

ORDINANCE NO 11-99-2

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
DEVINE, TEXAS:

First, Chapter 5 of the Code of Ordinances of the City of Devine, Texas, is hereby amended to add thereto a new Article, to be known as Article XII, which shall read as follows:

ARTICLE XII. SIGNS

Sec. 5-169. Scope

The provisions of this Chapter shall apply to all signs, as the term is defined herein, within the corporate limits of the City of Devine, Texas.

Sec. 5-170. Definitions

The following definitions shall apply to this Chapter:

- (A) 'Animated Sign' - Any sign or other street graphic which is illuminated by flashing, intermittent or color-changing light or lighting which creates by such devices figures, human or otherwise, that move or speak.
- (B) 'Area of Sign' - The area of a sign shall be defined as the area of the smallest rectangle or rectangles that will enclose the sign. The maximum number of rectangles which may be used to enclose an irregularly shaped sign shall be four (4). The area of a multi-sided sign shall be calculated from the greatest orthographic projection of the sign. If a sign is made up of individual letters, the area of the sign shall be the sum of the areas of the rectangles required to enclose each word in the sign (one (1) rectangle per word). In all cases the sizes of the rectangles shall be vertical and horizontal.
- (C) 'Area of a Wall' - The total area of the orthographic projection of one (1) side of the structure.
- (D) 'Banner' - Temporary graphic composed primarily of cloth, paper, fabric or other nonrigid material, supported by wire, rope, or other similar means, not including decorative streamers with no lettering thereon, suspended along or across a building or public street.
- (E) 'Building Code' - The Standard Building Code adopted by the provisions of Chapter 5 of this Code of Ordinances.
- (F) 'Business' - Shall not be restricted to commercial activities but shall mean any organization, person, activity, club, or other group or thing of any nature that uses, repairs, constructs or is advertised on a sign.
- (G) 'Canopy Sign' - Any sign or other street graphic attached to or hung from a canopy or awning which shall be defined as a roofed structure projecting from and supported by a building when such covered structure extends beyond the building structure or the property line.

- (H) 'Electrical Code' - The National Electrical Code adopted by the provisions of Chapter 5 of this Code of Ordinances.
- (I) 'Freestanding or Ground-Mounted Sign' - Any permanent or temporary sign or standard on which messages, advertising names, etc., are displayed and the sign has as its support a pole, poles, foundation or pinning that is anchored into the ground.
- (J) 'Marquee or Change – Panel Sign' - Shall mean a sign specifically designed for periodic changes in its advertising message, for example, a Theatre Marquee.
- (K) 'Off-Premise Sign' - Shall mean a sign not located on the premises where the 'business' is located or available.
- (L) 'Person' - Shall mean any individual, company, corporation, partnership, association, trust, or other entity.
- (M) 'Portable Sign' - Shall mean any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, wheeled carrier, or other non-motorized mobile structure. A portable sign which has its wheels removed shall still be considered a portable sign hereunder. A sign located on a motor vehicle is a 'portable sign' if the vehicle remains parked in the same place more than twenty-four (24) hours.
- (N) 'Projecting Sign' - Any permanent or temporary sign or graphic that is attached to a building and extends in some direction more than twelve (12) inches horizontally from the plane of the building wall.
- (O) 'Roof Sign' - Any sign or graphic which is painted, drawn, written, or mounted on the roof of a building and extends above or outside the orthographic projection of the roof line.
- (P) 'Shopping Center Sign' - A group of two (2) or more stores sharing a common off-street parking area and identified by one (1) name.
- (Q) 'Sign' - Shall mean any outdoor display, design, pictorial, or other representation which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner so that the same shall be used for advertising or the visual dissemination of any information, symbol, or picture in any manner whatsoever. The term 'sign' shall include the sign structure.
- (R) 'Sign Structure' - Shall mean any structure which supports or is designed or intended to support any sign. A sign structure may be a single pole and may or may not be an integral part of a building.
- (S) 'Snipe Sign' - Any small sign, generally of a temporary nature, made of any material, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes or fences or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located.
- (T) 'Spinners and Pennants' - Any sign, display or attention-seeking device which spins or flutters when contacted by air currents or is propelled by mechanical fan, or which makes noise when spinning.

