

ORDINANCE NO. 08-039

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARLIN, TEXAS, AMENDING THE CITY OF MARLIN CODE OF ORDINANCES, CHAPTER 24 SIGN ORDINANCE, ARTICLE II, SECTION 24-14; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES THAT MAY BE INCONSISTENT OR IN CONFLICT HEREWITH.

WHEREAS, the Texas Department of Transportation on February 28, 2008, adopted new rules relating specifically to Electronic LED Signs.

WHEREIN, TxDot will permit Electronic LED Signs to be located in a city or its extraterritorial jurisdiction if such sign is first approved by the city in which the sign would be located.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Marlin, Texas, to amend the City of Marlin Code of Ordinances, Chapter 24 Sign Ordinance, Article II, Section 24-14 as follows:

SECTION 24-14. APPLICATION FOR SIGN ERECTION PERMIT

Applications for sign erection permits shall be made upon forms provided by the building official, and shall contain (or have attached thereto) the following information:

14.1 Name, address and telephone number of the applicant(s).

14.2 Location of building, structure or lot to which or upon which the sign or other advertising structure is to be attached or erected.

14.3 Two (2) sets of plans (drawn to scale) shall be submitted showing the sign location in relation to nearby buildings or structures, signs, property/right-of-way lines, driveways, public streets, fences and sidewalks.

14.4 Two (2) sets (e.g., blueprints) of the plans (drawn to scale) and specifications showing method of construction, method of attachment to the building or ground, size, type, height, construction materials, and such other information as the building official may require.

14.5 Name of person, firm, corporation, or association erecting structure.

14.6 Any electrical permits required and issued for said sign (if applicable).

14.7 Zoning classification of the property.

14.8 Such other information as the building official shall require to show full compliance with this and all other laws and ordinances of the city.

14.9 The building official may require plans to be prepared by a registered professional engineer or architect.

14.10 TxDOT license for all signs located within the "highway control zone" (per the Texas Highway Beautification Act, "Outdoor Advertising Signs").

SECTION 24-15. ILLUMINATED SIGNS--APPROVAL REQUIRED

15.1 The application for a permit for erection of a sign in which electrical wiring and connections are to be used shall be submitted to the electrical inspector. The electrical inspector shall examine all plans and specifications related to any wiring and electrical connections to determine if the same complies with the electrical code of the City of Marlin. In addition, all illuminated signs shall bear the underwriters' laboratory label or be built to comply with underwriters' requirements. The electrical inspector shall

approve said permit if the plans and specifications comply with these requirements, or disapprove the application if noncompliance is found. This action of the electrical inspector shall be taken prior to submission of the application to the building official for final approval or disapproval of the sign erection permit.

15.2 All electrical service for detached or free-standing signs shall be underground and in conduit.

15.3 No temporary electrical services are allowed.

15.4 Electronic Billboards. Electronic light emitting diode (LED). All electronic billboards can not exceed in size 60" x 100" and must meet all other standards set forth in said ordinance.

SECTION 24-16. SIGN ERECTION PERMIT ISSUED IF APPLICATION IN ORDER

It shall be the duty of the building official, upon the filing of an application for a sign erection permit, to examine such plans and specifications, other data, and the premises upon which the sign will be erected. If it appears that the proposed structure is in compliance with all the requirements of this ordinance, the building code, and all other laws and ordinances of the City of Marlin, then the building official shall issue the sign erection permit. If the work authorized under a sign erection permit has not been completed within sixty (60) days after issuance, the permit shall become null and void.

SECTION 24-17. PERMIT FEES

Every applicant, before being granted a permit hereunder, shall pay to the City of Marlin the appropriate sign erection permit fee as set forth by the Building Official.

SECTION 24-18. INSPECTION

The building official shall be notified by the permittee when erection of the sign is complete, and shall make an inspection to determine if the sign conforms to city ordinances and codes. The building official may inspect annually, or at such other times as deemed necessary, each sign regulated by this ordinance for the purpose of ascertaining whether the same is secure or insecure, whether it still serves a useful purpose, and whether it is in need of removal or repair.

SECTION 24-19. PERMIT REVOCABLE AT ANY TIME

All rights and privileges acquired under the provisions of this ordinance, or any amendment thereto, are mere licenses revocable at any time by the Marlin City Council, and all such permits shall contain this provision. Any sign for which a permit is revoked shall be deemed a nonconforming sign.

SECTION 24-20. UNSAFE AND UNLAWFUL SIGNS

If the building official finds any sign regulated herein that no longer meets the provisions of this ordinance or any other city code, is unsafe or insecure, is unlawful, or is a menace to the public, the building official shall give written notice to the permittee thereof. If the permittee fails to remove or repair the structure within ten (10) days after such notice, such sign may be removed by the city at the expense of the permittee or owner of the property upon which it is located. The building official shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The building official may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice, at the permittee/owner's expense.

