

STATE OF ALABAMA)
COUNTY OF DEKALB)
CITY OF RAINSVILLE)

ORDINANCE NO.: 3-15-2021

RAINSVILLE SIGN CODE ORDINANCE

WHEREAS, the City Council of the City of Rainsville, Alabama (“the City Council” and “the City,” respectively) desires to adopt a content neutral sign code;

WHEREAS, this sign code derives from the Washington County, Oregon sign regulations which were found to be content neutral by the United States District Court for Oregon, Portland Division in *Icon Groupe, LLC v. Washington Cnty.*, 2015 U.S. Dist. LEXIS 67682 (D. Or. May 26, 2015);

WHEREAS, this sign code accepts at face value the Supreme Court’s unanimous view that governments may regulate signs;

WHEREAS, the City Council has considered the aesthetic and safety reasons for limiting signage within the City, and the Council has determined that signs can detract from the aesthetic beauty of the City;

WHEREAS, unregulated sign proliferation may contribute to a lowering of commercial and residential property values;

WHEREAS, signs can be detrimental to the safety of motorists in the City;

WHEREAS, the City Council finds that limiting the number, type, and dimension of signs in accordance with the following regulations will serve substantial governmental and community interests;

THEREFORE, BE IT ORDAINED by the City Council of the City of Rainsville, Alabama, while in regular session on Monday, April 19, 2021, at 4:30 p.m. as follows:

Section 5-6, Sign Regulation, of the Zoning Ordinance of the City of Rainsville, Alabama, shall be amended and replaced *in toto* as follows:

Section 5-6.

Section 5-6-1. Findings, purpose and intent; interpretation.

(a) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article must be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of other provisions of this article which can be given effect without the invalid provision.

(b) Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the City Council or Zoning Board of Adjustment.

(c) A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

(d) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(e) These regulations distinguish between portions of the City designed for primarily vehicular access and portions of the City designed for primarily pedestrian access.

(f) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

(g) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

(h) These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the State of Alabama, the federal

government or this City. The inclusion of “government” in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

Section 5-6-2. Definitions.

(a) *Administrative Officer.* The zoning official, building official, building inspector, and/or such other agent, officer, or employee of the City designated by the Mayor to perform the duties prescribed by this Code.

(b) *Oversized Sign.* Any sign with a sign face measuring more than eight (8) feet in length, width, height, or along any single dimension.

(c) *Digital.* A sign that is static and changes messages by any electronic process or remote control.

(d) *Electric.* Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

(e) *Flashing.* Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Code any moving illuminated sign must be considered a flashing sign.

(f) *Flat Wall (Façade-Mounted).* A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

(g) *Freestanding.* A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

(h) *Government Sign.* A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner’s rights.

(i) *Ground Mounted.* A sign which extends from the ground, or has support which places the bottom of the sign less than two (2) feet from the ground.

(j) *Highway Sign.* A Freestanding sign, Integral Sign or Flat Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.

(k) *Integral.* A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

(l) *Marquee.* A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

(m) *Portable Sign.* Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

(n) *Projecting.* A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

(o) *Roof Sign.* A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

(p) *Sign.* A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building, cloth, bunting, other material, or other outdoor surface. Signs located completely within an enclosed building, and not exposed to view from

a street, must not be considered a sign. Each display surface of a sign or sign face must be considered to be a sign.

(q) *Sign area.* The space enclosed within the extreme edges of the sign for each sign face, not including the supporting structure or, where attached directly to a building wall or surface, the space within the outline enclosing all the characters of the words, numbers or design.

(r) *Sign face.* The entire display surface area of a sign upon, against or through which copy is placed.

(s) *Temporary.* A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time. Temporary signs include vehicle signs.

(t) *Vehicle sign.* Any sign attached to or displayed on a vehicle or on a trailer capable of being pulled by a vehicle.

Section 5-6-3. Prohibited Signs.

(a) Signs are prohibited in all Districts unless constructed pursuant to a valid building permit when required under this Code.

(b) Signs are required to be permitted by the City unless specifically exempted under this Code.

(c) A property owner may not accept a fee for posting or maintaining temporary sign and any sign that is posted or maintained in violation of this provision is prohibited.

(d) Flashing signs, highway signs, bench signs, and digital signs are prohibited in all Districts.

(e) Oversized Signs, except when expressly authorized by this Code or pursuant to Section 5-6-6(c).

Section 5-6-4. Authorized Signs.

