Hindsight in 2020: Sign Regulation Five Years after *Reed v. Town of Gilbert*

Laura Mueller, City Attorney

TCAA FALL CONFERENCE

OCTOBER 2020

Author Biographies

Laura Mueller, Associate - Laura previously worked at the Texas Municipal League as Assistant General Counsel. While at TML, she participated in over 100 speaking engagements on various legal topics and continues to be a featured speaker at legal conferences. She has authored amicus curiae briefs for the courts on numerous subjects including billboard regulation, reserved powers doctrine, civil service, elections, unions, takings, open meetings, public official liability, land use, and annexation. Laura received her undergraduate degree from the University of Oklahoma and earned her Doctor of Jurisprudence from the University of Texas at Austin. After spending three years as an associate at the Bojorquez Law Firm, Laura became the City Attorney of the City of Dripping Springs. Laura has been working on this paper since 2003.

Introduction: Hindsight in 2020

Five years ago, U.S. Supreme Court case *Reed v. Town of Gilbert* initiated a constitutional review of almost every sign code in Texas. These changes focused primarily on fixing definitions, focusing on zoning districts, and analyzing the purposes for sign regulation to ensure that cities had adequate bases for changing ordinances. After *Reed,* the Third Court of Appeals in Austin weighed in, and the federal Fifth Circuit issued a case interpreting *Reed,* again triggering some adjustments to sign ordinances. This paper will review sign regulation statutes and case law from *Gilleo* until September 2020 while providing guidance for reviewing your Sign Ordinance in 2020.

A Message from the Texas Legislature: Preemption of City Regulation of Signs

Ensuring enforceable sign regulation from First Amendment challenges has become increasingly challenging following *Reed v. Town of Gilbert* and its progeny including *Reagan v. City of Austin*. *Reagan Nat'l Advertising v. City of Austin*, No. 19-50354 (5th Cir. August 25, 2020); *Reed v. Town of Gilbert,* 576 U.S. 155, 171 (2015)[1]. Understanding the basics of municipal sign regulation is key to understanding the far-reaching implications of *Reed* in municipal law. While a city may regulate any sign, these regulations most often include the restriction or prohibition of large outdoor signs that are hired out for commercial advertising, commonly known as billboards. Cities usually only prospectively ban or regulate signs because the removal, relocation, or reconstruction of an existing sign often costs the city money and may result in litigation. The regulation of these types of signs are the ones most affected by state law and cases.

Cities have authority to regulate signs in the city or the city's extraterritorial jurisdiction (ETJ). TEX. LOC. GOV'T CODE §§ 216.003; 216.902. A city's purpose for such regulation usually involves protecting the appearance, aesthetics, and environment of the city, which helps with property values, and improving traffic safety. *See, e.g., Luce v. Town of Campbell,* 872 F.3d 512, 517 (7th Cir. Sep. 22, 2017) *("*It does not take a double-blind empirical study, or a linear regression analysis, to know that the presence of overhead signs and banners is bound to cause some drivers to slow down in order to read the sign before passing it."). Texas law has affirmed that both general law and home rule cities have some authority to regulate signs and billboards in the ETJ. TEX. LOC. GOV'T CODE § 216.902(a). However, in lieu of regulating signs in the ETJ, a city may request that the Texas Transportation Commission regulate the signs within the city's ETJ. *Id.* A city that chooses to regulate in its ETJ should ensure that its ordinance clearly extends to that area by including a precise applicability or jurisdiction section to its sign ordinance.

Under Chapter 216 of the Local Government Code, a city may require a sign's removal, relocation, or reconstruction. TEX. LOC. GOV'T CODE ch. 216. In order to require removal of a nonconforming sign, a sign that was legal when the ordinance was adopted, the city must first determine compensation for the sign owner through appointment of a municipal sign board. The sign board's membership is provided by state law, and the board determines the amount of compensation. TEX. LOC. GOV'T CODE § 216.005. Before the board decides on the amount of

[11] When I checked the number of sources that have cited the *Reed v. Town of Gilbert* Supreme Court Decision in September 2020, the number was almost 4,000 including over 700 cases throughout the United States.

compensation, the city must give the sign owner an opportunity for a hearing. Once a regulatory action is taken and compensation for the sign is determined by the municipal sign board, "any person aggrieved by a decision" may appeal to district court. TEX. LOC. GOV'T CODE § 216.014. Compensation may be examined by a court for its reasonableness. If the compensation payments are provided over a period longer than one year, the duration's reasonableness will also be examined. Additionally, a city has the authority to regulate and prohibit signs in public rights-of-way. A sign owner must request a city's permission before a sign may be legally placed in a city's right-of-way. TEX TRANSP. CODE § 393.0025.

