

Motion was made by Robert Moore III, seconded by Leslie H. H., that the following Ordinance be passed:

ORDINANCE No. 91

**AN ORDINANCE REGULATING THE PLACEMENT OF SIGNS IN THE CITY OF CUT AND SHOOT AND ITS EXTRA-TERRITORIAL JURISDICTION AND ESTABLISHING EXCEPTIONS TO SUCH PROHIBITION; PROVIDING ENFORCEMENT AUTHORITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINS CLAUSE IF ANY PORTION HEREOF IS DEEMED TO BE INVALID; PROVIDING A TEXAS OPEN MEETINGS ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION AS PROVIDED BY LAW.**

**WHEREAS**, Section 216.001, et. Seq., V.T.C.A., Local Government Code authorizes a municipality to license, regulate, control, or prohibit the erection of signs by Ordinance; and

**WHEREAS**, it is the desire of the City Council of the City of Cut and Shoot, Texas to establish rules governing the placement of signs, handbills, circulars and other printed matter or material in, at, on, upon or attached to any city property at any location, which includes buildings, streets, alleys, easements, rights-of-way, and/or parks;

**WHEREAS**, the city does not wish to impede in any manner the right of public speech or expression, but only wishes to reasonably control in a clear, neutral and consistent manner the placement of signs, handbills, circulars and other printed matter or material in, at, on, upon or attached to any city property at any location, which includes buildings, streets, alleys, easements, rights-of-way, and/or parks;

**WHEREAS**, the city council finds and determines that the location of signs within and adjacent to public streets, roads and alleys, and at the intersection thereof constitutes an obstruction to the vision of drivers of motor vehicles and a menace to both vehicular and pedestrian traffic upon the public streets, requiring the adoption of reasonable regulations in the interest of the public health, safety and welfare; therefore the purpose of limiting signs is to prevent unwanted visual blight, and maintain an orderly appearance of public streets and right-of ways.

**WHEREAS**, to promote orderly development of the City and to promote the health and safety of its residents, the City Council has determined that it is advisable and desirable to enact an Ordinance regulating the placement of signs and providing for exceptions to such prohibition;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CUT AND SHOOT, TEXAS, THAT:**

## ARTICLE I IN GENERAL

### Section 1                      Scope

Except as provided herein, the provisions of this Ordinance shall apply to all off-premises signs, as that term is defined in this section, within the corporate limits of the City of Cut and Shoot, Texas, and within the area of extraterritorial jurisdiction of the City as defined by Chapter 42 of the Local Government Code, as the same may be hereafter amended.

### Section 2                      Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**“Abandoned sign”** means a sign which was erected on property in conjunction with a particular use which has been discontinued for a period of 30 days or more, or a sign, the content of which pertains to a time, event, or purpose which no longer applies.

**“Business Establishment”** means a project or undertaking which involves the use of any property, building or structure, permanent or temporary, for the primary purpose of conducting on the property a legitimate commercial enterprise, or other non-residential use, in compliance with all Ordinances and regulations of the City. Multiple services and/or goods offered by a business establishment shall be considered one business establishment for purposes of this Ordinance.

**“Code Enforcement Officer”** means the person designated by the City of Cut and shoot, Texas, who is charged with the enforcement of the provisions of this ordinance. The term also includes any Cut and Shoot Police Officer.

**“Ground Sign or Freestanding Sign”** means any sign supported by one or more columns, poles, uprights, or braces anchored in or on the ground and not attached to any building.

**“Monument Sign”** means any ground sign less than six feet (6') from the natural ground level to the top of the sign.

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

**“On-Premise Sign”** means a sign that transmits a message pertaining to a product, use occupancy or function that is located on the same property as the sign.

**“Person”** means an individual, company, corporation, partnership, association, or any other entity howsoever designated.

**“Right-of-Way”** means the area lying within the dedicated or prescriptive public easement of any street, road or alley located within the city, whether improved or not, including the sidewalk, ditches, drains, median and esplanade thereof.

