

ORDINANCE NO. 2022-003

**AN ORDINANCE OF THE CITY OF EAST BERNARD, TEXAS,
THAT PROVIDES REGULATIONS OF SIGNS WITHIN THE
CITY; PROVIDING FOR A PENALTY; PROVIDING FOR
PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND
PROVIDING FOR SEVERABILITY.**

WHEREAS, signs, especially densely placed signs, obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; and

WHEREAS, the Board of Aldermen finds that the type, volume and diversity of development in the City has increased; and

WHEREAS, the Board of Aldermen further finds that the following regulations on signs provide for these changes in development while also protecting the public health and safety and property values;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF EAST BERNARD, TEXAS:

SECTION 1. The facts, purpose, and recitations contained in the preamble of this Ordinance are found to be true and correct.

SECTION 2. REGULATION OF SIGNS

2-1. Definitions.

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

Abandoned Sign means a sign that does not identify or advertise a bona fide business, lessor, service, owner, product, event or activity, or pertains to a time, event, or purpose which no longer applies.

Aerial Sign means a sign towed by a drone or aircraft.

Advertising Copy means a message intended to call attention to any good, service or merchandise.

Building Sign means a sign constructed, installed, or painted on the outside of a building.

Banner Sign means a sign made of vinyl, cloth, plastic, or similar material that is attached to a pole, wire or frame on one or more sides that is not a flag.

Billboard means a sign erected in the outdoor environment for the purpose of the display of commercial or noncommercial messages not pertinent to the use of products sold on, or the sale or lease of, the property on which it is displayed.

Canopy means an open-air structure (either free-standing or attached to a building) that affords shade or shelter for persons standing, walking, or sitting beneath it.

Dilapidated Sign means a sign:

A. where any portion of the finished material, surface or message portion of the sign is visibly faded, flaked, broken off, missing, cracked, splintered, defective, or is otherwise visibly deteriorated or in a state of disrepair so as not to substantially appear as it was intended or designed to appear when originally constructed; or

B. whose elements or the structural support or frame members are visibly bent, broken, dented, torn, twisted, leaning, or at angles other than those at which it was originally erected, such as may result from being blown or by the failure of a structural support.

Electronic Sign means a sign that changes, or is capable of changing, its message or advertising copy by programmable electronic or mechanical processes.

Facade means the simple elevation view of the building.

Flag means a non-fixed sign made of cloth or similar pliable material designed to be (and is actually) attached along one side only and not otherwise braced or supported and allowed to move freely. A flag's longest dimension is not greater than twice its shortest dimension.

Ground Sign means a sign on a permanent foundation or otherwise permanently installed at a specific location where the Sign Face Area begins no more than two feet above the ground and is not attached to any pavement or facility owned by the City of East Bernard.

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

Pole Sign means a sign supported by one or more poles that are over six feet (6') tall measured from grade at the base of the sign to the top of the sign on a permanent foundation or otherwise permanently installed at a specific location where the Sign Face Area begins no more than two feet above the ground and is not attached to any pavement or facility owned by the City of East Bernard. A Pole Sign does not include a Flag or flagpole.

Political Sign means a sign that contains primarily a political message and that is located on private real property with the consent of the property owner. A Political Sign does not include:

A. a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political; or

B. a sign that:

- (1) has an effective area greater than thirty-six feet (36');
- (2) is more than eight feet (8') high;
- (3) is illuminated; or
- (4) has any moving elements.

Portable Sign means any sign designated or intended to be relocated from time to time, whether or not it is permanently attached to a building or structure or is located on the ground.

Roof Sign means a sign mounted on and supported by the roof portion of a building or above the uppermost edge of a parapet wall of a building or structure.

Sign means an outdoor structure or structure placed inside a window of a non-residential building facing a public right-of-way, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform. The term includes any structure, vehicle, or other object which has the principle purpose of supporting or displaying a sign. Signs on the outside surface of any wall, window, or other structure are considered to be "outdoor." The term "Sign" shall not include any Political Sign. It has the same meaning as that in chapter 393 of the Texas

Transportation Code. Each physically separate display is considered a separate sign unless:

- A. It is solidly joined or connected with another display (or structure) to form a compact and contiguous sign unbroken by internal boarders, frames, or other divisions; or
- B. It is enclosed within a frame or boarder designed to form a uniformed sign.

