

Ordinance No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS, AMENDING THE CITY OF PFLUGERVILLE, TEXAS CODE OF ORDINANCES, BY AMENDING TITLE XV TITLED LAND USAGE, BY AMENDING CHAPTER 154, TITLED SIGNS, SECTION 154.002 TITLED APPLICABILITY; EFFECT, SECTION 154.003 TITLE DEFINITIONS AND INTERPRETATIONS, SECTION 154.103 TITLED SIGNS EXEMPT FROM REGULATION UNDER THIS CHAPTER AND SECTION 154.108 TITLED SIGNS IN THE PUBLIC RIGHT-OF-WAY; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR A PENALTY OF UP TO \$500; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT WITH THE AMENDED SECTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Pflugerville's sign regulations for the City of Pflugerville are codified as Chapter 154 of the Code of Ordinances; and

WHEREAS, the City Council is authorized to regulate signs by virtue of the Texas Constitution, the City of Pflugerville's police power, Texas Local Government Code Chapter 211 and Texas Local Government Code Chapter 216; and

WHEREAS, it has become necessary to revise the existing sign regulations in a manner that provides the citizens of Pflugerville a content neutral sign code developed and based on the United States Supreme Court decisions of *Reed v. Town of Gilbert*; and

WHEREAS, City Council finds that the amended regulations are necessary and proper for compliance with state and federal law regulating signs ; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Pflugerville, Texas Code of Ordinances, Title XV (entitled "*Land Usage*"), Chapter 154 (entitled "*Signs*"), Section 154.002 (entitled "*Applicability; Effect*"), Section 154.003 (entitled "*Definitions and Interpretation*"), Section 154.103 (entitled "*Signs Exempt From Regulation Under This Chapter*") and Section 154,108 (entitled "*Signs in the Public Right-of-Way*", are hereby amended as detailed herein:

AMENDMENTS TO CHAPTER 154: SIGNS

§ 154.002 APPLICABILITY; EFFECT.

- (A) A sign may be erected, placed, established, painted, created, or maintained in the city only in compliance with the standards, procedures, exemptions, and other requirements of this chapter.
- (B) For sign regulations in the Central Business District, refer to [§155.1305](#) of this code. All applicable fees for signs related to this chapter shall apply for signs in the Central Business District, currently known as the Downtown District Overlay (DD).
- (C) The effect of this chapter as more specifically set forth herein, is:
- (1) To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter;
 - (2) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this chapter, but without requirements for permits;
 - (3) To provide for temporary signs in limited circumstances;
 - (4) To prohibit all signs not expressly permitted by this chapter; and
 - (5) To provide for the enforcement of the provisions of this chapter.

§ 154.003 DEFINITIONS AND INTERPRETATION.

Words and phrases used in this chapter shall have the meanings set forth in this section. Words and phrases not defined in this section but defined in the zoning ordinance shall be given the meanings set forth in the zoning ordinance. Principles for computing sign area and sign height are contained in [§ 154.004](#). All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

ABANDONED SIGN. A sign for which no legal owner can be found.

BANNER. Any sign of lightweight fabric or similar material that is mounted to a building, poles, railings, or other structural parts of the building with or without frames. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

BUILDING MARKER. Any sign cut into a masonry surface of a building or made of bronze or other permanent material.

BUILDING SIGN. Any sign attached to any part of a building, as contrasted to a freestanding sign.

CANOPY SIGN. Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

CHANGEABLE COPY SIGN. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign designed or operated in such a way to allow the display to change electronically is an electronic message sign or a CEVMS and not a changeable copy sign for the purposes of this chapter. A sign designed to display by electronic or mechanical means, only the time or temperature is a “time and temperature” sign and not a changeable copy sign for purposes of this chapter.

CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGN (CEVMS). Any sign which permits light to be turned on or off intermittently or which operate in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an electronic message sign, a light emitting diode (LED) or digital sign and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic device and that is described and identified in the Manual on Uniform Traffic-Control Devices approved by the Federal Highway Administrator as the National Standard.

COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

DILAPIDATED SIGN. Any sign that has become or has been caused to become partially ruined and in need of repairs, as through neglect.

ELECTRONIC MESSAGE SIGN. A sign that includes provisions for programmable electronic message changes.

FLAG. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

FREESTANDING SIGN. Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure.

FREEWAY. A street with a right-of-way width of more than 120 feet.

ILLUMINATED SIGN. Sign illuminated with lights which glare into or upon the surrounding area or any residential area or distract operators of vehicles or pedestrians on the public right-of-way.

INCIDENTAL SIGN. A directional or way-finding sign, secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives without a commercial message.

INSTITUTIONAL PURPOSE. Institutional purpose shall mean primary and secondary schools, churches, hospitals, institutions of higher education and any governmental purpose.

MARQUEE. A shelter projecting from and supported by the exterior wall of a building constructed of rigid materials on a supporting framework. A marquee is distinguished from a canopy in that a marquee is cantilevered, whereas a canopy is supported by posts or other devices beyond the building wall.

MARQUEE SIGN. Any sign attached to, in any manner, or made a part of a marquee. A marquee sign is not a suspended sign.

MOVING SIGN. A sign having visible moving, revolving, or rotating parts, or visible mechanical movement of any kind, except for the movable hands on street clocks, or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for time/temperature/date signs.

MULTITENANT CENTER. A commercial, office or industrial development where there are located several separate business activities having appurtenant shared facilities, such as driveways, parking and pedestrian walkways, and that is designed to provide a single area in which the public can obtain varied products and services. Distinguishing characteristics of a multitenant center may, but need not, include common ownership of the real property upon which the development is located, common wall construction, and multiple occupant use of a single structure.

NIT. A Nit shall mean a measure of luminance with 1 nit equal to 1 candela per square meter (1 cd/m²). An ordinary wax candle generates approximately one candela of luminance.

NONCONFORMING SIGN. Any sign that was erected or permitted prior to the adoption date of this chapter, and that does not conform to the provisions of this chapter.

NONPROFIT. A corporation, no part of the income of which is distributable to a member, director, or officer of the corporation as defined in § 22.001 of the Texas Business Organization Code.

OBSCENE SIGN. A sign displaying any matter in which the dominant theme of the material taken as a whole appeals to the prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value, which the erection or display violates Texas Penal Code Chapter 42.01 Disorderly Conduct.

OFF-PREMISES SIGN. Any sign that advertises a commercial message regarding a commercial activity not located on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained.

ON-PREMISES SIGN. Any sign that advertises a commercial message on the premises where the sign is installed and maintained when such premises is used for business purposes.

PORTABLE SIGN. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; and umbrellas used as advertising.

PRINCIPAL STRUCTURE. The structure in which is conducted the principal use of the zone lot on which it is located. Zone lots with multiple principal uses may have multiple principal structures, but storage structures, garages, and other clearly accessory uses shall not be considered principal structures.

PROJECTING SIGN. Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

RESIDENTIAL SIGN. Any sign located in a district zoned for residential uses that contains no commercial message.

ROOF SIGN. Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

ROOF SIGN, INTEGRAL. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

SETBACK. The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

SIGN CODE APPLICATION AREA. The corporate limits of the city and the area of its extraterritorial jurisdiction as defined by Section 42.021 of the Texas Local Government Code.

STREET. As defined in [Chapter 156](#) of the city's Code of Ordinances [sic].

STREET FRONTAGE. The distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the farthest distant lot line intersecting the same street.

SUSPENDED SIGN. A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface. A suspended sign is not a marquee sign.

TEMPORARY SIGN. Any sign that is used only temporarily and is not permanently mounted.

VACANT. A condition in which all uses have been discontinued for a period of six months or longer, whether with the intent to abandon said use or not. The six-month period does not include the period of time necessary to conclude any litigation related to the condition or to the repair thereof.

WALL SIGN. Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, that is supported by such wall or building, and that displays only one sign surface.