**“Sign”** means a permanent, temporary or portable structure or device, figure, symbol, insignia, medallion, flag, banner, balloon, etc., which advertises, represents or calls attention to a product, service, person, business, operation, use or even t, or transmits information or an idea.

### **Section 3                      Off-Premises Signs Prohibited**

Except as provided herein, off-premises signs shall be expressly prohibited from and after the effective date of this Ordinance.

### **Section 4                      Exceptions**

The below listed off-premises signs shall be exempt from the prohibition set forth in Section 3 of this Ordinance:

- (1) Off-premise signs which lawfully exist or for which a permit has been issued prior to the effective date of this Ordinance:
- (2) Signs which advertise the sale or lease of property provided that the sign is displayed on the property for sale or lease and only one (1) sign is placed on each street frontage;
- (3) Signs or markers giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers or sewer lines, or water lines or other public utilities;
- (4) Signs erected by an agency of the state or a political subdivision of the state, which may or may not be located on public property;
- (5) Signs erected solely for and relating to a public election, but only if;
  - a. The sign is on private property;
  - b. The sign is erected no earlier than the 45<sup>th</sup> day before the election and is removed no later than the 10<sup>th</sup> day after the election;
  - c. The sign shall be placed so as not to obstruct the view at intersections of streets, alleys, driveways and/or easements;
  - d. The sign shall not be placed on city street rights-of-way, alleys or easements and public parks in such a position or manner which may

create a hazard to the public.

- e. The area of the sign does not exceed thirty-two (32) square feet per sign fact;
- f. The sign does not exceed six (6) feet in height; and,
- g. The sign is self-supporting.

(6) Memorial and/or historical signs as designated by federal, state or local government;

(7) Signs erected by the City of Cut and Shoot as a public service announcement or greeting; and

(8) One (1) directional monument sign per business establishment which shall not exceed sixteen (16) square feet and shall be located on a main street nearest the business; however the directional sign shall not be placed in the public right-of-way.

## **Section 5                      Posting Signs on Public Rights-of-Way**

It shall be unlawful for any person to place or cause to be placed, constructed or built upon, in, over and/or across any pavement, median, esplanade, traffic island, curb, sidewalk, bridge, overpass, underpass, telephone pole, electric pole, traffic sign, standard, pole, post, or other improvements located within any public street, sidewalk or right-of-way of the city any sign, poster, placard or other printed material or advertising of any nature.

## **Section 6                      Abandoned Signs**

Except as provided herein, abandoned signs or signs in a state of disrepair shall be expressly prohibited from and after the effective date of this Ordinance.

# **ARTICLE II SIGN ADMINISTRATION**

## **Section 7                      Enforcement Authority**

(1) The Code Enforcement Officer is appointed to administer and enforce the terms and conditions of this Ordinance and all other provisions of law relating to signs. The Code Enforcement Officer may appoint persons serving under him/her to assist in the enforcement of this Ordinance.

(2) The Code Enforcement Officer or his/her representative may enter any building, structure, or other premises or property between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, for the purpose of inspecting and investigating signs or sign structures; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, and where the owner,

agent or tenant in charge of the property is not available after the Code Enforcement Officer has made good faith effort to locate same, the Code Enforcement Officer may enter aforementioned structures and premises at any time upon presentation of proper identification to any other person on the premises or property.

(3) Whenever the Code Enforcement Officer and/or designated representative shall enter upon private property, under any circumstances, for the purpose of inspecting and/or investigating signs or sign structures, which property has management in residence, such management or the person then in charge shall be notified of his/her presence and shown his/her official credentials.

(4) Whenever the Code Enforcement Officer and/or designated representative are denied admission to inspect any premises, inspection shall be made under authority of a warrant issued by a magistrate authorizing the inspection for violation of this chapter. In applying for such warrant, the Code Enforcement Officer shall submit the magistrate his/her affidavit setting forth his/her belief that a violation of this Ordinance exists with respect to the place sought to be inspected and his/her reasons for such belief such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof.

