

**CITY OF THORNDALE
ORDINANCE NO. 2005-05**

“AN ORDINANCE ADOPTING RULES AND REGULATIONS FOR THE ERECTION, RECONSTRUCTION, ALTERATION OR REPAIR OF SIGNS WITHIN THE CITY OF THORNDALE, TEXAS; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING CRIMINAL AND CIVIL VIOLATIONS AND PENALTIES; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW AND EACH AND EVERY DAY SAID VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR PUBLICATION”

BE IT ORDAINED BY THE CITY OF THORNDALE:

SECTION 1.0 PURPOSE

The purpose of this ordinance is to establish clear and unambiguous regulations pertaining to signs in the City of Thorndale and the City's Municipal Extraterritorial Jurisdiction, as allowed by Texas Local Government Code, Section 216.902, to promote thereby an attractive community, foster traffic safety, and enhance the effective communication and exchange of ideas and commercial information. The City Council of the City of Thorndale hereby finds the following legislative facts:

1. The proliferation of signs creates commercial confusion and makes it difficult for travelers and motorists to locate the goods and services they seek.
2. The increasing height of signs within the City is an endless battle for a higher and more visible sign, and a reasonable limitation on the height of signs is necessary to prevent visual pollution, potential windstorm damage, injury or death.
3. Excessive height in signs creates clutter and is unsightly and offensive to the members of this Council and many, if not most, of the citizens of Thorndale. The establishment of a reasonable maximum height for signs will allow effective communication, prevent altitude competition, and will not penalize smaller business concerns which may not be able to compete for aerial superiority.
4. Reasonable provisions pertaining to size, scale, location, design, lighting, permanency, and maintenance are necessary to avoid visual clutter, preserve and

improve the appearance and character of the community, to avoid traffic problems caused by distracting signs or structures in close proximity to streets, which compete with traffic signs and signals for the attention of motorists, and to prevent deterioration, disregard, and abandonment of signs or structures.

This section will complement the provisions of the Federal Highway Beautification Act of 1972.

The Council recognizes that signs are necessary for visual communication for public convenience, and that businesses and other activities have the right to identify themselves by using signs which are incidental to the use on the premises where the signs are located. The City Council herein seeks to provide a reasonable balance between the right of a person to identify his or her business or activity, and the rights of the public to be protected against visual discord and safety hazards that result from the unrestricted proliferation, location and construction of signs. This section will insure that signs are compatible with adjacent land uses and with the total visual environment of the community, in accordance with the City's comprehensive plan for zoning and land use.

The City Council finds that the rights of residents of this City to fully exercise their rights of free speech by the use of signs containing non-commercial messages are subject to minimum regulation regarding structural safety and setbacks for purposes of traffic protection. The City Council seeks herein to provide for the reasonably prompt removal and disposal of such signs after they have served their purpose, and yet to avoid any interference with First Amendment freedoms, especially as to persons who are of limited financial means.

Instances may occur in the application of this ordinance where strict enforcement would deprive a person of the reasonable use of a sign, or the reasonable utilization of a sign in connection with other related property rights, and herein provides for such persons to have the right to seek variances from the requirements of this ordinance for good cause. It is imperative that enforcement officials apply this ordinance as it is written, in the interest of equality and fair and impartial application to all persons, and that the use of the variance procedure shall remain the sole administrative means to obtain any exception to the terms hereof.

SECTION 2.0 DEFINITIONS

SIGN means any written or graphic representation, decoration, form, emblem, trademark, flag, banner, or other feature or device of similar character which is used for the communication of commercial information, or communication of ideas or subjects of political significance, and which:

1. Is a structure or any part thereof, including the roof or wall of a building, or a free standing wall or fence;

2. Is written, printed, projected, painted, constructed or otherwise placed or displayed upon or designed into a building, board, plate, canopy, awning or vehicle, or upon any material, object or device whatsoever; and
3. By reason of its form, color, wording, symbol design, illumination or motion attracts or is designed to attract attention to the subject thereof, or is used as a means of identification, advertisement or announcement.
4. A sign shall be considered to be a single display surface, a double-faced display surface, or a display device containing elements clearly organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relation of elements or where there is a reasonable doubt about the relationship of elements, each element shall be considered to be a single sign; provided, however, that the display of merchandise through glass windows in any zone where such merchandise may be sold in the ordinary course of business shall not constitute a sign or signs.

