

AN ORDINANCE 2007-12-06-1247

AMENDING CHAPTER 28 OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY ADDING PROVISIONS FOR DIGITAL SIGNS; CLARIFYING, CONSOLIDATING AND ADDING VARIOUS DEFINITIONS; REPEALING THE AMORTIZATION PLAN FOR NON-CONFORMING SIGNS; AND PROVIDING FOR PENALTIES AND PUBLICATION.

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NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 28 of the City Code of San Antonio, Texas, is hereby amended by adding the language that is underlined (added), and deleting the language that is stricken through (~~deleted~~).

SECTION 2. Chapter 28, Article I, Section 28-6, entitled "Definitions" of the City Code of San Antonio, Texas, is hereby amended as follows:

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Sec.28-6. Definitions.

When used in this chapter, the following terms shall have the following meanings:

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Municipality means the City of San Antonio.

Natural feature means that which is found in its natural or original state out of doors and has not been converted into a structure as defined in this section, and includes but is not limited to trees, bushes, shrubbery, rocks, boulders, and earth.

Neighborhood shall means a distinct segment of the community, usually consisting of essentially similar housing stock whose boundaries are defined by physical barriers such as major arterial streets and railroads and/or natural features such as creeks and rivers.

Nit means a unit of illuminative brightness equal to one candle per square meter, measured perpendicular to the rays of the source.

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Person, corporation or association with reasonable connection means, by rebuttable presumption, any of the following: An individual, corporation or association that owns the sign; an individual, corporation or association advertised or displayed on the sign; an individual, corporation or association in whose name a telephone number displayed on the sign is listed

with the telephone company; an individual, corporation or association whose name or service was advertised or displayed on the sign in promotion of that which was advertised or displayed thereon; an individual, corporation or association that affixed, erected, posted, maintained or displayed the sign.

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Place means to physically place or cause to be physically placed.

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Public right-of-way means it is a rebuttable presumption that any area within fifteen (15) feet of the edge of the paved portion of a road or highway maintained by the city is public right-of-way.

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Sign, off-premise digital means an off-premise sign, display, or device, which changes the "static" message or copy on the sign by electronic means.

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Sign Operator means a "person, corporation or association with reasonable connection", a "billboard operator", or a "commercial sign operator".

Structure means anything built, constructed or erected or any piece or work artificially built-up or composed of parts joined together in some definite manner including, but not limited to, buildings of any kind, utility poles, fences, fire-hydrants, street light standards, traffic light standards, traffic directional sign standards or any other thing to which a sign, may be placed, affixed, erected, painted, posted, maintained or displayed.

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Unauthorized sign means any sign placed by a person who is not a holder of a valid annual temporary sign permit.

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Sec. 28-9. Posting signs on structures and natural features.

(a) *Definitions.* As used in this section, the following words and terms shall have the meanings respectively ascribed:

Natural feature means that which is found in its natural or original state out of doors and has not been converted into a structure as defined in this section, and includes but is not limited to trees, bushes, shrubbery, rocks, boulders, and earth.

Person, corporation or association with reasonable connection means, by rebuttable presumption, any of the following: An individual, corporation or association that owns the sign; an individual, corporation or association advertised or displayed on the sign; an individual, corporation or association in whose name a telephone number displayed on the sign is listed with the telephone company; an individual, corporation or association whose name or service was advertised or displayed on the sign in promotion of that which was advertised or displayed thereon; an individual, corporation or association that affixed, erected, posted, maintained or displayed the sign.

~~Sign means that which is defined in § 28-6 of this chapter and includes the following items among others not hereinafter enumerated: bill, poster, label, paper, sticker or any other advertisement or announcement whatsoever.~~

~~Structure means anything built, constructed or erected or any piece or work artificially built up or composed of parts joined together in some definite manner including, but not limited to, buildings of any kind, utility poles, fences, fire hydrants, street light standards, traffic light standards, traffic directional sign standards or any other thing to which a sign, may be placed, affixed, erected, painted, posted, maintained or displayed.~~

~~(a) (b) Posting, etc, of signs on structures and natural features~~

~~(1) It shall be unlawful for any person with reasonable connection to any sign to knowingly place, affix, erect, paint, post, maintain or display in any manner whatsoever, or knowingly allow or cause the same to be done, the sign on any structure or natural feature on public property.~~

~~(2) It shall be unlawful for any corporation or association with reasonable connection to any sign with criminal negligence to place, affix, erect, paint, post, maintain or display in any manner whatsoever, or with criminal negligence allow or cause the same to be done, the sign on any structure or natural feature on public property.~~

