

ORDINANCE NO. 2019-22

AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS AMENDING THE ZONING REGULATIONS OF THE CITY BY ESTABLISHING A ZONING OVERLAY DISTRICT ENCOMPASSING THE AREA GENERALLY DESCRIBED AS: ALL PROPERTIES ZONED OFFICE PROFESSIONAL, NEIGHBORHOOD COMMERCIAL, AND COMMUNITY COMMERCIAL THAT HAVE FRONTAGE AND/OR ACCESS (EITHER DIRECT OR THROUGH ANOTHER PROPERTY) TO SAGINAW BOULEVARD FROM EAST INDUSTRIAL BOULEVARD ON THE SOUTH, THE RAILROAD ON THE EAST AND THE NORTHERN CITY BOUNDARY; WHICH DISTRICT INCLUDES REGULATIONS/RESTRICTIONS GOVERNING LAND USE, SETBACKS, BUILDING MATERIALS, LANDSCAPING, SIGNAGE, SCREENING, LIGHT STANDARDS; AND PROVIDING FOR REVISIONS TO REGULATIONS GOVERNING AMORTIZATION/DISCONTINUATION OF LEGAL NON-CONFORMING USE STATUS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw, Texas is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Saginaw, Texas has a substantial interest in protecting the health, safety, welfare, convenience and enjoyment of the general public and has adopted zoning regulations to further this interest; and

WHEREAS, the intent of these regulations is to guide future development and redevelopment in accordance with the Comprehensive Plan, to protect and enhance the City's aesthetic and visual quality, and to recognize Saginaw Boulevard's unique character and importance as the City's primary commercial boulevard and entryway; and

WHEREAS, this Ordinance 2019-22 does not create a new obligation to bring a nonconforming structure or a nonconforming sign into compliance with the standards set forth herein because nonconforming structures and signs are subject to preexisting regulations set forth in Article 4 of the Zoning Regulations of the City; and

WHEREAS, the Planning and Zoning Commission of the City of Saginaw, Texas held a public hearing on December 11, 2018, and the City Council of the City of Saginaw, Texas held a public hearing on December 18, 2018, with respect to the amendments described herein; and

WHEREAS, the City of Saginaw, Texas has complied with all requirements of Chapter 211 of the Local Government Code, and all other laws dealing with notice, publication, and procedural requirements for adoption of the amendment proposed herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:

SECTION 1.

That Article 4 of the Zoning Regulations of the City is hereby amended by adding a new Section 4-13 and Section 4-14, which shall read as follows:

“Sec. 4-13. - Saginaw Boulevard overlay district (“SBOD”) limitations.

A. *Nonconformities in the SBOD.*

1. *Discontinuance.* Any nonconforming use of land which is located in the SBOD, described in Section 7-4 hereof, shall be discontinued no later than December 18, 2028, unless otherwise exempted.
2. *Residential exception.* The use of land or a building as a residence shall not be subject to this automatic amortization period.

B. *Appeal.* Any owner of such a nonconforming use may appeal to the Board of Adjustment to allow an extension of the amortization period.

Sec. 4-14. – Amortization.

A. *Determination.* The owner of a nonconforming use subject to automatic amortization pursuant to this Article 4 may appeal to the Board of Adjustment to allow an extension of the amortization period. Application shall be made to the Board of Adjustment on forms provided by the City and shall be filed with the City Secretary’s office accompanied with the applicable filing fee established in the City’s Fee Schedule.

B. *Public hearing.* The Board of Adjustment shall conduct a hearing for the purpose of determining whether an alternate date certain for termination of the nonconforming use is required based upon the criteria set forth in this Section 4-14. Prior notice of such hearing shall be given to the property owner.

C. *Effective date.* The alternate date, if required based upon evidence supporting the criteria set forth in this Section 4-14, established for termination of the nonconforming use shall give the property owner a reasonable opportunity to recover its investment in the nonconforming use from the time such use became nonconforming.

