

11/23/10



## *City of Hempstead*

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### ORDINANCE NO. 10-114

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HEMPSTEAD, TEXAS, BY AMENDING CHAPTER 8.5, SIGNS; PROVIDING FOR THE REGULATION OF SIGNS WITHIN THE CITY OF HEMPSTEAD DOWNTOWN HISTORIC DISTRICT; PROVIDING DEFINITIONS, PROVIDING PENALTIES FOR VIOLATIONS; CUMULATIVE EFFECT; PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS RELATED THERETO.**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HEMPSTEAD, TEXAS, THAT:**

**Section 1.** The Code of Ordinances of the City of Hempstead, Texas, is hereby amended by amending Chapter 8.5, Signs, as follows:

#### **CHAPTER 8.5**

#### **SIGNS**

##### **8.5-1. Definitions.**

*Abandoned sign* means a sign which no longer identifies or advertises a bonafide business, lessor, service, owner, product or activity for a period of 90 days or more, or a sign, the content of which, pertains to a time, event or purpose which no longer applies, or for which no legal owner can be found.

*Awning sign* means a sign painted on, printed on, or attached to the surface of an awning or canopy.

*Banner* means any sign printed or displayed upon cloth or other flexible material with or without frames. A banner is for temporary use only.

*Building permit* means a permit issued by the Building Official for construction, renovation or alteration of property.

*Building sign* means any sign attached to any part of a building, as contrasted to a 'ground sign.'

*Building wall* means an exterior load-bearing or non load-bearing vertical structure that encompasses the area between the final grade elevation and eaves of the building, and used to enclose the space within the building.

*A porch, balcony or stoop* is part of the building structure and may be considered as a building wall.

*Changeable copy sign* means a sign on which copy is changed automatically on a lamp bank or through mechanical means (e.g. electrical or electronic time and temperature units), or a sign on which copy is changed manually in the field (e.g. reader boards with changeable letters), but shall not include portable signs.

*Clear sight triangle or horizontal sight distance* means a triangle sight area at all intersections which shall include that portion of public right of way and any corner lot within the adjacent curb lines or pavement edges of intersecting streets, roads or alleys and a diagonal line intersecting such curb lines or pavement edges at points thirty-five feet back from their actual or projected point of intersection. Such triangle or distance must remain unobstructed in order to ensure that drivers can see traffic and pedestrians around the corner of the intersection, entrance or driveway.

*Code Enforcement Official* means a person charged by the Mayor or Mayor's designee with enforcement of the provisions of this Ordinance.

*Commercial message* means any sign, wording, logo or other representation, except for the actual name of the business that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

*Development* means a group of houses or other buildings, residential, or nonresidential that are built as a single construction project.

*Dilapidated sign* means a sign that is not properly secured or otherwise structurally unsound; has defective parts; or is in need of painting or maintenance.

*Extraterritorial jurisdiction* means that area extending beyond the boundaries of the City of Hempstead as defined by Chapter 42 of the Texas Local Government Code and as described in Section 216.902 of the Texas Local Government Code.

*Facade* means the entire building front including the parapet.

*Flag* means any fabric or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

*Freestanding sign* means a sign supported upon the ground by poles or braces and not attached to any building.

*Garage sale sign* means a temporary residential use sign advertising a garage sale.

*Governmental sign* means a sign required, authorized or installed by any governmental entity, which is exempt from the permitting process.

*Ground sign* means any sign attached to the ground, as contrasted to a 'building' sign.

*Holiday decorations* means displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent and contain no advertising material.

*Holiday season* means a reasonable and designated time period for the display of holiday decorations. The established time periods are November 15 through January 15 and for all other nationally recognized holidays for a period not to exceed seven days.

*Identification sign* means a sign bearing the address of the premises or name of occupant, but containing no logo or commercial message.

*Illuminated sign* means a sign that is illuminated by electrical or other artificial devices.

*Incidental sign* means a sign, generally informational, that has a purpose secondary to the use of the site on which it is located, such as 'no parking', 'entrance', 'loading only', 'telephone', and similar information and directives. No sign with a commercial message legible from a position on the site on which the sign is located shall be considered incidental.