Besides state authorization and limitation of sign regulation, the city must also consider the First Amendment protections afforded to signs when drafting and enforcing sign ordinances. The courts have held invalid city regulations that would prohibit or regulate signs with a noncommercial or political message that are located on residential property. *See Reed v. Town of Gilbert,* 576 U.S. 155 (2015)*; City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994).

Constitutional Conventions

Congress shall make no law . . . abridging the freedom of speech. . . U.S. Const., Amdmt. 1.

Before reviewing sign regulation cases, a review of the difference between rational basis, intermediate scrutiny, and strict scrutiny is useful. For rational basis review, which is the standard for regulations that do not involve free speech or similar constitutional issues, is that a regulation be rationally related to a government purpose. *Duarte v. City of Lewisville,* 858 F.3d 348, 354 (5th Cir. 2017). The next level of review is intermediate scrutiny which is for regulations that affect constitutional rights but are either content neutral or, perhaps, regulate only commercial speech. Intermediate scrutiny requires that a regulation must be narrowly tailored to serve a significant government interest. *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of New York*, 447 U.S. 557, 561 (1980). Finally, strict scrutiny is for regulations that affect constitutional rights especially when speech or content is regulated. Strict scrutiny requires that a regulation be narrowly tailored to serve a compelling government purpose and the least restrictive means necessary to achieve the purpose. *Reed,* 576 U.S. at 171.

Two main issues have arisen when looking at the constitutionality of sign regulations, overinclusiveness and underinclusiveness. As the main example of overinclusiveness, the case in the *City of Ladue v. Gilleo,* the city banned all signs in residential areas, which was not a viewpoint-based regulation and also did not have many exceptions. *City of Ladue,* 512 U.S. at 51. In *City of Ladue,* the U.S. Supreme Court held that there is special protection for non-commercial and political signs, especially for those on residential properties. *Id*. Banning all residential non-commercial signs was constitutionally overinclusive because too much speech was being prohibited, even if the purposes for the ordinance were being met.

Other city regulations were designed to protect the significant government interests of aesthetics and safety, but have failed because they have not been the least restrictive means or did not meet the purpose because they are were underinclusive. *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 507-08 (1981) (traffic safety and aesthetics are significant government interests). If the challenged ordinance regulates speech protected by the First Amendment but is content-neutral, the law is subject to intermediate scrutiny, and it "need not be the least restrictive means of advancing the State's interests." *Thompson*, 442 S.W.3d at 345. The restriction must, however, be "narrowly tailored to serve a significant governmental interest."

McCullen v. Coakley, 134 S.Ct. 2518, 2534 (2014) (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 796 (1989). To be narrowly tailored, the "regulation [must] promote a substantial governmental interest that would be achieved less effectively absent the regulation." *Thompson*, 442 S.W.3d at 345. Additionally, the regulation must not be "broader than is necessary to achieve the government's interest." *Id.* Then the Supreme Court of the United States clarified (to some extent) how signs may be regulated in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015).

Reed v. Town of Gilbert: Underinclusiveness

In *Reed v. Town of Gilbert*, the Town of Gilbert, Arizona, enacted a sign ordinance that defined various types of signs and restricted the different types of signs in various ways. 576 U.S. 155 (2015). For example, the town's ordinance included definitions and differing regulations for temporary directional signs, ideological signs, and political signs. Based on the type of sign, the ordinance limited how long the sign could be posted. (Temporary directional signs could be posted no sooner than 12 hours before an event and for one hour after the event, but ideological or political signs could be posted for much longer.). The Court held that this ordinance was unconstitutional because it was underinclusive to meet its stated purposes and was content-based.