- D. *Recoupment of investment.* The Board of Adjustment shall measure the reasonableness of the opportunity for recoupment of the property owner's investment by conditions existing at the time such use became nonconforming.
- E. *Factors.* The following factors shall be considered by the Board of Adjustment in determining an alternate amortization period:
 1. The owner's capital investment in structures, fixed equipment, and other assets that cannot reasonably be used in conformance with the zoning district regulations (excluding inventory and other assets that may be feasibly transferred to another site) made on the property before the time the use became nonconforming. Costs of replacements, improvements or additions made after the use became nonconforming shall not be included. Costs of the land or structures that reasonably can be used for a conforming use shall not be included.
 2. Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses and relocation expenses.
 3. Recovery of investment, including net income and depreciation, and any profit or loss realized on the investment.
 4. General character of the neighborhood in proximity to the nonconforming use and the necessity for all property within the City to conform to the regulations of the zoning ordinance.
- F. *Compliance.* Should the Board of Adjustment establish an alternate compliance date for a nonconforming use, the use must cease operations on or before that date and it may not operate thereafter except in compliance with the applicable zoning district regulations. In the event the Board of Adjustment denies the application for an alternate compliance date, the original date established pursuant to the applicable provisions of this Article 4 shall apply and the use must cease operations on or before that date and it may not operate thereafter except in compliance with the applicable zoning district regulations."

SECTION 2.

That Article 7 of the Zoning Regulations of the City is hereby amended by adding a new Section 7-4, which shall read as follows:

Sec. 7-4. - Saginaw boulevard overlay district.

- A. *Purpose.* This ordinance establishes development standards for properties that have frontage and/or access (either direct or through another property) to Saginaw Boulevard. These regulations govern land use, building materials, landscaping,

signage, and screening and recognize the street's unique character and importance as the City's primary commercial boulevard and entryway. The intent of these standards is to promote the public health, safety and general welfare, to coordinate and guide future development and redevelopment in accordance with the Comprehensive Plan and to protect and enhance the City's aesthetic and visual quality.

B. *Boundaries.* The Saginaw Boulevard overlay district includes all properties zoned Office Professional, Neighborhood Commercial, and Community Commercial that have frontage and/or access (either direct or through another property) to Saginaw Boulevard from East Industrial Boulevard on the south, the railroad on the east and the northern City boundary. The provisions of the overlay district shall apply to all properties located fully or partially within the above defined area.

C. *Base zoning districts.* Where the Saginaw Boulevard overlay district requirements conflict with the base zoning for properties located within the area described in Section B above, the overlay district shall apply. Otherwise the base zoning of a property shall not be affected by the provisions of this overlay district.

D. *General requirements of the Saginaw Boulevard overlay district.*

1. *Permitted and prohibited uses.* Uses permitted by right or by Specific Use Permit within the overlay district shall be as noted for the base zoning districts in the use charts in Section 5-1 except as follows:

a. *Prohibited uses:*

- (1) Auto Sales, New and Used
- (2) Building Material Sales
- (3) Cargo Container
- (4) Landscape Service
- (5) Machinery Sales or Repair
- (6) Mini-warehouse
- (7) Motorcycle Sales
- (8) Non-depository financial institutions
- (9) Recreational Vehicle Rental
- (10) Rental Yard, Commercial & Heavy Equipment
- (11) Stone Monument Sales

b. *Uses requiring a specific use permit.* The following uses shall require approval of a Specific Use Permit in accordance with Section 5-4:

- (1) Convenience Store with fuel sales
- (2) Golf Course, Driving Range

- (3) Golf Course, Miniature
- (4) Water Park, Commercial
- (5) Auto Car Wash
- (6) Auto Rental (Car & Truck)
- (7) Auto Service Station
- (8) Auto Service Station, Light Maintenance
- (9) Contractor, no Outside Storage Permitted
- (10) Exterminating Service
- (11) Greenhouse or Plant Nursery
- (12) Home Improvement Store
- (13) Small Engine Repair
- (14) Auto paint and body shop

c. *Non-Conforming uses.* Non-conforming uses shall be regulated by the provisions of Article 4, Section 4-13 of this ordinance.

2. *Setbacks.* Buildings shall be located on properties in accordance with the following minimum and maximum front yard setbacks:

- a. For buildings with no drive aisles or parking located between the building face and the street right-of-way – a minimum setback of 20 feet and a maximum setback of 25 feet.
- b. For buildings with drive aisles and/or parking located between the building face and the street right-of-way – maximum setback of 100 feet. Alternatively, the building setback may exceed 100 feet with a 15 foot increase in the minimum landscaped edge for single tenant buildings or multiple-tenant retail shopping centers that are 60,000 square feet or greater in size.

3. *Landscaping.* Landscaping shall be provided and installed in accordance with Section 8-13. Where buildings observe the 25 foot maximum setback, a minimum of 15 feet of landscaping must be provided between the building face and the street right-of-way.

