

CITY OF FOREST HILL

ORDINANCE NO. 2009025

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS, AMENDING CHAPTER 112, "SIGN REGULATIONS" OF THE CITY'S CODE OF ORDINANCES RELATIVE TO PERMITTING EXISTING OFF-PREMISE COMMERCIAL BILLBOARDS TO BE CONVERTED TO CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS ("CEVMS") SUBJECT TO SPECIFIC APPROVAL OF THE CITY COUNCIL AND UNDER ENUMERATED CONDITIONS; AMENDING VARIOUS SECTIONS OF THE SIGN REGULATIONS TO BE CONSISTENT WITH THE ABILITY TO CONVERT EXISTING COMMERCIAL BILLBOARDS INTO CEVMS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 216 of the Texas Local Government Code provides for the municipal regulation of signage, including but not limited to relocation, reconstruction and removal of signs; and

WHEREAS, on or about August 5, 2008, the City Council for the City of Forest Hill enacted Ordinance No.200888, relative to sign regulations, including changeable electronic variable message signs (CEVMS); and

WHEREAS, the City Council of the City of Forest Hill, Texas, has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City, and to achieve the City's economic development goals, that the Code of Ordinances provisions relative to the regulation of signs, be amended relative to the use and regulation of CEVMS signs as hereinafter stated.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOREST HILL, TEXAS THAT:

SECTION 1: LEGISLATIVE FINDINGS: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2: Chapter 112, "Sign Regulations" , Section 12-6, Permanent Signs – additional regulations, subsection (1)(a) of the City of Forest Hill Code of Ordinances is hereby amended to hereinafter read as follows:

Sec. 112-6

Permanent signs-additional regulations.

Permanent signs shall be subject to the following additional regulations by sign type.

- (1) *Off-premise signs prohibited.* No permanent off-premise signs shall be permitted, except for existing off-premise commercial billboards converted to CEVMS as allowed under Section 112-20 herein, and the following.
 - a. All Off-Premise Signs except for existing off-premise commercial billboards converted to CEVMS shall be subject to the following stipulations:
 1. All Off-Premise Signs shall have a minimum front setback of fifteen (15) feet from the right-of-way.
 2. All Class 2 Off-Premise Detached Signs shall provide a minimum of one thousand (1000) feet between all Off-Premise Detached Advertising Signs measured along the street right-of-way.
 3. Class 2 Signs shall be located a minimum of two hundred and fifty (250) feet from major intersections and one hundred (100) feet from any other intersection.
 4. Class 2 Signs shall not exceed fifteen (15) feet in height.
 5. Signs shall be limited to advertising only specific business and business locations and shall not be utilized for product or brand advertising. Signs shall not advertise any sexually orientated businesses or services.
 6. Spacing and location restrictions shall be maintained. Each side of the street shall be counted separately. Existing non-conforming signs shall be counted, as well as new signs.
 7. Sign structures shall be of all metal construction.
 8. Class 2 Signs shall not be illuminated.
 9. Sign facings may be removed, replaced, or painted; but, any sign which does not display a message during a ninety (90) day period will be considered abandoned and may be removed by the City at the cost of the sign owner, consistent with Chapter 216 of the Texas Local Government Code, as it may be amended.
 10. Application for Off-Premise Detached Sign permits shall be accompanied by a copy of the lease agreement or a letter of

authorization from the owner of the property on which the sign is to be located. “

SECTION 3: Chapter 112, “Sign Regulations”, Section 112-10 “Prohibited Signs”, subsections (2), (13) and (14) of the City of Forest Hill Code of Ordinances are hereby amended to hereinafter read as follows:

Sec. 112-10 Prohibited signs.

The following types of signs or outdoor advertising display are prohibited within all zoning district classifications in the City of Forest Hill and within its extra-territorial jurisdiction:

* * *

- (2) *Billboards.* Except for the conversion of existing off-premise commercial billboards CEVMS as allowed under Section 112-20 herein, large, off-premise outdoor advertising signs primarily located along arterials and highways and used for the express purpose of product advertisement shall be prohibited. There shall be no procedure for obtaining a permit to erect or maintain a billboard in any location in the City of Forest Hill, Texas, or within its extraterritorial jurisdiction.

* * *

- (12) Changeable Electronic Variable Message Signs (“CEVMS”) except for existing off-premise commercial billboards converted to CEVMS as allowed under Section 112-20 herein.