The following signs are authorized in every District:

(a) The signs described and regulated in subparagraphs (1) through (3) of this subsection (a) when erected and maintained pursuant to law.

(1) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and if not adopted by this state with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.

(2) Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification must be on the curb and may be on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier must be located on the mailbox or another suitable device such that it is visible from the street.

- (3) Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property.
 - (4) The signs described in subparagraphs (1) through (3) of this subsection (a) are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving the requirements of emergency response and protecting property rights or the rights of persons on property.
- (b) Temporary Signs, Generally.
- (1) Temporary signs allowed at any time:

- i. A property owner may place one or more signs so long as the total sign face area does not exceed sixteen (16) square feet on the property at any time. When permitted by this Ordinance, vehicle signs shall not be included in the calculation of sign face area set forth by this paragraph.
- ii. A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.

(c) For purposes of this Section 5-6-4, the lessee of a property is considered the property owner as to the property the lessee holds the sole right to occupy. If there are multiple lessees of a property, then each lessee must have the same rights and duties as the property owner as to the property the lessee leases and has the sole right to occupy and the size of the property must be deemed to be the property that the lessee has the sole right to occupy under the lease.

(d) Signs not in an enclosed building and not exposed to view from a street or public right of way, public place or other property such as those not visible to a person from a public right of way, public place or other property.

(e) Flags as follows:

- (1) Single-family Zoning Districts. In a single-family zoning district, two flags and one flag pole per premises. Each flag must be a maximum of 15 square feet in area. The flag pole must be a maximum of 25 feet in height or no higher than the highest point of the principal building's roof, whichever is lower. Flag poles must meet the minimum yard setback requirements for a principal building.
- (2) Nonresidential Zoning Districts. In a non-residential zoning district, one flag per 25 feet of frontage on a right-of-way up to a maximum of six flags and six flag poles per premises. Each flag must be a maximum of 24 square feet in area. Flag poles must be a maximum of 50 feet in height but no higher than the highest point of the nearest principal building's roof on the premises. Flag poles must meet the minimum yard setback requirements for a principal building or a minimum of ten feet whichever is more restrictive.

Section 5-6-5. Permit required.

(a) *In general.* A sign permit is required prior to the display and erection of any sign except as provided in Section 5-6-5(e).

(b) Application for permit.

(1) An application for a sign permit must be filed with the Administrative Officer on forms furnished by that department. The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances. An application for a temporary sign must state the dates intended for the erection and removal of the sign. An application for any sign must state the date when the owner intends to erect it.

(2) The Administrative Officer or designee must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application. Any application that complies with all provisions of this code, the zoning ordinance, the building code, and other applicable laws, regulations, and ordinances must be approved. Any sign application not acted upon within 45 days, shall be deemed granted but shall be subject to revocation if the Administrative Officer determines that the sign does not comply with the requirements of this Code.

(3) If the application is rejected, the Administrative Officer must provide a list of the reasons for the rejection in writing. An application must be rejected for non-compliance with the terms of this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

(c) *Permit fee.* A nonrefundable fee as set forth in the uncodified fee schedule adopted by the City Council must accompany all sign permit applications.

(d) *Duration and revocation of permit.* If a sign is not installed and a use permit issued within six months following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit must be void. The permit for a temporary sign must state its duration, not to exceed 30 days unless another time is provided in this code or the zoning ordinance. The City may revoke a sign permit under any of the following circumstances:

(1) The City determines that information in the application was materially false or misleading;

(2) The sign as installed does not conform to the sign permit application;

(3) The sign violates this code, the zoning ordinance, building code, or other applicable law, regulation, or ordinance; or

(4) The Administrative Officer determines that the sign is not being properly maintained or has been abandoned.

(e) *Permits not required.* A sign permit is not required for signs:

(1) Described in Section 5-6-4 with a total area of up to thirty-two (32) square feet and a maximum height of eight (8) feet; or

(2) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties; provided, that all such signs must be removed no more than ten (10) days after their purpose has been accomplished.

(f) *Appeals.* If the Administrative Officer denies a permit the applicant may appeal to the Zoning Board of Adjustment as provided by the City's zoning ordinance. Any such appeal shall be heard and decided within 75 days of the date of filing of the appeal.

Section 5-6-6. Specific Sign Regulations by District

The following sign regulations must apply to all Use Districts as indicated.