- (U) 'Street Graphic' - Any letter, number, symbol, figure, character, mark, plane, design, pictorial, stroke, stripe, trademark or combination of these which shall be so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, which can be seen from the right-of-way of a public street or highway, intended to attract the attention of those outside in the public right-of-way.
- (V) 'Temporary Sign' - Shall mean any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, wood, or other light material, not to exceed thirty-two (32) square feet in size and which is used not more than fourteen (14) days before being removed. A portable sign shall not be considered a temporary sign.
- (W) 'Wall Sign' - Any permanent sign that is placed on the wall (front, side or rear), of a building whether such is separate and mounted on the wall or is painted, drawn or written on the wall. A permanent sign shall on this case be defined as a sign that remains in place for a period exceeding ninety (90) days.

Sec. 5-171 Existing Signs

- (A) Every sign now lawfully in place in compliance with all laws on the effective date of the ordinance adding this chapter to the Code of Ordinances, except Portable Signs in place before this chapter was added to this Code of Ordinances, may remain in place so long as such sign is properly maintained in conformance with applicable provisions of the Building Code. All such Portable Signs must be removed within three hundred sixty-five (365) days from the effective date of the ordinance adding this chapter to this Code of Ordinances.

Sec. 5-172 Prohibited Signs

- (A) The following signs shall be prohibited:
  - (1) Off premises signs.
  - (2) Portable signs, except for non-profit charitable special events approved by the Devine City Council on an individual basis.
  - (3) Snipe signs.
  - (4) Signs attached to chain link fences unless permitted elsewhere in this Code of Ordinances.

Sec. 5-173 Signs Permissible in Residential Zones

- (A) One unlighted sign, which shall not exceed one (1) square foot in area, indicating the name of the occupant or occupation of a customary home occupation, provided the sign is attached flat to the building.
- (B) One sign, which shall not exceed sixteen (16) square feet in area for churches or schools.

- (C) Political signs on private property forty-five (45) days prior to a primary, run-off or general election for which posted and up to seven (7) days after the primary, run-off or general election for which posted.
- (D) One Garage Sale sign on private property provided the area of the sign does not exceed sixteen (16) square feet and must be removed after ten (10) days.

Sec. 5-174 Signs Permissible in Commercial Areas

- (A) 'Canopy Signs' - Signs on top of a canopy must be rigidly attached so as to remain in place under wind loads of one hundred twenty-five (125) miles per hour. Such signs may not exceed thirty-two (32) feet in area or four (4) feet in height.
- (B) 'Freestanding and Ground-Mounted Signs'
  - A. Business and other than Shopping Centers signs fronting on State Highways.
    - (1) With less than one Hundred feet of lot frontage said business will be limited to one freestanding sign having a maximum of ninety-six (96) square feet. For each one hundred feet of parking frontage in excess of the first one hundred feet such business will be allowed one additional free standing sign and an additional ninety-six (96) square feet of sign area.
  - B. Business other than Shopping Center signs on Commercial Streets not fronting on State Highways.
    - (1) With less than sixty (60) feet of lot frontage said business will be limited to one freestanding sign having a maximum of sixty four (64) square feet. For each sixty (60) feet of lot frontage in excess of the first sixty (60) feet such business will be allowed an additional freestanding sign and an additional seventy-two (72) square feet of sign area.
  - C. Shopping Centers housing six (6) or less separate business locations will be allowed one (1) freestanding sign. The maximum are of each sign shall be one hundred ninety-two (192) square feet.
 

Shopping Center Signs are intended to display the name of the Center. Such signs may use two-thirds (2/3rds) of the allowed area for a marquee or change panel. Signs may be internally or indirectly lighted. The allowable area may be Subdivided to form a 'directory' of stores within the center. Shopping Center Signs must have a minimum of twenty-four (24) square feet landscaped base.