*Information, piece of* means a word, whole number, telephone number, price, logo, picture, exclamation point or similar separately identifiable unit on a sign.

*Institutional sign* means a sign bearing a message related to an institutional use, where such sign is located on the same premises as such use.

*Logo* means the graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or

illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

*Lot* means a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or plat, and which is recognized as a separate legal entity for purposes of transferring title. This term shall include any number of contiguous lots, or portions thereof, upon which a single principal building and its accessory buildings are located or intended to be located.

*Marquee* means permanent canopy, awning or roof-like structure of rigid materials supported by and extending from the façade of a building. A marquee is considered to be part of the building.

*Marquee sign* means any sign attached to or supported by a marquee structure.

*Monument sign* means a detached sign not attached to a building nor using a pole or brace as a base, having a low profile and made of masonry, metal, rounded wood planks or beams, or similar materials, including individual lettering, which repeat or harmonize with the architecture of the establishment it serves.

*Nonconforming sign* means any sign that if erected within the City limits met the requirements of the City at the time it was erected, but does not conform to the requirements of this Ordinance; and that if erected within the extraterritorial jurisdiction of the City met the requirements of any governing authority with jurisdiction to regulate said sign at the time it was erected, but which does not conform to the requirements of this Ordinance.

*Off-premise sign* means a sign that is located on property and transmits a message pertaining to a product, use, occupancy or function which is not located on the same property as the sign.

*On-premise sign* means a sign the context of which relates to a use, occupancy, function or product manufactured on the same property on which the sign is located.

*Parapet* means the extension of a false front or wall above a roofline.

*Person* means an individual, any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

*Political sign* means a sign attracting attention to political candidates or issues as defined by the Texas Election Code. A political sign is for temporary use only.

*Portable sign* means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to signs designed to be transported by wheels; signs made as frames or T-frames; balloons

used as signs; umbrellas used for commercial messages; and signs attached to or painted on vehicles or trailers parked and visible from the public right of way.

*Premises* mean a building or part of a building, with its appurtenances.

*Projecting sign* means a sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

*Real estate sign* means a sign advertising real property for sale or for lease. A real estate sign is for temporary use only.

*Residential sign* means any sign located in a residential area that contains no commercial message, including, but not limited to a personal identification sign, as in describing a personal affiliation of the type including, but not limited to, a team or church membership.

*Roof sign* means a sign erected over or on the roof of a building.

*Sign* means any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

*Sign, area of:*

- (1) The area of the sign shall be measured as follows if the sign is composed of one or two individual cabinets:
  - a. The area around and enclosing the perimeter of each cabinet or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments.
  - b. If the sign is composed of more than two (2) sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign. Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy.
- (2) The area shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of each symbol

or letter. The combined areas of the individual figures shall be considered the total sign area.

*Sign permit application* means a plan establishing parameters for the size, location and design of signs on a property being constructed or managed as a single development.

*Site* means a lot, tract or parcel of land considered as one land unit for purpose of this Ordinance. For a single-family residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, nonresidential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approval under the Code of Ordinances, City of Hempstead, Texas, or all land included under the original "sign permit application" approval under this Ordinance or its predecessor, whichever land area is larger. The intent of this definition is to treat as one site an entire project as planned and developed together.

*Street frontage* means the linear frontage of a parcel of property abutting a public street.

*Temporary sign* means any sign that is used for a limited period of time and is not permanently mounted.

*Traffic sign* means a sign indicating federal, state or municipal regulations for automobile, truck, bicycle or pedestrian movement.

*Wall*, exterior means a vertical, structural component of a building which encloses habitable or usable space; a parapet extending not more than 12 inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

*Wall sign* means any sign painted on or attached to and extending not more than six inches from an exterior wall in a parallel manner.

*Window sign* means a sign installed inside a window and intended to be viewed from the outside.