- (a) Residential Districts and Agricultural Districts
 - (1) *Scope*. This subsection (a) must apply to all Residential Districts and Agricultural Districts.
 - (2) *Size*.
 - i. When signs are authorized on a property, the total sign face area must not exceed seventeen (17) square feet on the property at any time.
 - ii. For Residential Developments (including subdivision identification) the maximum size and number of signs that the owner or owners of the residential development may erect and maintain at the entrances to the development must be controlled according to the following:
 - a. Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.
 - b. Residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.
 - c. Residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet.
 - (3) *Location*. Permitted signs may be anywhere on the premises, except in a required side yard or within ten (10) feet of a street right-of-way.
 - (4) *Height*. The following maximum heights must apply to signs:
 - i. If ground-mounted, the top must not be over four (4) feet above the ground; and
 - ii. If building mounted, must be flush mounted and must not project above the roof line.
 - (5) *Illumination*. Illumination if used must not be blinking, fluctuating or moving. Light rays must shine only upon the sign and upon the property within the premises.
 - (6) The following signs are not allowed: Highway Signs, Portable Signs, Marquee Signs, Digital Signs, Projecting Signs, and Vehicle Signs.
- (b) Commercial Districts
 - (1) *Scope*. This subsection (b) must apply to all Commercial Districts.
 - (2) *Number and Size*. For each lot or parcel a sign at the listed size may be authorized:

- i. All Commercial District signs must not exceed thirty-five (35) square feet.
- ii. If not otherwise regulated as to maximum sign area in this code, signs are governed by the following:

| Maximum Sign Area | Street Frontage |
|-------------------|-----------------|
| 20 sq. ft. | 85 ft. or less |
| 25 sq. ft. | 86-90 ft. |
| 30 sq. ft. | 91-99 ft. |
| 35 sq. ft. | 100 ft. or more |

(3) *Location.*

- i. Flat Wall Signs may be located on any wall of the building.
- ii. Freestanding Signs must have a minimum clearance of eight (8) feet six (6) inches above a sidewalk and fifteen (15) feet above driveways or alleys.
- iii. One Freestanding or Ground-Mounted sign per lot or parcel except as provided for Residential Developments may be located anywhere on the premises except as follows:
 - a. A ground-mounted sign must not be located in a required side yard, rear yard or within five (5) feet of a street right-of-way.
 - b. A freestanding sign must not be located in a required side or rear yard. A freestanding sign may project up to the street right-of-way provided there is a minimum ground clearance of eight (8) feet six (6) inches and provided the location complies with the Manual on Uniform Traffic Control Devices.
 - c. Marquee Signs or signs located on or attached to marquees must have a minimum clearance of not less than eight (8) feet six (6) inches (8' 6"). The maximum vertical dimension of signs must be determined as follows:

| Height above Grade | Vertical Dimension |
|--------------------|--------------------|
| 8' 6" up to 10' | 2' 6" high |
| 10' up to 12' | 3' high |
| 12' up to 14' | 3' 6" high |
| 14' up to 16' | 4' high |
| 16' and over | 4' 6" high |

- d. Wall signs must not extend above the top of a parapet wall or a roofline at the wall, whichever is higher.

(4) *Height.*

- i. Ground-mounted signs must not exceed four (4) feet in height from ground level.
- ii. Freestanding signs must not exceed twenty-eight (28) feet in height from ground level.

(5) *Illumination*. Must be as provided in subsection (e).

(c) Industrial

(1) *Scope*. This subsection (c) must apply to the Industrial District.

(2) *Number and Size*.

- i. One (1) sign for each street frontage, each with a maximum area of five (5) percent of the total square footage of the face of the building facing that street frontage must be permitted.
- ii. If the lot or parcel is improved with a permanent, permitted structure, one freestanding or ground-mounted sign not exceeding fifty (50) square feet per lot or parcel.
- iii. The maximum size and number of signs that the owner or owners of an Industrial Park development may erect and maintain at the entrances to the development must be controlled according to the following:
 - a. A maximum of two (2) signs of three hundred (300) square feet per face must be permitted for industrial parks or complexes of less than ten (10) acres;
 - b. A maximum of three (3) signs of four hundred (400) square feet must be permitted for complexes of ten (10) acres or more.

(3) *Location*. Must be as provided in Section 5-6-6(b)(3).

(4) *Illumination*. Must be as provided in subsection (e).

(d) Supplemental Criteria in all Districts

(1) *Temporary Signs*. In addition to size or number requirements that are set forth elsewhere in this Ordinance, temporary signs are subject to the following standards:

- i. Must not be located within any right-of-way whether dedicated or owned in fee simple or as an easement;
- ii. Must only be located on property that is owned by the person whose sign it is and must not be placed on any utility pole, street light, similar object, or on public property;
- iii. Must not be illuminated except as allowed in Section 5-6-6(a)(5) or 5-6-6(e) based on the District in which the sign is located; and

- (2) *Integral Signs.* There are no restrictions on sign orientation including whether it is freeway-oriented. Integral signs must not exceed seventy-two (72) square feet per façade. Integral signs may be illuminated externally but must not be illuminated internally.
- (3) *Private Traffic Direction.* Illumination of signs erected as required by the Manual on Uniform Traffic Control Devices must be in accordance with subsection (e). Horizontal directional signs flush with paved areas are exempt from these standards.
- (4) *Vehicle Signs.* When permitted by this Ordinance, vehicle signs must have a sign face measuring no more than eight (8) feet in length, width, height, or along any single dimension.

(e) *Illumination.* No sign must be erected or maintained which, by use of lights or illumination, creates a distracting or hazardous condition to a motorist, pedestrian or the general public. In addition:

- (1) No exposed reflective type bulb, par spot or incandescent lamp, which exceeds twenty-five (25) Watts, must be exposed to direct view from a public street or highway, but may be used for indirect light illumination of the display surface of a sign.
- (2) When neon tubing is employed on the exterior or interior of a sign, the capacity of such tubing must not exceed three hundred (300) milliamperes rating for white tubing or one hundred (100) milliamperes rating for any colored tubing.
- (3) When fluorescent tubes are used for the interior illumination of a sign, such illumination must not exceed:
 - i. Within Residential and Agricultural Districts: Illumination equivalent to four hundred twenty-five (425) milliamperes rating tubing behind a Plexiglas face with tubes spaced at least seven inches, center to center.
 - ii. Within land use districts other than Residential or Agricultural: Illumination equivalent to eight hundred (800) milliampere rating tubing behind a Plexiglas face spaced at least nine (9) inches, center to center.

(f) *Prohibited Signs.* The following signs or lights are prohibited which:

- (1) Are of a size, location, movement, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal;
- (2) Have blinking, flashing or fluttering lights or other illuminating devices which exhibit movement;
- (3) Are roof signs except as expressly allowed herein;
- (4) Obstruct vision in a space within 30 feet of any street corner and between two and one-half (2 ½') feet and nine (9') feet above the ground.
- (5) Are portable signs that do not comply with the location, size or use restrictions of this Code.

(g) *Procedures.* Applications for a sign permit must be processed through the Administrative Officer.

(h) *Nonconformity and Modification.* Any sign that was approved or in existence on March 15, 2021, and was legal pursuant to the City's previous sign regulations, variances, or agreements, will be exempt from the provisions of this Ordinance. The structure, dimensions, location, and/or other physical characteristics of any such sign shall not be changed without first complying with this Ordinance.

(i) *Compliance.* Any sign which is altered, relocated, or replaced after March 15, 2021, must comply with all provisions of this Code.

Section 5-6-7. Violations declared misdemeanors.

A violation of this Ordinance shall be punishable by a fine not to exceed the sum of five hundred (\$500) for each offense, and if a willful violation, by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.

Section 5-6-8. Severability.

The provisions of this Ordinance are severable so that if any provision hereof is declared unconstitutional, void, or invalid by a court of competent jurisdiction, all other provisions hereof shall not be affected by such declaration and shall remain in full force and effect as though the unconstitutional, void or invalid provision had not been included in the Ordinance as originally adopted.

Section 5-6-9. Effective Date

This Ordinance shall become effective in the City of Rainsville, Alabama, immediately upon its adoption and publication according to law.

The above and foregoing was read, adopted, and approved on the 19th day of April, 2021 by unanimous vote of the Mayor and City Council of the City of Rainsville, Alabama.

APPROVED BY:

/s/ _____
Rodger Lingerfelt, Mayor
City of Rainsville, Alabama,
a Municipal Corporation

ATTESTED BY:

City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
DEKALB COUNTY)
CITY OF RAINSVILLE)

I, Kelly Frazier, City Clerk of City of Rainsville, Alabama, do hereby certify that the above and foregoing Ordinance is a true and correct copy of the Ordinance duly adopted by the Mayor and City Council of the City of Rainsville, Alabama on the 19th day of April, 2021.

Witness my hand and seal of office this 19th day of April, 2021.

City Clerk of the City of Rainsville, Alabama