

City of Houston, Texas, Ordinance No. 2022-33

**AN ORDINANCE PROVIDING A REVIEW PERIOD FOR CHAPTER 46 OF THE HOUSTON BUILDING CODE, THE HOUSTON SIGN CODE; TEMPORARILY PROHIBITING THE ISSUANCE OF PERMITS FOR AND THE ERECTION, CONSTRUCTION, RECONSTRUCTION, PLACEMENT, RELOCATION, ALTERATION OR USE OF SIGNS GOVERNED BY CHAPTER 46 DURING SAID REVIEW PERIOD; PRESERVING THE SIGN CODE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

\* \* \* \* \*

**WHEREAS**, on May 8, 1980, the City Council of the City of Houston, Texas adopted Ordinance No. 80-351, which approved a new Chapter 46 to the Building Code entitled "Sign Code" (hereinafter the "Sign Code"); and,

**WHEREAS**, the City Council, in adopting said comprehensive Sign Code, found and determined that the unregulated proliferation of signs and billboards presented dangers to traffic, diminished property values of adjacent property, and generally threatened the health and safety of the citizens of the City of Houston, Texas; and

**WHEREAS**, the City Council finds and determines that the increased growth in population of the City since the adoption of the Sign Code, and the accompanying growth in traffic congestion, population density, and traffic speed, would significantly increase the danger to the traveling public without comprehensive regulation of signs and the distraction associated therewith; and

**WHEREAS**, the City Council finds and determines that advances in sign technology since the adoption of the Sign Code, such as moving message signs and ultra-luminescent signs, likewise significantly increase the risk of driver distraction if unregulated; and

**WHEREAS**, the City Council finds and determines that since the adoption of the Sign Code the City of Houston, in partnership with such public service organizations as Scenic Houston, the Audubon Society, and other similar groups, has engaged in numerous expensive and extensive beautification projects designed to preserve and enhance adjacent property values and to enhance the overall desirability and livability of the City, which would be adversely affected by the unregulated proliferation of signs; and

**WHEREAS**, for the reasons stated the City confirms that the comprehensive regulation of signs is necessary to protect the health, safety, and welfare of the citizens of the City of Houston; and

**WHEREAS**, the City Council has, since the adoption of the Sign Code, periodically adopted revisions to the Code to address advances in sign technology and to adhere to advances in the law applying to the regulation of signs; and

**WHEREAS**, recent opinions by the U.S. Supreme Court and Federal Courts of Appeal, if sustained, may again require the City to undertake further revisions to the Sign Code; and

**WHEREAS**, there is currently pending before the U.S. Supreme Court a case styled *City of Austin, Texas v. Reagan National Advertising of Texas Inc.* ("Reagan"), an appeal of *Reagan Nat'l Advert. of Austin, Inc. v. City of Austin*, 972 F.3d 696, 699 (5th Cir. 2020), the outcome of which may clarify the need for the City to consider further revisions to the Sign Code; and

**WHEREAS**, because of issues raised in *Reagan*, the City Council determines there is a need for a Review Period to allow the City to review the City's Sign Code in light of the pending Supreme Court opinion and to implement any regulatory changes necessary to comply with the decision of the Court; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:**

**Section 1.** That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2.** The following provisions shall apply to all signs, as defined in Section 4602 of the Houston Sign Code:

Section 2. The following provisions shall apply to all signs, as defined in Section 4602 of the Houston Sign Code:

- (1) That there is hereby designated a Review Period, as defined herein, to enable the City Attorney and the City Council to review the Houston Sign Code in response to the opinion issued by the U.S. Supreme Court in *City of Austin, Texas v. Reagan National Advertising of Texas Inc.* and to undertake any necessary amendments to the Code as a result of said opinion.
- (2) The Review Period shall be defined as that period extending from and after the issuance of any formal order or opinion by the U.S. Supreme

Court in that case styled City of Austin, Texas v. Reagan National Advertising of Texas Inc., and for an additional sixty (60) days thereafter. Provided, however, the City Council may at any time by subsequent action, extend, shorten, or repeal the Review Period adopted herein.

- (3) During the Review Period, no new permits shall be issued for the erection, construction, reconstruction, alteration, relocation, revision, or use of new or existing signs, nor shall any application be accepted for the erection, construction, reconstruction, alteration, relocation, revision, or use of any sign subject to the provisions of the Houston Sign Code. Current sign permits set to expire during the Review Period will instead expire 90 days after their original expiration dates.
- (4) During the Review Period, it shall be unlawful to erect, construct, reconstruct, alter, relocate, revise, or use any sign or sign structure regulated by or subject to the terms and provisions of the Houston Sign Code for which a permit has not been issued prior to the date of the Review Period. Failure to comply with this provision shall subject the violator to any and all enforcement provisions of the Houston Sign Code.
- (5) This section does not apply to the issuance of a permit during the Review Period for a sign damaged to the extent of affecting its structural integrity rendering it unsafe, provided that the damage occurred no earlier than 14 days prior to the commencement of the Review Period, and provided the issuance of the permit complies with all applicable provisions of the Sign Code, including but not limited to Sections 4605(e)(5) and 4607.

- (6) This section does not apply to the application for sign permits by the holder of a valid permanent Certificate of Occupancy issued for nonresidential purposes, provided such certificate is issued due to a new tenancy, and the signs would be associated exclusively with the site of the new tenancy. Such holder may secure a permit for provisional signs only, valid for no more than 120 days, and otherwise complying with the provisions of Sections 4603 and 4605(b)(12) of the Sign Code as if permits for permanent signs on the site had been issued under the name designated on the certificate.

**Section 3.** That failure to comply with this Ordinance shall subject the violator to those penalties and other remedies specified in the Sign Code, including prosecution in municipal court, forfeiture of bond, revocation of permit, and any other enforcement process available under the Sign Code or otherwise available under the law. The City Attorney is hereby authorized to take all actions, both legal and equitable, including filing an action in a court of competent jurisdiction for injunctive relief, as the City Attorney shall deem necessary to assure compliance with this Ordinance.

**Section 4.** That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or

invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

**Section 5.** That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor; however, in the event that the Mayor fails to sign this Ordinance within five days after its passage and adoption, it shall take effect in accordance with Article VI, Section 6, Houston City Charter.

**PASSED AND ADOPTED** this 12<sup>th</sup> day of January, 2022.

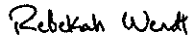
**APPROVED** this 12<sup>th</sup> day of January, 2022.

  
Mayor of the City of Houston

Pursuant to Article VI, Section 6, Houston City Charter, the effective date of the foregoing Ordinance is \_\_\_\_\_.

\_\_\_\_\_  
City Secretary

DocuSigned by:



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Prepared by Legal Dept. \_\_\_\_\_

RAW:JGH:AS:asw 1/21/2022 Assistant City Attorney

Requested by Arturo G. Michel, City Attorney

L.D. File No. 0392100274001

Meeting 1/12/2022

Aye	No	
✓		<b>Mayor Turner</b>
....	....	<b>Council Members</b>
✓		Peck
✓		Jackson
✓		Kamin
✓		Evans-Shabazz
✓		Martin
✓		Thomas
✓		Travis
✓		Cisneros
✓		Gallegos
✓		Pollard
✓		Castex-Tatum
✓		Knox
✓		Robinson
✓		Kubosh
✓		Plummer
✓		Alcorn
Caption	Adopted	

Captions Published in DAILY COURT REVIEW  
Date: 1/18/2022