#### **Sec. 8.5-2. Prohibited signs and devices.**

- A. All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with the previous section are prohibited within the City's limits and within its extraterritorial jurisdiction. Such signs include, but are not limited to:

- 1. Abandoned signs, or dilapidated signs;

2. Any sign that copies or imitates an official sign or purports to have official status;
  3. Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;
  4. Signs imitating standard public traffic, regulatory or emergency signs or signals;
  5. Signs using the words 'stop', 'danger' or any other word, symbol or character in a manner, which may mislead, confuse or distract the driver of a motor vehicle;
  6. Off-premise signs and off-premise signs constructed after the date of enactment of this Ordinance; and
  7. Any sign placed in or projecting in or over the public right of way or on a utility pole in the public right of way as described in Paragraph C, below.
- B. Any such prohibited signs shall be removed at the discretion of the Mayor and/or his designee. If not removed by owners or occupants of the property within ten days of notice, the Mayor and/or his or her designee shall cause the signs to be otherwise removed and the cost of removal shall become a lien against the property until satisfied.
- C. Only the following signs shall be allowed on a City street, easement or right of way within the City limits or on a public street, easement or public right of way within the City's extraterritorial jurisdiction:
1. Public signs erected by or on behalf of a governmental body to identify public property, convey public information and direct or regulate pedestrian or vehicular traffic;
  2. Bus stop signs erected by a public transit company;
  3. Informational signs of a public utility regarding its poles, lines, pipes or other facilities;
  4. Signs appurtenant to a use of public property permitted under a franchise or lease agreement with the City of Hempstead;
  5. Signs posted in association with municipal, county, state or federal authorities for crime prevention or public safety and health;

6. Legal notices erected by or on behalf of a governmental body; and
  7. Emergency warning signs erected by a government agency; a public utility company, or a contractor doing authorized or permitted work within the public right of way.
- D. Any other sign placed in or projecting in or over the public right of way or on a utility pole in the public right of way in violation of this Ordinance shall be deemed a public nuisance and may be seized by the Code Enforcement official or other representative of the City of Hempstead, and the person owning or placing the sign may be charged both with a violation of this Ordinance and with the cost of removing and disposing of the sign. If the person or entity placing the sign cannot otherwise be determined for purposes of enforcement, it will be presumed that the name of the person or entity appearing on the sign, or the owner or occupant of the premises depicted on the sign directed the placement and is subject to enforcement as described hereunder.

**Sec. 8.5-3. Signs exempt from regulation.**

The following signs shall be exempt from regulation under this chapter:

- A. Any official or public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance, by a public utility company or by order of a court of competent jurisdiction;
- B. Traffic signs on private property, such as stop, yield or similar signs, which meet Department of Transportation standards and contain no commercial message;
- C. Works of art with no commercial message;
- D. Holiday decorations with no commercial message displayed as long as said decorations are displayed within a holiday season;
- E. 'No trespassing', 'no hunting', 'no fishing' or 'no loitering' signs, which shall not exceed one (1) square foot in area;
- F. Any governmental signs; and
- G. Incidental signs placed for informational purposes without commercial message and limited to one square foot in area.

**Sec. 8.5-4. Temporary signs not requiring permit.**

The following signs are considered temporary in nature and do not require permit. They are, however, subject to the restrictions in construction or design indicated.

- A. Temporary Banners and Portable Signs: On premise banner signs, portable signs and similar temporary signs may be used only during business or activity opening or special promotions, and shall be subject to the following:
  - 1. Whether singly or in combination, no more than three (3) temporary banners or portable signs shall be permitted on a single lot of land; however, the area of such displays shall not be counted against the maximum combined sign area allowed for permitted, permanent signs.
  - 2. Temporary Banners and Portable Signs may be placed no longer than thirty (30) days.
- B. Garage Sale Signs. Signs for garage sales shall be allowed only on private property with the permission of the property owner.
- C. Political Signs. Political signs are considered temporary signs and shall be allowed under the following provisions:
  - 1. Such signs shall not be located in the public right-of-way or on other public property or on any utility pole or tree, except that signs may be located on City or other governmental property within the specified proximity of polling places during elections at which the specific City or other governmental property is designated as a polling place.
  - 2. Such signs shall comply with all requirements as provided by the Texas Election Code.
  - 3. Signs must be removed within three (3) days following the election.
- D. Real Estate Signs. Real Estate Signs, including those indicating sale, rental or lease, are allowed under the following provisions:
  - 1. On-premise real estate signs are allowed in residential and commercial developments for a maximum of 365 days.
  - 2. A real estate sign for a single family dwelling shall not exceed one per lot; in size, the sign shall not exceed 42 inches in height and a maximum of five square feet in area.
  - 3. A real estate sign for commercial property shall not exceed ten feet in height and a maximum of 32 square feet. A maximum of one real estate sign shall be permitted on tracts of three acres or less; a maximum of two real estate signs shall be permitted larger than three

