which such sign is located;
 - (3) Works of art that do not include a commercial message as its primary intent;
 - (4) Lights and decorations with no commercial message (such as holiday);
 - (5) Traffic control signs on private property, such as stop, yield and similar signs, the face of which contain no commercial message of any sort;
 - (6) Informational signs of a public utility regarding its poles, lines, pipes or facilities;
 - (7) Signs placed by a governmental agency, public utility company or a contractor doing authorized or permitted work within the right-of-way; and
 - (8) Event banners placed across city rights-of-way for special events as determined by the city manager's office or its agent who shall also establish the length of time banners may be erected.
- (f) *Prohibited signs.* It shall be unlawful for any person, corporation or entity to place or maintain a sign:
- (1) Which is on the city right-of-way unless a "license to encroach" has been issued by the city commission or if it is part of the downtown district overlay and is part of an awning or suspended sign projecting over a public right-of-way provided they maintain a clearance of at least nine feet to the bottom of such projection and do not project more than two-thirds the distance of the existing sidewalk right-of-way;
 - (2) Signs which require a sign permit but were erected without such a permit having been issued;
 - (3) Which is not legible or in good repair, such as with broken faces, faded or missing letters, etc.;
 - (4) That is not securely fixed as per building codes;
 - (5) That attempts or appears to attempt to regulate, warn or direct the movement of traffic or which interferes with, imitates, or resembles any official traffic sign, signal or device (except actual traffic control devices installed by the appropriate authority);
 - (6) That is erected or maintained upon trees, utility poles, or painted or drawn upon rocks or other natural features;
 - (7) That is nonconforming and damaged or destroyed to an extent of more than 75 percent of the current fair market value as determined by the chief building official and approved by the construction board of adjustments and appeals using the procedures outlined in the International Building Code as adopted and amended by the city;
 - (8) That prevents or obstructs or inhibits free ingress or egress from any doors, windows, or fire escapes or that are attached to a standpipe or fire escape; and
 - (9) Any signs not expressly permitted under this article or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:
 - a. Beacons (except as temporary signs not interfering with traffic or aircraft safety);

- b. Any vehicle which carries, conveys, pulls, or transports any sign for the primary purpose of advertising;
- c. Strings of lights not permanently mounted to a rigid background, except those exempt under previous sections. Signs attached to utility poles (except as informational to the operation or identification of the utility function); and
- d. Inflatable signs (except on a temporary basis for no more than 30 consecutive days each occurrence, no more than four occurrences per calendar year).
- e. Banner signs commonly referred to as "feather flags," "wind flags," or similar.

(g) *Removal of signs in violation of the ordinance.*

- (1) All reasonable efforts will be made to notify a property owner of a sign in violation of this article for their voluntary removal in a timely fashion.
- (2) If a property owner cannot be located or refuses to remove a sign in violation of this article, with approval from the construction board of adjustments and appeals the city may remove such sign and bill the property owner for reasonable recovery of time and costs associated with sign removal and disposal.

(Code 1997, § 159.0991; Ord. No. 02-09, 1-19-2002; Ord. No. 02-40, 5-1-2002; Ord. No. 03-31, 5-21-2003; Ord. No. 03-39, 6-18-2003; Ord. No. 03-58, 9-3-2003; Ord. No. 08-32, 4-16-2008; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-281. - Nonconforming signs.

- (a) Signs legally in existence before this ordinance was enacted, amended or otherwise made applicable to such signs, but not in compliance with the provisions of this section shall be considered legal nonconforming signs and will not be required to be modified or otherwise come into compliance with regulations adopted here unless such legal nonconforming sign is damaged or destroyed to an extent more than 75 percent of the current fair market value as determined by the chief building official.
- (b) A change in the information on the face of an existing legal nonconforming sign is allowed. Any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair, or maintenance would constitute an expense of more than 75 percent of the current replacement value of the sign. However, maintenance work on an existing legal nonconforming pole shall be permitted with the submission of a report from a licensed structural engineer verifying that such sign is structurally unsafe.

(Code 1997, § 159.0992; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-282. - Removal or reduction of nonconforming signs.

- (a) A property owner with legal nonconforming signage on the premises may not obtain any new signage permit unless a 15 percent reduction is achieved for the existing legal nonconforming sign.
- (b) If the legal nonconforming signage is removed (other than a portable sign), the owner of the premises will be entitled to a ten percent increase in allowable signage.
- (c) No new construction permits greater than 33 percent of the cost of the existing improvements may be issued unless and until all signage on the lot is in conformance with this article.

(Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-283. - Violations.

Any of the following shall be a violation of this Code:

- (1) To install, create, erect, or maintain any sign:
 - a. In a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;
 - b. Requiring a permit without first obtaining such permit; or
 - c. In such a way that is inconsistent with any plan or permit governing such sign or the lot on which sign is located;
- (2) To fail to remove any sign that is installed, created, erected, or maintained in violation of this article, or for which the sign permit has lapsed; or
- (3) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this article.

(Code 1997, § 159.0993; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Sec. 111-284. - Appeals.

- (a) Appeals to the conditions of this article may be taken to the zoning board of adjustments. A variance will be considered only if there is a hardship (other than monetary) that would result if the article was fully enforced due to some condition or physical characteristic of the lot that makes it impossible to follow the article through no fault of the property owner.
- (b) If an appeal is due to a sign permit denial, appeals shall be taken to the construction board of adjustments and appeals.
- (c) All appeals of the decision of the construction board of adjustments and appeals must be submitted in writing to the court within ten days hereafter the filing of the decision.

(Code 1997, § 159.0994; Ord. No. 02-09, 1-19-2002; Ord. No. 09-13, 5-6-2009; Ord. No. 2010-20, 6-2-2010; Ord. No. 11-63, § I, 12-27-2011)

Secs. 111-285—111-301. - Reserved.

SECTION II: That the City Secretary of the City of Harlingen, Texas is hereby authorized and directed to cause a true copy of the caption of this ordinance to be published in a newspaper having general circulations in the City of Harlingen, Cameron County, Texas.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

FINALLY ENACTED this _____ day of _____, 2021, at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

CITY OF HARLINGEN

Chris Boswell, Mayor

ATTEST:

Amanda C. Elizondo, City Secretary