Sign Face Area means:

- A. for Building Signs, the area enclosed by straight lines drawn to the extremities of the letters, numbers, recognizable symbols, and trademarks;
- B. for all other signs, the area calculated using the widest dimension of the sign multiplied by the longest dimension of the sign, not including the length of the pole or other structural component used to attach the sign to the ground or building;
- C. for signs containing two or more noncontiguous sign face areas that are not more than four feet (4') apart, only one side of the sign shall be used to calculate the sign face area;
- D. for any non-conforming sign located on the premises, the Sign Face Area of the non-conforming sign is included for purposes of determining the maximum allowable sign face area.

Temporary Sign means any sign, including a Portable Sign, that is designed, installed or placed in a manner that is not designed to be permanent or that otherwise lacks the structural stability to:

- A. remain in place for more than thirty (30) days, or
- B. withstand typical area wind loads.

Window Sign means any sign placed inside a window of a non-residential building facing a public right-of-way.

2-2. Off-premises signs prohibited; Exceptions.

- A. It shall be unlawful for any person to erect or locate an Off-premises Sign within the corporate limits of the City of East Bernard or its extraterritorial jurisdiction in accordance with section 216.003 and 216.902 of the Texas Local Government Code.

B. It shall be unlawful for any person to erect, place, alter, or maintain any sign in, on, or over any street area or other area owned or leased by the City of East Bernard.

C. As provided in chapter 393 of the Texas Transportation Code, signs not authorized by state law are prohibited on a public road right-of-way. For this purpose, a high-clearance banner has not been determined to be "on" a public road right-of-way within the meaning of chapter 393.

D. The prohibition of Off-premises Signs provided by this Ordinance shall not apply to:

(1) Off-premises Signs which lawfully exist on the effective date of this Ordinance;

(2) Signs erected by, or on property owned by, the federal, state, or a unit of local government;

(3) Temporary signs that comply with Section 26-3 of this Ordinance; or

(4) Off-premises signs located within a fifty-foot (50')-wide strip of land adjacent to either side of the right-of-way of Highway 90A.

C. Nothing in this Ordinance shall be interpreted or construed to conflict with section 259.003 of the Texas Election Code (Regulation of Political Signs by Municipality) or with any other Ordinance of the City of East Bernard.

D. Signs which are outside the regulatory scope of this Ordinance or the jurisdiction of the City of East Bernard may be subject to other laws, rules, regulations, and/or policies.

Section 2-3. Requirements for authorized signs.

It shall be unlawful for any person to install, attach, locate, paint, or display on property in which the person has custody or control of the property a sign that does not comply with the requirements of this Section. No Sign shall be placed within fifteen feet (15') of a street intersection.

A. Ground Signs (includes monument or pylon signs).

(1) One ground sign with Sign Face Area up to fifty (50) square feet is allowed for premises with street frontage of fifty (50) linear feet or less. For premises with greater than fifty (50) feet of road frontage the sign face area may be one square foot per one linear foot of road frontage up to one hundred sixty (160) square feet. Any premises with multiple street frontages may allocate its total allowable ground sign face area among its

permitted ground signs on any street frontage, provided each street frontage is allowed only one ground sign not exceeding a maximum sign face area of one hundred sixty (160) square feet.

(2) The maximum height for all ground signs is thirty feet (30').

(3) Ground Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least ten feet (10').

B. Pole Signs.

(1) One (1) Pole Sign with Sign Face Area up to fifty (5) square feet is allowed for premises with street frontage of fifty (50) linear feet or less. For premises with greater than fifty (50) feet of road frontage, the sign face area may be one (1) square foot per one linear foot of road frontage up to one hundred sixty (160) square feet. Any premises with multiple street frontages may allocate its total allowable pole sign face area among its permitted pole signs on any street frontage, provided each street frontage is allowed only one pole sign not exceeding a maximum sign face area of one hundred sixty (160) square feet.

