

**City of Houston Ordinance No. 2008-\_\_\_\_\_**

**AN ORDINANCE REPEALING CURRENT SECTION 28-37 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, AND ADOPTING A NEW SECTION 28-37 RELATING TO THE REGULATION AND PROHIBITION OF ATTENTION-GETTING DEVICES; CONTAINING DEFINITIONS; MAKING VARIOUS PROVISIONS AND FINDINGS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

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**WHEREAS**, the City Council of the City of Houston finds there are a large number of diverse devices, including, without limitation, pennants, streamers, balloons, lights, banners and other similar devices (referred to in these findings as "attention-getting devices") currently in use in the City of Houston that are placed in such a manner as to visually attract the attention of motorists and pedestrians to the location of commercial businesses or enterprises; and

**WHEREAS**, in an attempt to regulate such devices the City Council adopted Section 28-37 to the Code of Ordinances of the City of Houston, providing for the registration of attention-getting devices, limiting the period of display, and otherwise attempting to control the proliferation of such devices; and

**WHEREAS**, Houston traffic remains among the worst in the nation according to the Texas Transportation Institute's annual Urban Mobility Report, and any impediment to safe driving in such heavy traffic represents a hazard to the traveling motorist; and

**WHEREAS**, studies conducted in conjunction with the National Highway Traffic Safety Administration have identified driver inattention as the single greatest cause of highway accidents and near accidents; and

**WHEREAS**, such studies have also concluded that the causes of driver inattention often include off-road distractions as well as those distractions occurring on the driving surface; and

**WHEREAS**, studies conducted by the University of Toronto, the Minnesota Department of Transportation, and the Michigan State Highway Department, among others, have concluded that off-road signs and sign-like devices, such as attention-getting devices, distract drivers, lead to driver inattention, and contribute to the incidence of traffic collisions; and

**WHEREAS**, such attention-getting devices are not generally suitable as nor do they comply with the minimum structural standards for treatment, classification, permitting or

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BY THE CITY ATTORNEY**

administrative enforcement purposes as "signs" under the various classifications and provisions of the Houston Sign Code, Chapter 46 of the Building Code, and are thus not regulated under the Sign Code; and

**WHEREAS**, the City Council of the City of Houston finds and determines that such devices are structurally unsound and do not comply with minimum structural standards designed to withstand wind loads and other weather-related stresses indigenous to Houston, and the proliferation of such devices constitutes a substantial threat to the health, safety, and welfare of the citizens of the City of Houston; and

**WHEREAS**, based on the foregoing, the City Council of the City of Houston finds that such attention-getting devices are nuisances and pose substantial problems of traffic safety similar to and, in many instances, more serious than, conventional commercial advertising signs; and

**WHEREAS**, the City Council of the City of Houston finds that the extensive use and proliferation of such attention-getting devices within the City contributes to urban visual clutter and blight and adversely affects the aesthetic environment and the safety and quality of life for the community and the citizens of the City of Houston; and

**WHEREAS**, based on the foregoing, the City Council of the City of Houston concludes that regulation of attention-getting devices is ineffective and that for the future prohibition rather than regulation of such devices is in the best interests of the citizens of the City of Houston; **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 a part of this Ordinance.

**Section 2.** That current Section 28-37 of the Code of Ordinances, Houston, Texas, is hereby repealed and a new Section 28-37 is hereby adopted to read as follows:

**"Sec. 28-37. Attention-getting devices.**

(a) As used in this section, *attention-getting devices* shall mean devices erected, placed or maintained outdoors so as to attract attention to any business, or any goods, products or services available on the premises of a business, including but not limited to the following devices: banners; cut out figures; discs; festooning, including tinsel, strings of ribbons, and pinwheels; inflatable objects, including balloons; non-governmental flags;

pennants; propellers; steam- or smoke-producing devices; streamers; whirligigs; wind devices; blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, search, flood or spot lights; or similar devices, any of which are located or employed in connection with the conduct of a business. Attention-getting devices shall not include any structure or device that is permitted under the Houston Sign Code, Chapter 46 of the Building Code.

(b) It shall be unlawful for any person to place, erect, maintain, or display any attention-getting device on any private or public property within the city. No attention-getting device shall be eligible for a permit under the Houston Sign Code.

(c) Enforcement of this section shall be the duty of the City of Houston Sign Administration Division of the Public Works Department or any law enforcement officer.

(d) Any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine in accordance with section 1-6 of this Code for each violation. Each day in which any violation shall occur shall constitute a separate offense."

**Section 3.** 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 4.** 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, save and except as otherwise provided in this section, this Ordinance shall be passed

finally on such date and shall take effect immediately upon its passage and approval by the Mayor. Provided further, that for those attention getting devices lawfully registered under City ordinance as of the date of passage of this Ordinance, such devices shall be permitted to remain in compliance with and for the duration of their registration.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2008.

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Mayor of the City of Houston

Prepared by Legal Dept. \_\_\_\_\_  
LWS:asw 6/4/2008 Senior Assistant City Attorney  
Requested by \_\_\_\_\_  
L.D. File No. \_\_\_\_\_

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