A local church regularly changed the location of its meetings. Each week, the church used temporary directional signs to guide parishioners to the appropriate location. *Reed*, 576 U.S. at 160-161. The signs at issue were in place longer than allowed by the town's ordinance for event signs, and the town cited the church for the violations. The church sued the town, arguing that the shortened time frame for temporary directional signs versus the longer time frame for ideological and other signs was a "content-based" restriction on speech that is prohibited by the First Amendment to the U.S. Constitution. The town countered that the shorter time frame for temporary directional signs was not content-based because anyone's temporary directional sign had to follow the same restrictions, not just churches, in essence arguing that the sign regulation was not content-based because it did not discriminate based on viewpoint. *Id.* at 167.

The Court held that the ordinance's varying durations for posting based on the type of sign was based on the content of the sign because a city employee had to read the sign to know it referenced an event rather than an ideology to enforce the ordinance. *Id.* at 171. "A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea" *Id.* When a restriction on speech is content-based (as opposed to a content-neutral time, place, or manner restriction,) it will be upheld only if a city can show that the restriction is "narrowly-tailored to meet a compelling governmental interest." A law or ordinance that is subject to strict scrutiny rarely survives a First Amendment analysis. *But see id.* at 173.

The Court invalidated the town's ordinance because the town did not prove that the content-based distinction was narrowly tailored to achieve the town's interests of aesthetics and traffic safety. As support for its position, the Court noted that the ordinance was underinclusive and allowed a great number of signs to be placed for long periods of time. That fact, in and of itself, refuted the town's stated interests of aesthetics and traffic safety (and likely meant they might have failed even under intermediate scrutiny). Moreover, the court concluded that the various exceptions in the ordinance for certain signs made the restriction of other signs insupportable.

Reed has had an enormous impact on sign regulation—"a law that is content-based on its face will be subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of 'animus toward the ideas contained' in the regulated speech." *Reed,* 576 U.S. at 163**.** The Supreme Court in *Reed* declared "government regulation of speech is content based if a law applies to a particular speech because of the topic discussed or the idea or message expressed." *Id.* at 163-64. Courts have interpreted this to mean that a law that distinguishes between permitted and prohibited speech based on the subject matter, function, or purpose of the speech is content based on its face. Additionally, even a facially neutral law will be deemed to be content based if it either cannot be justified without reference to the content of the speech or if enforcement of the ordinance causes discrimination based on the speaker's point of view.

Practically, the holding in *Reed* means that any ordinance provision that requires a city employee to read the content of a sign before taking action will be subjected to strict scrutiny by a court. However, a city sign code can still prohibit all signs on city property and limit the size, building materials, and other aesthetic aspects of a sign. That being said, a sign ordinance could—in theory—have content-based restrictions, but the standard to uphold these restrictions is very strict. Ultimately, most content-based regulations will likely be struck down, unless the restrictions can meet the strict scrutiny test set out by the courts. *Id* at 159. Regardless of the inherent validity of an exception or distinction, exceptions that defeat the stated purposes of an ordinance by being overinclusive or underinclusive (for example, aesthetics or traffic safety) can result in an entire ordinance being struck down. *See id.* Issues related to how commercial content can be regulated remains open.

REEDing Alito's Concurrence

Justice Alito filed a concurrence to the *Reed* opinion where he laid out his interpretation to the holding and what regulations would still be allowed:

> "Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.
> Rules regulating the locations in which signs may be placed. These rules may distinguish between freestanding signs and those attached to buildings.
> Rules distinguishing between lighted and unlighted signs.
> Rules distinguishing between signs with fixed messages and electronic signs with messages that change.
> Rules that distinguish between the placement of signs on private and public property.
> Rules distinguishing between the placement of signs on commercial and residential property.
> Rules distinguishing between on-premises and off-premises signs.
> Rules restricting the total number of signs allowed per mile of roadway.
> Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed."

Reed, 576 U.S. at 174 (Alito, J. concurring). While these rules are good guidelines, the text of the majority opinion, and the cases that followed, should be the primary basis of any amendments to the sign or other potentially content-based ordinances. For example, Alito would

allow rules that impose a time limitation for one-time events, but this analysis appears to contradict the majority holding of *Reed.* Rules imposing restrictions on temporary signs generally may be more enforceable.