APARTMENT/CONDOMINIUM/MOBILE HOME PARK IDENTIFICATION SIGN – An attached sign or a freestanding sign with permanent foundation or moorings, designed for identification of a multi-family residential project or a mobile home park project, and where adequate provision is made for permanent maintenance hereunder.

AREA IDENTIFICATION SIGN – A freestanding or wall sign with permanent foundation or moorings, designed for identification of subdivisions of ten (10) to fifty (50) acres, or identification of a distinct area within a subdivision, and where adequate provision is made for maintenance hereunder.

ATTACHED SIGN – A sign attached to or applied on and totally supported by a part of a building.

BANNER – Temporary sign announcing a special event for a business, i.e., business openings, grant openings, sales or promotion events.

BILLBOARDS – Large, off-premise outdoor advertising signs primarily located along arterials and highways and used for the express purpose of product advertisement.

COMMERCIAL SIGN – A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing.

DEVELOPMENT SIGN – A sign announcing a proposed subdivision or a proposed building project.

DIRECTIONAL TRAFFIC CONTROL SIGN – A sign utilized as a traffic control device in off-street parking or access areas.

FLAG/PENNANT – A piece of fabric of distinctive design that is used as a symbol (as of a nation), identification, as a signaling device or as a decoration.

FREESTANDING COMMERCIAL SIGN – A sign supported by one or more columns, poles or bars extended from the ground or from an object on the ground, or that is erected on the ground; the term includes all signs which are not substantially supported by a building or part thereof, or which are substantially supported by a building or part thereof, when the sole significant purpose of the building or part thereof, is to support or constitute the sign.

FUEL PRICE SIGN – A sign used to advertise the current price of fuel at locations where fuel is sold.

HOME OCCUPATION SIGN – A sign used to identify the name and occupation of a person with a legal home occupation.

LOW PROFILE SIGN – A sign with a permanent foundation that is not attached to a building, but is a stand-alone sign and which does not exceed sixty square feet (60 sf.) in area and four (4) feet in height.

NON-COMMERCIAL SIGN – A work of art or message which is political, religious, or pertaining to a point of view, expression, opinion, or idea that contains no reference to the endorsement, advertising of, or promotion of patronage, of a business, commodity, service, entertainment, or attraction that is sold, offered, or existing.

OFF-PREMISE COMMERCIAL SIGN – A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere other than upon the premises where such sign is displayed.

ON-PREMISE COMMERCIAL SIGN – A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing upon the premises where such sign is displayed. This definition does not include non-commercial signs.

POLITICAL SIGN – Any sign which promotes a candidate for any public office or which advocates a position on any social issue as its primary purpose. Political signs shall be considered in the category of non-commercial signs except where there are regulations pertaining to their removal after an election.

PORTABLE SIGN – A sign which is not affixed or attached to real property by poles, stakes or other members which are placed into the ground, or upon some other type of permanent foundation; trailer signs, any sign with wheels or skids, and any sign which is constructed so as to sit upon the surface of the ground, without subsurface attachment or extension.

PREMISES – An area of land planned and designed as a single comprehensive project, considered from the time the plan is first submitted to the Planning Department either at plat stage or site plan stage.

REAL ESTATE, FINANCE and CONSTRUCTION SIGN – An attached or freestanding sign erected upon a lot or parcel of land for the purpose of advertising same for sale or lease, or advertising the furnishing of interim or permanent financing for a project, or for the furnishing of labor, materials or the practice of crafts on the job site.

ROOF SIGN – An outdoor advertising display sign erected, constructed, or maintained on the roof of a building or which is wholly dependent upon a building for support, and which projects above the point of a building with a flat roof, six feet above the eave line of a building with a shed, gambrel, gable or hip roof, or the deck line of a building with a mansard roof.

SUBDIVISION IDENTIFICATION SIGN – A freestanding or wall sign with permanent concrete foundation or moorings, designed for permanent identification of a subdivision of greater than fifty (50) acres, and where adequate provision is made for permanent maintenance hereunder.

3.0 GENERAL PROVISIONS

3.1 Subdivision and Area Identification Sign

Area Identification signs shall be permitted upon private property in any zone to identify subdivisions of ten(10) to fifty (50) acres in size. Area Identification signs may also be used within a large subdivision to identify distinct areas within that subdivision.

Subdivision signs shall be permitted upon private property in any zone to identify subdivisions of greater than fifty (50) acres.

Both area identification and subdivision signs must be located on the premises as identified by a site plan or survey of the subdivision. Subdivision signs will be permitted only at major intersections on the perimeter of the subdivision (intersection of two collector or larger streets). At each intersection either one or two subdivision signs may be permitted so long as the total area of the signs does not exceed one hundred fifty (150) square feet. Banners or flags may be utilized as subdivision identification signs but the overall height shall not exceed thirty-five (35) feet.

Indirect lighting is permissible but no optical effects, moving parts or alternating, erratic or flashing lights shall be permitted. Landscaping shall be installed around each subdivision sign. Adequate arrangements for permanent maintenance of all signs and any landscaping in conjunction with such signs shall be made, which may be through an owners association if one exists or is created for this purpose.

3.2 Development Sign

A development sign may be placed only on private property subject to the requirements in Table 1. A development sign for a building project shall be removed if the project has not received a building permit at the end of twelve (12) months. The City Administrator may renew the sign permit for one additional twelve (12) month period upon request. Once a building permit for the project is received, the sign may stay in place until seventy-five (75%) percent of the project is leased or a permanent sign is installed, whichever comes first.

A development sign for a proposed subdivision shall be removed if a preliminary or final plat has not been approved by the end of twelve (12) months. The City Administrator may renew the sign permit for one additional twelve (12) month period upon request. Once a plat has been approved, the sign permit is valid as long as a preliminary plat is in effect, or in the absence of a valid preliminary plat, for twenty-four (24) months from the date of approval of a final plat.

3.3 Directional Traffic Control Sign

Directional traffic control signs may be utilized as traffic control devices in off-street parking areas. Logo or copy may be permitted but shall be less than fifty (50%) percent of the area of the directional sign. No directional traffic control sign shall be permitted within or upon the right-of-way of any public street unless its construction, design, and location have been approved by the City Engineer.

3.4 Real Estate/Finance/Construction Signs

One real estate sign not exceeding sixteen (16) square feet in total area (exclusive of stakes and posts) may be erected at any time while a property is offered for sale or lease to the public. Properties with a minimum of one hundred fifty (150) feet of frontage shall be allowed one real estate sign not exceeding thirty-two (32) square feet in total area. Properties with a minimum of two (2) acres and frontage on two streets shall be allowed one real estate sign on each frontage street with the area of the sign to be determined by the amount of the frontage as stated above.

One finance sign and three construction signs (for a total of four signs), not exceeding sixteen (16) square feet in total area each (exclusive of stakes and posts) may be erected once a building permit has been issued on a property. Properties with a minimum of ten (10) acres and one thousand (1,000) feet of frontage shall be allowed one finance sign and three construction signs not exceeding thirty-two (32) square feet in total area each.

Real estate, finance and construction signs may be either attached or freestanding and only those visible from the street are limited in number (see Exempt Signs in Section 3.7).

