

ORDINANCE NO. 100305

AN ORDINANCE REGULATING OFF-PREMISE SIGNS AND BILLBOARDS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE SCOPE AND ENFORCEMENT OF THE ORDINANCE; IDENTIFYING PROHIBITED SIGNS AND EXEMPT SIGNS; ESTABLISHING REGULATIONS FOR NONCONFORMING SIGNS; PROHIBITING OFF-PREMISE SIGNS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Texas Local Government Code, Chapter 216, provides that a municipality may regulate signs within the city’s limits and the extraterritorial jurisdiction of the city; and

WHEREAS, it is in the interest of the health, safety, welfare, convenience and enjoyment of the general public to regulate signs in the City of Niederwald and in the City’s extraterritorial jurisdiction;

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

SECTION 1. DEFINITIONS

ADMINISTRATOR: The city official or employee whose responsibility it is to administer the provisions of this Ordinance.

BILLBOARD: A billboard is an off-premise object, device, display, sign, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a billboard structure shall constitute a separate billboard. Billboards do not include on-premise commercial or political signage or small commercial or non-commercial signs temporarily placed in residential lawns by residents, owners, contractors, realtors, or by or on behalf of political candidates or issues.

DIRECTIONAL SIGN: A sign erected and maintained by local officials within the public right-of-way, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational or educational interest.

NON-CONFORMING SIGN: A sign which was lawfully erected and maintained at the effective date of this Ordinance, but does not comply with the provisions of this Ordinance.

OFF-PREMISE SIGN: 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.

ON-PREMISE SIGN: A sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

PREMISES: The contiguous land in the same ownership or control which is not divided by a street.

SIGN: Any surface, fabric, device, display or visual medium, including the component parts, which bears letters, pictorial forms or sculptured matter, including logos, used or intended to be used to convey information or to attract attention to the subject matter of such sign. Graphics painted upon the side of a building which carry no advertising shall not be construed to be a sign, except where such graphics pictorially display products or business that convey an advertising intent. The term "sign" includes a billboard. The term "sign" includes the sign structure.

STRUCTURE: Anything installed, constructed, built or erected that requires a permanent location.

SECTION 2. SCOPE AND ENFORCEMENT

The purpose of this Ordinance is protect the health, safety, welfare, convenience and enjoyment of the general public and to protect the public from injury which may be caused by the unregulated installation, construction or erection of off-premise signs. It is the intent of these regulations to achieve the following:

1. Enhance the economic value of the landscape by avoiding visual clutter which is potentially harmful to property values and business opportunities;
2. Promote the safety of persons and property by providing that signs do not create a hazard, due to collapse, fire, collision, weather or decay;
3. Protect the safety and efficiency of the public's road system by reducing the confusion or distraction to motorists and enhancing motorists' ability to see pedestrians, obstacles, other vehicles and traffic signs;
4. Enhance the impression of the City which is conveyed to tourists and visitors; and
5. Protect adjacent and nearby properties from the impact of billboard signs.

SECTION 3. PROHIBITED SIGNS

The following signs are expressly prohibited within the City of Niederwald:

1. Off-premise signs, including billboard signs.
2. Signs erected in violation of the City's building, electrical or sign codes, or other applicable local regulations.
3. Signs erected in violation of federal or state law.
4. Portable signs.
5. Signs erected in or projecting into the public right-of-way unless an encroachment agreement is approved by the City Council.

SECTION 4. EXEMPT SIGNS

The following signs are exempted from the requirements of Section 3 of this Ordinance:

