

PALMER LAKE, COLORADO

ORDINANCE NO. 02-2020

AN ORDINANCE APPROVING DESIGN, CONSTRUCTION AND PLACEMENT STANDARDS FOR PUBLIC DISPLAYS OF ART, ADVERTISING, SPONSORSHIP, MEMORIALS, OR OTHER PUBLIC DISPLAYS, WHETHER PERMANENT OR TEMPORARY, UPON PUBLIC PROPERTY WITHIN THE TOWN OF PALMER LAKE

WHEREAS, the Board of Trustees of the Town of Palmer Lake, Colorado, pursuant to Colorado statute and the Palmer Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Palmer Lake, Colorado;

WHEREAS, the Board recognizes that the values and culture of the Town include its small-town character, and that maintenance of the same through adoption of standards and guidelines for Public Displays is essential for the Town and its residents;

WHEREAS, in adopting this Ordinance, the Town Board of Trustees desires to ensure that any and all public displays, as defined herein: (1) be designed and implemented in such a way as to protect the small-town character, values and culture of the Town; (2) be designed and implemented in such a way as to preserve and protect public health, safety and welfare; (3) be considered and approved by the Board so as to ensure that only such projects as otherwise meeting the objectives of this Ordinance are approved for installation upon public property; (4) prevent inappropriate designs inconsistent with the character, values and culture of the Town from being placed; and (5) establish a program for the removal of any public displays inconsistent with this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AS FOLLOWS:

Section 1 - Legislative Intent. It is the intent of this ordinance to provide procedures and standards for the design, approval, construction, and installation of Public Displays, including but not limited to Sponsorship Projects, Public Art, and advertising displays constructed or placed upon public property within the Town of Palmer Lake, and to ensure and provide the structural integrity, safety, security and maintenance guidelines for all Public Displays within the Town of Palmer Lake. Nothing herein shall create a requirement on the Town to maintain any Public Display.

Section 2 - Definitions. The following terms used in this ordinance have the following meanings, unless the context clearly indicates otherwise:

A. *Advertising* means any public display which contains advertising material for commercial purposes, including logos, designs and trade names of businesses, trades, charities or other interests, whether part of a Public Art display, a Sponsorship Project, or other Display, temporary or permanent, subject to this Ordinance.

B. *Permanent* means of a long-term or indeterminate period, with the presumed intention that a Permanent Public Display will not be removed for the foreseeable future.

C. *Public Art* means public displays of various kinds of artwork including but not limited to sculpture, paintings, mixed media, collage, earth works and environmental art, sonic art, time-based media, film/video, digital art, web-based art, light-based art installations, conceptual art, original printmaking and photography, original graphic art, fiber arts, textile, stained glass, metalwork and other crafts, ceramic arts, and mosaic, if placed on temporary or permanent display on public property within the Town of Palmer Lake.

D. *Public Display* means any art, advertising, postings, exhibitions, projects, or other visual or auidial materials posted upon, utilizing, or otherwise associated with public property located within the Town of Palmer Lake. Public Display expressly includes Public Art, Sponsorship Projects and other similar displays, whether or not including advertising, and whether or not of a temporary or permanent nature.

E. *Sponsorship Project* means a public display designed and intended to raise funds for a particular public project through solicitation of public and private sponsorships, resulting in displays of Public Art, plaques, tiles bricks or similar displays containing memorial, advertising, or personal messages of said sponsors/donors, whether of a Temporary or Permanent nature.

F. *Temporary* means of a short-term period, not to exceed 6 months.

Section 3 – Approval Required. It shall be unlawful to install, maintain, or operate any Public Display within the Town of Palmer Lake without obtaining the approval of the Board of Trustees for the Town of Palmer Lake, including through the Board’s delegates or designees, should the Board expressly delegate such authority. Each separate Public Display shall require a separate permit, though a Public Display that is by its very nature disbursed upon public property may be subject to a single approval.

Section 4 - Application Procedures.

A. An application for approval of a Public Display shall be filed with the Town Administrator in a format acceptable to the Town Administrator, or on forms provided by the Town.

B. The application shall be accompanied by a detailed description of the proposed Public Display, and where appropriate including a site plan and other graphic depictions clearly illustrating the nature, size, color and location of the proposed Public Display, and the purpose, duration and, if applicable, fundraising project.

