

ORDINANCE NO. 26

AN ORDINANCE OF THE CITY OF POST OAK BEND ADOPTING THE PROHIBITION OF NEW BILLBOARD CONSTRUCTION AND A PROHIBITION OF THE CONVERSION OF EXISTING BILLBOARDS INTO CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS) IN THE CORPORATE AND EXTRA TERRITORIAL JURISDICTION (ETJ) LIMITS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POST OAK BEND, KAUFMAN, TEXAS

Section 1. AUTHORIZATION:

Whereas the City Council agrees with the American Society of Landscape Architects' determination that outdoor advertising signs tend to deface nearby scenery, whether natural or built, rural or urban;

Whereas City Council agrees with courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement;

Whereas the City Council has determined that outdoor advertising signs, including changeable electronic variable message signs, pose a distraction to drivers, bikers and pedestrians from the roadway;

Whereas the City Council has determined that in order to preserve and enhance the City as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance; and these regulations are a highly contributive means by which to achieve this desired end and have been prepared with the intent of enhancing the visual environment of the City and promoting safety and continued well-being;

Whereas the City Council has determined that these regulations maintain and enhance the aesthetic environment, improve pedestrian and traffic safety, lessen unnecessary visual clutter that competes for the attention of pedestrian and vehicular traffic, regulates signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians, conserve, protect, and enhance the aesthetic quality of the City, protect property values by precluding sign-types that create a nuisance to the occupancy or use of other properties; -

Whereas the City Council has determined that off-premise signs, commonly known as billboards, are inconsistent with the above-stated goals;

Whereas the City Council has determined that changeable electronic variable message signs (CEVMS), as defined herein, are inconsistent with the above-stated goals;

Whereas the City Council finds that Section 216.902 of the Local Government Code provides for the application of its outdoor advertising sign regulations to extend into the extraterritorial jurisdiction (ETJ) of the city.

Section 2. DEFINITIONS:

Changeable electronic variable message sign (CEVMS) shall mean 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.

Off-premise sign shall mean any sign, commonly known as a billboard, that advertises a business, person, activity, goods, products or services not located on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained.

On-premise sign shall mean any sign identifying or advertising the business, person, activity, goods, products or services sold or offered for sale on the premises where the sign is installed and maintained when such premises is used for business purposes.

Sign Code Application Area shall mean the corporate limits of the city and the area of its extraterritorial jurisdiction as defined by Section 42.021 of the Local Government Code.

Section 3. PROHIBITIONS:

Prohibition of New Off-premise Signs. From and after the effective date, no new construction permit shall be issued for the erection of an off-premise sign, including but not limited to a new off-premise CEVMS or the conversion of an existing non-CEVMS off-premise sign to a CEVMS, within the Sign Code Application Area.

Prohibition of Changeable Electronic Variable Message Signs. From and after the effective date, no CEVMS shall be allowed within the Sign Code Application Area. This CEVMS prohibition *applies to both on-premise and off-premise signs.*

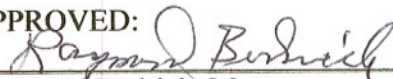
Section 4. PENALTY.

Any person, corporation or association violating any provision of this Ordinance shall be deemed guilty of an offense, and upon conviction shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00). The violation thereof shall be deemed a separate offense, and shall be punished accordingly. Provided, however, compliance may be further sought through injunctive relief in the District Court.

This Ordinance shall become effective from and after adoption as provided by law.

PASSED and APPROVED this 20th day of May, 2008.

APPROVED:


Raymond Bedrick, Mayor

ATTESTED:


Sharon-Ann Demaske, City Secretary

APPROVED AS TO FORM:


Robert L. Dillard, III, City Attorney