

ORDINANCE NO. 2024-04-\_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, BY AMENDING CHAPTER 38, "ELECTIONS," BY DELETING ARTICLE IV, "ELECTIONEERING," TOGETHER WITH CURRENT SECTIONS 38-70 THROUGH 38-74 IN THEIR ENTIRETY AND REPLACING SAID ARTICLE IV WITH A NEW ARTICLE IV, ALSO ENTITLED "ELECTIONEERING," TO READ AS SET FORTH HEREINBELOW; BY AMENDING CHAPTER 150 OF THE CODE OF ORDINANCES, ENTITLED "UNIFIED DEVELOPMENT CODE," THROUGH THE AMENDMENT OF ARTICLE 5, "SIGNS," BY DELETING SECTION 501.D.4, "RECOVERY OF TEMPORARY ELECTION OR CAMPAIGN SIGNS," AND REPLACING SAID SECTION WITH A NEW SECTION 501.D.4 ENTITLED "REMOVAL OF TEMPORARY SIGNS," AND BY DELETING SECTION 507.M, "TEMPORARY ELECTION OR CAMPAIGN SIGNAGE IN, ON, OR OVER PUBLIC RIGHT-OF-WAY," AND REPLACING SAID SECTION WITH A NEW SECTION 507.M, ENTITLED "WIND-DRIVEN SIGNS," AND BY DELETING SECTION 507.N, "WIND-DRIVEN SIGNS"; PROVIDING FOR ENFORCEMENT; PROVIDING A PENALTY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS,** the City of McKinney, Texas (the "City") is a Home-Rule City possessing the full power of local self-governance pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

**WHEREAS,** the City adopted the Code of Ordinances, City of McKinney, Texas ("McKinney Code"), for the protection of the public health and general welfare of the people of the City; and

**WHEREAS,** the City Council of the City of McKinney, Texas (the "City Council") enacted Chapter 38 of the McKinney Code to govern, protect and regulate the scope of electioneering on city-owned or city-controlled public property during election times in accordance with the applicable provisions of the Texas Election Code; and

**WHEREAS,** the City Council desires that the electioneering regulations contained in Chapter 38 of the McKinney Code should be modified to provide greater clarity as to which electioneering activities are permitted and which electioneering activities are prohibited on and about City-owned and City-controlled public property; and

**WHEREAS,** the City Council also desires that the sign regulations contained in Chapter 150 of the McKinney Code should be modified to provide greater clarity as to which signs are prohibited on and about City rights-of-way and City-owned and City-controlled public property; and

**WHEREAS,** the City Council finds and determines that it is in the best interest of the public health, safety, and general welfare of the citizens of McKinney, Texas, to amend certain provisions of Article IV, entitled "Electioneering," of Chapter 38, entitled "Elections," and multiple sections of Article 5, entitled "Signs," of Chapter 150, entitled "Unified Development Code," of the McKinney Code as provided herein below.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT;**

Section 1. **FINDINGS**

All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if set forth in their entirety.

Section 2. **AMENDING CHAPTER 38, "ELECTIONS," BY DELETING ARTICLE IV, "ELECTIONEERING," TOGETHER WITH CURRENT SECTIONS 38-70 THROUGH 38-74 IN THEIR ENTIRETY AND REPLACING SAID ARTICLE IV WITH A NEW ARTICLE IV, ALSO ENTITLED "ELECTIONEERING," TO READ AS SET FORTH HEREINBELOW**

From and after the effective date of this Ordinance, Chapter 38, "Elections," of the City of McKinney Code of Ordinances, as amended, is hereby amended by deleting Article IV, "Electioneering," together with current Sections 38-70 through 38-74 in their entirety and replacing said Article IV with a new Article IV, also entitled "Electioneering," to read as follows:

***"ARTICLE IV. - ELECTIONEERING***

**Sec. 38-70. Purpose and scope.**

- (a) It is the purpose of this article to:
- (1) Provide reasonable regulations concerning the time, place, and manner of "Electioneering," as defined below, on City-owned or City-controlled public property when such property is used as a polling place location during a "Voting Period," as defined below.
  - (2) Ensure that Electioneering does not occur on City-owned or City-controlled public property that is not used as a polling place location during a Voting Period.
  - (3) Establish an Electioneering-free zone in and/or within 100 feet of any outside door through which a voter may enter a City-owned or City-controlled building containing a polling place during any Voting Period, against persons Electioneering for or against any candidate, measure, or political party.
  - (4) Prevent nuisances to the public who access a City-owned or City-controlled building or property, which is serving as a polling place location, for business other than for voting.
  - (5) Prevent damage to City-owned or City-controlled public property that is serving as a polling place location and to ensure that a polling place location is sufficiently available during a Voting Period for those who use the facilities other than for election purposes.
  - (6) Protect the public health, safety, and welfare of the citizens of the City.
  - (7) Protect the voters, the volunteers working at the polling place location, and the integrity of the election process.
- (b) The provisions of this article shall not be construed in violation of any City ordinance, state or federal statute, or any other applicable rule, regulation or law.
- (c) All Electioneering shall comply with applicable local, state, and federal election laws.

**Sec. 38-71. Administration.**

- (a) The provisions of this article shall be administered and enforced by the City Secretary, a designated election officer, a code compliance official, or any law enforcement official.

**Sec. 38-72. Definitions.**

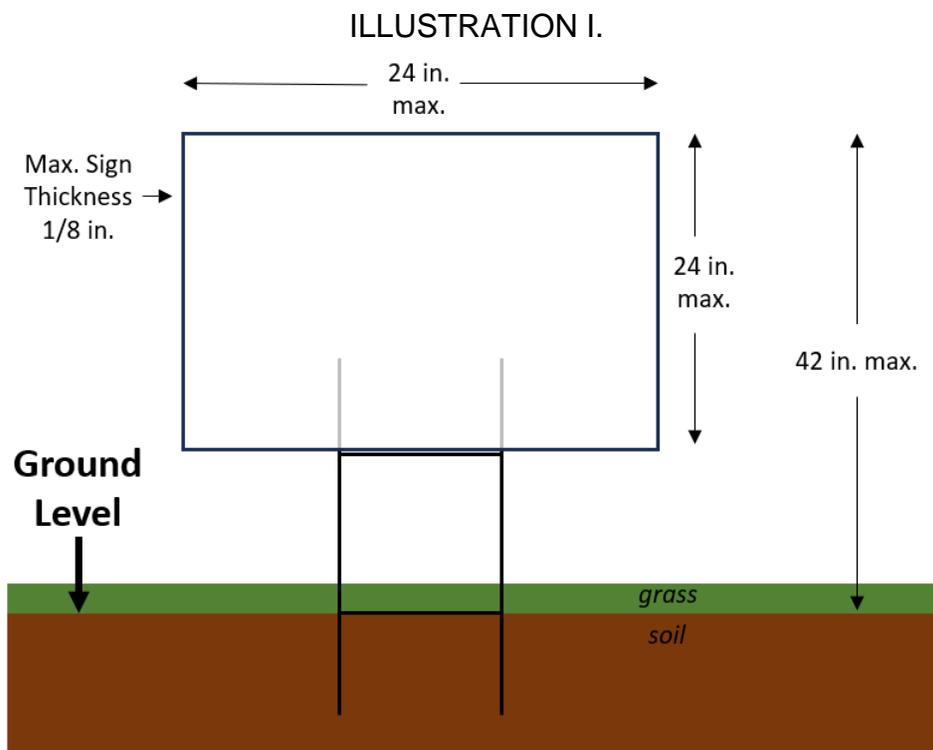
- (a) *Early Voting Period* means:
  - (1) The period for early voting by personal appearance as prescribed by the Texas Election Code § 85.001 or by other applicable state law.
  - (2) If because of the date for which an election is ordered it is not possible to begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.
- (b) *Electioneering* means the posting, use, or distribution of political signs, literature, or material.
- (b) *Post or Posting* means to display a sign by holding or installing it into the ground.
- (d) *Premises* means the area inside a lot, property boundary, or other designated area of City-owned or City-controlled property, excluding any Prohibited Area, that is the site of a City-owned or City-controlled building which is used as a polling place location during a Voting Period. The Premises of the John and Judy Gay Library and the Old Settler's Recreation Center are more fully depicted in Section 38-76 of this article.
- (e) *Prohibited Area* means the area within which Texas Election Code § 85.036(a), as amended, prohibits electioneering during the time an early voting place or election day voting place is open for the conduct of early voting or election day voting, respectively.
- (f) *Voting Period* means the period beginning when the polls open for voting and ending when the polls close to additional voters on election day and any day in an early voting period. The period for a run-off election shall be considered to be a separate voting period.

**Sec. 38-73. Permitted signs and posting methods.**

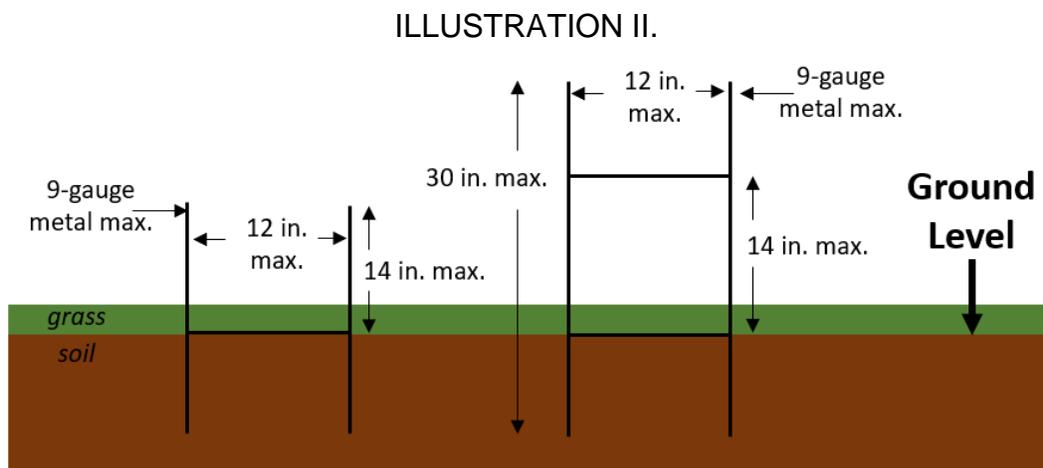
- (a) It shall be unlawful to post any sign on City-owned or City-controlled property that is used as a polling place location, except only as described below:
  - (1) Signs shall be posted no earlier than 24 hours before any Voting Period begins, and signs shall be removed no later than 24 hours after a Voting Period ends;
  - (2) Signs may only be posted on and within the Premises but outside of Prohibited Areas;
  - (3) Posted signs must strictly comply with the size, height and thickness standards contained within ILLUSTRATION I, below. A person may hold no more than one (1) sign that complies with the size standards contained within

ILLUSTRATION I below, and no more than one (1) posted sign may be mounted to each H-frame; and

- (4) Signs may only be posted using a metal H-frame or held by a person. Metal H-frames and their posting must strictly comply with the standards contained within ILLUSTRATION II, below. The use of t-posts, rebar, wooden stakes, or any other types of frames or sign mounting apparatuses shall be prohibited.