SECTION 24-21. ABANDONED SIGNS

Any sign abandoned, or which no longer advertises a bona fide business conducted or product sold, shall be removed by the owner, agent or person having the beneficial use of the land, building or structure upon which such sign is located within thirty (30) days after written notification to the owner, agent or person having the beneficial use of the land, building or structure from the building official. Upon failure to comply with such notice to remove the sign within the time specified, the building official is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the land, building or structure to which such sign is attached or upon which it is erected. Any sign located in public right-of-way (except as authorized herein) may be immediately removed by the building official, police department, or any duly authorized agent for the city without notice to the owner.

SIGN REQUIREMENTS AND SPECIFICATIONS

SECTION 24-22. MAINTENANCE REQUIRED

For any sign regulated by this ordinance, the sign permittee or the owner, agent or person having the beneficial use of the land, building or structure upon which the sign is located shall maintain all parts, portions and support structures of said sign in good condition to prevent deterioration, oxidation, rust and other unsightly conditions.

SECTION 24-23. EXEMPTIONS—SIGNS NOT REQUIRING PERMITS

The provisions and regulations of this ordinance shall not apply to the following signs; provided, however, said signs shall not obstruct visibility as determined by the building official:

23.1 Temporary signs not exceeding eight (8) square feet in area which advertise the sale, rental or lease of the premises only upon which said signs are located.

23.2 Temporary signs not exceeding thirty-two (32) square feet which advertise the sale of residential tracts larger than five (5) acres, or located on commercial tracts which advertise the sale, rental or lease of the premises only upon which said signs are located.

23.3 Name plates not exceeding one (1) square foot in area.

23.4 Bulletin boards not over sixteen (16) square feet in area for public, charitable or religious institutions when the same are located on the premises of said institutions.

23.5 One (1) temporary construction sign denoting the architect, engineer and/or contractor when placed upon a work site under construction, and not exceeding sixteen (16) square feet in area.

23.6 Nonresidential occupational signs denoting only the name and profession of an occupant, located within a commercial building or public institutional building, and not exceeding two (2) square feet in area.

23.7 Memorial signs or tablets, such as including the name of a building and/or date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible materials.

23.8 Flags, emblems or insignia of any governmental body, or decorative displays for holidays or public demonstrations which do not contain advertising and are not used as such.

23.9 Nonresidential, on-site directional signs not exceeding two (2) square feet in area, provided such directional signs do not contain advertising and are not used as such. Placement of such directional signs must conform to visibility standards and other safety criteria.

23.10 Traffic control or other municipal signs, legal notices, railroad crossing signs, danger/emergency signs, and other temporary or non-advertising signs as may be approved by the city manager or his authorized representative.

23.11 A protective sign that has as its purpose the protection of life and/or property.

23.12 A sign or marker giving information about the location of underground electrical transmission lines, telegraph/telecommunications lines or cables, pipelines, water or sewer lines, or other public/private utility line/structure.

23.13 A sign erected by city, state or federal agencies, or by political subdivisions of the state (except lottery signs).

23.14 Political sign.

23.15 One (1) residential sign with the name and/or street address number of the occupant(s), so long as the area of such sign does not exceed one (1) square foot for each dwelling unit.

23.16 A sign advertising a garage/estate sale (see also section 24-28, temporary and portable signs).

23.17 An incidental sign in a nonresidential zoning district that is less than two (2) square feet in area.

SECTION 24-24. SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD

In order to obtain and secure reasonable traffic safety, it shall be unlawful for any person to erect or maintain any fluttering, undulating, swinging, rotating or otherwise moving sign, or any flashing sign (not including changeable message signs, such as those displaying the time and temperature). No sign shall be erected or maintained in such a manner as to obstruct free and clear vision, or in any location where, by reason of its position, shape, color, features, degree, or manner/intensity of illumination, it may interfere with or cause visual distraction for vehicular or pedestrian traffic. Pursuant to the foregoing, no sign shall be erected or maintained in such manner as to be likely to interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal or device. Accordingly, no sign shall make use of the words "stop", "go", "look", "slow", "danger", or any other similar word, phrase, symbol or character, or employ any red, yellow, orange, green, or other colored lamp or light in such a manner as to interfere with, mislead or confuse traffic.

SECTION 24-25. PROHIBITED SIGNS

25.1 It shall be unlawful for any sign, or any person upon any sign, to display any obscene, profane, indecent or pornographic words, pictures or gestures.

25.2 No person shall erect, maintain or permit the erection of any balloon or other floating device anchored to the ground or to any structure, except on a temporary basis (see section 24-28, temporary and portable signs).

25.3 No person shall attach any sign, paper or other material, or paint, stencil or inscribe any name or number (except house numbers), or otherwise mark on any sidewalk, curb, gutter, street, utility pole, public building, fence or structure unless authorized by this ordinance or by the city council or its delegated representative.

25.4 No person shall place on or suspend from any building, pole, structure, canopy, fence/wall, sidewalk, parkway, driveway or parking area any goods, wares,

merchandise or other advertising objects or structures for the purpose of advertising such items, other than a sign as defined, regulated and prescribed in this ordinance except as otherwise allowed by ordinance. Incidental signs or information normally placed on service station pump islands shall not be prohibited by this section.