~~(b) (c) Failure to remove signs on structures and natural features.~~

~~(1) It shall be unlawful for any person with reasonable connection to knowingly fail to remove a sign on any structure or natural feature on public property within ten (10) days after notice is received by registered mail from the director of building inspections or his designee.~~

~~(2) It shall be unlawful for any corporation or association with reasonable connection with criminal negligence to fail to remove a sign on any structure or natural feature on public property within ten (10) days after notice is received by certified mail from the director of building inspections or his designee.~~

~~(c) (d) Affirmative defense. It is an affirmative defense to prosecution under this section that written permission has been granted by the city council or its designee or other appropriate public authority for a sign to be erected or maintained on a public sidewalk, right-of-way or other public property. Such permission is an affirmative defense to prosecution only for the time and the location specified in such written permission.~~

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Sec. 28-152. Signs on roads and highways maintained by the city.

(a) No person may place a sign on the public right-of-way of a road or highway maintained by the city.

(1) Definitions. The definitions herein are only to be applied in the enforcement of **this** section unless specifically stated otherwise.

a. ~~Person means that which is defined in section 28-6 of this chapter and shall include Person, corporation or association with reasonable connection as defined in section 28-9 which means, by rebuttable presumption, any of the following: An individual, corporation or association that owns the sign; an individual, corporation or association advertised or displayed on the sign; an individual, corporation or association in whose name a telephone number displayed on the sign is listed with the telephone company; an individual, corporation or association whose name or service was advertised or displayed on the sign in promotion of that which was advertised or displayed thereon; an individual, corporation or association that affixed, erected, posted, maintained or~~

~~displayed the sign.~~

~~b. Place means to physically place or cause to be physically placed.~~

~~c. Public right of way means it is a rebuttable presumption that any area within fifteen (15) feet of the edge of the paved portion of a road or highway maintained by the city is public right of way.~~

~~d. Unauthorized sign means any sign placed by a person who is not a holder of a valid annual temporary sign permit.~~

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SECTION 3. Chapter 28, Article I, Section 28-8, entitled "Classification of signs" of the City Code of San Antonio, Texas, is hereby amended by adding "Digital Signs" to the classes of signs governed by Chapter 28 as follows:

Sec. 28-8. Classification of signs.

The following classes of signs are governed by this chapter:

* * * * *

(14) Digital Signs.

SECTION 4. Chapter 28, Article III, Section 28-94, entitled "Fee Schedule" of the City Code of San Antonio, Texas, is hereby amended by adding the following fees:

Sec. 28-94. Fee Schedule.

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(11) Digital Sign Permits

Inspection fee	\$200.00
1-75 sq. ft.	\$64.80
More than 75 sq. ft.	\$64.80 + .88 sq. ft.

(12) Digital Sign Annual Inspection Fee

1-72 sq. ft.	\$200.00
73-300 sq. ft.	\$300.00
301-672 sq. ft.	\$400.00

SECTION 5. Chapter 28, Article IV of the City Code of San Antonio, Texas, is hereby amended by adding Section 28-125 to be entitled "Off-Premise Digital Signs" as follows:

Sec. 28-125. Off-Premise Digital Signs.

(a) Off-premise digital signs are prohibited within the jurisdiction of the City of San Antonio, provided however, that the Director may issue 15 off-premise digital sign

permits as authorized by this ordinance. All such off-premise digital signs shall be subject to this section and all other relevant provisions of this Chapter 28.

(b) Sign operators installing, testing, or maintaining off-premise digital signs shall comply with the following requirements:

- (1) The dwell time, defined as the interval of change between each individual message, shall be at least ten (10) seconds, and a change of message must be accomplished within one (1) second or less. The dwell time shall not include the one (1) second or less required to change a message.
- (2) The digital sign shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
- (3) The digital sign may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
 - a. Digital sign light intensity exceeding the following intensity levels (nits) constitutes "excessive intensity or brilliance":

INTENSITY LEVELS (NITS)		
COLOR	DAYTIME	NIGHTTIME
Red Only	3,150	1,125
Green Only	6,300	2,250
Amber Only	4,690	1,675
Full Color	7,000	2,500