(5) If the magistrate finds that probable cause exists for a search of the premises in question, he/she shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify same. Any warrant so issued shall constitute authority for the Code Enforcement Officer and/or designated representative to enter upon and inspect the premises therein.

## **Section 8                      Stop Work Orders**

The Code Enforcement Officer shall have authority to issue stop work orders in cases where signs are being installed or constructed in violation of this ordinance. Upon issuance of a stop work order from the Code Enforcement Officer, work on any sign that is being installed shall immediately cease. Such stop work order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work. Following the issuance of a stop work order, the Code Enforcement Officer shall order removal of the sign.

## **Section 9                      Removal Procedures Sign In Right-of-Way**

A sign that is illegally posted or displayed on public property or within a public right-of-way may be summarily removed and disposed of by the Code Enforcement Officer or designee.

**Section 10****Removal Procedures Sign Not in Right-of-Way**

A sign that is illegally posted or displayed on private property or business establishment, the Code Enforcement Officer or designee shall give written notice of the violation to the owner, permittee, or agent of the owner of permittee. Such notice shall order removal of the sign. Written notice shall be given by certified mail or personally served upon the owner, permittee or owner's or permittee's agent. If the order is not complied with within ten (10) days of the notice, the Code Enforcement Officer or designee shall impound the sign according to the provisions of Section 11 of this Ordinance.

The provisions of this section shall be considered in addition to and not in lieu of the remedy provided by charging a violation of this Ordinance in municipal court, or any other remedy provided by law or in equity.

**Section 11****Impounded Signs**

Signs removed in accordance with this chapter shall be transported to a location designated by the City for storage. The Code Enforcement officer shall maintain records denoting the location of such signs at the time they were impounded and the date on which they were impounded and shall hold the same in the storage area for a period of not less than twenty-one (21) days. Any sign so held may be redeemed by the owner thereof upon payment of an impoundment fee of fifty dollars (\$50.00) and storage fee of twenty-five dollars (\$25.00) per day. Such fee shall be in addition to and not in lieu of any fine imposed for a violation of this Ordinance. Any impounded sign not redeemed within twenty-one (21) days shall either be destroyed or transferred to surplus and sold or disposed of in the same manner as surplus property of the City.

**Section 12****Citations**

The Code Enforcement Officer or designee of the city, as defined in section 2, shall have the authority to issue citations for violations of this Code.

**Section 13****Severability**

If any provision, section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Ordinance. It is the intent of the City in adopting this Ordinance that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision and to this end all provisions of this Ordinance are declared to be severable.

**Section 14****Headings**

Title and headings of the sections herein shall be read as part of the sections used in determining the meaning thereof.

**Section 15                      Violations and Penalties**

Any person who violates any provision of this Ordinance shall be guilty of a Class "C" misdemeanor and upon conviction thereof by a court of competent jurisdiction, shall be punished by a fine in an amount not to exceed five hundred dollars (\$500.00). Each and every day any such violation continues or is allowed to exist shall constitute a separate offense.

**Section 16                      Savings Clause**

If any part of this Ordinance shall be held unconstitutional or otherwise invalid by a Court, such part shall be deemed severable and invalidity thereof shall not affect the remaining parts of this Ordinance.

**Section 17                      Texas Open Meetings Clause**

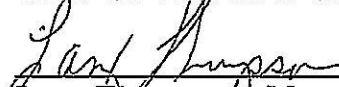
It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**Section 18                      Effective Date**

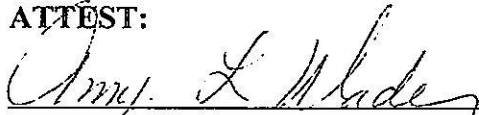
This Ordinance shall become effective upon its publication as provided by law.

**PASSED AND APPROVED** on the, the 9<sup>th</sup> day of August, 2007.

**CITY OF CUT AND SHOOT, TEXAS**

  
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Lang Thompson, Mayor

**ATTEST:**

  
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Amy L. Wade, City Secretary

**APPROVED AS TO FORM:**

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Larry L. Foerster, City Attorney