1. Signs on vehicles.
2. Temporary signs, as follows:
 - a) Temporary decorative flags.
 - b) Temporary public interest signs, including portable signs and banners, announcing activities or other events of a public, civic, philanthropic or religious organization, subject to the following:
 - 1) Temporary signs shall be maintained for no more than fourteen (14) days in a twelve (12) month period.
3. Warning, security and directional signs for parking, traffic control, etc.
4. Municipal government signs, flags, insignia, legal notices or informational, directional or traffic signs.
5. Political signs, subject to the following restrictions:
 - a) Said signs shall not be erected more than sixty (60) days prior to any primary or general election to which the sign pertains.
 - b) Said signs shall be removed within ten (10) days after the general or run-off election to which the sign pertains.
6. Homebuilder/Subdivision signs, subject to the following:
 - a) Signs shall not be located in the public right-of-way.
 - b) Written permission shall be obtained from owners of property where sign is located.
 - c) Height shall not exceed eight (8) feet measured from the ground at grade level to the top-most portion of the sign structure.
 - d) The total surface area of the sign shall not exceed thirty-six (36) square feet.
7. On-premise development signs (signs identifying a developer's property and sales office/model home sites), subject to the following:
 - a) Sales Office/Model Homes:
 - 1) No sign shall be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
 - 2) Sign must be located on the site of the model home.
 - 3) Height shall not exceed eight (8) feet measured from the ground at grade level to the top-most portion of the sign structure.
 - 4) The total surface area of the sign shall not exceed thirty-six (36) square feet.
8. Nameplate and street address signs.
9. Real estate signs, temporary in nature, advertising the sale or lease of real property on which the sign is located or announcing contemplated improvements of real property on which the sign is located. The height of such a sign shall not exceed eight (8) feet measured from the ground at grade level to the top-most portion of the sign structure. The total surface area of the sign shall not exceed thirty-six (36) square feet.
10. Construction signs, denoting the owner, architect, financial institution, general contractor, subcontractor or any statement pertaining to the project on the real property on which the sign is located. The height of such a sign shall not exceed eight (8) feet measured from the ground at grade level to the top-most portion of the sign structure. The total surface area of the sign shall not exceed thirty-six (36) square feet.

11. "No Dumping" and "No Trespassing" signs.

SECTION 5. NONCONFORMING SIGNS

A nonconforming sign may be altered only as follows, subject to complying with permitting requirements set out in this Ordinance:

- a) The letters, symbols or other matter on the sign may be changed;
- b) A sign which has been blown down or otherwise destroyed by wind, fire or damages from any other source, may be repaired, provided that the cost of repairing the sign is sixty (60) percent of the cost of erecting a new sign of the same type at the same location, or less. If the cost of repairing the sign is more than sixty (60) percent of the cost of erecting a new sign of the same type at the same location, the sign may not be altered, reconstructed, repaired or replaced, and the owner shall remove the sign.
- c) Maintenance operations may be performed on the sign. For purposes of this Ordinance, "maintenance operations" means the process of keeping a sign in good repair. Maintenance operations include cleaning, painting, repair or replacement of parts in a manner that does not alter or remove the basic design or structure of the sign. Examples of actions that are not maintenance operations include, without limitation, conversion of a sign from a multiple pole structure to a monopole structure, replacement of wooden poles with metal poles, and any task that requires removal of the display surface from its supporting structure for any purpose other than changing letters, symbols or other matter on the sign. If a sign is dismantled for any purpose other than maintenance operations or for changing the letters, symbols or other matter on the same, the sign may not be altered, reconstructed, repaired or replaced, and the owner shall remove the sign or bring it into compliance with the applicable ordinances of the City. All other alterations of any nature whatsoever in connection with nonconforming signs are prohibited. If any such alteration is performed, the owner shall remove the sign or bring it into compliance with this Ordinance, and all other applicable ordinances.

SECTION 6. OFF-PREMISE SIGNS

No person, firm, corporation or other entity shall erect, construct or install an off-premise sign, including a billboard sign, at any location within the corporate limits or the extraterritorial jurisdiction of the City of Niederwald, Texas.

SECTION 7. ORDINANCE CUMULATIVE

This Ordinance shall be cumulative of all provisions of ordinances and of the City of Niederwald, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event conflicting provisions of such ordinances are hereby repealed.

SECTION 8. SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have

been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 9. PENALTY

Any person, firm, corporation or other entity who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 10. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

READ, APPROVED AND ADOPTED this 3rd day of October, 2005.

HON. SHIRLEY WHISENANT, MAYOR

ATTEST:

ANGIE SCHULZE, CITY SECRETARY