

ORDINANCE NO. 20080605-076

AN ORDINANCE AMENDING CITY CODE SECTION 25-10-3 TO DEFINE MOBILE BILLBOARDS; AMENDING CITY CODE SECTION 25-10-102 TO PROHIBIT MOBILE BILLBOARDS; AMENDING CITY CODE SECTION 25-10-152 RELATING TO REQUIREMENTS FOR NON-CONFORMING SIGNS; AND ADDING A NEW CITY CODE SECTION 25-10-237 TO IMPOSE A PENALTY FOR VIOLATION OF REGISTRATION REQUIREMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The city council makes the following findings:

- (A) The basic purpose of mobile billboards is to display commercial advertising on public streets. By their nature, mobile billboards are intended to attract the attention of citizens on public streets and adjacent right-of-way, including drivers, pedestrians, bicyclists, and others.
- (B) Vehicles that display commercial advertising from a mobile platform, which can stop, start, and turn abruptly, accentuate the tendency of commercial advertising to seize attention and distract drivers and pedestrians.
- (C) The use of motor vehicles to display commercial advertising creates exhaust emissions and adds to traffic congestion by placing additional motor vehicles on City streets for the sole purpose of advertising. Air quality in the City of Austin metropolitan planning area has deteriorated such that the area may be categorized as a "non-attainment" area in the near future under Environmental Protection Agency regulations.
- (D) For these reasons, mobile billboards create aesthetic blight and visual clutter, as well as potential and actual traffic, health, and safety hazards. Prohibiting mobile billboards will promote the public health, safety and welfare of motorists, pedestrians, bicyclists and others using public streets and roadways in the City and adjoining areas, by eliminating aesthetic blight and visual clutter and potential traffic and safety hazards caused by the operation of mobile billboards. A prohibition will also reduce traffic congestion and exhaust emissions by eliminating an emission source that requires and encourages continuous and extensive operation of motor vehicle engines. Finally, a prohibition of mobile billboards will protect the public investment in and the character and dignity of the City's streets.

PART 2. City Code Section 25-10-3 (*Definitions*) is amended to read

§ 25-10-3 DEFINITIONS.

In this chapter:

(1) **ADVERTISING SEARCHLIGHT** means a searchlight used to direct beams of light upward for advertising purposes

(2) **COMMERCIAL FLAG** means a piece of fabric or other flexible material displayed for commercial purposes, but excluding the official flag of a nation or of a state

(3) **FREESTANDING SIGN** means a sign not attached to a building, but permanently supported by a structure extending from the ground and permanently attached to the ground

(4) **MAINTENANCE** means the cleaning, painting, repairing, or replacing of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign, but does not include changing the design of the sign's support construction, changing the type of component materials, or increasing the illumination.

(5) **MOBILE BILLBOARD** means a sign installed or displayed on a vehicle operating in the public right-of-way for the purpose of advertising a business or entity that is unrelated to the owner of the vehicle's primary business. The term does not include a sign that is displayed or installed on.

(a) a non-motorized vehicle, including but not limited to pedi-cabs,

(b) a bus that is used primarily for the purpose of transporting multiple passengers,

(c) a taxicab, if the sign complies with the requirements of City Code Section 13-2-388, or

(d) a vehicle operated in the normal course of the vehicle owner's business, if the sign contains advertising or identifying information directly related to the business and is not used to display advertising that is unrelated to the business

(6) **MULTI-TENANT CENTER SIGN** means a sign advertising two or more uses with common facilities

(7)~~(6)~~ NONCONFORMING SIGN means a sign that was lawfully installed at its current location but does not comply with the requirements of this chapter.

(8)~~(7)~~ OFF-PREMISE SIGN means a sign advertising a business, person, activity, goods, products, or services not located on the site where the sign is installed, or that directs persons to any location not on that site

(9)~~(8)~~ PROJECTING SIGN means a wall sign that extends over street right-of-way for a distance of more than 18 perpendicular inches from the building facade

(10)~~(9)~~ PUBLIC RIGHT-OF-WAY means land dedicated or reserved for street right-of-way, utilities, or other public facilities

(11)~~(10)~~ ROOF SIGN means a sign installed over or on the roof of a building

(12)~~(11)~~ SIDEWALK SIGN means a sign located on a sidewalk, either within street right-of-way or on private property within a unified development, advertising the business abutting the sidewalk where the sign is located

(13)~~(12)~~ STREET BANNER means a fabric sign hung over a street maintained by the City.

(14)~~(13)~~ STREET RIGHT-OF-WAY means the entirety of a public street right-of-way, including the roadway and pedestrian way.

(15)~~(14)~~ WALL SIGN means a sign attached to the exterior of a building or a freestanding structure with a roof but not walls

PART 3. City Code Section 25-10-102 (*Signs Prohibited in All Sign Districts*) is amended to read

§ 25-10-102 SIGNS PROHIBITED IN ALL SIGN DISTRICTS.

Unless the building official determines that the sign is a nonconforming sign, the following signs are prohibited.