25.5 No cloth, paper, banner, advertising flag (excludes government flags such as those for the U.S., Texas, etc.), device or other similar advertising matter shall be permitted to be attached, suspended from, or allowed to hang loose from any sign, fence/wall, building or structure, except as allowed by other provisions of this ordinance. Such advertising matter shall be a violation of this ordinance and shall be removed immediately upon notice by the building official (see section 24-28, temporary and portable signs).

25.6 No portion of any sign shall be erected upon or over public property, except as permitted in section 24-28, temporary and portable signs.

25.7 No advertising sign of any type shall be erected within fifty (50) feet of an adjacent residential district, except by special permit from the city council and subject to appropriate conditions and safeguards.

25.8 No signs attached to a trailer or motorized vehicle, where the primary use of such vehicle is for sign purposes, will be permitted. Signs attached to or upon any trailer or motorized vehicle shall be prohibited where any such vehicle is allowed to remain parked in the same location, or in the same vicinity, at frequent or extended periods of time (longer than one week) where it is apparent that the intent is to use the vehicle and/or signs for the purpose of advertising. Vehicles operating under a city franchise shall be excluded from this provision. This provision does not restrict the identification signing on vehicles used for delivery service, interstate commerce, or any bona fide transportation activity.

25.9 No billboards will be permitted along Hwy 7 in City Limits.

25.10 Electronic Message Boards: The overall dimensions of these signs must not exceed 50" high and 100" wide. This to ensure public safety.

SECTION 24-26. PERMITTED SIGNS

Signs advertising permitted (i.e., legally zoned) activities within any district shall be allowed, subject to the following conditions and regulations:

26.1 Signs shall pertain only to the identification of a building, business or products/services which are manufactured, sold or offered on the premises where the signs are located, except as otherwise provided.

26.2 Except as otherwise provided, all signs shall conform to the following requirements relative to the types of signs allowed, maximum sign areas, surfaces, heights, locations, setbacks and other provisions as set forth below by zoning district:

A. Residential zoning districts (Residential PDs). No signs shall be permitted in residential zoning districts except:

B. Nonresidential uses (e.g., church, school or park) located in residential zoning districts (Residential PDs). No signs shall be permitted in these areas except:

(1) One attached sign (or one detached free-standing monument style sign) per street frontage, subject to the following restrictions.

a. Maximum size shall be forty (40) square feet.

b. Construction design and material shall match main building(s).

c. Entire sign must be located on and within private property.

d. Signs shall be set back a minimum of five (5) feet from any street right-of-way.

e. Sign height shall not exceed eight (8) feet (for detached, monument signs).

(2) Such temporary signs that may be allowed by section 24-28, temporary and portable signs.

(3) Portable signs for public, religious, educational or charitable institutions shall be permitted for a maximum of sixty (60) calendar days per year.

C. Multiple-family zoning district (MF). No signs shall be permitted in the multiple-family zoning district except:

(1) One sign per street frontage, subject to the following restrictions:

a. Sign may be attached to the building or set back one-half (1/2) the distance from the building line to the property line.

b. Sign shall not exceed forty (40) square feet.

c. Sign height shall not exceed twelve (12) feet.

d. Construction design and material shall match main building(s).

e. Entire sign must be located on and within private property.

f. Signs shall be set back a minimum of five (5) feet from any street right-of-way.

D. Nonresidential zoning districts, except the central area (CA) district (R, C, LI, HI and nonresidential PDs). No signs shall be permitted in any nonresidential zoning district except:

(1) Those signs allowed under section 16, exemptions.

(2) Such temporary signs that may be allowed by section 24, temporary and portable signs.

(3) Attached signs, subject to the following restrictions:

a. Maximum size of each sign shall be no more than thirty (30) percent of the wall surface area. The maximum size shall be reduced to seventeen (17) percent of the wall surface area when attached sign is accompanied by a free-standing and/or pole sign.

b. An attached sign located at a height of twenty-four (24) feet or less from the ground shall have a maximum vertical height of four (4) feet.

c. An attached sign located at a height more than twenty-four (24) feet above the ground shall have a maximum vertical height of six (6) feet.

d. Sign(s) shall not exceed seventy-five (75) percent of the width of the building face or store frontage.

e. Height shall not exceed the roof line or top of parapet wall, and shall provide a minimum of ten (10) feet of vertical clearance from sidewalk or ground level.

(EXCEPTION: For buildings that were constructed prior to the effective date of this article, and which have no appropriate surfaces on which to erect a sign in

conformance to this paragraph, signs may be allowed to project above the roof line a maximum of four (4) feet.)

f. Such sign shall not project over eighteen (18) inches from face of building.

g. Attached signs shall be designed to transmit all dead and live loads throughout the structural frame of a building in such a manner as not to overstress any building element.

(4) Under-canopy signs, subject to the following restrictions:

a. Maximum size of sign shall be two (2) square feet.

b. The bottom of the sign must be a minimum of eight (8) feet above any sidewalk or walkway.

(5) Free-standing, detached, on-premise signs (includes any type of detached sign such as pole signs, pylon signs, monument signs, etc.), subject to the following restrictions:

a. One sign per street frontage for each building site shall be allowed, or one sign per four hundred fifty (450) linear feet of frontage along street. Where more than one (1) sign is allowed, there shall be a minimum of one hundred (100) feet between signs. The maximum height of signs shall be thirty (30) feet. All signs shall be set back a minimum of five (5) feet from any public right-of-way.

b. The maximum size of each sign shall be one (1) square foot per one (1) linear foot of property frontage, up to a maximum of two hundred (200) square feet, except all parcels shall be permitted a sign having sixty (60) square feet of area regardless of length of street frontage.

c. Any projecting or overhanging portion of sign must be at least ten (10) feet above any sidewalk or walkway, and fourteen (14) feet above streets, driveways, fire lanes or other traffic circulation areas. All signs shall be a minimum of eight (8) feet above the ground (exclusive of supports). Such signs shall be located a minimum of thirty (30) feet from adjacent private nonresidential property lines and at least fifty (50) feet from adjacent residential property lines.

d. Signs shall be constructed of materials that are noncombustible.

e. Sign supports in contact with the ground shall be protected steel or concrete.

f. No detached sign may be erected in any portion of a required parking space.

g. When detached signs are adjacent to parking areas, such signs shall be protected by wheel or bumper guards.

h. All changeable message signs shall be attached or constructed on the same sign support with a permanent (not changeable on a daily or weekly basis) sign. Both

signs together shall count as one sign for the purpose of calculating the effective area.

i. Monument signs (on-premise) are permitted in lieu of a pole sign in all nonresidential and multiple-family zoning districts (see Illustration 2). A monument sign is a free-standing sign having a low profile and made of stone, metal, routed wood planks or beams, brick or similar materials, including individual lettering, which replicate or harmonize with the architecture of the establishment it serves. Monument signs must be built on a monument style base, as opposed to a pole base. A monument sign contains only the company or corporation name, logo, address, and/or product or service of the establishment. No advertising or promotional information is permitted thereon. Such sign may be single-or double-faced. Such signs and base shall not exceed eight (8) feet in overall height above the natural or average grade, and the actual sign face shall not exceed sixty (60) square feet per side. Total cross-sectional area (thickness) shall not exceed eight (8) square feet.

(6) Temporary promotional signs, advertising banners, flags, or pennants promoting a grand opening of a retail/commercial establishment or a shopping center may be displayed for up to sixty (60) consecutive days, with a maximum of one (1) sixty-day period allowed per year for each business.

(7) Such signs that may be allowed by section 22, off-premises detached signs.

E. Highway/freeway frontages. Any signs adjacent to a state-owned highway/freeway shall be subject to the Texas Highway Beautification Act, "Outdoor Advertising Signs".

(1) Where an on-premise, detached sign is wholly within one hundred (100) feet of a freeway right-of-way, and is oriented to be visible from that freeway, the height of all characters shall be either greater than eighteen (18) inches or less than one (1) inch in height.

(2) No sign shall be closer than five (5) feet to any public right-of-way.

F. Central area (CA) zoning district. Any sign within the CA zoning district shall conform to the following requirements:

(1) Attached signs, subject to the following restrictions:

a. Minimum height--No attached sign may be mounted in a manner that results in the lowest portion of the sign being less than eight (8) feet or greater than twenty (20) feet above the sidewalk surface. Businesses and offices may mount signs at lower elevations that indicate the name of the establishment and the street address only. These signs must not exceed eight (8) square feet in size.

b. Maximum height--Attached signs shall be allowed a maximum height of twenty (20) feet at their highest point above the sidewalk surface. They shall not be allowed to extend above

the existing building roof line. Where a building is less than twenty (20) feet tall, the roof line shall constitute the maximum allowable elevation.

c. Thickness--Attached signs do not have to be flush with the building surface. To accommodate structural and electrical equipment, an attached sign may be up to one (1) foot thick.

d. Area--There shall be only one (1) display face for an attached sign. Allowable square footage (area) shall be based upon the following formula:

TABLE INSET:

Building Frontage	Surface Area (One-Story)	Add'l Area (Per Story)	Max. Area
1-50 linear feet	25 sq. feet	30 sq. feet	40 sq. feet
51-100 linear feet	30 sq. feet	15 sq. feet	45 sq. feet
Over 100 linear feet	35 sq. feet	15 sq. feet	50 sq. feet

e. Illumination--On-premise signs may be illuminated internally through the use of fluorescent or neon (i.e., gaseous) tubes, or externally through the use of gooseneck reflectors and lights, provided that such reflectors are provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare upon the street or adjacent property. All electrical signs shall have an Underwriters' Laboratory (UL) listed marker on the sign.

f. Movement--Attached signs shall not be permitted to move, rotate, gyrate, or give the impression of movement.

g. Lettering--Attached signs may have lettering up to three and one-half (3 1/2) feet in height. Letters should be contained within the sign face. Individually mounted letters must be no greater than four (4) feet in height. Letters must be permanent and non-removable.

h. Number of signs for large, single-tenant buildings--For any facade fronting onto a public street that exceeds one hundred (100) linear feet, there shall be allowed one (1) additional attached sign along that street frontage (i.e., for a maximum number of two (2) attached signs per building facade). The maximum allowed size/area of the second attached sign shall be forty (40) square feet. For any facade not fronting onto a public street (i.e., fronting onto another building, an alley, a vacant lot, etc.), the number of signs on such facade shall be limited to one.