(2) The maximum height for all pole signs is fifty feet (50').

(3) Pole Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least ten feet (10').

(4) The bottom edge of the Sign Face Area of a Pole Sign shall be at least five feet (5') above the ground.

C. Building Signs.

(1) The Sign Face Area for a Building Sign may be up to fifteen percent (15%) of the façade it is attached to, up to a maximum of one hundred fifty (150) square feet.

(2) Each occupant of a commercial complex may display Building Signs on any exterior wall of the complex that is part of the occupant's unit. The Sign Face Area may equal 15% of the façade of the individual unit, up to a maximum of one hundred fifty (150) square feet.

(3) The maximum building sign height for two story structures is fifteen feet (15'). In addition, no signs shall be permitted above the roofline, cornice line, parapet, or the highest point of a façade of any structure, whichever is higher.

D. Window Signs.

(1) Window Signs may not be placed in windows on more than one (1) side of a building.

(2) The Sign Face Area for a Window Signs may not exceed eight (8) square feet.

(3) Window Signs may be changed out at as desired, provided, the window location and aggregate Sign Face Area remain constant.

E. Canopy Signs.

A Canopy Sign may not be separate from the canopy, either structurally or visually (from all viewpoints within a street area). If within a residential building, it must be part of the canopy itself, not attached or suspended.

F. Temporary Signs.

(1) Temporary Signs shall not be placed in any easement and shall be setback from sidewalk, or, from the curb or edge of pavement on streets without a sidewalk, at least ten feet (10').

(2) The Sign Face Area of Temporary Signs shall not exceed twelve (12) square feet.

(3) Temporary Signs shall not be more than 4 feet in height.

(4) Only two (2) Temporary Signs are allowed per tract; provided, however, commercial shopping centers with more than one tenant are allowed one (1) Temporary Sign per unit in the complex.

(5) Temporary Signs may be Off-Premise Signs, provided the owner or person in control of the property has given the sign owner written permission to place the sign on the property, documentation of this permission is submitted with a sign permit application, and such permission has not been revoked in writing.

(6) Temporary Signs may not contain moving or electronic elements.

(7) Temporary Signs may not be Window Signs.

(8) The permit for a Temporary Sign must be attached to the back, or underside in the case of sandwich board sign, of the Temporary Sign at all times when the sign is being displayed.

(9) Temporary Signs may be changed out at as desired, provided, the location and aggregate Sign Face Area remain constant, and the permit is attached to the back or underside of the sign being displayed at all times.

(10) Temporary Signs include "For Sale" or "For Rent" signs, not to exceed four (4) square feet in area and advertising the property on which the Temporary Sign is erected.

G. Electronic Signs.

(1) One (1) Ground Sign or One Pole Sign allowed on a tract may be an Electronic Sign, provided the Electronic Sign complies with the requirements of this Ordinance and all other requirements that apply to a Pole Sign or Ground Sign.

(2) Each message must be displayed for at least eight seconds. A change of message must be accomplished within two seconds and must occur simultaneously on the entire sign face.

(3) An Electronic Sign must contain a default mechanism that freezes the sign in one position if a malfunction occurs.

(4) An Electronic Sign must automatically adjust the intensity of its display according to natural ambient light conditions.

(5) The maximum Sign Face Area shall not exceed the amount allowed for Pole Signs.

(6) No more than one Electronic Sign is allowed per tract.

H. Banner Signs.

(1) No Banner Sign shall be placed on a tract more frequently than twice per year for a period of thirty (30) days or less.

(2) No Banner Sign shall exceed 48 square feet in size.

(3) No Banner Sign shall be placed in a manner that impedes or endangers vehicle or pedestrian traffic.

(4) No Banner Sign shall be placed at a height that allows the lowest edge of the sign to hang less than five feet (5') above the ground.

(5) No Banner Signs shall be placed above any street area unless registered in advance with the City Secretary or his designee. The City Secretary may prescribe forms and procedures for the registration. Registrations take priority in the order made, but a registration is ineffective if made more than one year in advance.

