

ORDINANCE NO. 5-04-09

AN ORDINANCE EXTENDING A MORATORIUM ON BILLBOARDS

WHEREAS, after consulting with the city attorney and outside counsel, 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 several years, the City Council finds that it is both necessary and appropriate to update the sign regulation 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, Dr. Kelly, the city attorney, and outside counsel have all advised the City Council that they believe that the ordinance as drafted supports the denial of a permit for installation of a billboard at the intersection of Alabama Highways 35 and 75, they further advised the City Council that they believe that other aspects of the sign regulation ordinance may not be clear or may not fully implement the apparent purpose of the City in adopting the sign provisions; and

WHEREAS, the Rainsville City Council has passed Ordinance Number 1-5-09, An Ordinance Establishing A Moratorium On Billboards, on January 5, 2009, prohibiting the installation and granting of permits for the installation of any sign with an area larger than ten square feet (10 ft²) within the corporate limits of Rainsville for a period of 120 days from the effective date of that ordinance; and

WHEREAS, such Ordinance Number 1-5-09 stated the bases for the need for a moratorium on the installation of signs at that time and all such bases and needs stated therein remain the same at this time; and

WHEREAS, since the time of the passage of Ordinance Number 1-5-09, the City and its attorneys have worked diligently toward the drafting and passage of a new ordinance regulating signs in Rainsville ; and

WHEREAS, the schedule for the enactment of the newly-proposed sign regulations is as follows:

- A. April 22, 2009-the Mayor and Council filled all vacancies on the Rainsville Planning Commission and appointed the Planning Commission to sit as the Zoning Commission for the consideration and proposal to the City Council of new sign regulations;
- B. April 30, 2009-there was published in the newspaper a notice of a meeting of the Zoning Commission for the purpose of considering enactment of new sign regulations;
- C. May 5, 2009-there is scheduled the meeting of the Zoning Commission for the purpose of considering enactment of new sign regulations;
- D. May 14, 2009-the Zoning Commission intends to publish in the newspaper a copy of the full sign regulation ordinance proposed to the Council for enactment by the Zoning Commission, the preliminary report of the Zoning Commission to the City Council, and notice of the Zoning Commission public hearing on this issue scheduled on June 8, 2009;
- E. May 21, 2009-the Zoning Commission intends to publish in the newspaper a synopsis of the sign regulation ordinance proposed by the Zoning Commission, the preliminary report of the Zoning Commission to the Council, and notice of the Zoning Commission public hearing on this issue scheduled on June 8, 2009;
- F. June 8, 2009-the Zoning Commission plans to hold a public hearing on the proposed new sign regulation ordinance and to begin drafting its final report to the Council regarding sign regulation;
- G. June 15, 2009-at its regular meeting, the Council intends to receive and discuss the final report of the Zoning Commission regarding sign regulation;
- H. June 18, 2009-the Council intends to publish in the newspaper a copy of the full sign regulation ordinance proposed to the Council for enactment by the Zoning Commission, the final report of the Zoning Commission, and notice of a public hearing before the Council scheduled for July 13, 2009, regarding the proposed new sign regulation;
- I. June 25, 2009-the Council intends to publish in the newspaper a synopsis of the sign regulation ordinance proposed to the Council for enactment by the Zoning Commission, the final report of the Zoning Commission to the Council

regarding the proposed new sign regulation, and notice of the public hearing before the Council scheduled for July 13, 2009, regarding the proposed new sign regulation;

J. July 13, 2009-the Council intends to hold its public hearing to receive comments of the public, consider the passage of the proposed new sign regulations, and pass and adopt a new sign regulation ordinance;

K. July 16, 2009-the Council intends to publish the newly adopted sign regulation ordinance in the newspaper and for the new ordinance to become effective on this date.

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 an additional period of ninety days from the date of this ordinance; 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; and

WHEREAS, the City Council has set the schedule described above for enactment of new sign regulations and finds that the enactment of a new sign regulation ordinance, and the schedule for enactment of such new regulations, are both necessary and appropriate to ensure the City's regulations fully conform with current judicial interpretation of the effects of the First Amendment on local sign ordinances;

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 within the corporate boundaries of Rainsville, Alabama.

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.

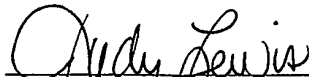
SECTION 6. This ordinance, the moratorium it enacts and extends, and the provisions above shall be in effect for a period beginning upon the effective date of this ordinance and ending ninety (90) days later.

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

Adopted this 4th day of May, 2009.


DONNIE CHANDLER, Mayor

Attest:



JUDY LEWIS, Clerk

CLERK'S CERTIFICATE

I hereby certify that the above and foregoing Ordinance No. 5-04-09 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 7th day of May, 2009, by publication of the same in The Weekly Post, a newspaper of general circulation in the City of Rainsville, Alabama.



JUDY LEWIS, Clerk