***Reed* 2020-What Came Next**

How a city may regulate some signs, but not others, depends on many factors. For example, a city generally may regulate signs based on size, but not regulate signs solely based on content, without showing that the restriction is narrowly tailored to meet a compelling interest. However, some cases have upheld the ability of cities to distinguish based on the type of sign being regulated. In terms of commercial speech, because Reed involved non-commercial speech, the *Central Hudson* and *Metromedia* rule, which applies to commercial speech, may still binding. This analysis is supported by a long-standing history of requiring intermediate scrutiny for regulation of commercial speech. Additionally, and as mentioned above, Justice Alito asserted in his concurrence that distinctions between "on-premises" and "off-premises" signs remain valid post-Reed. The United States Courts of Appeals and state law have split on how to apply this scrutiny to regulation of commercial signs. *See, e.g.,* TEX. TRANSP. CODE ch. 391; *Internat'l Outdoor, Inc. v. City of Troy,* --- F.3d ---; No. 19-1151/1399 (6th Cir. Sept. 4, 2020) (strict scrutiny for all signs); *Aptive Env., LLC. v. Town of Castle Rock, CO,* 959 F.3d, 961 (10th Cir. May 15, 2020) (intermediate scrutiny for regulation of commercial content): *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n,* 447 U.S. 557 (1980) ("…must concern lawful activity and not be misleading...we ask whether the asserted governmental interest is substantial…if both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more than extensive than necessary to serve that interest"); *Metromedia, Inc. v. City of San Diego,* 453 U.S. 490, 514 (1981). The most pertinent federal case in Texas is *Reagan Nat'l Advertising v. City of Austin,* No. 19-50354 (5th Cir. August 25, 2020).

In *Reagan,* the Fifth Circuit held that the City of Austin's stricter regulation of off-premises signs than on-premises signs was a regulation of all speech, not just commercial speech, and was content-based. *Reagan Nat'l Advertising v. City of Austin,* No. 19-50354 (5th Cir. August 25, 2020). This determination means that the regulation had to be reviewed under strict scrutiny. The Court held that the regulation was content-based because the sign's content, whether the communication on the sign referred to activities on the same premises in question or not, determines whether it falls under a stricter regulation of off-premises signs. The Court held that the regulation was content-based (you have to read the sign to know whether or not it references on site activities) did not meet the requirements of strict scrutiny and therefore was invalid. The Court declined to decide whether the lesser level of scrutiny still applied to a content-based regulation that only applies to commercial speech.

The Texas Court of Criminal Appeals has also held that a content-based law is presumptively invalid and the government bears the burden to rebut this presumption, overturning both a statute regulating sexually explicit communications with a minor and a photography law regarding taking photos of individuals without their consent. *See Ex Parte Lo,* 424 S.W.3d 10, 15 (Tex. Crim. App. 2013) (sexually explicit communication); *Ex Parte Thompson,* 442 S.W.3d 325, 345 (Tex. Crim. App. 2014) (photography). The Court also applied the "most exacting scrutiny to regulations that suppress, disadvantage, or impose different burdens on speech because of its content." *Lo*, 424 S.W.3d at 15. "To satisfy strict scrutiny, a

statute regulating speech must be necessary to serve a compelling state interest and be narrowly drawn." *Id*. "A law is narrowly drawn if it employs the least restrictive means to achieve its goal and if there is a close nexus between the government's compelling interest and the restriction." *Id.* The law does not satisfy strict scrutiny if there is a less restrictive means of achieving the state's compelling interest that would be at least as effective as the statute under review. *Id.* at 15–16. However, a statute may not be held overbroad merely because "…one can perceive of some impermissible application." *United States v. Williams*, 553 U.S. 285, 303 (2008).

And it is not only city ordinances that will be reviewed under scrutiny based on the *Reed* case. Section 259.003 of the Texas Election Code, which provides that "a municipal charter provision or ordinance that regulates signs may not, for a sign that contains primarily a political message and that is located on private real property with the consent of the property owner: (1) prohibit the sign from being placed…[etc.]" could be considered unconstitutional under *Reed. Id.* As this regulation prima facie looked at the content of signs it would require strict scrutiny review under *Reed* and could not easily meet the compelling government interest requirement because it only protects political speech. The Texas Highway Beautification Act was also affected by the *Reed* case.