(1) an off-premise sign, unless the sign is authorized by another provision of this chapter,

(2) a sign placed on a vehicle or trailer that is parked or located for the primary purpose of displaying the sign,

(3) a festoon, including tinsel, strings of ribbon, small commercial flags, streamers, and pinwheels,

(4) a sign not permanently affixed to a building, structure, or the ground that is designed or installed in a manner allowing the sign to be moved or relocated without any structural or support changes, excluding a sidewalk sign described in Section 25-10-153 (*Sidewalk Sign In Downtown Sign District*),^[-]

(5) a tethered, pilotless balloon or other gas-filled device used as a sign, ~~and~~

(6) a sign that uses an intermittent or flashing light source to attract attention, excluding an electronically controlled changeable-copy sign, and^[-]

(7) a mobile billboard within the City's full-purpose jurisdiction, except that a mobile billboard operator with an office located within the boundaries of the Capitol Area Metropolitan Planning Organization on the effective date of Ordinance No 20080605-076 is not subject to the prohibition until two years after the effective date of the ordinance

PART 4. Subsection (B) of City Code Section 25-10-152 is amended to read:

(B) A person may not change or alter a nonconforming sign except as provided in this subsection

(1) The face of the sign may be changed

(2) The sign may be changed or altered if the change or alteration does not:

(a) increase the degree of the existing nonconformity,

(b) change the method or technology used to convey a message, or

(c) increase the illumination of the sign

(3) The sign may be relocated on a tract, if the building official determines that the relocated sign will not be hazardous, and the sign is:

(a) located on a tract that is partially taken by condemnation or partially conveyed under threat of condemnation, or

(b) moved to comply with other regulations

(4) ~~[Except as provided in Subsection (B)(5), a]~~ A nonconforming sign may be modified or replaced in the same location, if the modification or replacement reduces:

- (a) the sign area by at least 20 percent,
- (b) the height of the sign by at least 20 percent, or
- (c) both sign area and height of the sign by an amount which, combined, is equal to at least 20 percent of the sign area and height

~~[(5) A nonconforming off-premises sign may be replaced if~~

~~(a) each owner of a property from which a sign is to be removed or on which a sign is to be replaced agrees to the sign removal or replacement, as applicable,~~

~~(b) each owner of a property from which a sign is to be removed designates the person who is responsible for removing the sign, and~~

~~(c) the replacement sign~~

~~(i) does not direct illumination onto a property zoned or used for a residential use;~~

~~(ii) does not exceed the height of the sign it replaces, and~~

~~(iii) is constructed in the same location with same type of materials and construction design as the sign it replaces, and~~

~~1 the face height and width of the replacement sign are each at least 25 percent less than the face height and width of the sign being replaced, or~~

~~2 the replacement sign is not located in, or within 500 feet of, a historic sign district, its sign area is at least 25 percent smaller than the sign area of the sign it replaces, and~~

~~a one other nonconforming off-premises sign is permanently removed, the location of the sign to be removed is not included in a site plan that is pending approval, and if, before removal, the sign to be removed is:~~

~~i. located in a scenic road-way sign district,~~

~~ii located in, or within 500 feet of, a historic sign district; or~~

~~iii of monopole construction; or~~

~~b — two other non-conforming off-premises signs are permanently removed, and the location of a sign to be removed is not included in a site plan that is pending approval.]~~

5 [(6)] The owner of a nonconforming off-premise sign may relocate the sign to another tract under these provisions if the requirements of this paragraph are met

(a) The original location of the sign must be

(i) in the area bounded by Highway 183 from Burnet Road to Highway 71, Highway 71 from Highway 183 to Lamar Boulevard, Lamar Boulevard from Highway 71 to 45th Street, 45th Street from Lamar Boulevard to Burnet Road, and Burnet Road from 45th Street to Highway 183, or on a tract that abuts the street right-of-way of a boundary street,

(ii) in a scenic roadway sign district,

(iii) within 500 feet of

1 a historic sign district, or

2 a residential structure located in a residential base zoning district, or

(iv) within the boundaries of a registered neighborhood association that has requested removal of the sign

(b) The sign must be permanently removed from the original tract and may not be replaced Any tract upon which an off-premise sign has been unlawfully replaced shall not be eligible as a site for a relocated sign

(c) The tract to which the sign is relocated

(i) must be in.

1 an expressway corridor sign district, or

2 for a sign with a sign area of 300 square feet or less, an expressway corridor sign district or a commercial sign district,

(ii) may not be on a scenic roadway;

(iii) may not be within 500 feet of

- 1 a historic sign district, or
 - 2 a residential structure located in a residential base zoning district,
- and

(iv) if the tract is within the zoning jurisdiction, it must be zoned as a commercial or industrial base district

(d) Sign district restrictions on sign height and face size otherwise applicable to the relocation tract do not apply to the relocated sign, but the sign height of the relocated sign may not exceed 42 feet above ground level street pavement.

(e) A relocated sign must be permanently removed from the new location not later than 25 years after the date the relocation application is approved unless within the 25 year time period the sign owner permanently removes and does not relocate a second nonconforming off-premise sign from a location described in Paragraph (5)(a) ~~[(6)(a)]~~

(f) The council may waive or modify, with or without conditions, a requirement of Paragraph (5)(a)-(e) ~~[(6)(a)-(e)]~~ if the council determines that the waiver or modification is justified by the aesthetic benefit to the City.

(i) In making the determination, the council may consider:

- 1 the number of nonconforming off-premises signs to be removed,
- 2 the characteristics of the sites from which the signs are to be removed,
- 3 the characteristics of the site on which the sign is to be relocated, and
- 4 other relevant factors

(ii) The council shall hold a public hearing before acting on a proposed waiver or modification

(iii) The director of the Watershed Protection and Development Review Department shall give notice of the hearing in accordance with Section 25-1-132(B) (*Notice Of Public Hearing*)

(g) A sign may not be relocated or removed under this paragraph unless the sign is registered and all registration fees are paid as required by Subsection (F)

(h) For each non-conforming off-premise sign relocated under this section, the sign owner must install lighting that is energy efficient, as determined by Austin Energy, and meets or exceeds International Dark Sky standards for pollution reduction. The lighting required under this subsection must be installed.

(i) no later than six months after the effective date of Ordinance No 20080605-076, if the sign was relocated prior to that date,

(ii) upon installation of the relocated sign, if the relocation occurs after the effective date of Ordinance No 20080605-076, or

(iii) for all other off-premise signs, within 36 months after the sign is registered in accordance with Subsection (F)

(i)(h) An applicant must

(i)(+) be the owner of each sign to be relocated or removed,

(ii)(+) file an application for sign relocation with the director [of the ~~Watershed Protection and Development Review Department~~] at least 90 days before relocating the sign, and

(iii)(+) include with the application

1. a statement from the owner of each tract from which the sign is to be removed agreeing to the permanent removal of the sign, or

2. a document approved by the city attorney indemnifying the city for all costs and claims arising from the sign relocation, sign removal, or permit issuance and providing that the city attorney may hire counsel for and shall direct the defense of the claims

(i)(+) An applicant must relocate a sign not later than one year after the date the director of the Watershed Protection and Development Review Department approves the application.

~~[(+) An application under this paragraph supersedes an application under Paragraph (5)].~~

PART 5. Subsection (F) of City Code Section 25-10-152 is amended to read

(F) This subsection applies to an off-premise sign

(1) This paragraph prescribes registration and identification requirements

(a) The owner of the [~~property on which the~~] sign [~~is located~~] must register the sign every year [~~two years~~] with the director

(b) The sign [~~property~~] owner shall, on a form prescribed by the director, provide:

(i) information regarding the sign location, height, size, construction type, materials, setback from property boundaries, and illumination; and

(ii) the name and address of the sign owner[~~, if the sign is owned by a person other than the property owner~~]

(c) The sign [~~property~~] owner shall initially register the sign by August 31, 1999, or within 180 days after the date the sign becomes subject to the City's planning jurisdiction, as applicable, and shall pay a registration fee set by separate ordinance.

(d) A person who fails to register a sign as required by this paragraph commits an offense

(e) A sign owner is prohibited from relocating a sign if the sign owner is in violation of the registration requirements for any sign owned by that sign owner within the City's jurisdiction

(f) The sign owner shall place identifying markers on the sign as required by the director. Such markers shall include, but not be limited to, the applicable registration number and measurement points to assist in verifying the height of a sign.

(g) A sign owner shall, in a manner prescribed by the director, provide an annual inventory of all signs owned by that sign owner, including but not limited to a description of the sign, the location of the sign, and the owner of the property on which the sign is located

(h) The building official shall notify the property owner of the pending expiration of a sign registration, no earlier than 90 days and no later than 30 days prior to the expiration. The director shall provide the same notice to the sign owner if the inventory required under subsection (f) has been provided

(2) The director shall mail notice of an application to repair or replace a sign not later than the 7th day after the application is filed to the

- (a) applicant,
- (b) neighborhood organization, and
- (c) sign owner, if a sign owner is identified in accordance with Paragraph (1)

PART 6. Article 12 of City Code Chapter 25-10 (*Sign Regulations*) is amended to add a new Section 25-10-237 to read:


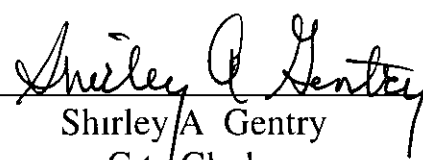
§ 25-10-237 PENALTY FOR FAILURE TO REGISTER.

A person who fails to register a sign as required by section 25-10-152(F) commits an offense punishable by a fine of up to \$500 per day for each day that the offense continues, and for each sign that is not registered. A person who violates section 25-10-152(B)(6)(b) commits an offense punishable by a fine of up to \$500 per day for each day the violation continues

PART 7. The City Manager is directed to create and maintain an accessible online database containing information provided by sign owners as part of the billboard inventory required under Subsection 25-10-152(F) (*Nonconforming Signs*)

PART 8. This ordinance takes effect on June 16, 2008

PASSED AND APPROVED

<u>June 5</u> , 2008	§ § § _____ Will Wynn Mayor
APPROVED:  David Allan Smith City Attorney	ATTEST:  Shirley A Gentry City Clerk