- (13) *Commercial Billboards* except for existing off-premise commercial billboards converted to CEVMS as allowed under Section 112-20 herein.”

SECTION 4: Chapter 112, “Sign Regulations”, Section 112-11 “Changeable messages on sign faces” subsection 1 of the City of Forest Hill Code of Ordinances is hereby amended to add a subsection (e) to hereinafter read as follows:

Sec. 112-11 Changeable messages on sign faces.

Changeable messages on sign faces shall be permitted, subject to the following requirements.

- (1) *Electronic message sign faces.* Electronic message sign faces may be placed on a permanent sign in non-residential districts provided:

* * *

e. The above requirements are not applicable to existing off-premise commercial billboards converted to CEVMS as allowed under Section 112-20 herein

SECTION 5: Chapter 112, “Sign Regulations”, Section 112-12 “Sign Illumination” subsection (4) of the City of Forest Hill Code of Ordinances is hereby amended to hereinafter read as follows:

Sec. 112-12 Sign illumination.

A sign may be lighted by internal lighting from a light source entirely within the sign or by a lighting source located a distance away from the sign and projecting light onto the sign, subject to the following.

* * *

(4) Shall not constitute a CEVMS except for existing off-premise commercial billboards converted to CEVMS as allowed under Section 112-20 herein”

SECTION 6: Chapter 112, “Sign Regulations” of the City of Forest Hill Code of Ordinances is hereby amended to add a new section 112-20 entitled “Off-Premise Commercial CEVMS Billboards to hereinafter read as follows:

Sec. 112-20 Off-Premise Commercial CEVMS Billboards

- (1) Subject to the City Council’s approval, an existing off-premise commercial billboard may be modified to support a CEVSM display provided that
 - a. Each message conveyed cannot change more than one time within any eight (8) second time frame.
 - b. The display shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
 - c. The display 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.
 - d. The brightness specification for CEVMS displays is a limit of 0.3 footcandles over ambient light conditions at a distance of 250 feet from the sign. To check if the level, a footcandle meter should be held at a height of 5 ft. from ground level and aimed towards the sign consistent with the sign-to-viewer distance as recommended by the manufacturer of the meter.. A reading of 0.3 footcandles above ambient light conditions indicates compliance.
 - e. The display shall not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital sign for a warning or danger signal.
 - f. A display must not resemble or simulate any lights or official signage used to control traffic in accordance with the 2003 Manual on Uniform Traffic Control Devices, with Revision No. 1 published by the Federal Highway Administration (FHWA), as it exists and as it may be amended.
 - g. A display must be equipped with both a dimmer control and a photocell, which

automatically adjusts the display's intensity according to natural ambient light conditions.

- h. Pursuant to the standard permitting process, an applicant shall provide to City drawings and details of the type and nature of the CEVMS display to be placed on an existing billboard prior to installation for review and approval of the City Engineer. The applicant shall provide any additional information or details requested by the City Engineer to assure the safety and integrity of the billboard. The applicant shall be responsible for the payment of all fees associated with this review, which payment must be received prior to the installation.
- (2) The City of Forest Hill, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital signs. Upon notification, the sign operators shall display in appropriate sign rotations: Amber Alert emergency information or emergency information regarding terrorist attacks, or natural disasters. Emergency information messages are to remain in rotation according to the designated issuing agencies protocols.
- (3) CEVMS signs may not be located, relocated or upgraded along a highway within the corporate city limits or the extraterritorial jurisdiction so that any part of the relocated sign would be within 1,500 feet of another off-premise CEVMS sign on the same side of the highway.
- (4) Application for CEVMS Sign permits shall be accompanied by a copy of the lease agreement or a letter of authorization from the owner of the property on which the sign is to be located.”

SECTION 3. SEVERABILITY. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES All ordinances, orders and resolutions heretofore passed and adopted by the City Council of the City of Forest Hill, Texas are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 5. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

DULY PASSED, APPROVED AND ADOPTED by the City Council of the City of Forest Hill, Texas, on this 15th day of December, 2009.

APPROVED:

James Gosey, Mayor

ATTEST:

Ofilia Rueda, Acting City Secretary

APPROVED AS TO FORM:

Bonnie Lee Goldstein, City Attorney