(2) Changeable message signs, subject to the following restrictions:

a. Intent--These signs are generally considered as "theater-type" or "marquee" signs, which have changeable message boards. They may be used in place of an awning. However, use of a changeable message sign will be limited to entertainment-oriented land uses (e.g., movie theaters, dramatic theaters, civic

centers, opera houses, etc.). Verification of this fact will be required for the changeable message sign permit.

b. Minimum height--The lowest portion of a changeable message sign must be no less than eight (8) feet, or no greater than twenty (20) feet, above the sidewalk surface.

c. Maximum height--Changeable message signs shall be no greater than twenty (20) feet above the sidewalk surface at their highest point. Changeable message signs shall not extend more than five (5) feet above the existing building roof line. Where a building is less than twenty (20) feet tall, the roof line shall constitute the maximum allowable elevation.

d. Projection--Changeable message signs shall be no greater than four (4) feet from the building surface. A distance of at least two (2) feet shall be maintained between the outer edge of the changeable message sign and any traffic control sign or device.

e. Movement--Changeable message signs shall not be permitted to move, rotate, gyrate, or give the impression of movement.

f. Number of signs--One (1) changeable message sign per business will be allowed.

g. Separation--Changeable message signs shall be no closer than thirty (30) feet from neighboring signs, measured by the nearest sign face to the nearest sign face.

(3) Awnings, subject to the following restrictions:

a. Intent--This ordinance recognizes the need and desire by some businesses to incorporate awning structures into their building facades. It is important that awnings be coordinated with their "host" building, as well as with neighboring awnings and signs.

b. Minimum height--All awnings, at their minimum height (clearance), must be at least eight (8) feet above the sidewalk surface. The highest point of any awning must also not be more than twenty (20) feet above the sidewalk surface.

c. Ratios--Awnings should be at an appropriate scale to the building size. They shall not extend above the roof line of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings' highest points. Awnings shall not completely obstruct any windows on the building, nor shall they extend more than four (4) feet outward from the building face.

d. Projection--Since awnings must extend beyond the building facade, a reasonable amount of projection will be allowed. However, no awning shall be erected which extends more than four (4) feet beyond the building surface. A separation of at least two (2) feet must also be maintained between the outer edge of the awning and any utility pole, light standard, traffic control sign/device, or curb line. The inner edge of the awning must be flush with the surface of the building, and the awning sides must be a 90-degree angle with respect to the building facade.

e. Thickness--Awnings must provide necessary room for structural and electrical considerations. No awning should be more than four (4) feet thick.

f. Color--A mixture of colors is recommended, but not more than three (3) colors per facade (logo excluded). Awnings must maintain a consistent color scheme for each business. Colors must also be appropriate for building color, neighboring awnings and buildings, and any associated signs. Mirrors, or other highly polished/reflective materials, shall not be permitted.

g. Illumination--Only the lettering of an awning may be illuminated with back lighting. The area illuminated shall not be larger than the area allowed for an attached sign. Flood lamps and neon (i.e., gaseous tubes) will not be permitted. Illumination intensity will not be allowed to vary. Flashers, beacons or other similar devices are prohibited. Awning illumination may be activated at dusk and shall be deactivated at dawn.

h. Movement--Except for fabric awnings which are designed to be moved for maintenance purposes or retracted for storm protection, awnings shall not be designed to provide movement. With the exception of fabric awnings' edges, which will move with light breezes, no awning shall be designed to have physical, electrical, pneumatic, or other type of movement except for maintenance purposes only. Awnings shall not be constructed of materials which imply movement (such as diffraction grates).

i. Material--Awnings shall be constructed of approved, environmentally sound materials which are in compliance with all city building and electrical codes.

j. Content--Although the City of Marlin does not regulate sign content, awnings shall contain only the name of the establishment, a logo, and/or the street address. No other lettering or image will be allowed, aside from the color pattern.

k. Lettering--Any lettering on an awning must be no greater than one (1) foot tall.

l. Overlap--No awning may overlap another awning of the same or neighboring building. Awnings may be no closer than eighteen (18) inches to one another. Heights should vary no greater than one (1) foot between adjacent awnings.

m. Use with signs--Awnings and wall (attached) signs may be used on the same facade. Small signs may hang from underneath the awning (termed "under-canopy signs"). These signs must be no lower than eight (8) feet from the sidewalk surface. These signs may be no larger than five (5) feet in length, one (1) foot in height, and two (2) inches in depth/thickness. They may not be illuminated. Only one (1) of these signs will be allowed for each business.

n. Number of awnings--Awnings are not required facade treatments. A business may have as many as one (1) awning per window or door/entrance.

SECTION 24-27. OFF-PREMISES DETACHED SIGNS

Off-premises, detached signs with a surface area greater than thirty-two (32) square feet are prohibited, except in locations where they presently exist. Existing off-premises, detached signs (e.g., billboards), which were legally in existence prior to the effective date of this ordinance, shall be allowed to change messages or advertisements but they shall not be allowed to undergo any other changes that would increase the sign face (e.g., advertising area) or the sign's height in any way.

SECTION 24-28. TEMPORARY AND PORTABLE SIGNS

28.1 Temporary subdivision development signs and "for sale" or "for lease" signs may be erected, provided such sign(s) relate only to the property upon which they are located.

- A.** Such temporary signs shall not exceed ninety-six (96) square feet in surface area.
- B.** Such temporary signs shall not exceed fifteen (15) feet in height.
- C.** Not more than one (1) such sign shall be erected for each thirty (30) acres in the area currently under development.
- D.** Placement of such signs shall be subject to approval of the building official, and shall not constitute a visibility or other safety hazard.
- E.** Such temporary signs shall be removed when ninety (95) percent of the available lots have been sold to end users/occupants.

28.2 Temporary signs advertising occasional sales (including garage, patio, estate and porch sales) shall be limited to one (1) sign not to exceed two (2) square feet placed upon the property where the sale is conducted. Off-site garage sale signs are permitted, provided they have the address of the sale upon them, and they are self-supporting and not placed within public rights-of-way or mounted upon public or utility structures (e.g., telephone poles, street light standards, street sign poles, public buildings, etc.) or on trees, fences, etc. Off-site garage sale signs may not be placed prior to 5:00 p.m. on Friday, and they must be recovered (removed) by 8:00 a.m. on Monday. A fine will be assessed for each off-site garage sale sign left after the 8:00 a.m. Monday recovery time/date. No more than four (4) off-site garage sale signs are permitted for each garage sale event.

28.3 Temporary signs for the purpose of advertising civic, non-profit, or philanthropic organization activities may be erected within the City of Marlin within the following guidelines:

- A.** The maximum size of the sign shall be six (6) square feet.
- B.** Each sign shall be located on private property.
- C.** Such signs shall be erected for a maximum of seven (7) days.
- D.** A maximum of six (6) signs may be permitted during each seven-day period.
- E.** Each sign shall be self-supporting, and shall not be attached to fences, posts, utilities, trees, etc.
- F.** No sign shall be erected or maintained in such a manner as to obstruct free and clear vision.
- G.** It shall be the responsibility of the organization who registers the signs to remove them promptly at the end of the seven-day period.

28.4 Temporary signs including banners for nonresidential uses only may be permitted when such signs are located on the premises of the nonresidential uses, and are subject to the following restrictions:

- A.** No such signs shall be erected unless a permit is first procured from the building official. Portable signs shall not be converted to become permanent on-premise signs, unless such conversion conforms to this

ordinance and is properly permitted under the provisions of this ordinance as a permanent sign.

B. No permit fee is required for temporary signs under this section for public, religious, educational or charitable institutions.

C. Sign shall not exceed thirty-two (32) square feet in size, except as provided for banners in subsection I. below.

D. The permit for a temporary sign including a temporary banner may be issued for a maximum of thirty (30) days, with a maximum of three temporary sign permit issued each year for each business. No permit for the same location shall be issued until a minimum of thirty (30) days has elapsed since the previous permit expired. Said temporary sign shall be physically removed from the referenced location upon expiration of the permit.

E. Temporary signs, including banners, shall be set back a minimum of fifteen (15) feet from the curb or edge of pavement, and completely outside of city right-of-way. Further, said sign shall not be located within the intersection visibility triangle area, and shall not obstruct visibility of motorists or pedestrians.

F. Temporary signs, including banners, may be internally or indirectly lighted; however, such lighting shall not be of a flashing, intermittent, moving or similar lighting type. Any temporary (such) sign located within a residentially zoned district shall not be lighted.

G. All temporary signs, including banners, shall be securely attached to their mounting structures at all times, shall not project above the roof line of the building on the premises, and shall not be attached to or suspended from any other sign, including poles, a fence/wall, or a structure other than a building (See section 24-20.6).

H. All temporary signs, including banners, shall be kept in good repair (i.e., not tattered, unanchored, faded, frayed or unsightly).

I. Additional regulations for banners:

(1) Banners shall not exceed forty (40) square feet in size, except when used adjacent to Interstate Highway 20 and Spur 557 banners shall not exceed sixty (60) square feet in size.

(2) Pole-mounted banners (i.e., banners affixed to light poles) shall be securely attached to their poles with metal brackets or other suitable mounting device, and shall not be located any closer together than a minimum twenty-foot spacing. Pole-mounted banners shall not be connected together or suspended between their respective poles. A display of more than one (1) pole-mounted banners shall be permitted as a single installation (i.e., one sign permit required); however, each banner to be displayed shall be assessed a separate fee pursuant to Section 8 of the Sign Ordinance [Ch. 13(24-8)]. Pole-mounted banners shall have a minimum vertical height clearance of ten (10) feet over parking areas, sidewalks and landscaped areas, and fourteen (14) feet over street rights-of-way and fire lanes. Such banners shall be allowed to have a text message, logo or symbol identifying the business or its goods/services. The total size of each banner as permitted herein shall not exceed twenty-four (24) square feet (except as provided in (a) below), and the banner shall not be less than two (2) feet in

width nor more than ten (10) feet in length (except as provided in (a.) below or greater than twenty (20) percent of the surface height of the pole to which it is attached.