- b. Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 7,000 NITS and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Director.
- (4) The digital sign shall not be configured to resemble a warning or danger signal or to cause a driver to mistake the digital sign for a warning or danger signal.
- (5) Off-premise digital sign faces may have dimensions of up to 300 square feet or up to 672 square feet in accordance with conversion Table 1 and Table 2.
- (6) A digital sign is subject to all existing restrictions on light intensity or brilliance contained in Chapter 35 of the Unified Development Code, including but not limited to Section 35-612 (p)(6).
- (7) A digital sign must not resemble or simulate any lights or official signage used to control traffic in accordance with the 2003 Manual on Uniform Traffic Control Devices, with Revision No. 1 published by the Federal Highway Administration (FHWA).
- (8) A digital sign must be equipped with both a dimmer control and a photocell, which automatically adjusts the display's intensity according to natural ambient light conditions.
- (9) Except for a sign that qualifies as nonconforming under Section 28-139, a digital

sign must comply with sign face size restrictions set forth in Section 28-142. A nonconforming sign may not be enlarged beyond its present size without forfeiting its nonconforming status.

- (10) A digital sign may not be within 2000 feet of another off-premise digital sign facing the same traveled way. In no case shall an off-premise digital sign be in a line of sight with another off-premise digital sign. Spacing requirements for off-premise digital signs in relation to other classifications of signs shall comply with Section 28-136.
- (11) The height of a digital sign must comply with Section 28-137. On existing structures that qualify as nonconforming under Section 28-139, digital sign displays may replace the existing static display.

(c) Digital Sign Classifications

- (1) Existing Sign means a currently erected sign whose components need only minimal modification to display digital signs. Sign operators may replace the sign faces of existing signs with digital sign faces subject to the conversion ratios of Table 1 or Table 2.
 - (2) New Sign means a digital sign erected on a site devoid of a sign or a digital sign placed on a currently erected sign structure supporting a sign that requires significant modification to support a digital sign. Sign operators may replace the sign faces of new signs with digital sign faces subject to the conversion ratios of Table 1 or Table 2 and the relocation provisions of Section 28-97. In no event shall a new digital sign be constructed in an area prohibited by current zoning district boundaries.
 - (3) Corridor Sign means an existing sign that qualifies as nonconforming sign under Section 28-139 and whose components need only minimal modification to display digital signs. Sign operators may replace the sign faces of existing nonconforming signs with digital sign faces subject to the conversion ratios of Table 1 or Table 2.
- (d) An off-premise digital sign permit shall be issued for existing signs, new signs, and corridor signs subject to the conversion ratios of Table 1 or Table 2 and Section 28-93. All applications for an off-premise digital sign permit must identify the number of demolition permit numbers for billboards set out in Table 1 or Table 2. The off-premise digital sign permit may be issued only after removal of the existing registered billboards in accordance with the conversion ratios in Table 1 or Table 2. Demolitions occurring prior to the effective date of this Ordinance shall not be allowed to be counted for removal purposes under this subsection.
- (e) The City of San Antonio, through appropriate personnel, may exercise its police powers to protect public health, safety, and welfare by requiring emergency information to be displayed via digital signs. Upon notification, the sign operators shall display in appropriate sign rotations: Amber Alert emergency information or emergency information regarding terrorist attacks, or natural disasters. Emergency information

messages are to remain in rotation according to the designated issuing agencies protocols.

TABLE 1
CONVERSION REQUIREMENTS
FOR DIGITAL BULLETIN DISPLAYS (Up to 672 Sq. Ft. per structure)

<u>Square Feet</u>	<u># of structures</u>	<u>Structure Description</u>	<u>Requires Faces to be Removed</u>	<u>Removals Sq. Ft. Removed</u>	<u>New Digital Sign Bulletin Faces To Gain (1 digital sign face per structure) (672 Sq. Ft.)</u>	<u>Sq. Ft. Permitted</u>
(72 Sq. Ft) 8-Sheet.	19 9 5	19 single face structures 9 double face structures 5 quad structures	19 18 20	1,368 1,296 1,440	1 1 1	672 672 672
(288 Sq.Ft.) 30-Sheet	3 5	2 double face structures / 1 single face structure 5 double face structures	5 10	1,440 2,880	1 2	672 1,344
(300 Sq. Ft.) 10 x 30	3 6	2 double face structures / 1 single face structure 4 double face structures / 2 single faced structures	5 10	1,500 3,000	1 2	672 1,344
(378 Sq. Ft.) 10.6 x 36	4 4	4 single face structures 4 double face structures	4 8	1,512 3,024	1 2	672 1,344
(400 Sq. Ft.) 10 x 40	4 4	4 single face structures 4 double face structures	4 8	1,600 3,200	1 2	672 1,344
(672 Sq. Ft.) 14 x 48	3 3	3 single face structures 3 double face structures	3 6	2,016 4,032	1 2	672 1,344
(1,200 Sq. Ft.) 20 x 60	1 1	1 single face structure 1 double face structure	1 2	1,200 2,400	1 2	672 1,344

