CITY CLERK DEPT.
09 SEP -2 AM 8:25

ORDINANCE NO. 017185

AN ORDINANCE AMENDING TITLE 20 (ZONING) CHAPTER 20.18 (SIGN REGULATIONS), SECTION 20.18.020 (APPLICABILITY); SECTION 20.18.030 (PURPOSE); SECTION 20.18.100 (PERMIT REQUIRED); SECTION 20.18.130 (REMOVAL OF SIGNS); SECTION 20.18.140 (PROHIBITED SIGNS); SECTION 20.18.400 (GENERAL); SECTION 20.18.410 (A) (HOME OCCUPATION SIGNS); SECTION 20.18.480 (HISTORIC OVERLAY ZONES, HISTORIC DISTRICTS AND DESIGNATED SIGNIFICANT LANDMARKS); SECTION 20.18.490 (ADDITIONAL ON-PREMISE SIGNS); SECTION 20.18.510 (NON-COMMERCIAL SIGNS) OF THE EL PASO CITY CODE TO EXTEND THE SIGN REGULATION TO THE CITY'S EXTRATERRITORIAL JURISDICTION; TO AMEND PERMITTING REQUIREMENTS; TO ADD DEFINITIONS; AND TO ADDRESS NON-COMMERCIAL SIGNS. THE PENALTY IS AS PROVIDED IN SECTION 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, on October 30, 2007, the City Council adopted new regulations to regulate on-premise and off-premise signs within the City; and,

WHEREAS, City Council has determined that the regulations of signs should also apply to the City's extraterritorial jurisdiction and that the application process should be clarified; and,

WHEREAS, City Council has determined that the policy of message substation concerning non-commercial messages should be codified; and,

WHEREAS, City Council has determined that the amendment of the existing ordinance is necessary to promote the health, safety, morals and general welfare of the community; and to promote the interests in driver and pedestrian safety, and in community aesthetics;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

SECTION 1. That Chapter 20.18, Sign Regulations, Section 20.18.020 Applicability, Paragraph A, of the El Paso City Code, is amended as follows:

20.18.020 Applicability

A. This chapter shall apply to the incorporated area of the city of El Paso, Texas, and as to off-premise signs, to the Extra Territorial Jurisdiction area of the city of El Paso. No person shall hereafter erect, construct, reconstruct, alter, locate or relocate a sign, or remove or demolish an off-premise sign except in accordance with the provisions of this chapter, and failure to comply with this section shall constitute a violation of the code. The regulations contained in this chapter may be subject to other requirements stated elsewhere within the code, and if in conflict, the stricter provision shall control. Nothing in this chapter shall be interpreted or construed to conflict with Texas Local Government Code Section 216.903 (Regulation of Political Signs by Municipality).

SECTION 2. That Chapter 20.18, Sign Regulations, Section 20.18.030, Purpose, of the El Paso City Code is amended to add the following paragraph:

Section 20.18.030 Purpose

E. Accommodate the free speech right to express ideas by displaying a sign, while balancing this right against the cumulative public impacts of signs.

SECTION 3. That Chapter 20.18, Sign Regulations, of the El Paso City Code is amended to add the following section:

20.18.035 On-premise and Off-premise Distinction.

The on-premise and off-premise distinction applies only to commercial messages.

SECTION 4. That Chapter 20.18, Sign Regulations, of the El Paso City Code is amended to add the following section:

20.18.050 Definitions

Definitions. For purposes of this Chapter, the following terms have these specially defined meanings. If a term is not defined hereunder, the definition contained in Chapter 20.02 shall apply, provided, however, where there is conflict the definition contained in this Chapter shall apply.

Sign, billboard. Billboard means a permanent structure sign which meets any one or more of the following criteria: a) it is used for the display of off-premise commercial messages; b) it is used for general advertising for hire; c) it functions economically and operationally independent from the principal use of the land on which it is located, in contrast to functioning as an accessory or auxiliary to a principal use which is not a sign. The term "billboard" applies to all physical parts of the sign, including display faces, structure, support poles, attached ladders, attached catwalks, and appurtenant lighting systems, and visual display systems.

Sign, off-premise. Off-premise sign means a sign displaying a commercial message that pertains to a business, person, organization, activity, event, place, service or product not principally located, or primarily manufactured, or sold on the premises on which the sign is located. The on-premise / off-premise distinction applies only to commercial messages.

Sign, on-premise. On-premise sign, means a sign advertising an establishment, business, person, activity, good, product or service located on the premises where the sign is installed and maintained. In the context of construction signs, all establishments involved in the construction are considered on-premise during the time of construction.

Commercial Message. Commercial message means an image on a sign which proposes or promotes a commercial transaction, or concerns the economic interests of the advertiser and/or the audience.

CITY CLERK DEPT.
09 SEP -2 AM 8:25

General Advertising. General advertising means the business of advertising other businesses, establishments or causes, typically for a fee or other consideration. Also known as general advertising for hire.

Noncommercial Message. Noncommercial message is one that visually displays speech or images not pertaining to commercial matters. Noncommercial messages commonly concern religion, politics, social commentary and other matters of public debate. Contrast: commercial message.

SECTION 5. That Chapter 20.18, Sign Regulations, Section 20.18.100, Permit Required, of the El Paso City Code is amended as follows:

Section 20.18.100 Permit Required

A. Sign Permit Required. A sign permit shall be required prior to the placing, erecting, moving, reconstructing or demolishing of any sign, unless the subject sign is expressly exempted from the permit requirement by this Chapter or other applicable law. Signs requiring a permit shall comply with the provisions of this Chapter and all other applicable laws and ordinances.