**Election Sign Standard Detail**



**Election Sign Stand Standard Detail**

**Sec. 38-74. Prohibited activities and conduct.**

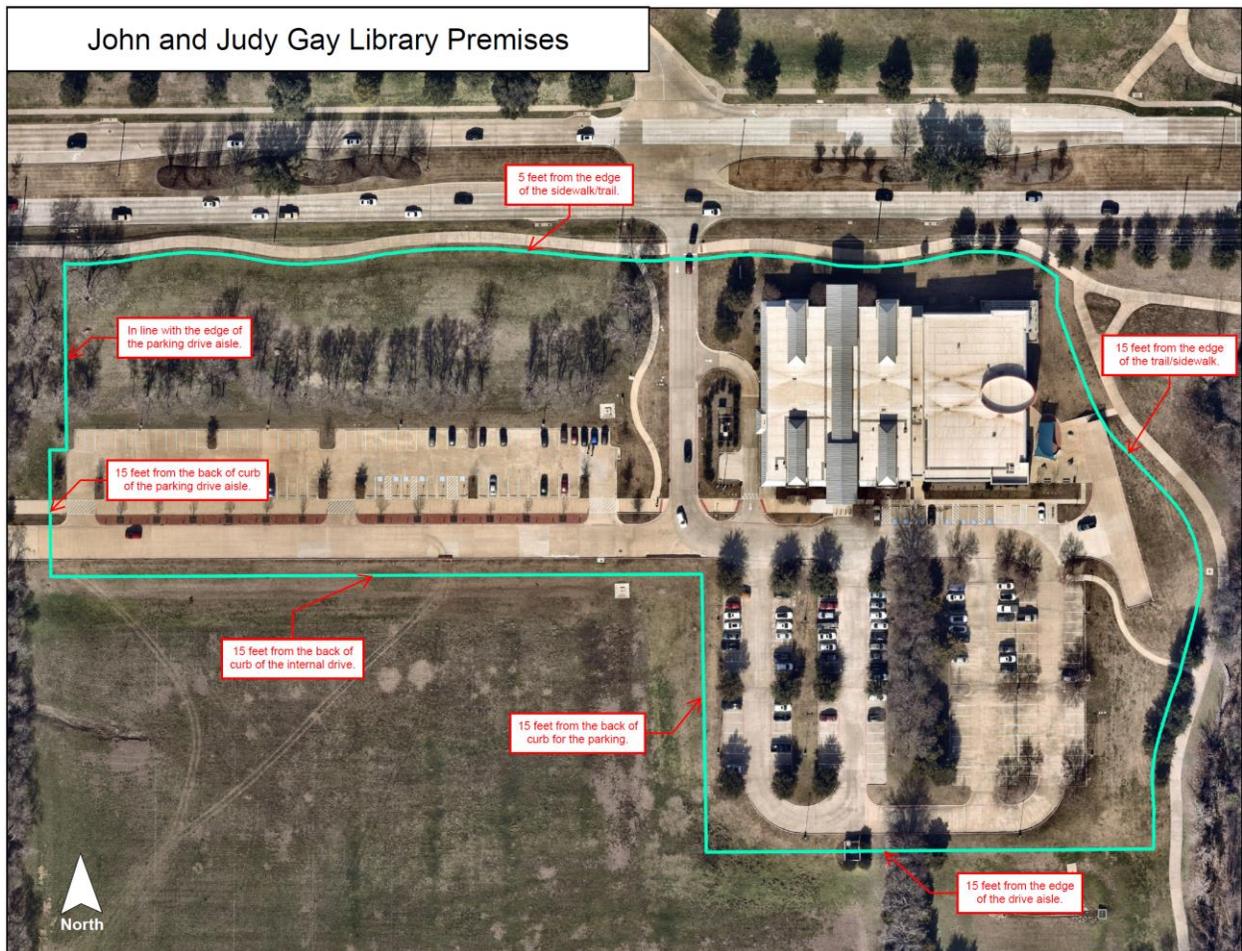
- (a) It shall be unlawful for any person to engage in any of the following activities or conduct on City-owned or City-controlled property that is used as a polling place location:
- (1) Engaging in electioneering within a Prohibited Area or outside the polling place location's Premises during any Voting Period;
  - (2) Attaching, stacking, linking, or otherwise affixing one sign to another;

- (3) Posting any illuminated sign(s), digital sign(s), or other sign(s) that contains flashing lights, any moving components, or other attachments which are intended to attract a person's attention;
  - (4) Posting inflated and deflated balloons or other inflatable items, tents, awnings, shelters, booths, tables, or anything other than a sign described in Section 38-73(a), above, unless otherwise authorized by the City Manager;
  - (5) Using megaphones within one thousand (1,000) feet of a polling place's entrance during any Voting Period;
  - (6) Operating, stopping, standing or parking a golf cart, motor vehicle, toy, or other vehicle or device of any kind, style or nature customarily used for transportation or pleasure, in a fire lane, driveway, sidewalk, trail, area or other surface that is not designated for parking or finished with asphalt or concrete;
  - (7) Engaging in Electioneering on any driveway or in any area that a duly authorized representative of the City determines is unsafe for Electioneering;
  - (8) Engaging in Electioneering in a manner that obstructs or interferes with the general public's use of the City-owned facility or City-controlled property for its intended non-election purposes; or
  - (9) Engaging in Electioneering in a manner that obstructs or interferes with the official duties of an agent or employee of the City, including the City's firefighting, police, or code compliance activities.
- (b) It shall be unlawful for any person to engage in Electioneering activities or conduct or post any sign on City-owned or City-controlled property which is not being used as a polling place location.
  - (c) The regulations set forth in this section shall not apply to any City-authorized activities, conduct, signs, literature, materials, or other messages on City-owned or City-controlled property.