C. The Town Administrator shall review the application for conformance with the criteria in this Ordinance, and if found to be in conformance, place the application on the agenda, of a public Board of Trustee's meeting for the Trustee's consideration and approval or denial within 30 days of submittal of such a complete application. Should the Town Administrator find the application incomplete or not in conformance with the criteria of this Ordinance, the Town Administrator shall within 30 days advise the applicant of the same, and shall work with the applicant in good faith to bring the application into conformance. If the application cannot be brought into conformance despite the best efforts of the applicant and Town Administrator, the Town Administrator may deny such application. Denial of an application by the Town Administrator may be appealed to the Board of Trustees.

Section 5 - Permit Periods, Renewals and Termination.

A. Approvals of Public Displays pursuant to this Ordinance shall be valid for the period authorized by Board approval.

B. Renewal requests shall be accompanied by the same submittal requirements contained in Section 4, above, and shall be submitted no later than 30 days prior to expiration of the prior approval.

C. The Town Administrator may terminate any approval issued under this Ordinance, upon a determination that the Public Display, as installed, is inconsistent with the application and/or the Board Approval, and therefore in violation of the criteria of this Ordinance, including the requirements and conditions of Section 6, below. In such instance, the Town Administrator shall advise the applicant in writing of the perceived inconsistency, error, or violation, and provide the applicant a 15 day period to cure such violation. Should the applicant dispute such violation during such cure period, the applicant shall be afforded the opportunity for a hearing before the Board of Trustees, who shall make the final determination.

D. The Town Administrator may terminate any Approval under this Ordinance for a Public Display upon a determination by the Town Administrator that the exercise of the Town's police powers to regulate rights-of-way will be impaired, or the Public Display provides a risk to Public Safety. Such termination shall be immediate and are not subject to the provisions of 5 C, above.

E. Upon termination of any approval of a Public Display subject to this Ordinance, whether said termination is by virtue of expiration of the approval period, by notice from the Town Administrator, or otherwise, following any applicable cure/appeal process as described herein, the permittee shall immediately remove said Public Display from the approved area.

Section 6 – Requirements, Standards and Conditions. All Public Displays authorized and approved under this Ordinance must comply at all times with the following terms, conditions, requirements, and standards:

A. Public Displays that are designed to be touched, handled and experienced by the public, or which may due to their nature be subject to such touching and handling, must be constructed of appropriately substantial material so as to prevent damage or destruction of such Public Displays. The Town of Palmer Lake shall in no instance be liable for such damage or destruction, including vandalism, by the public.

B. To the extent any Public Display is to be physically installed, constructed, or mounted upon property and infrastructure of the Town of Palmer Lake, such Public Displays must be adequately engineered and designed so as to prevent damage to such property and infrastructure, and so as not to pose a safety risk to the public as a result of such design and engineering, or mounting/installation methods. The Town may require stamped engineering drawings prior to approval, and in no instance shall the Town be liable for damage, destruction or injury resulting from inadequate design or engineering, even should the engineering and design of such Public Display have been provided and reviewed by the Town prior to approval. Upon removal of any Public Display, the Applicant shall be responsible for restoring the public property back to the original state prior to installation of the Public Display.

C. Public Displays may include advertising of commercial, charitable or other nature, provided such advertising is otherwise in compliance with all Requirements, Standards and Conditions described herein. Consideration will be given to structural and surface integrity, permanence, and protection against injury, theft, vandalism, weathering, and excessive maintenance and repair costs. All “signage” of an advertising nature within any Public Display must conform to all advertising and sign standards as described in the Town of Palmer Lake Municipal Code, in addition to the specific terms of this Ordinance or conditions of Approval. All advertising within a Public Display subject to this ordinance shall also conform to the following standards:

1. A Public Display visible from any public roadway will not contain the words “stop”, “drive-in”, or any other word, phrase, character, or symbol which as determined by the Town Administrator, may interfere with, mislead, or direct vehicular traffic.

2. A Public Display shall not contain pictures, language, graphics or materials that are offensive to community standards and values.

3. A Public Display shall not contain pictures, language, graphics or materials that depict, offer or imply the use or sale of tobacco or marijuana products, paraphernalia related thereto, or other drugs. Public Displays that depict beer, wine or alcohol may be permitted, provided such depictions are not offensive to community standards and values, and it is expressly recognized that there are valued members of the business community within the Town of Palmer Lake who's businesses include service of alcoholic beverages.