Shopping Centers housing more than six (6) separate business locations will be allowed two freestanding signs with a minimum area of thirty-two (32) square feet for each business location.
  - D. One sign which shall not exceed sixty-four (64) square feet in area for churches or schools.

- E. 'Marquee or Change-Panel Signs' – The maximum area and height of Marquee or Change-Panel Signs shall be consistent with other signs described in this chapter.

Sec. 5-175 Sign Permits and Fees

(A) Permit Required

No person shall erect, construct, reconstruct, alter or use a sign without first securing a written permit from the City to do so, subject to the exceptions set forth herein. A permit is not transferable. A copy of the permit shall be posted at each erection site.

(B) Exceptions

No permit shall be required under this ordinance for on-premise signs of the following descriptions:

- (1) Signs painted on glass surfaces of windows or doors;
- (2) Directional and regulatory signs erected by any governmental entity;
- (3) Railroad signs;
- (4) Legal notices, house numbers, 'no trespassing', 'no parking', and other similar warning signs;
- (5) Signs otherwise required by law;
- (6) On-premise signs setting forth the location of or directions to parking or buildings located on the premises, or regulating the flow of on-premise traffic;
- (7) Signs displayed, designed, or used upon motor vehicles as long as such vehicles are continuously used as vehicles and not merely as signs;
- (8) Signs at gasoline service stations not over thirty-six (36) inches wide and sixty (60) inches tall, which display the price of gasoline or other services performed by the station and limited to two (2) per station.
- (9) Signs which are mounted on the wall of a building no higher than the roof line and state only the street number and name of the proprietor; provided that the number of such signs shall not exceed the number of entrances for each premises;
- (10) Signs within a stadium, open-air theater, or arena which are designed primarily to be viewed by patrons within such structure;
- (11) Christmas displays and similar temporary displays erected without advertising;

- (12) A sign not over thirty-two (32) square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
- (13) Subdivision identification signs; and
- (14) Political signs on private property forty-five (45) days prior to a primary, run-off or general election and up to seven (7) days after the primary, run-off or general election for which posted.

(C) Application Procedure

- (1) The application for a permit shall be submitted in such form as the Building Official may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this ordinance. Construction permit application for signs twenty (20) feet above ground level shall be accompanied by a drawing of the sign structure and sign prepared and certified by a professional engineer registered with the State of Texas certifying that the sign meets the wind load specifications as referenced by the Building Code. The Building Official at his /her option may also require similar certifications by a registered professional engineer where any unusual structural provisions of a proposed sign indicate that such certification is advisable in the interest of public safety.

Application for permits required by this ordinance shall include the following

- (a) Name, address, and telephone number of the applicant. This shall be kept current at all times.
- (b) Location of the building, structure, or lot where the sign is to be located, including not only the street address, but also the lot, block, section number, and subdivision name, or the meets and bounds description.
- (c) Position of the sign in a relation to nearby building and any part of the lot on which such sign is to be placed.
- (d) Two (2) blueprints or ink drawings on a scale not smaller than one to fifteen feet (1" = 15') of the plans and specifications, showing the method of construction and attachment to the building or the ground.
- (e) Name of the person erecting the sign and all related support structures.
- (f) Any electrical permit, building permit, and other permits required for the sign.
- (g) Such other information as the Building Official may require to show full compliance with all ordinances of the City.

(D) Subterfuge

Any permit that, in the opinion of the Building Official was obtained by subterfuge or any procedure not in full compliance with this ordinance, is subject to a stop order and revocation.

(E) Construction Permit Duration; Renewal Permit

Any permit for construction of a sign shall become null and void unless construction of the sign is completed within one hundred eighty (180) days.

(D) Fees

All fees of any nature under this ordinance shall be nonrefundable. Permit fees shall be in accordance with the Building Code.