WINDOW SIGN. Any sign, pictures, symbol, or combination thereof, designed to communicate a commercial message that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

ZONE LOT. A parcel of land in a single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning ordinance.

ZONING ORDINANCE. The City of Pflugerville zoning ordinance and site development code set forth in [chapters 157](#) and [155](#), respectively.

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§ 154.103 SIGNS EXEMPT FROM REGULATION UNDER THIS CHAPTER.

The following signs, if located on private real property with the consent of the property owner (unless otherwise stated) are exempt from regulation under this chapter:

- (A) Any public notice, warning or traffic control device required by federal, state, or local law, regulation, or ordinance, including those on public property;

(B) Up to two (2) temporary signs not exceeding an effective area greater than 36 square feet, nor more than eight (8) feet high, which are not illuminated and have no moving parts, posted or erected 60 days or less before an election date and do not remain more than 15 days after an election date.

(C) Up to two (2) temporary signs not exceeding six square feet in area and three feet in height when posted in residential zoning districts, or temporary signs not exceeding 64 square feet in area and 12 feet in height when posted in other zoning districts, when posted during time periods when the property on which the signs are located is for sale or lease and such signs do not remain more than 7 days after the property is sold or leased;

(D) Up to three (3) temporary signs not exceeding six square feet in area and three feet in height when posted at least 100ft or more apart, within the public right-of-way (outside any travel lanes) between the hours of 4:00 p.m. on Fridays and do not remain after 8:00 p.m. on Sundays, and, when posted at the nearest intersection with a collector or arterial street during time periods when residential property located nearest that intersection is being used for a commercial purpose, such as, but not limited to Open House signs.

(E) Up to three (3) temporary signs not exceeding six square feet in area and three feet in height in residential areas containing a commercial message that are erected for less than five consecutive days, such as, but not limited to a Garage or Yard Sale signs.

(F) Up to two (2) signs placed on construction sites not exceeding 64 square feet in area after approval of a site plan, and/or which do not remain erected for more than seven days after the completion of the construction project;

(G) Works of art that do not include a commercial message;

(H) Holiday lights and decorations with no commercial message;

(I) Traffic-control signs on private property, such as stop, yield, and similar signs, the face of which meet Texas Manual on Uniform Traffic Control Devices standards and that contain no commercial message of any sort;

(J) Temporary Signs not exceeding 32 square feet in area and eight feet in height may be erected within 1000 feet of any residential home during a time period the home is being used as a model for the construction of new residential homes.

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§ 154.108 SIGNS IN THE PUBLIC RIGHT-OF-WAY.

(A) No signs shall be allowed in the public right-of-way, except for those specifically licensed or permitted by the city.

(B) Sign Forfeiture. Any sign installed or placed on public property, except in conformance with the requirements of this ordinance, shall be forfeited to the public and subject to confiscation. Owners shall be notified of any Forfeited signs, which shall be held for a period of 30 days for remittitur if claimed. Every sign claimed shall be returned to the owner upon payment of a confiscation fee of \$75 per sign.

(C) In addition to other remedies hereunder, the city shall have the right to recover from the owner and any person placing such a sign the full costs of removal and disposal of such sign.

Section 3. Repealer. This ordinance shall be cumulative of all provisions of the City of Pflugerville, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinance, in which event the conflicting provisions of such Ordinance are hereby repealed.

Section 4. Severability. It is hereby declared to be the intention of the City Council of the City of Pflugerville that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, clause, sentence, paragraph or section.

Section 5. Effective Date. This Ordinance will become effective on its adoption and passage by the City Council.

PASSED AND APPROVED this _____ day of _____, 2016.

CITY OF PFLUGERVILLE, TEXAS

by: _____
JEFF COLEMAN, Mayor

ATTEST:

KAREN THOMPSON, City Secretary

APPROVED AS TO FORM:

GEORGE E. HYDE, City Attorney
DENTON, NAVARRO, ROCHA, BERNAL, HYDE & ZECH P.C.