I. Aerial Signs.

(1) Signs towed by drones or aircraft shall not fly lower than two hundred fifty feet (250').

(2) No more than two (2) Aerial Signs per year may be utilized with the City or its ETJ for advertising or information related to each business, person, event or activity.

(3) Pilots and drone operators towing Aerial Signs must comply with all applicable state and federal laws.

J. Any allowed sign, including Billboards, presently erected or constructed and attached in some form or fashion to real estate, shall be firmly and solidly constructed so as to be able to bear wind pressure of at least thirty (30) pounds per square foot of area; provided that any sign, billboard or advertising sign so presently existing which are placed upon roofs must be so constructed as to be able to withstand a lateral wind pressure of forty (40) pounds per square foot of area.

Section 2-4. Signs on public right-of-way.

It shall be unlawful for any person to place or cause to be placed or erected a sign upon, in, over and/or across any street or right-of-way, or any improvement located within any public street, sidewalk or right-of-way of the City of East Bernard or on any property owned by the City of East Bernard. A sign unlawfully placed in the right-of-way or on other city property may be summarily removed by the City of East Barnard pursuant to section 2-8.

Section 2-5. Signs on property of another; Obsolete signs prohibited.

It shall be unlawful for a person to place or locate a sign on the property of another person without the consent of the owner or person in control of the property. It shall be unlawful for the owner or person in control of the property to fail to remove a sign from the premises that advertises a business, activity or project that has ceased operation on the premises on which the sign is located in excess of one (1) year, unless the property is leased by the owner of the sign, in which case the sign shall be removed after two (2) years.

Section 2-6. Nonconforming Off-premises Signs.

An Off Premise Sign lawfully existing on the effective date of this Ordinance shall be removed if the sign, or a substantial part of it, is blown down or otherwise

destroyed or dismantled for any purpose other than for maintenance operations or for changing the Advertising Copy on the sign. A sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than sixty percent (60%) of the cost of erecting a new sign of the same type at the same location.

Section 2-7. Dilapidated Signs and Abandoned Signs prohibited.

It shall be unlawful for the owner or person in control of the property to allow a Dilapidated Sign or an Abandoned Sign to remain on the property for more than 30 days after a notice of Dilapidated Sign or Abandoned Sign is sent by the Building Official to the address listed for the owner of record according to the appraisal district. It is an affirmative defense to an alleged violation under this Section that:

- A. The owner or person in control of the property did not consent to the installation or construction of the sign;
- B. The owner or person in control of the property at the time notice of a Dilapidated Sign or Abandoned was sent by the Building Official is no longer in possession of the property; or
- C. The notice of a Dilapidated Sign or Abandoned Sign was sent by the Building Official more than ninety (90) days prior to the date of the violation alleged under this Section.

Section 2-8. Nuisance; removal of unlawful signs.

Any sign which does not comply with this Ordinance, or which exceeds any limit imposed by this Ordinance, including Dilapidated Signs and Abandoned Signs after notice by the Building Official pursuant to section 2-7, is declared a nuisance. The Building Official has the authority to have removed any such sign and dispose of it if the City has a right of access to the place where the sign is located. The cost of such removal and disposal shall be paid by the person owning the sign and any person who erected, placed, or maintained the sign, jointly and severally.


Section 3. Severability. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a

court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Board of Aldermen of the City of East Bernard, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

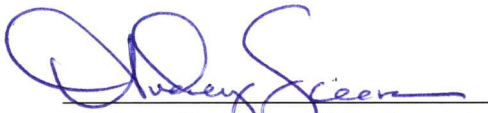
Section 3. Penalty. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars (\$100), with each day of violation constituting a separate offense.

Section 4. Effective Date. This Ordinance shall be effective upon adoption in accordance with the laws governing ordinances. The City Secretary is authorized to publish a summary of the Ordinance along with the penalty in accordance with the City of East Bernard's Ordinances and state law.

PASSED, APPROVED AND ADOPTED THIS 20th day of JUNE, 2022.


MARVIN HOULB, Mayor

ATTEST:


Audrey Searce, City Secretary