Sec. 5-176 Removal of Signs

- (A) Any notice to bring any sign into compliance with this ordinance shall state that the sign may be subject to removal. If such order is not complied with within thirty (30) days, the Building Official may initiate proceedings to revoke the permit and remove the sign at the expense of the owners, lessee, or permittee.
- (B) Any abandoned sign may be removed by the City at the expense of the owner, lessee, or permittee of the sign.
- (C) The City shall be entitled to a lien against any premises from which a sign is removed by the City for all cost of removal.
- (D) Any sign in violation of this ordinance may be seized, transported, and impounded by the Building Official. The custodian of the storage area shall maintain records of where such signs were located when they were impounded and the date of impoundment, and shall hold the sign in the storage area for not more than thirty (30) days. Any sign so held may be redeemed by the owner thereof upon payment of a fee to the City consisting of a total of \$50.00 for seizing the sign plus \$5.00 per day storage fee for each day or part of a day the sign is stored. Such fee shall be in addition to and not in lieu of any fine imposed upon such owner for the violation of this ordinance. Any sign impounded and stored and not redeemed by the owner thereof within thirty (30) days may be destroyed or sold at auction by the City.
- (E) The foregoing provisions of this section to the contrary notwithstanding, the removal of all signs lawfully erected prior to the effective date of the ordinance by which this chapter is added to this Code of Ordinances and all signs thereafter lawfully erected shall also be in compliance with the applicable provisions of Chapter 216 of the Local Government Code of Texas.

- Sec. 5-177      Signs Resembling Official Signs
- No sign shall resemble any official marker erected by any governmental unit, or by reason of position, shape, or color conflict with the proper functioning of, or confusing with, any traffic sign, signal, or emergency vehicle. Use of words such as 'stop', 'look', 'danger', or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse any driver or traffic is prohibited.
- Sec. 5-178      Signs Obscuring or Interfering with View
- Signs shall not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or so as to obstruct or interfere with the view of any driver or any traffic.
- Sec. 5-179      Proper Shielding of Lighted Signs; Interference with Drivers or Motor Vehicles
- No sign shall contain lights which are not effectively shielded so as to prevent light from being directed at any portion of a street or highway from which the lights or light rays are visible and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle.
- Sec. 5-180      Signs not to Obstruct
- (A) No sign shall obstruct any means of egress, or any opening necessary for required light, ventilation, or fire fighting or for escape from any place, or tend to prevent free passage from one part of a roof to any other part thereof.
  - (B) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony, or balcony serving as a horizontal exit.
  - (C) No sign shall interfere with the free operation of a fire escape, and no projecting sign shall be erected, constructed or maintained without a minimum of seven (7) feet of clearance over any counterbalanced section of a fire escape.
  - (D) No sign shall obstruct the free use of any window above the first story.
- Sec. 5-181      Signs Not to Create Easements
- No permit for a sign shall create any easement.
- Sec. 5-182      Change of Ornamental Features, Electric Wiring, or Advertising Display
- No sign permit is required for the change of any of the ornamental features, electric devices, or the advertising display of a sign.
- Sec. 5-183      Accumulation of Rainwater Prohibited
- All signs shall be constructed so as to prevent the accumulation of rainwater in the signs.



Sec. 5-184        Locations

- (A)    No person shall place, construct, reconstruct, erect, or use any sign, or cause any of said things to be done, on any private or public property of any nature whatsoever, without the permission of the person or governmental entity owning or controlling the property.
- (B)    No sign shall be erected nearer than ten (10) feet horizontally or ten (10) feet vertically from any utility pole.

Sec. 5-185        Compliance With Other Laws

This chapter shall in no way impair the application of or excuse full compliance with all fees, permits, and other provisions of the Building Code, Electrical Code, or any other applicable ordinance or laws.