4. A Public Displays within the Town of Palmer Lake shall be limited to those businesses catering to the Palmer Lake community, specifically being limited to those businesses located within the "Tri-Lakes" area of northern El Paso County, Colorado.

D. Messages or language prohibited by federal or state law or Town ordinance shall not be permitted, nor shall messages, images, depictions, language or inferences drawn therefrom intended to intimidate, demean or otherwise discriminate on the basis of religion, race, creed, color or sexual orientation be permitted.

E. Public Displays must be placed so as not to interfere with the safe and efficient passage of pedestrians, bicyclists and other non-motorized users of the Towns roads, sidewalks, paths and parks, and specifically may not impede pedestrian access to or use of traffic control devices, public rights of way, or private property.

F. The location and placement of any Public Display must not interfere with vehicular traffic or other uses of the public roads and rights-of-way, including visual impairment from sight lines, corners, or other visual obstacles.

G. Unless otherwise specifically provided in the approval of the Board, as may be the case in Public Displays of a Permanent nature, the applicant shall maintain all Public Displays and environs in a safe, clean and presentable condition at all times.

H. Damaged or disfigured Public Displays, or components thereof, shall be removed, repaired, or replaced by the applicant within ten days of notification of damage. If such conditions pose a safety hazard, such conditions shall be removed, repaired, or replaced immediately.

I. The applicant of each Public Display shall release and indemnify, defend and save harmless the Town of Palmer Lake, its officers, agents, and employees, from and against any and all claims, actions, causes of action, demands, judgment, cost, expenses, including attorneys' fees, and damages of every kind and nature incurred by or

occurring to any person whatsoever predicated upon injury to, or death of, any person, or loss of, or damage to, property, public or private, or of whatever ownership, or damage to business, provided such injury, death, or loss or damage shall arise out of or be connected directly or indirectly to the exercise of any right or privilege granted by any approval of a Public Display pursuant to this Ordinance.

Section 7 - Removal of Public Displays Without Approvals. All Permanent Public Displays in existence as of the effective date of this Ordinance shall be deemed nonconforming Public Displays. Nonconforming Public Displays must comply with the provisions of Section 6 of this Ordinance and shall be treated as other nonconforming uses within the Town Code. All Temporary Public Displays in existence as of the effective date of this Ordinance shall, within 30 days, submit an application as described herein for retroactive approval, or shall be removed following 30 days written notice by the Town.

Section 8 - Reservation of Police Power. The Board of Trustees reserves unto itself any and all police power it may have with respect to regulation and control of public property. Any approval of a Public Display pursuant to this Ordinance shall be subject to the future exercise of the police power by the Board of Trustees and the approval, denial, or termination of a prior approval shall not entitle the applicant to any compensation from the Town of Palmer Lake by virtue of the exercise of such police power.

Section 9 - Publication and Effective Date. The Town Clerk shall certify the passage of this Ordinance and cause notice of its contents and passage to be published by title only in a newspaper of general circulation and in full on the Town official web site. This Ordinance shall become effective thirty (30) days after the date of such publication.

Section 10. Penalty. Any person, firm or corporation who violates a provision of this Ordinance shall be considered to have committed a civil infraction and not a crime, and upon a finding of guilty or entry of a plea of guilty or entry into a plea agreement, shall be subject to a fine not to exceed two thousand six hundred and fifty dollars (\$2,650.00). Each day upon which such infraction continues shall constitute a separate infraction. Nothing herein shall prevent the Town from utilizing any and all other remedies available to the Town.

Section 11. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 12. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of

ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this ordinance.

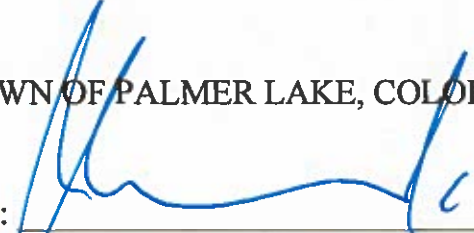
INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 23RD DAY OF APRIL, 2020.

ATTEST:



Bob Radosevich, Town Administrator

TOWN OF PALMER LAKE, COLORADO

BY: 

John Cressman, Mayor