All such signs shall be maintained by the persons in control of the premises so as to remain erect and in good repair. Such signs shall be removed by the property owner or other person in control of the premises if they are damaged, broken or incapable of remaining erect.

Such signs must be removed by the owner or person in control of the premises when either the property has sold or been leased and/or when performance under the construction contract or subcontract (in the case of construction signs) has been completed

The sign applicant may elect the frontage street where two streets at the corner are classified the same on the thoroughfare plan. If on two differently classified streets, then the greater shall be considered the frontage street.

No more than one freestanding sign shall be allowed on any premises except when all of the following conditions are met:

1. The site must be twenty-five (25) acres or more in area.
2. The site must have one thousand (1,000) feet (or more) of continuous un-subdivided frontage on any major arterial street toward which one additional freestanding sign is to be displayed.

Balloons or gas-filled objects may be used for display or advertising for special events with no required permit. Maximum height thirty-five (35) feet. One use allowed for three days maximum time per premise per thirty (30) day period.

3.5 Attached Signs

Attached signs are commercial signs under this section. An attached sign shall advertise only the name of, uses of, or goods or services available within the building to which the sign is attached.

3.6 Flags

One freestanding corporate flag per premise, not to exceed thirty-five (35) feet in height or one hundred (100) square feet in area is allowed in multi-family, commercial, and industrial zones or developments.

3.7 Exempt Signs

The following signs are exempt from the requirements of this ordinance:

1. Signs that are not easily read from beyond the boundaries of the lot or parcel on which they are located or from any public thoroughfare or traveled right-of-way. Such signs are not exempt from the safety regulations contained herein and in City building and electrical codes.
2. Official notices posted by government officials in the performance of their duties; government signs controlling traffic, regulating public conduct, identifying streets, or warning of danger. (Bulletin boards or identification signs accessory to government buildings or other buildings are subject to the provisions of this chapter.)
3. Temporary signs erected by private property owners for the purpose of warning of a dangerous defect or condition, or other hazard to the public.
4. Non-commercial signs on private property or works of art that in no way identify or advertise a product or business, or by their location and placement impede traffic safety.
5. Temporary decorations or displays, if they are clearly incidental to and are customarily and commonly associated with any national, local or religious celebration.
6. Temporary or permanent signs erected by public utilities or construction companies to warn of the location of pipelines, electrical conduits, or other dangers or conditions in public rights-of-way.
7. Signs that are displayed on motor vehicles that are being operated or stored in the normal course of a business, such as signs indicating the name or the type of business, that are located on moving vans, delivery trucks, trailers and other commercial vehicles; but only if the primary purpose of such vehicles is not for the display of the signs thereon, and only if such vehicles are parked or stored in areas appropriate to their use as commercial or delivery vehicles, such as service areas or locations close to the business building(s) away from public traffic areas.
8. Signs carried by a person and not set on or affixed to the ground.
9. Outdoor advertising display signs for sponsors of charitable events held on public properties. These signs may be displayed for the duration of the event or not more than three (3) days with approval of the City Administrator.
10. Flags used as political symbols being the United States and Texas flags only.
11. Security signs at residences or businesses.

12. Flags used solely for decoration and not containing any copy or logo and located only in multi-family, commercial, and industrial districts or developments. In multi-family developments, such flags will be restricted to twenty five (25) square feet in area, 30 feet in height, and the number shall be restricted to no more than twelve (12) flags per building plot.
13. Balloons and/or other gas filled objects located in any zoning district; which balloon and/or gas filled object shall not exceed twenty (20) feet in height and shall not contain or display any logo but shall be used solely for decorative purposes.