4. *Screening.* Walls, fences, landscaping and other screening devices shall be installed in accordance with Section 8-12 and as follows:

- a. *Trash enclosures.* Chain link with vinyl slats is prohibited as a screening material. Solid gates must be provided for trash enclosures that face a public street.
- b. *Rooftop mechanical units.* Roof-mounted mechanical units must be screened from view at a point 5.5 feet above the property line with a parapet wall, screen, mansard roof, or alternative architectural element. The height of the screening element shall be equal or greater than the height of the mechanical unit(s) provided that the element shall not extend more than five feet above the roof on a

one or two-story building or more than 13 feet above the roof on a building of three or more stories. A mechanical unit which is taller than the maximum permitted height of the screening feature shall be set back from the screen five feet plus two feet for each foot it exceeds the height of the screen.

5. Building materials and design. All buildings constructed within the overlay district shall comply with the following:
 - a. *Building façade materials.* A minimum of 75% of each exterior wall shall be of masonry construction as defined in Section 12-2 and glass, except that concrete may only be used as an exterior material on the rear of buildings not visible from public streets. A maximum of 10% of any exposed exterior wall may be finished with exterior insulation and finish systems (EIFS).
 - b. *Building façade design.* The following articulation standards shall apply to all building facades that face public streets:
 - (1) *Horizontal articulation.* No building façade shall extend for a distance greater than three times its average height without a perpendicular offset. The depth of an offset may vary but shall be a minimum of 15% of the average building height. The minimum length of an offset shall be equal to 10% of the entire façade.
 - (2) As an alternative to the articulation requirement in (1) above, one-story commercial storefronts designed for multiple tenants with a minimum of 60% glass may utilize a minimum of four of the following architectural details along 100% of facades that face public streets:
 - (a) Canopies or awnings
 - (b) Pilasters
 - (c) Recessed entries
 - (d) Ornamental cornices
 - (e) Façade material change
 - (f) Color change
 - (g) Repetitive decorative applied features and/or decorative lighting
 - (3) *Vertical articulation.* No wall shall extend horizontally for a distance greater than three times its average height without a change in elevation. An elevation change shall be a minimum 15% of the average building height and shall extend for a distance of at least 10% of the entire façade.

- d. *Roofs.* Flat roofs and parapet walls around flat roofs shall have a cornice, cap or other detail with a vertical dimension equal to at least three percent of the height of the building.
 - e. *Additions to non-conforming buildings.* The square footage of existing non-conforming buildings may be increased up to 20% without bringing the building into compliance with the above standards.
6. *Signage.* Signage in the overlay district shall comply with the following requirements:
- a. Pole signs are prohibited.
 - b. Signs attached to or hung behind windows may only cover 25% of the window surface on each building face.
 - c. Freestanding signs must be monument signs with a maximum height of 12 feet and a maximum size of 90 square feet.
 - f. Single tenant properties are limited to one freestanding sign per street front.
 - g. For shopping centers and other multi-tenant uses, one multi-purpose sign of a monument style shall be allowed per street frontage. Multi-purpose monument signs shall not exceed 12 feet in height with a maximum overall square footage of 225 square feet. However, the copy area of the sign shall not exceed 150 square feet, leaving a base area of 75 square feet.
 - h. Murals may be painted or applied to the exterior walls of buildings; however, the mural shall not contain logos or names of any business entity.
7. *Light standards.* Light standards installed in parking lots shall not exceed 32 feet in height and shall be of square or shoebox design.”

SECTION 3.

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Saginaw, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph,

sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 5.

All rights and remedies of the City of Saginaw are expressly saved as to any and all violations of the provisions any ordinances governing zoning that 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 6.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2000.00, as provided by Sec. 1-13 of the Saginaw City Code. Each day a violation continues shall be deemed a separate offense.

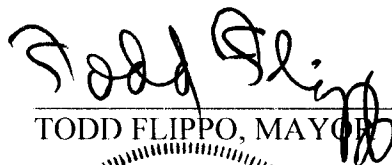
SECTION 7.

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

SECTION 8.

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

PASSED AND APPROVED ON this the 5th day of November, 2019.


TODD FLIPPO, MAYOR

ATTEST:


JANICE ENGLAND, CITY SECRETARY



APPROVED AS TO FORM AND LEGALITY:



BRYN MEREDITH, CITY ATTORNEY