REEDing Texas Highway Beautification Act

The Third Court of Appeals in Austin applied *Reed* to the state's Highway Beautification Act, which regulates advertising, among other things, on state roads. *Auspro Enterprises, LP v. Texas Dep't of Transp.,* 506 S.W.3d 688 (Tex. App.—Austin- 2016, judgment vacated as moot). In *Auspro*, the Texas Department of Transportation filed an enforcement action against Auspro because it maintained a political sign on the owner's commercial property past the time that such signs are allowed. The court stated that "…under *Reed's* framework, the Texas Act's outdoor-advertising regulations and associated Department rules are, on their face, content-based regulations of speech." *Id.* However, the court of appeals also held that "the provisions in Subchapter I are not affected by our decision here because they authorize the State to regulate commercial speech along certain specified highways, specifically off-premise signs displaying messages regarding 'goods, services, or merchandise.'" *Id.* The Third Court of Appeals held that portions of the Highway Beautification Act are unconstitutional but also preserved the state's right to regulate commercial advertising. The Supreme Court of Texas granted review but vacated the decisions of the lower courts after amendments to the Highway Beautification Act made the issue moot.

Texas Legislature Interprets *Reed* and *Auspro*

Senate Bill 2006 passed in 2017, makes clear that the state, through the Texas Department of Transportation (TxDOT), intends to regulate "commercial" signs that: (1) advertise goods and services; and (2) whose primary purpose of the sign is advertising. TEX. TRANSP. CODE Ch. 391; S.B. 2006, 85th R.S. (Tex. 2017). The bill narrowed the applicability of its outdoor advertising rules to "commercial signs" that will be leased or used to display "any good, service, brand, slogan, message, product, or company." Under the bill, "commercial signs" do not include a sign leased to a business that is located on the same property as the business or on property that is owned or leased for the primary purpose of displaying the sign. Whether the Fifth Circuit would uphold these regulations after the *Reagan* case is unclear.

Reed **Review is Non-Stop**

First, each city should review its ordinances for content neutrality as written. If a regulation has definitions or exceptions that are based on the content of speech, for example an exception to regulation for political signs, questions would be: Does code enforcement need to read a noncommercial sign to regulate it? Does the code enforcement officer need to talk to a person handing out pamphlets, or read the pamphlets themselves, to determine whether a person can pursue their activity at their chosen location? If so, the ordinance and its enforcement need to be changed or at least heavily evaluation for whether it is the least restrictive means of meeting the city's purposes in adopting the regulations.

If your city has already taken the most conservative approach of no content-based sign regulations, including for commercial, and limited your regulations to size, location, and type, there is no change to make. Content neutral regulations will be reviewed under intermediate scrutiny, regardless of the outcome of the commercial versus non-commercial debate. If your sign ordinance continues to regulate commercial signs more strictly than non-commercial, ensure that any such regulations only apply to commercial content and that the purpose for the regulation is clearly supported. Be ready to change the regulations should the cases allowing commercial content to be regulated more strictly be overturned. Regardless of the type of regulations, make sure you have clear reasons for regulating the signs like traffic safety and aesthetics and that your regulations meet those needs. The biggest issue in sign ordinances is underinclusiveness when there are so many exceptions to a rule that the reasons for having the regulation get watered down to the point of defeating the reasons.

Another example: a city ordinance restricting the use of "holiday lights" on certain dates or hours of the day could implicate *Reed.* Here, an argument could be made to the underlying First Amendment reasons in restricting the content of "holidays." This regulation could avoid *Reed* by simply focusing instead on categories of lights (i.e. size, luminosity, string lights, etc.) rather than their content-based function.

1. The first analysis will be if the regulation is content based or not. Non-content based regulations include:
    a. Size
    b. Lighting
    c. Location (right-of-way, trees, poles)
    d. Types of signs (pole, balloons, monuments, digital)
    e. Time of placement (so long as it's not based on the content)
    f. Number of signs per lot
    g. Regulations that regulate the types of signs by zoning district
    h. Condition of signs (dilapidation, destroyed signs)
2. If any of your regulations are content-based, off-premises v. on-premises, limitation on commercial signs being a certain size or digital, exceptions for certain types of signs, or

other language, ensure the definitions and regulations cannot be applied to non-commercial content.

3. Sign regulations that more strictly regulate commercial content are still defensible in Texas but be ready to change these should the courts that cover Texas overturn the cases that allow intermediate scrutiny for commercial regulation.
4. Ensure your regulations serve a clear governmental interest and that there are few to no exceptions that defeat your governmental interest.
5. Ensure that every lot in the City has the right to have some type of signage. *See City of Ladue v. Gilleo*, 512 U.S. 43, 58 (1994).