3.8 Structural Requirements

Abandoned; Damaged or Unsafe Signs:

- a. The provisions of this section shall apply when in conflict with the provisions of the Building Code, but where the provisions of both ordinances are not inconsistent, the enforcement of either shall be permissible and remedies or penalties cumulative.
- b. All abandoned signs and their supports shall be removed within sixty (60) days from the date of abandonment. All damaged signs shall be repaired or removed within sixty (60) days. The City Administrator shall have authority to grant a thirty (30) day time extension where he determines there is a reasonable necessity for same. Excluding signs deemed historically significant to the property or heritage of the City.
- c. Discontinuance of use or removal of any non-conforming sign or any sign in connection with a non-conforming use shall create a presumption of an intent to abandon said sign. A non-conforming sign that is damaged and not repaired within sixty (60) days shall be presumed to be abandoned.

3.9 Miscellaneous Regulations

No sign shall be placed in a City of Thorndale drainage or utility easement unless approval is granted by the City Engineer. Location in an easement shall be subject to a written agreement entered into by all parties involved. Any damage to or relocation of signs located in easements because of the City's use of the easement shall be the responsibility of the owner of the sign. The City, when possible, shall give the owner prior notice of the use of the easement which will affect the sign. This is also applicable to all exempt signs.

Signs may be internally or externally lighted as long as the light is so designed as to be shielded away from adjoining residential premises and does not impair drivers' visibility on adjoining rights of way.

3.10 Billboards Prohibited

Large, off-premise outdoor advertising signs primarily located along arterials and highways and used for the express purpose of product advertisement shall be prohibited. There shall be no procedure for obtaining a permit to erect or maintain a billboard in any location in the City of Thorndale, Texas, or within its extraterritorial jurisdiction. All state and local traffic control signs are exempt from this provision.

SECTION 4.0 NONCONFORMING SIGN

Within the City and extraterritorial jurisdiction there exists signs which were lawful before this ordinance was enacted, amended or otherwise made applicable, but do not now conform to the regulations of this ordinance. It is the intent of this ordinance to permit such nonconforming signs to continue, as long as the conditions within this ordinance are met.

It is further the intent of this ordinance that nonconforming signs shall not be enlarged upon or expanded. However, the content of the signs can change.

If fire, the elements, or some other cause destroys a sign, it may not be rebuilt except to conform to the provisions of this ordinance. In the case of partial destruction of a nonconforming sign which does not exceed fifty (50%) percent of its replacement value, reconstruction will be permitted, but the previously existing square footage of the sign cannot be expanded.

SECTION 5.0 PENALTY

Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction in the municipal court of the City of Thorndale, Texas, shall be subject to a fine not to exceed the sum of five hundred (\$500.00) dollars for each offense, except however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of any provision of law that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, the penalty shall be a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense; and each and every day said violation is continued shall constitute a separate offense.

An offense under this ordinance is punishable by a fine not to exceed:

1. Five Hundred Dollars (\$500.00); or
2. The amount fixed by state law if the violation is one for which the state has fixed a fine.

SECTION 6.0 SEVERABILITY CLAUSE

That if any provision of this ordinance or its application to any person or circumstances is held invalid for any reason, the invalidity does not affect any other provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this extent the provisions of this ordinance are declared to be severable.

SECTION 7.0 REPEALER CLAUSE

All other ordinances, parts of ordinances or resolutions in conflict with this ordinance are hereby repealed to the extent of any such conflict.

SECTION 8.0 PUBLICATION

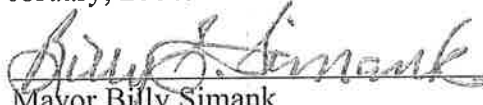
The City Secretary is hereby authorized and directed to publish the caption of this ordinance, together with the penalty provision contained therein, in the manner and for the length of time prescribed by law.

SECTION 9.0 INTRODUCTION

This ordinance was introduced before the City Council of the City of Thorndale on October 12, 2005.

PASSED, APPROVED AND ADOPTED on this the 12th day of October, 2005.
AMENDED on this the 12th day of July, 2006.

REVISED AND AMENDED this the 13th day of February, 2008.


Mayor Billy Simank

ATTEST:


Denise Melde, City Secretary