acres but less than 50 acres; and a maximum of three real estate signs shall be permitted on a tract of 50 acres or larger.

E. Residential Signs. Residential Signs are considered temporary signs and shall be allowed under the following provisions:

1. Such signs shall not exceed four square feet in area and 42 inches in height.
2. There shall be no more than three residential signs on any site containing a single dwelling unit.
3. Such signs shall be posted at least ten feet from any public right of way and shall not be posted in a public right of way, easement, or on any private common area.

#### **Sec. 8.5-5. Sign Permits.**

A. Permits required for sign. If a sign requiring a permit under this Ordinance is to be placed, constructed, erected or modified on a site, a contractor licensed by the State to erect signs, (or where otherwise permitted by law, the owner of the lot, or with the owner's written permission, the owner's designee) shall secure a sign permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of this Ordinance. If the applicant is someone other than the legal owner of the property, said applicant shall be required to submit the property owner's written verification acknowledging permission for placement of the sign on the property.

B. Application Requirements.

1. An application for a sign permit may be filed only by a contractor licensed by the State to erect signs, or where otherwise permitted by law, the owner of the lot, or with the owner's written permission, the owner's designee, and if not the owner, the applicant must include the owner's written verification acknowledging permission for placement of the sign on the property.
2. An application for a sign permit shall be filed with the Building Official on a form prescribed by the Building Official, along with the approved fees incident to application and permit.
3. Each application for sign permit shall contain the information required on the application form, and such other information regarding the proposed sign as the Building Official may deem necessary in order to determine whether the proposed sign complies with the applicable

requirements of this Ordinance and other applicable ordinances of the City.

4. The Building Official shall determine whether the application is complete. If the application is determined to be incomplete, the Building Official shall notify the applicant of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.

C. Approval Procedure. Signs shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the Building Official. Such permit shall be issued only in accordance with the following requirements and procedures:

1. An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by a detailed drawing showing the dimensions, design, structure and location of each particular sign, and such other information as is required to comply with this Ordinance. A separate application and permit is required for each sign. The Building Official shall cause an inspection of the site for which each permit for a new sign or modification of an existing sign is issued within six months following issuance of a permit, or at such earlier date that the owner may request.
2. Within ten business days of receiving an application for a sign permit, the Building Official shall review the application for completeness. With ten business days of finding an application to be incomplete, the Building Official shall provide written notice to the applicant detailing the specific deficiencies in the application, with appropriate references to this Ordinance.
3. Within twenty business days of receipt of a complete application for sign permit, the Building Official shall either:
  - a. Issue the sign permit, if the sign conforms in every respect to the requirements of this Ordinance and the sign permit application; or
  - b. Deny the sign permit if the sign fails to conform to either the requirements of this Ordinance or the sign permit application. If the sign permit is denied, the Building Official shall then give written notice to the applicant detailing the specific deficiencies, with appropriate references to this Ordinance.

