

ORDINANCE NO. 1-5-09

AN ORDINANCE ESTABLISHING A MORATORIUM ON BILLBOARDS

WHEREAS, Rainsville is a city of about 5,000 people; and

WHEREAS, the City has a small downtown area centered around the intersections of Alabama Highways 35 and 75; and

WHEREAS, most of the land area of the City is residential or rural in character; and

WHEREAS, traffic through the City is significant, with about 15,000 vehicles per day on Alabama 35 (which is also Main Street in Rainsville) east and west of downtown, about 11,000 vehicles per day on Alabama 75 south of downtown and 8,600 vehicles per day on Alabama 75 north of downtown; and

WHEREAS, the City has had sign regulations as part of its zoning ordinance at least since August 31, 1983; and

WHEREAS, the purposes for which those sign regulations were adopted include enabling the public to locate goods, services, and facilities without difficulty and confusion, prevention of the wasteful use of natural resources in competition among businesses for attention, prevention of hazards to life and property, assuring the continued attractiveness of the City, and protection and enhancement of property values; and

WHEREAS, probably because of the City's largely rural character, the City has faced few issues and no significant disputes over signs between the date of adoption of the sign provisions and recent events described below; and

WHEREAS, the City has allowed noncommercial messages to appear on signs erected on private property and has had no substantial disputes over signs erected to express opinions or display other noncommercial messages; and

WHEREAS, in 2008, an attempted application to erect a billboard at the primary intersection in downtown Rainsville led to the filing of a lawsuit against the City in federal court; and

WHEREAS, after consulting with the city attorney and outside counsel retained to assist in the litigation, the City Council has learned that there has been a great deal of sign litigation in the United States since 2000, particularly in the Eleventh Circuit, of which the City and the state of Alabama are a part; and

WHEREAS, the City Council has also learned that the effect of that litigation has been to provide new and more detailed interpretations of the effect of the First Amendment on local sign ordinances; and

WHEREAS, because the City's sign regulations have not been updated in the past few years, the City Council finds that it is both necessary and appropriate to update the sign regulations in order to ensure that it fully conforms with current judicial interpretation of the effects of the First Amendment on local sign ordinances; and

WHEREAS, the City Council has also been advised that its current sign ordinance may not contain sufficient detail to address all of the issues that arise with video boards, electronic message centers, and other sign technology; and

WHEREAS, with the advice of counsel, the City has retained Eric Damian Kelly, Ph.D., FAICP, a lawyer and planner who is a recognized expert on sign regulations in the United States to review and help it to revise the sign provisions of its zoning ordinance; and

WHEREAS, although Dr. Kelly, the city attorney, and J. Bentley Owens, Esq., the attorney retained to assist in the litigation, have all advised the City Council that they believe that the ordinance as drafted supports the denial of the permit for the proposed downtown billboard which is the subject of the pending litigation, they further advised the City Council, however, that they believe that other aspects of the sign section of the zoning ordinance may not be clear or may not fully implement the apparent purpose of the City in adopting the sign provisions; and

WHEREAS, to avoid further disputes or the possible erection of signs that would conflict with the City's purposes in adopting the sign ordinance while the City Council undertakes a comprehensive review and update of the sign ordinance, the City Council finds that it is both necessary and appropriate to adopt a moratorium, prohibiting the erection of most additional permanent signs in the City for a period of one hundred twenty days; and

WHEREAS, the City Council finds that such a moratorium is particularly important because its main business district lies along two heavily-traveled state highways and its main intersection is the site of many turning movements by vehicles moving from one of those highways to the other; and

WHEREAS, that volume of vehicle traffic and those turning movements create a complex pattern of traffic in the heart of the business area where there are also pedestrians and automobiles trying to park and moving in and out of parking lots of existing businesses; and

WHEREAS, the addition of signs to that complex driving environment has potentially significant implications for the safety of drivers and pedestrians alike;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RAINSVILLE, ALABAMA, AS FOLLOWS:

SECTION 1. Notwithstanding Section 5-6-2 of the Zoning Ordinance, no sign with an area larger than ten square feet (10 ft²) shall be erected without a permit.

SECTION 2. No permit shall be granted for the erection, installation, or placement of a permanent sign larger than ten square feet (10 ft²).

SECTION 3. No existing permanent sign shall be expanded or enlarged.

SECTION 4. No existing permanent sign shall be converted to electronic technology of any kind.

SECTION 5. Existing signs may be maintained and repaired as necessary.

SECTION 6. This ordinance, the moratorium it enacts, and the provisions above shall be in effect for a period beginning upon the effective date of this ordinance and ending 120 days later.

SECTION 7. This ordinance shall be effective immediately upon its publication.

Adopted this 5th day of January, 2009.


DONNIE CHANDLER, Mayor

Attest:


JUDY LEWIS, Clerk

CLERK'S CERTIFICATE

I hereby certify that the above and foregoing Ordinance No. 1-5-09 was duly adopted at a regular meeting of the City Council of Rainsville, Alabama, at which a quorum was present, and that it has been published on the 8th day of January, 2009, by publication of the same in The Weekly Post, a newspaper of general circulation in the City of Rainsville, Alabama.


JUDY LEWIS, Clerk