Conclusion

At the start of each city's review of its sign ordinance, state clearly what your purposes for the regulations are. Then draft or revise regulations that directly address these purposes. The most conservative approach to regulating signs is to only focus on non-content-based regulations and regulate by different types of lots without regard to whether the sign is a real estate sign, construction sign, or political sign. Because there is a split in the circuits on the level of scrutiny for the regulation of commercial content, it is likely that the Supreme Court will take this issue up soon. The Fifth Circuit may also have a case where it needs to directly address the issue. Keep an eye out for these cases, and plan accordingly.

Example Sign Language Modifications

(These are only examples; each city should consult with legal counsel before making modifications to the enforcement or text of ordinances)

Purpose: limiting visual blight from too many signs or dilapidated signs and preventing traffic safety issues by not allowing signs in the right of way.

Political Signs

Standard Language:

Political sign. Any sign which is designed to influence the action of the voters for the passage or defeat of a measure or for the election or defeat of a candidate for nomination or election to any public office, but the sign shall not include the name of the sponsor, the name of the business promoting the activity, or advertising for the business.

Political signs

Political signs shall be regulated as follows:

(a) Size. The size of the on-premises sign shall be limited to a maximum of six square feet.

(b) Number per lot. One sign per candidate or cause per lot or tract of land.

(c) Location. No political sign shall be posted or otherwise affixed to or upon any sidewalk, crosswalk, streetlamp post, hydrant, tree, electric light or tower, telephone pole, wire appurtenance, or upon any lighting system. No political sign may be placed within the right-of-way of public streets or highways within the city.

(d) Lighting. Indirect.

(e) Timing. The sign shall be taken down 72 hours after the election for which it was erected has terminated.

(f) Permit, fee. No permit and no fee shall be required

New Language:

Temporary. A banner, poster, or advertising display constructed of paper, cloth, plastic sheet, cardboard, plywood, or other like materials that appears to be intended to be displayed for a limited period. (*Although this could lead to issues based on who determines temporary intent and how they do so*)

Signs in Residential Districts

(a) No sign shall be allowed in residential districts except for the following categories of signs that comply with the provisions of this chapter and have received approval when necessary:

(1) One temporary sign on any property zoned residential not to exceed nine (9) square feet;

(2) One sign no larger than 8.5 inches by 11 inches in one window on the property at each time;

(3) One additional temporary sign not to exceed nine (9) square feet in size per lot may be located on the owner's property for a period of ninety (90) days per twelve-month period; and

(4) Any sign required by state law or local ordinance.

(b) Signs in this section do not need a permit if they meet the requirements of this section and all other applicable provisions of the sign code.

	Area	Height	Number of signs	Permit	Cite	Cost
Residential Districts						
Residential developments-monument identification sign (small)	18 sq ft	6 ft	1	yes	26.02.001	$200 plus pre-application
Residential developments-monument identification sign (large)	24 sq ft	6 ft	1	yes	26.02.001	$225 plus pre-application
Flags - noncommercial	5' X 8' ft	Flagpole can be up to 25 ft	2	No	26.02.001	N/A
Home occupation	4 sq ft	4 ft	1	No	26.02.001	N/A
Residential - noncommercial signs	4 sq ft	4 ft	None	No	26.02.001	N/A
Residential-address (required)	Letters and numbers 6" to 8"		One (required)	No	26.02.001	N/A
Residential-temporary sign	9 sq ft	9 ft	One	no	26.02.001	N/A
Construction/development sign	48 sq ft	8 ft	One	yes-project completion or 24 months	26.02.001	$50
Traffic-control signs (not MUTCD)	2 sq ft	6 ft from grade	As required	no	26.02.001	N/A

Off-Premises Signs

City example:

(4) Off-premises signs (including billboards) containing commercial advertising of goods, real property, or services.

State Law definition:

(1-a) "Commercial sign" means a sign that is:

(A) intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, except that the term does not include a sign that is leased to a business entity and located on the same property on which the business is located; or

(B) located on property owned or leased for the primary purpose of displaying a sign.
Tex. Transp. Code Section 391.001.