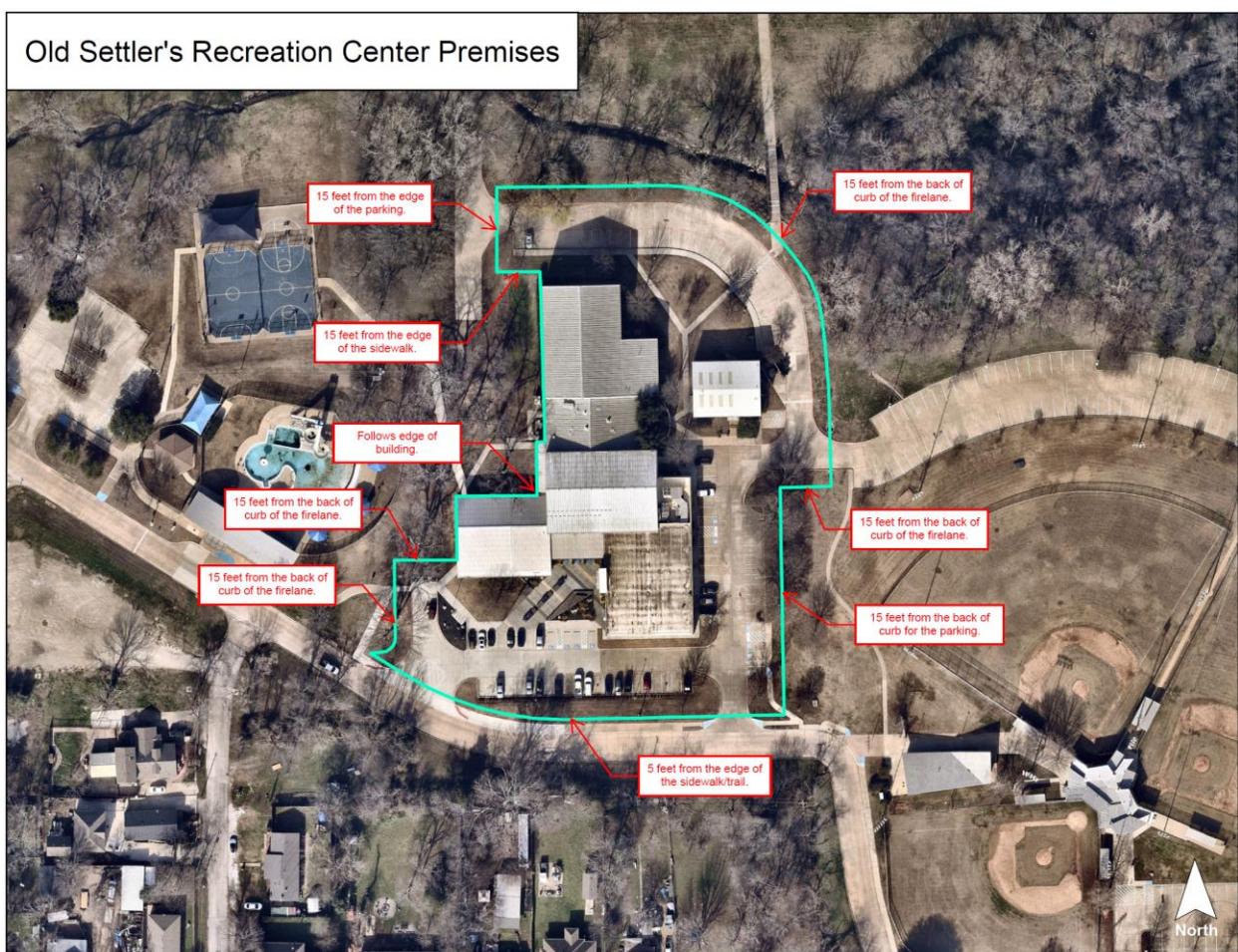
*[Remainder of page intentionally left blank.]*

**Sec. 38-75. Premises Exhibits.**

(a) The John and Judy Gay Library's Premises are reflected below:



(b) The Old Settler's Recreation Center's Premises are reflected below:



**Sec. 38-76. Penalty.**

- (a) Any person who violates any provision or term of this article shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be punished by a fine not to exceed the sum of \$500.00 for each offense, and each and every day such violation occurs or continues shall be deemed to constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this article.
- (b) In addition to the imposition of any criminal penalty, the city, without prior notification, may remove or dispose of any sign, in its entirety, which is located or placed in violation of this article.
- (c) In addition to the imposition of any criminal penalty, the city, without prior notification, may tow or impound vehicles, carts, or devices which are located, placed, or used in violation of this article in accordance with state law.”