4. Any person may appeal a decision of the Building Official concerning enforcement of the provisions of this Ordinance by filing such appeal with the Mayor within ten business days after the decision by the Building Official. The appeal will then be scheduled to be heard by the City Council at a regular or specially called meeting, with public hearing scheduled there on, and following such public hearing, the City Council at such meeting will then take action on the appeal by either deferring, rejecting or approving the appeal as submitted. If the decision of the Building Official is to be appealed respecting a sign in existence; no action shall be taken on the sign while the decision is being appealed to the City Council, unless the sign, by virtue of its physical condition, presents an immediate and significant threat to public safety.
- D. Lapse of Sign Permit. A sign permit shall lapse if the use of a building or premises by a specified business or other establishment is discontinued by the owner or occupant for a period of ninety (90) days or more. Any sign for which a permit lapses shall be considered an abandoned sign and shall be removed as provided by this Ordinance.
- E. Removal of Signs. Abandoned signs and signs which do not conform to the requirements of this Ordinance shall be removed. Any sign permit application for premises which is not in conflict with the requirements of this Ordinance or which has not otherwise lapsed shall remain in effect for the premises.
- F. Substitution of Message. On a commercial sign that is otherwise allowed under this Ordinance, any commercial or non-commercial message may be substituted, in whole or in part, without permitting or approval being required therefore, if no alteration is made of the size or structure of the sign.

**Sec. 8.5-6. Construction and design of signs.**

- A. Construction Standards. All signs shall be designed, constructed and maintained in accordance with the following standards:
1. All signs shall comply with provisions of the building code(s) as then adopted by the City.
  2. Electric signs that have internal wiring or lighting equipment, and external lighting equipment that directs light on signs, shall not be erected or installed until an electrical permit has been obtained from the Building Official. All such signs and equipment shall bear the seal of approval of an electrical testing laboratory that is nationally recognized as having the facilities for testing. All such signs and equipment shall comply with the National Electric Code as then

adopted by the City. All wiring to electric signs or to freestanding equipment that lights a sign shall be installed underground.

3. Except for temporary signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be attached to the ground, a building or another structure by direct attachment to a wall, frame or structure.
4. All sign foundations shall be designed for 100 mile per hour winds, the plan for which must bear a professional engineer's calculations and seal.

B. Maintenance Standards. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, in conformance with this Ordinance, and subject to the following provisions:

1. A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped or peeling paint, poster paper or other material for a period of more than 30 days.
2. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of more than 10 days.
3. A sign shall not have weeds, trees, vines or other vegetation growing upon it, or obscuring the view of the sign from the public right-of-way from which it is to be viewed, for a period of more than 30 days.
4. An internally illuminated sign shall be allowed to stand with only partial illumination for a period of no more than 30 days.
5. Flags shall not be faded, tattered or torn.
6. Sign illumination shall be placed and shielded so as not to directly cast light rays into nearby residences, sleeping accommodations or into the eyes of motor vehicle drivers.
7. Neon lighting shall only be permitted in signs for retail and restaurant establishments.
8. Signs may not create a traffic hazard, and shall be constructed and maintained as follows:
  - a. Clear Sight Triangle. No sign shall be erected in the clear sight triangle. Signs shall be erected so as not to obstruct or

impair motor vehicle driver vision at business ingress or egress points or at street intersections.

- b. Other Hazards. No sign shall be erected, and there shall be no lighting of signs or premises thereof, in such a manner or in such location as to obstruct the view of, or to be confused with, any authorized traffic signal, notice or control device. Signs using the words 'stop', 'danger' or any other word, symbol or character in a manner which may mislead, confuse or distract the driver of a motor vehicle are strictly prohibited.
- c. Notwithstanding other provisions of this Ordinance, any such sign or light source constituting a traffic hazard shall be removed at the direction of the Building Official and/or his or her designee. If not removed by the owner or occupant of the property within ten days of notice, unless otherwise deemed an immediate hazard, the Building Official and/or his or her designee shall cause the sign to be otherwise removed, and the cost of removal shall become a lien against the property from which it was removed until payment for removal is satisfied.