B. Decision time. As to all signs which require a permit, the decision on the application for such permit shall be made within 30 business days of submission of a complete application to include appeals to the zoning board of adjustment; this time limit shall apply anew to each stage of review or appeal. During the application and appeal procedures, the status quo shall be maintained.

C. Review Criteria. When reviewing a sign permit application, no consideration shall be given to the message proposed thereon or the graphic design thereof, so long as the intended message is within the protections of the First Amendment to the US Constitution. This provision does not prevent consideration of whether a sign will or will not be used to display offsite commercial messages.

D. Any existing moratorium imposed by ordinance of City Council regarding the acceptance and issuance of permits shall not apply to the application for and the issuance of permits required under this Code when the purpose is to achieve Code compliance, or applications or permits for the repair and maintenance of existing legal signs, provided that such maintenance and repair does not structurally alter the sign.

CITY CLERK DEPT.
09 SEP -2 AM 8:25

SECTION 6. That Chapter 20.18, Sign Regulations, Section 20.18.130, Removal of Signs, Paragraph D, of the El Paso City Code is amended as follows:

D. Any sign for which the Director of Development Services Department or his designee has made the following determination, shall be subject to immediate removal without further notice to any party who may be affected by that removal:

1. That the private party sign is located or erected, without permission, consent or authorization, on property either owned by the city or held by the city for public use, including, but not limited to, property such as medians, parkways, streets, sidewalks, alleys and parks; or

2. If the Director of Development Services Department or his designee determines that such a private party sign is an immediate danger to the public, whether because of its location, the manner of its construction, its potential for causing fire, or any other reason, and must be removed to prevent potential danger to the public.

SECTION 7. That Chapter 20.18, Sign Regulations, Section 20.18.140, Prohibited Signs, Paragraph H, of the El Paso City Code is amended to add the following subparagraph:

Section 20.18.140, Prohibited Signs,

8. The sign is hand-held or personally attended (within five feet) by a picketer walking or standing upon a public sidewalk, the sign displays a non-commercial message and does not exceed five square feet, and the picketer does not interfere with the free passage of other persons upon the sidewalk;

CITY CLERK DEPT.
09 SEP -2 AM 8:25

SECTION 8. That Chapter 20.18, Sign Regulations, Section 20.18.400, General, Paragraph A, Subparagraph 9 (j) and Subparagraph 11of the El Paso City Code is amended as follows:

Section 20.18.400, General

j. A changeable electronic variable message sign shall not be used to display commercial messages relating to products or services that are not offered on the premises. However, the sign may display any variety or combination of non-commercial messages, including but not limited to public interest items not taking place on premise such as events for schools, amber alerts, and religious institutions.

11. A static changeable electronic price sign is permitted on a primary monument sign, primary pole sign, or primary wall sign in a C-1, C-2, C-3, C-4, M-1, M-2 and M-3 zoning district on a minor arterial, major arterial or higher category arterial subject to the following condition: Each separate visual image shall remain in place for a minimum of 30 seconds.

SECTION 9. That Chapter 20.18, Sign Regulations, Section 20.18.410, R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, PR-I, PR-II and PMD districts, Paragraph A, Subparagraph 6 of the El Paso City Code is amended as follows:

Section 20.18.410 R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, PR-I, PR-II and PMD districts.

6. Additional standards: the sign may display only onsite commercial information related to the permitted home occupation, and /or any variety or combination of non-commercial messages.

SECTION 10. That Chapter 20.18, Sign Regulations, Section 20.18.480, Historic overlay zones, historic districts and designated significant landmarks, Paragraph A, Subparagraph 6 of the El Paso City Code is amended as follows:

20.18.480 Historic overlay zones, historic districts and designated significant landmarks.

6. Additional standards: the sign may display only onsite commercial information related to the permitted home occupation, and /or any variety or combination of non-commercial messages.

SECTION 11. That Chapter 20.18, Sign Regulations, Section 20.18.490, Additional On-premise Signs, Paragraph G, Subparagraph 5 of the El Paso City Code is amended as follows:

20.18.490 Additional on-premise signs.

5. Location: the location of the menu sign shall be subject to the approval of the building official based on building code requirements, safety and traffic flow considerations; however, the sign is strictly for on-site informational purposes and, therefore, shall be oriented so as to not be readable from the fronting public street.

SECTION 12. That Chapter 20.18, Sign Regulations, Section 20.18.510, Noncommercial Signs, of the El Paso City Code is amended as follows:

20.18.510 Noncommercial Messages and Message Substitution

A. Message substitution. A noncommercial message which is within the protection of the First Amendment to the U.S. Constitution may be substituted, in whole or in part, for any message on any sign authorized by this chapter. Message substitution is a continuing right which may be exercised any number of times. No permit is required for such message substitution, unless there is a change in the physical structure of the sign displaying the message. This provision does not authorize the substitution of an offsite commercial message in place of an onsite commercial message.

B. Noncommercial messages. In addition to the noncommercial messages which may be displayed by message substitution, any noncommercial message within the protection of the First Amendment to the U.S. Constitution may be displayed on any parcel and at any time, subject to the following:

a. Maximum effective area cannot be greater than 36 feet; and,
b. Cannot be more than eight feet high; and,
c. Cannot be illuminated or have moving elements; and,
d. Are not prohibited by Section 20.18.140
d. Permit required only when the sign qualifies as a "structure" under the Building Code.

CITY CLERK DEPT.
09 SEP -2 AM 8:25

SECTION 13. Except as herein amended Title 20, Zoning, Chapter 20.18, Sign Regulations of the El Paso City Code shall remain if full force and effect.

PASSED AND APPROVED this 1st day of September, 2009.

THE CITY OF EL PASO

John F. Cook

John F. Cook
Mayor

ATTEST:

Richarda Momsen

Richarda Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adauto

Patricia D. Adauto, Deputy City Manager
Development and Infrastructure

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