Section 3. **AMENDING CHAPTER 150 OF THE UNIFIED DEVELOPMENT CODE THROUGH THE AMENDMENT OF ARTICLE 5, “SIGNS,” BY DELETING SECTION 501.D.4, “RECOVERY OF TEMPORARY ELECTION OR CAMPAIGN SIGNS,” AND REPLACING SAID SECTION WITH A NEW SECTION 501.D.4 ENTITLED “REMOVAL OF TEMPORARY SIGNS”**

From and after the effective date of this Ordinance, Chapter 150, “Unified Development Code,” of the City of McKinney Code of Ordinances, as amended, is hereby amended by amending Article 5, “Signs,” by deleting Section 501.D.4, “Recovery of Temporary Election or Campaign Signs,” and replacing said Section with a new Section 501.D.4 entitled “Removal of Temporary Signs,” to read as follows:

**“ARTICLE 5. - SIGNS**

**501 Administration**

**D. Removal of Certain Signs**

**4. Removal of Temporary Signs.**

The Director of Code Services shall promptly remove and dispose of any unlawful temporary sign(s) erected in, on, or over a public right-of-way or any other City-owned or City-controlled property.”

Section 4. **AMENDING CHAPTER 150 OF THE UNIFIED DEVELOPMENT CODE THROUGH THE AMENDMENT OF ARTICLE 5, “SIGNS,” BY DELETING SECTION 507.M, “TEMPORARY ELECTION OR CAMPAIGN SIGNAGE IN, ON, OR OVER PUBLIC RIGHT-OF-WAY,” AND REPLACING SAID SECTION WITH A NEW SECTION 507.M, ENTITLED “WIND-DRIVEN SIGNS”;**

From and after the effective date of this Ordinance, Chapter 150, “Unified Development Code,” of the City of McKinney Code of Ordinances, as amended, is hereby amended by amending Article 5, “Signs,” by deleting Section 507.M, “Temporary Election or Campaign Signage in, on, or over Public Right-of-Way,” and replacing said Section with a new Section 507.M, entitled “Wind-Driven Signs,” to read as follows:

## **“ARTICLE 5. - SIGNS**

### **507 Prohibited Signage**

#### **M. Wind-Driven Signs**

Wind-driven signs are prohibited in all zoning districts, except as permitted as part of a change in occupancy or ownership event as described in §504E.1, Change in Occupancy or Ownership Temporary Event Signage.”

Section 5. **AMENDING CHAPTER 150 OF THE UNIFIED DEVELOPMENT CODE THROUGH THE AMENDMENT OF ARTICLE 5, “SIGNS,” BY DELETING SECTION 507.N, “WIND-DRIVEN SIGNS”;**

From and after the effective date of this Ordinance, Chapter 150, “Unified Development Code,” of the City of McKinney Code of Ordinances, as amended, is hereby amended by amending Article 5, “Signs,” by deleting Section 507.N, “Wind-Driven Signs.”

Section 6. **ENFORCEMENT CLAUSE**

In addition to the specific enforcement authority delegated through the individual provisions of the ordinance provisions set forth herein above, the City Council hereby also authorizes the City Manager, or his or her designee, to enforce the regulations adopted under this Ordinance.

Section 7. **PROVIDING A PENALTY**

Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the City’s Code of Ordinances; and each and every day such violation or failure to comply shall continue shall be deemed to constitute a separate offense.

Section 8. **REPEALER CLAUSE**

All ordinances, orders, or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders, or resolutions, or parts thereof, conflict with this Ordinance.

Section 9. **SAVINGS CLAUSE**

All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 10. **PUBLICATION OF CAPTION**

The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and this Ordinance shall become effective from and after the date of its final passage and publication as provided by law.

Section 11. **SEVERABILITY CLAUSE**

If any section, subsection, clause, phrase or provision of this Ordinance is for any reason held unconstitutional or void by a court of competent

jurisdiction, such holding shall not affect any valid portion of this or any other ordinance of the City of McKinney, Texas.

Section 12. **EFFECTIVE DATE**

This Ordinance shall take effect and be in full force from and on May 6, 2024, and after its passage and publication, in accordance with law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 16<sup>TH</sup> DAY OF APRIL 2024.**

CITY OF MCKINNEY, TEXAS

---

GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

---

EMPRESS DRANE  
City Secretary  
TENITRUS BETHEL  
Deputy City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

---

MARK S. HOUSER  
City Attorney