#### C. Lighting.

- 1. Illumination. The following regulations shall apply to signs where lighting is included.
  - a. Sign illumination shall be placed and shielded so as not to directly cast light rays into nearby residence, sleeping accommodations or the eyes of motor vehicle drivers.
  - b. Electrical requirements pertaining to signs shall be as prescribed under the National Electrical Code as adopted.
  - c. Neon lighting shall only be permitted in signs for retail and restaurant establishments.
  - d. Notwithstanding any other provision in this chapter, no new construction permit shall be issued for the erection of an off-premise sign, including but not limited to a new off-premise changeable electronic variable message sign (including a sign using LED (light emitting diodes) or the conversion of an existing off-premise sign to a changeable electronic variable message sign within the City or its extraterritorial jurisdiction.

2. Uniformity. Lighting on signs shall be consistent throughout a project, and no sign or portion thereof shall be illuminated differently from any other sign, except as allowed otherwise in this Ordinance.

**Sec. 8.5-7. Nonconforming Signs.**

A. Nonconforming Signs Protected. A sign, other than a banner sign in the Historic Downtown District, lawfully erected prior to adoption of this Ordinance but which does not conform in one or more respects with the requirements of this Ordinance may remain in use, subject to the requirements of this section and other applicable requirements of City ordinances, under the following limitations:

1. Abandonment. Any sign related to a use or business that ceases to exist or operate for a continuous period of ninety (90) days shall be considered nonconforming and shall not be reused for sign purposes unless and until it is in full conformity with the provisions of this chapter, subject to issuance of a new sign permit.
2. Routine repairs and maintenance. Repairs and maintenance of nonconforming signs, such as repainting and electrical repairs, shall be permitted.
3. Change of copy. No change of copy shall be permitted (except on a changeable copy sign) without bringing the sign into full compliance with this chapter and with the applicable sign permit application.
4. Other sign permits on premises. For single occupant properties, the issuance of a sign permit for a new or replacement sign shall be subject to the condition that all nonconforming signs on that property shall be removed or brought into conformance as part of the work of installing the new or replacement sign. For multi-occupant properties, the issuance of a sign permit for a new or replacement sign for any occupant shall be subject to the condition that all nonconforming signs for that occupant shall be removed or brought into conformance as part of the work of installing the new or replacement sign.

**Sec. 8.5-8. Enforcement with City's Extraterritorial Jurisdiction.**

Pursuant to Chapter 216 of the Texas Local Government Code, the provisions of this Ordinance shall be enforced in and extend to the City's extraterritorial jurisdiction.

**Sec. 8.5-9. Sign Regulations in the Historic Downtown District.**

The purpose of the sign regulations in the Historic Downtown District is to promote the public health, safety and welfare of the citizens of the City of Hempstead through a comprehensive system of reasonable, effective, consistent, content-neutral and non-discriminatory sign standards and requirements in the Historic Downtown District. With this purpose in mind, the regulations are adopted to fulfill the following objectives:

- A. To establish a standard for signs in the Historic Downtown District which will be appropriate and to enhance the aesthetic appearance and attractiveness of the City of Hempstead's Historic Downtown District, businesses and visitors through the identification of the special character and economic advantages of the Historic Downtown District; and
- B. To protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape in the Historic Downtown District which affects the image of the City of Hempstead.

#### **Sec. 8.5-10. Wall Signs**

- A. All wall signs must be securely attached to the building façade.
- B. No new marquee sign may exceed 50 square feet per 50 feet of linear street frontage of the building to which it refers.
- C. Wall signs projecting more than 18 inches from the vertical building surface are prohibited.
- D. Lower level (first story) signs:
  - 1. May not contain words consisting of characters greater than 12 inches in height; and
  - 2. May not exceed ten square feet per 50 feet of linear street frontage of the building to which it refers.
- E. Upper level (second or higher stories) signs:
  - 1. May not contain words consisting of characters greater than eighteen inches in height; and
  - 2. May not exceed in area twenty square feet per fifty feet of linear street frontage of the building to which it refers.
- F. No more than thirty percent (30%) of a façade may be covered with signs.
- G. Each premise may have no more than two attached signs for each street entrance.

H. Banner signs may be displayed for a maximum of forty-five days per year. Banner signs are prohibited beginning September 1, 2011. It is the declared purpose of this section that nonconforming banner signs be eliminated and be required to comply with the regulations of the City of Hempstead Sign Ordinance, having due regard for the property rights of the persons affected, the public health, safety, welfare, and the character of the surrounding area. All nonconforming banner signs shall be removed or modified to comply with the provisions of this section by September 1, 2011 to eliminate nonconformity.