(3) Linear banners (i.e., banners that are typically longer/wider than they are tall, and affixed to a wall surface or between short poles) shall be securely attached to the building (or their poles), and shall not be located any closer together than a minimum twenty (20) foot spacing (i.e., cannot be connected together). Each linear banner shall require a separate sign permit, including payment of a separate fee for each banner. The size and height of linear banners shall conform with the requirements for attached signs (if mounted on a building face) within the zoning district wherein the banner(s) will be located. Linear banners are limited to one (1) per three (3) acres of property (i.e., the size of the lot) per street frontage (for example, a nine-acre lot can have three (3) linear banners per street frontage). Linear banners shall be allowed to have a text message, logo or symbol identifying the business or its goods/services.

(4) Special provisions for changeable banners--The size, location, configuration and general appearance of approved, permitted changeable banners shall not substantially deviate from that of the original installation. A permit for a changeable banner shall be valid for a period of one (1) year, and an application must be submitted to the city for renewal each year. Failure to comply with any provision of this ordinance will immediately void any permit then in existence, and will constitute grounds for denial of a renewed permit.

(5) Special provisions for temporary banners--Temporary banners shall adhere to all regulations within this ordinance pertaining to other types of temporary signs.

J. Pennants shall be prohibited in any zoning district, except in conjunction with a grand opening event.

28.5 Temporary real estate directional signs--Temporary, off-premises real estate signs (i.e., "bandit" signs) are permitted in any nonresidential zoning district, provided that each sign does not exceed six (6) square feet in size, and subject to the following restrictions:

- A.** Signs are to be placed after 5:00 p.m. on Friday, and recovered (removed) by 8:00 a.m. on Monday.
- B.** Signs are permitted on private property only with written permission of the property owner.
- C.** Signs placed within the public right-of-way shall not constitute a traffic/ safety hazard or visibility impairment.
- D.** Signs left within the public right-of-way after 8:00 a.m. on Monday are subject to impoundment by the city, and a recovery/removal fee will be assessed for each sign.

28.6 Temporary signs (e.g., banners, etc.) may be erected on municipally-owned property if authorized by the City Council of Marlin, Texas.

28.7 Portable signs are subject to the following regulations:

- A.** Prior to the use or placement of any portable sign, a permit must be obtained from the building official.

- B.** A maximum of one portable sign permit, not to exceed sixty (60) consecutive days, per year may be issued for each business address.
- C.** There shall be a minimum distance of two hundred (200) feet between portable signs, measured along the street right-of-way. Each side of the street shall be counted separately.
- D.** Portable signs shall not exceed thirty-two (32) square feet in size.
- E.** Portable signs shall be set back a minimum of fifteen (15) feet from the curb or edge of pavement, and completely out of the city's right-of-way. Further, said signs shall not be located within the intersection visibility triangle area, and shall not obstruct visibility of motorists or pedestrians.
- F.** Portable signs shall be set back a minimum of thirty (30) feet from nonresidential side property lines. Portable signs shall be set back a minimum of fifty (50) feet from adjacent residential side property lines. Portable signs shall not be located within the intersection visibility triangle area, and shall not obstruct the visibility of motorists or pedestrians.
- G.** The owner of any portable sign shall be responsible for obtaining a sign permit, as required herein, and shall be responsible for any violations of this ordinance. Upon obtaining a sign permit, the owner of the sign shall sign a statement identifying and holding the city harmless of any damages which may result from the placement of said sign; and such statement shall further give the city the right to impound such sign should it be placed in violation of this ordinance.
- H.** Portable signs shall permanently display on the sign, in easily readable form, the name, address, city, zip code, and telephone number of the owner of said sign.
- I.** Portable signs may be internally or indirectly lighted; however, such lighting shall not be a flashing, intermittent, moving or similar lighting type. Any sign constructed of or containing material capable of reflecting light, images or sound waves, or of producing glare or mirrored images shall not be permitted.
- J.** Impoundment--The owner or occupant of any property upon which there is located a portable sign in violation of this ordinance, or the owner or lessee of any portable sign which is in violation of this ordinance, shall be given notice by the building official stating the nature of the violation and ordering that the violation be corrected or the sign removed from said property within seventy-two (72) hours.
- K.** Notice by the building official of violation of this ordinance shall be given by one (1) of the following methods:
- (1)** The sign permit shall show the expiration date of the portable sign permit; or
 - (2)** A notice shall be attached to the sign in violation of this ordinance; or
 - (3)** Verbal notification by telephone or in person shall be given to the owner or occupant of the property upon which there is located a portable sign in violation of this ordinance, or the owner or lessee of the portable sign in violation of this ordinance, by the building official; or
 - (4)** Written notice by the building official to the sign permittee.
- L.** If the owner, lesser, lessee, or the representative of the lesser of the portable sign fails to remove such sign within seventy-two (72) hours of

the building official's notification, then the portable sign may be removed by the City of Marlin, or its duly authorized agent, at the expense of the sign owner or the person erecting, leasing, using or maintaining it.

M. Any portable sign so removed shall be subject to a fee of fifty dollars (\$50.00) for hauling the sign to the city's storage area; plus a ten dollars (\$10.00) per day storage fee for each day the sign is stored by the city.

N. Any portable sign so removed from public or private property shall be stored or impounded by the city until all applicable charges have been paid, or until thirty (30) days have passed.

O. If any sign remains unclaimed for a period of thirty (30) days after its removal, or if the removal and storage costs are not paid within such 30-day period, the city may destroy, sell or otherwise dispose of the sign at its discretion.

P. In calculating the length of the storage period and the storage fee, the first working day after the date of the impoundment shall be considered day number one (1). Thereafter, all calendar days, including weekends and holidays, shall be counted.

Q. The building official, or any duly authorized agent, may enter upon private property which is accessible to the public for the purposes specified in this ordinance to examine signs or their locations, to obtain information as to the ownership of such signs, and to remove or cause the removal of any sign declared to be a nuisance pursuant to this ordinance.

R. If the City of Marlin determines that the owner or occupant of the property upon which there is located a portable sign in violation of this ordinance, or if the owner or lessee of the portable sign in violation of this ordinance has had three (3) previous sign violations without reasonable cause, the City of Marlin shall withhold issuing further such permits to such property owner, lessee, sign owner or sign lessee.

S. Portable signs which are in existence as of the effective date of this ordinance shall be allowed to remain for a period of one (1) year, and shall be removed by the property or sign owner at the end of this time period.

ADMINISTRATIVE PROCEDURES

SECTION 24-29. NONCONFORMING SIGNS

29.1 By the passage of this ordinance, no presently illegal sign shall be deemed to have been legalized unless such sign complies with all current standards under the terms of this ordinance and all other codes and ordinances of the City of Marlin. Any existing sign which does not conform to all provisions of this ordinance shall become a nonconforming sign if it legally existed as a conforming or nonconforming sign under prior ordinances; it shall be, or continue to be, an illegal sign if it did not exist as conforming or nonconforming sign beforehand, as the case may be. Temporary permits previously granted shall not be renewed unless the sign is made to conform to the provisions of this ordinance. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture (either civil or criminal) incurred prior to the time this ordinance was adopted shall be discharged or affected by such passage, but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted and causes presently pending may proceed.

29.2 Removal of certain nonconforming signs:

A. As of the effective date of this ordinance, all existing nonconforming signs, except portable signs and signs that are determined to be unsafe (see section 24-20, unsafe and unlawful signs), shall be permitted to continue to exist in their present form and location.

B. Abandoned signs be removed by the city after they have been unused for six (6) months.

C. All nonconforming portable signs shall be removed within one (1) year following the effective date of this ordinance.

D. Any change of business occupancy shall require any existing nonconforming signs on the premises to be modified, or possibly reconstructed, to conform with the provisions of this ordinance prior to occupancy/operation of the new business(s).

E. No existing nonconforming sign shall be modified, changed or altered unless it is brought into conformance with the provisions of this ordinance.

29.3 No nonconforming sign shall be repaired or renovated at a cost in excess of thirty-five (35) percent of the replacement cost of the total sign structure, unless said sign is brought into conformity with this ordinance. No nonconforming sign shall be repaired or renovated where the effect of such repair or renovation shall be to enlarge or increase the size, bulk or height of the nonconforming sign. For the purposes of this subsection, normal maintenance shall not be considered to be repair or renovation.

29.4 It shall be unlawful to maintain any sign erected without a valid permit, where a permit was required for the erection of the sign according to the law/ordinance that was in effect at the time the sign was erected. It is a defense to prosecution under this subsection if the sign is made to comply with the provisions of this ordinance such that a permit may be issued.

SECTION 24-30. SIGN BOARD OF APPEALS

30.1 To appeal the Building Officials decision you must file an appeal with the Zoning Board of Adjustment.

SECTION 24-31. RESPONSIBILITY FOR VIOLATIONS

The owner or lesser of the sign, the lessee of the sign, the owner of the land or structure where the sign is located, or the person responsible for erecting the sign or structure are all subject to the provisions so this ordinance, and are therefore subject to the penalty(s) hereinafter provided for noncompliance with this ordinance.

SECTION 24-32. PENALTIES

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof after due process of law, shall be fined an amount not to exceed two hundred dollars (\$200.00) per offense. Each day such violation is committed or permitted to continue shall constitute a separate offense, and shall be punishable as such hereunder.

Section A. That this resolution takes effect immediately from and after its passage by the City Council of Marlin, Texas.

Section B. That this meeting was held in an open forum for such reading.

Passed and Approved on this the 10th day of June, 2008.



Norman Erskine, Mayor

ATTEST:



Sandra Herring, City Secretary