Sec. 5-186        Enforcement

- (A)    The City Administrator or an official designated by the City Administrator shall be the enforcing official. The enforcing official is charged with the duty of administering the provisions of this chapter and securing compliance therewith. In furtherance of this responsibility, the enforcing official shall:
  - (1)     Make such inspections as may be necessary and initiate appropriate action to bring about compliance with this chapter, if such inspection discloses any instance of noncompliance.
  - (2)     Investigate thoroughly any complaints of alleged violation of this chapter.
  - (3)     Order in writing as set out below the remedy of all conditions of all violations of this chapter found to exist in or on any premises.
  - (4)     State in the violation order a time limit for compliance herewith as hereinafter set out.
  - (5)     Request the assistance of the City Attorney in taking appropriate legal action upon failure of the responsible party to comply with such violation order at the time specified therein.
- (B)    The enforcing official is authorized and directed to insure that the owners or lessees of all signs (except those permitted in the residential area and those that are exempt herein) must apply for a sign permit. All signs having illumination shall require an electrical permit in addition to a sign permit.
- (C)    The enforcing official or his agent is authorized and directed to lawfully enter in and upon all outdoor areas of premises at any time to determine their condition insofar as the provisions of this chapter are applicable and to insure that signs that are dilapidated, abandoned, out of date, a safety hazard or in violation of other portions of this chapter shall be corrected or removed.

- (D) Whenever the enforcing official determines that a violation of this chapter exists, he shall take action as follows:
- (1) Give written notice of the violation to the occupant and the owner shown on the most recent tax roll of the City indicating the nature of the violation, and a statement showing the time within which the work must be accomplished in order to comply with the provisions of this chapter or not less than ten (10) days nor more than sixty (60) days from the date of such written notice.
  - (2) A copy of such written notice shall be transmitted to the City Administrator when the notice has been issued by his agent.
  - (3) Service of the written notice required by this chapter shall be deemed complete if personally delivered to the person or persons required to be served or if upon sending same by certified mail, return receipt requested to the last known address of such person or persons and by posting a copy of such notice in a conspicuous place on the premises.
  - (4) If written notice is not complied with within the time specified in the notice, then the enforcing official shall use all available means of enforcement including but not limited to injunctive relief in the State District Court in order to secure compliance with the provisions of this chapter as well as an appropriate proceeding commenced in the Municipal Court of the City to secure punishment for its violation.

Sec. 5-187 Appeals

The City Council of the City shall serve and perform the duties of an appeals board under the provisions set forth herein. The board shall have the following powers and duties:

- (A) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative official of the City in enforcement of this chapter.
- (B) To authorize upon appeal from the decision of the administrative official in specific cases such variance from the terms of this chapter as set forth hereinafter, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. For the purpose of this chapter, a variance is authorized only with reference to:
  - (1) When the strict application of the provisions of the code, upon presentation of adequate proof, will cause real and substantial financial hardship to the sign user;
  - (2) When a strict application of the provisions of the code will result in arbitrary and unreasonable taking of property or in the practical closing or elimination of any lawful business.

Second, any person violating the Code of Ordinances of the City of Devine, Texas, as amended by this ordinance, shall be guilty of a misdemeanor and upon conviction therefore assessed a fine as prescribed in Section 1-7 of said Code; and each day such violation continues and each part of any day any such violation occurs shall constitute a separate offense.

Third, this ordinance is cumulative of and in addition to all other ordinances of the City of Devine, Texas, on the same subject and all such ordinances are hereby expressly saved from repeal.

Fourth, where this ordinance and another ordinance conflict or overlap, this ordinance shall control as to signs erected after the effective date of this ordinance but as to signs in place prior to such date the Comprehensive Zoning Ordinance of the City of Devine, Texas, shall control.

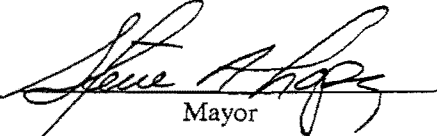
Fifth, no offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

Sixth, nothing contained in this ordinance shall cause any rights heretofore vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

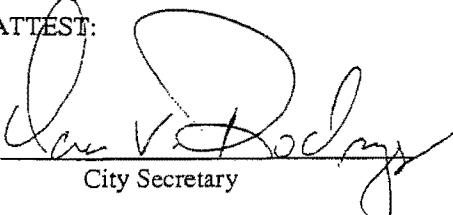
Seventh, in the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgement of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

PASSED, APPROVED AND ADOPTED on this the 16th day of November, 1999.

City of Devine, Texas

  
Mayor

ATTEST:

  
City Secretary