1. The procedures provided for in this section regarding nonconforming banner signs apply to properties located in the Downtown Historic District regardless of any other section of the City of Hempstead Sign Ordinance.
2. Any person owning a nonconforming banner sign subject to the provisions of this Ordinance may request that the City Council establish a later compliance date for the nonconforming banner sign. The City Council may provide a later compliance date for the nonconforming banner sign under a plan whereby the owner's actual investment in the banner sign on the property before the time that the banner sign became nonconforming can be amortized within a definite time period if:
  - a. The City Council decides not to initiate a public hearing to amend the sign ordinance; or
  - b. A final decision of the City Council does not render the banner sign conforming; and
  - c. A reasonable amortization period based upon the factors set forth in subsection 3 would determine the reasonable amortization period to be more than one year since the Ordinance went into effect.
3. The following factors must be considered by the City Council in determining a reasonable amortization period:
  - a. The owner's capital investment in the banner sign on the property before the time the banner sign became nonconforming.
  - b. Any costs that are directly attributable to the establishment of the compliance date, including demolition expenses.

- c. Any return on capital investment since inception of the banner sign, including net income and depreciation.
  - d. The anticipated actual recovery of capital investment including net income and depreciation.
4. If the owner did not have a capital investment in the banner sign before it became a nonconforming banner sign, the owner is not entitled to an amortization to recover any of the costs set forth in this section. For purposes of this section, 'owner' means the owner of the nonconforming banner sign at the time the City Council enacted this section regarding banner signs.
- I. No sign may be illuminated by back lighting. Indirect light is permissible. The use of a new plastic sign is prohibited.

**Sec. 8.5-11. Window Signs.**

- A. A window sign may not cover more than twenty-five percent (25%) of the window surface area.
- B. Window signs may not contain words consisting of characters greater than twelve inches in height.

**Sec. 8.5-12. Awning Signs.**

- A. No part of an awning sign may be closer to grade than nine feet.
- B. An awning sign:
  - 1. May not contain words consisting of characters greater than eight inches in height; or
  - 2. May not exceed fifteen square feet in area.

**Sec. 8.5-13. Roof Signs.**

No new roof signs may be erected within the Downtown Historic District.

**Sec. 8.5-14. Detached Signs.**

No detached signs, other than monument signs may be used within the Downtown Historic District. Monument signs must be built on a monument base as opposed to a freestanding sign using a pole or braces base. Monument signs may not display a message board, electronically displayed date, time, and temperature or contain any moving message.

**Sec. 8.5-15. Portable Signs.**

Portable signs with changeable copy are prohibited within the Downtown Historic District; however, specially constructed signs which are compatible with the design, style and historic period of the structure to which the sign refers shall be permitted.

**Sec. 8.5-16. Off Premises Signs.**

No off premises signs are allowed within the Downtown Historic District.

**Section 2.** Any person who shall intentionally or knowingly violate any provision of this Ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed \$2,000. Each day in which any violation shall occur shall constitute a separate offense. In addition, the City Attorney is hereby authorized to take all action, both legal and equitable, necessary to assure compliance with this chapter.

**Section 3.** If any provision of any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

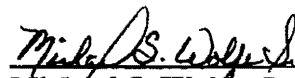
**Section 4.** This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Hempstead, and this Ordinance shall not operate to repeal or affect any such other ordinances except in so far as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such ordinance or ordinances are hereby repealed.

**Section 5.** All regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City of Hempstead in the discharge of his or her duties, shall not thereby render himself or herself personally liable, and he or she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.


**Section 6.** This Ordinance shall take effect upon its publication as required by law.

**PASSED AND APPROVED** this the 15<sup>th</sup> day of November, A.D., 2010.

**APPROVED:**

  
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Michael S. Wolfe, Sr., Mayor

**ATTEST:**

  
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**Barbara Haffelfinger, City Secretary**