TABLE 2
CONVERSION REQUIREMENTS
FOR DIGITAL POSTING DISPLAYS (Up to 300 Sq. Ft. per structure)

<u>Square Feet</u>	<u># of structures</u>	<u>Structure Description</u>	<u>Requires Faces to be Removed</u>	<u>Removals Sq. Ft. Removed</u>	<u>New Digital Sign Bulletin Faces To Gain (1 digital sign face per structure)</u>	<u>Sq. Ft. Permitted</u>
(72 Sq. Ft) 8-Sheet.	8 12	8 single face structures 8 single face structures / 4 double face structures	8 16	576 1,152	1 2	300 600
(288 Sq.Ft.) 30-Sheet	2 2	2 single face structures 2 double face structures	2 4	576 1,152	1 2	300 600
(300 Sq. Ft.) 10 x 30	2 2	2 single face structures 2 double face structures	2 4	600 1,200	1 2	300 600
(378 Sq. Ft.) 10.6 x 36	2 3	2 single face structures 3 double face structures	2 6	756 2,268	1 3	300 900
(400 Sq. Ft.)	2	2 single face structures	2	800	1	300

10 x 40	<u>2</u>	<u>2 double face structures</u>	<u>4</u>	<u>1,600</u>	<u>2</u>	<u>600</u>
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Notes for Table 1 and Table 2:

1. Structures larger than 10 X 40 are not permitted to be used for digital sign posting sized units (300 Sq. Ft.).
2. Any other sign display size will be permitted at the lower designated classification as noted above.
3. All signs permitted to be used to meet the conversion ratios must be physically completed sign structures with a complete sign face. No partially erected/completed signs may be use to meet the conversion ratios.
4. Only one digital sign face shall be allowed per structure.

Secs. 28-126-28-125-28-135. Reserved.

SECTION 6. Chapter 28, Article VIII, entitled "Amortization Plan for Non-Conforming Signs" of the City Code of San Antonio, Texas, is hereby repealed in its entirety.

SECTION 7. The Director of Development Services shall develop a one (1) year pilot program and is authorized to issue a total of fifteen (15) off-premises digital sign permits during the one (1) year period following the effective date of this ordinance. These permits shall not be transferable during this period. The Director is not authorized to issue any further off-premises digital sign permits unless specifically authorized to do so by the City Council. Allocation of off-premise digital sign permits shall be made by the following matrix:

Market Share	Maximum Permits under the 1 Year Period
0%-1.3%	0
>1.3%-85%	1
>85%	12

SECTION 8. The Director of Development Services shall develop and present a study/report to the City Council summarizing the impact these signs have had on health, safety, and welfare during the one (1) year pilot program. The pilot program shall commence on the effective date of this ordinance. The study/report shall be presented to the City Council ninety (90) days prior to the expiration of the one (1) year period. The report shall include the number of permits, the name listed on the issued permit, the location, the take-downs, and other pertinent information. The Director of Development Services may establish forms and procedures to carry out this directive.

SECTION 9. A violation of this Ordinance is subject to the penalties and provisions of Chapter 28, Signs and billboards, Section 28-15, Violations; penalties; civil remedies; nuisance signs; removal; reclaiming.

SECTION 10. This Ordinance shall not be construed so as to supersede the "Agreement for carrying out National policy relative to control of outdoor advertising in areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System"

between the Federal Highway Administration and the State of Texas entered into the 2nd day of May, 1972 and subsequent supplements; applicable provisions of the Texas Transportation Code and Administrative regulations thereunder.

SECTION 11. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this Ordinance, or any appendix thereof, for any reason, be held illegal, inoperative, or invalid or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 12. All other provisions of Chapter 28, City Code of San Antonio, Texas, remain in full force and effect except as expressly amended and adopted by this Ordinance.

SECTION 13. The publishers of the City Code of San Antonio, Texas, are authorized to amend said Code to reflect the changes adopted herein, to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 14. There is no financial impact as a result of the passage of this Ordinance.

SECTION 15. The City Clerk for the City of San Antonio is hereby directed to publish notice of this Ordinance in a newspaper published in the City of San Antonio, Texas, as required by the Charter of the City of San Antonio.

SECTION 16. This Ordinance shall become effective on the 16th day of December, 2007.

PASSED AND APPROVED this 6th day of December, 2007.


M A Y O R

PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney