



**Harker Heights
Planning and Zoning
& Commission
Meeting & Workshop**

**Wednesday,
August 29, 2018
5:30 P.M.**



**PLANNING & ZONING COMMISSION
WORKSHOP & MEETING AGENDA
HARKER HEIGHTS CITY HALL
WEDNESDAY, AUGUST 29, 2018 - 5:30 P.M.**

Notice is hereby given that, beginning at 5:30 P.M. on August 29, 2018, the Planning and Zoning Commission (P&Z) of the City of Harker Heights, Texas will hold a Workshop; then, beginning at 6:30 P.M. on August 29, 2018, and continuing from day to day thereafter if necessary the Planning and Zoning Commission (P&Z) of the City of Harker Heights, Texas, will hold a Meeting in the Kitty Young Council Chambers of the Harker Heights City Hall at 305 Millers Crossing, Harker Heights, Texas 76548. The subjects to be discussed are listed in the following agenda:

WORKSHOP AGENDA

- I.** Convene Workshop at 5:30 P.M.
- II.** New Business:
 1. Receive and discuss a presentation by Staff regarding the potential amendments to the City of Harker Heights Code of Ordinances to prohibit Parking of Any Vehicles or Trailers on Unimproved Surfaces.
 2. Receive and discuss a presentation by staff regarding the potential amendments to the City of Harker Heights Code of Ordinances to revise the existing sign code.
- III.** Adjourn Workshop.

MEETING AGENDA

- I.** Convene Regular Meeting of the Planning and Zoning Commission and establish a quorum.
- II.** Approval of Minutes from the Regular Planning and Zoning Meeting held on July 25, 2018.
- III.** Recognition of Affidavits for Conflict-of Interest.
- IV.** Report on Development Activity.
- V.** Report on City Council actions results of the August 14, 2018 meeting.
- VI.** Public Hearings:

1. **Z18-11** Conduct a public hearing to discuss and consider recommending an ordinance to change zoning designation from R-1 (One-Family Dwelling District) to B-4 (Secondary and Highway Business District) on property described as a 5.5 acre tract of land in Bell County, Texas, being part of the Uriah Hunt Survey, Abstract No. 401, and the land herein described being part of a called 44.337 acre tract conveyed to Anderson Ortega, Jr. and wife, Janie J. Ortega, of record in Volume 1985, Page 253, Deed Records of Bell County, Texas, identified as Property ID# 81043, generally located at 13950 E. Knights Way, Harker Heights, Bell County, Texas.

VII. Old Business:

1. Z18-12 Conduct a public hearing to discuss and consider recommending an ordinance to change zoning designation from R-1 (One-Family Dwelling District) to R-1M (One-Family Manufactured Dwelling District) on property described as FIVE FEATHERS ADDITION, BLOCK 001, LOT 0002, identified as Property ID# 185944, generally located at 2004 Warriors Path , Harker Heights, Bell County, Texas.
2. **P18-120** Discuss and consider a request for Preliminary/Final Plat approval on property described as 5.5 Acre tract of land in Bell County, Texas, being part of the Uriah Hunt Survey, Abstract No. 401, and the land herein described being part of a called 44.337 acre tract conveyed to Anderson Ortega, Jr. and wife, Janie J. Ortega, of record in Volume 1985, Page 253, Deed Records of Bell County , Texas, identified as Property ID# 81043, generally located at 13950 E. Knights Way, Harker Heights, Bell County, Texas.

VIII. Citizens to be heard.

IX. Reports from Commissioners.

X. Staff Comments.

1. Discuss Holiday Schedule for Fiscal Year 2018-2019.

XI. Adjournment.

Posted: August 24, 2018

Time: 10:00 A.M.

Ty Hendrick

Ty Hendrick
Planning and Development Administrative Assistant

MODEL SIGN ORDINANCE¹
TEXAS

Ensure that as part of your sign ordinance revision process that the City incorporates safety, traffic, and aesthetics studies or otherwise makes determinations of governmental purpose, and how your ordinance revisions are narrowly tailored to those purposes. Each City must create its own preamble with "Whereas" clauses that should include each City's studies and purposes.

ARTICLE __. - SIGNS

DIVISION 1 — GENERAL PROVISIONS

Section 1: Findings, Purpose and Intent, and 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 ordinance is to regulate the size, 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 preservation of the character of the various neighborhoods, the creation of an attractive and harmonious community, and protection against interference with the historic character of designated areas, including the downtown district. This ordinance allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This ordinance shall not be interpreted in a manner inconsistent with the United States Constitution First Amendment guarantee of free speech. If any provision of this ordinance is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this ordinance that can be given effect without the invalid provision.
- (b) Signs not expressly permitted as being allowed by right or by permit under this ordinance, by specific requirements in another portion of this Ordinance, by master sign plan or agreement, or otherwise expressly allowed by the City Council or Board of Adjustment are not allowed within the City Limits or the Extraterritorial Jurisdiction.
- (c) These sign regulations are intended to: (1) promote compatibility with the use of the property to which the signs are appurtenant; (2) promote compatibility with the landscape and architecture of surrounding buildings; (3) be appropriate to the activity to which they pertain; (4) ensure that signs are not distracting to motorists; and (5) ensure that all signs are constructed and maintained in a structurally sound, safe, and attractive condition.
- (d) These regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the City Limits or Extraterritorial Jurisdiction 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.

¹ This ordinance is based on the IMLA Model Sign Ordinance, signs ordinances from various Texas cities, and on federal and state cases and laws from the past thirty years.

(e) 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.

Section 2: Sign Code.

This chapter shall be known as the "Sign Code."

Section 3: Geographic Scope and Applicability.

This Ordinance applies to all property within the incorporated municipal boundaries (i.e., City Limits) and the Extraterritorial Jurisdiction (ETJ) as they exist at the time this Ordinance is adopted and as may be modified in the future.

Section 4: Definitions.

Sign. A structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other object that is designed, intended, or used that includes text or images designed to communicate. Signs located completely within an enclosed building and not exposed to view from a street shall not be considered a sign. Each display surface of a sign or sign face must be considered to be a sign.

Commented [LM1]: Law: *Reed v Town of Gilbert*. Each City must ensure all of its definitions, including the definition of Sign, does not require reading of the Sign except to determine whether it is commercial or non-commercial.

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.

Sign Administrator. The officer appointed by the city manager with the authority to enforce this Ordinance. The City Manager or designee shall review sign regulations and applications. In the absence of designation by the city manager, the city manager shall serve as the sign administrator. The term also includes any person designated to act on behalf of the sign administrator.

Commented [LM2]: Note: This should be the person at the City who runs the day-to-day operations. The authority can then designate the person they would like to be in charge of signs. This can be a city planner, deputy city manager, code enforcement officer, or whoever seems appropriate.

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

Applicant. The person or entity requesting sign permit approval, a variance, or a master sign plan from the City. All applicants must provide sufficient proof, to be determined by the sign administrator, showing a real property ownership interest in the property on which the sign will be located or sufficient proof of authorization from the real property owner for sign placement on the property.

Billboard. A sign that is freestanding, attached to or part of a building, and is an off-premises sign that is designed for a change in copy, so that the characters, letters, display, or illustrations can be changed or rearranged within a fixed sign face.

Commented [LM3]: Note: See definition for Off-premise sign below.

Building. A building means any structure built for the support, shelter and enclosure of persons, animals, goods, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Commission. The planning and zoning commission of the City.

Dilapidation. Dilapidation includes any sign where elements of the sign area or background have portions of the finished material missing, broken, or illegible; where the structural support is visibly bent, broken, dented, rusted, corroded, or loose; or where the sign or its elements are not in compliance with the adopted electrical code and/or the building code.

Downtown District. Central business district in the City designated as the Downtown District by Ordinance and in the Zoning Map.

Electronic Sign. Any sign for which the text, letters, numbers, pictures, or symbols forming the informational portion of the sign consists of flashing, intermittent, or moving lights, including any LED screen or any other type of video display. This definition does not include signs that have internal or indirect illumination that is kept stationary or constant in intensity and color at all times when such sign is in use or any government sign located within the right-of-way that functions as a traffic-control device and that is described and identified in the Texas Manual on Uniform Traffic-Control Devices.

ETJ. Extraterritorial Jurisdiction of the City as created and authorized under Chapter 42 of the Texas Local Government Code.

Façade. The principal face of a building, including parapet walls and omitted wall lines, or any part of a building which encloses or covers usable space. Where separate faces are oriented in the same direction, or in directions within 45 degrees of one another, they are to be considered as part of a single façade.

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.

Indirect Illumination. A light source not seen directly. The term includes a source of illumination which is not a part of the sign or the sign structure that provides light for the sole purpose of making the sign visible when natural light is not sufficient.

Inflatable Sign. An inflatable device, with or without a message, figure, or design attached to its surface designed to attract attention.

Logo. Graphic symbols used to represent or identify a commercial, institutional, or non-profit entity or organization.

Commented [LM4]: Best Practice: An example of how districts can be treated differently. Some areas of the City may warrant stricter sign requirements.

Commented [LM5]: Note: Regulating government speech differently from other types is still a gray area. However, using government signs is one way to require address signs without worrying about having a content-based exception.

Major Thoroughfare. Any public right-of-way designated as a major thoroughfare by the ordinance of the City, as amended.

Marquee Sign. A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

Monument Sign. A sign permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted to a pole or part of a building. Pole(s) may be used to construct a monument sign so long as the poles are not visible below the sign.

Off-premise Sign. Any commercial sign that advertises a business, person, activity, goods, products, or services not located on the property where the sign is installed, or that directs persons to a location other than the property where the sign is located.

Pole Sign. A sign that is permanently supported in a fixed location by a structure of poles, posts, stakes, uprights, or braces from the ground and is not supported by a building, fence, vehicle, base structure, or other support.

Portable Sign. Any sign without a permanent foundation, or otherwise permanently attached to a fixed location, that 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.

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

Property Owner. The owner of the property on which a sign is located. A lessor may have the same rights and authority as the Property Owner if given such authority through written agreement with the Property Owner.

Residential Development. A residential building project that includes multiple residences, also referred to as a neighborhood or subdivision.

Responsible Party. The owner/operator of the business being identified on the sign; the owner of the property upon which the sign or sign structure is located; the owner of the sign or sign structure; the person who installs a sign or sign structure, or contracts with a third party to accomplish the installation; and/or the person who retrieves a sign from the impound.

Right-of-way. The area on, below, or above a public road, highway, street, public sidewalk, alley, waterway, or utility easement in which a governmental entity has an interest.

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.

Commented [LM6]: Law: Commercial is intermediate scrutiny under *Contest Promotions, LLC v. City & Cty. of S.F.*, No. 17-15909.13,14 (9th Cir. Aug. 16, 2017); *Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 566, 606 (1980).

Commented [LM7]: Best Practice: Figure out who has the authority to request a sign permit and who will be given a citation if a sign regulation is violated.

Vehicle Sign. Any sign attached to or displayed on a vehicle.

Wall sign. A sign painted on or otherwise made an integral part of a wall. Typically a wall sign is on the same plane as the wall (i.e. flush with the wall surface). The term does not include a sign that can be removed from the wall and remain substantially intact (e.g., banners or projecting signs as they are defined in this Ordinance).

Section 5: Prohibited Signs.

(a) All Signs are prohibited in the city and the extra territorial jurisdiction unless:

- (1) Constructed, maintained, structurally altered, or improved pursuant to a valid permit when required under this Ordinance; and
- (2) Expressly authorized under this Ordinance.

Signs which cannot be expressly authorized include:

- (1) Signs are prohibited to be located in or projected over any public right-of-way or across the public right-of-way line extended across a railroad right-of-way, except when attached to and projecting no more than 18 inches from a building wall legally located at or near the right-of-way line in the City Limits or in the Extraterritorial Jurisdiction or are an authorized marquee sign attached to a building.
- (2) Portable Signs.
- (3) Electronic Signs.
- (4) Off-Premise sign (including billboards) containing commercial advertising of goods or services.
- (5) Signs with lights that blink, fluctuate, or move. Light rays must shine only upon the sign and upon the property within the premises.
- (6) Signs on bus benches.
- (7) Signs 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.
- (8) Signs that are taller than 42.5 feet.
- (9) Signs that are attached to any utility pole or wire, traffic sign, or City easement or are placed on City-owned property unless placed by written permission of the City.
- (10) Signs that obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
- (11) Feather Banners.
- (12) Handheld signs with a commercial message.
- (13) Balloon Signs.
- (14) Inflatable Signs.

Commented [LM8]: Decision: One example of a policy decision each City must make is whether to allow electronic signs, regulate them, or prohibit them. Any city can regulate electronic signs in City Limits or in the ETJ. 43 TAC § 21.253.

Commented [LM9]: Law: While we have to read the sign to know it is off-premise, the State of Texas and the Ninth Circuit agree that regulation of commercial signs, including an on-premise versus off-premise distinction is permissible. *Contest Promotions, LLC v. City & Cty. of S.F.*, No. 17-15909.13,14 (9th Cir. Aug. 16, 2017); Tex. S.B. 2006 (85th Leg. R.S.) <http://www.capitol.state.tx.us/tlodocs/85R/billtext/html/SB02006F.htm>

Commented [LM10]: Note: Sign height maximum recently was changed by the Texas Legislature. S.B. 312 (85th Leg., R.S.) (the TxDOT Sunset Bill).

Section 6: Authorized Signs.

The following signs authorized under this Section are authorized in every District without a permit: