

# CITY OF DRIPPING SPRINGS

## ORDINANCE No. 2023-\_\_\_\_

AN ORDINANCE OF THE CITY OF DRIPPING SPRINGS, TEXAS (“CITY”), ADDING ARTICLE 22.07; ADOPTING REGULATIONS FOR THE PROTECTION OF THE CITY LOGO AND CITY SEAL AND PROHIBITING THE UNAUTHORIZED USE THEREOF; PROVIDING FOR THE LICENSING OF THE CITY LOGO AND CITY SEAL IN CERTAIN CIRCUMSTANCES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING SEVERABILITY, SAVINGS, AND PENALTY CLAUSES; PROVIDING PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City is a Type A General Law city, acting under state laws and enacted local ordinances pursuant to Chapter 6 and related sections and provisions of the Texas Local Government Code; and

**WHEREAS**, the City owns and uses a logo which consists of a circular, multi-color logo, designed to appear hand-painted or -signed, with three stars in the upper right corner, a lowercase, scripted “DS” in the middle of the circle with trailing lines before and after the letters, and “DRIPPING SPRINGS Texas” below the circle with or without “Open spaces, friendly faces.” below a rightward paintbrush stroke; and

**WHEREAS**, the City adopted a seal which is circular with the words “City of Dripping Springs” inside the top of the outer red circle, the word “Texas” at the bottom of the outer circle, the words “Inc. 1981” inside the inner white circle along with a large star in the center and two wheat stalks going up either side of the inner circle starting from the bottom center, which the City applies to official documents of the city pursuant to Texas Local Government Code Section 51.016, et seq.; and

**WHEREAS**, the City has a substantial interest in protecting its logo and seal from unauthorized use and to avoid resident, as well as consumer, confusion.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS, TEXAS, THAT:**

### SECTION 1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

## **SECTION 2. AMENDMENT**

The City Code of Ordinances is hereby amended by adding a new Article under Chapter 22, to be numbered Article 22.07, and after such amendment, shall read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

## **SECTION 3. INTELLECTUAL PROPERTY PROTECTION**

In addition to amending the City Code of Ordinances as directed in Section 2, in accordance with Attachment A, the City will endeavor to gain and maintain additional protection for its City Logo, and variations therein, by applying for, obtaining if possible, and maintaining trademark protection from the United States Patent and Trademark Office. If at any such time, such additional protection becomes available for the City Seal as well, City will endeavor to gain and maintain such similar protection.

## **SECTION 4. REPEALER**

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

## **SECTION 5. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance, including Attachment A, be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

## **SECTION 6. CODIFICATION**

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.003 of the Texas Local Government Code, as well as publish in the official newspaper as authorized by Section 52.011 of the same code.

## **SECTION 7. EFFECTIVE DATE**

This ordinance shall take immediate effect upon the date of final passage noted below, or when all applicable publication requirements are satisfied in accordance with the City Code of Ordinances and the laws of the State of Texas.

**SECTION 8. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

**PASSED & APPROVED this, the 1<sup>st</sup> day of August 2023, by a vote of \_\_\_ (ayes) \_\_\_ (nays) \_\_\_ (abstentions) of the City Council of Dripping Springs, Texas.**

**CITY OF DRIPPING SPRINGS:**

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Bill Foulds, Jr., Mayor

**ATTEST:**

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Andrea Cunningham, City Secretary

**ATTACHMENT A**

**City of Dripping Springs Code of Ordinances**

**Chapter 22: General Regulations**

**Article 22.07: City Logo and Seal**

**Sec. 22.07.001 – Title**

This article shall commonly be cited as the logo and seal ordinance.

**Sec. 22.07.002 – Purpose**

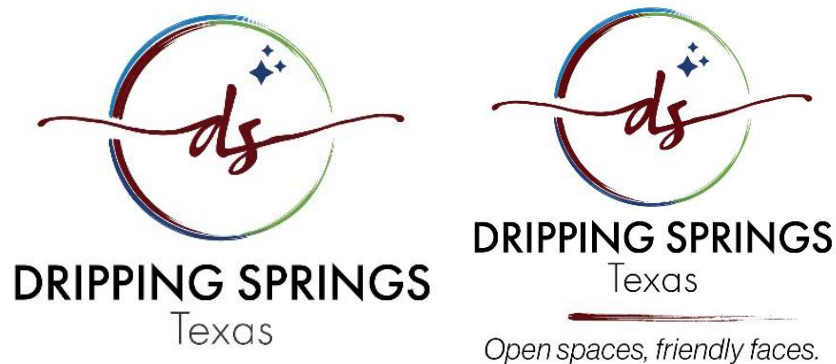
The article is adopted so that the City Council may properly protect its logo and seal from unauthorized use to avoid confusion among residents and consumers alike.

**Sec. 22.07.003 – Scope**

This article applies to all property within the incorporated municipal boundaries (i.e., city limits) and the extraterritorial jurisdiction (ETJ) as applicable. This includes all content published or shown viewable within the preceding boundaries.

**Sec. 22.07.004 – Definitions**

“City Logo” (or “Logo”) means the logo used by the City of Dripping Springs, including any cut, facsimile, reproduction, or alternate versions thereof, which consists of a circular, multi-color logo, designed to appear hand-painted or -signed, with three stars in the upper right corner, a lowercase, scripted “DS” in the middle of the circle with trailing lines before and after the letters, and “DRIPPING SPRINGS Texas” below the circle with or without “Open spaces, friendly faces.” below a rightward paintbrush stroke as set forth below:



“City Seal” (or “Seal”) means a seal that is circular with the words “City of Dripping Springs” inside the top of the outer red circle, the word “Texas” at the bottom of the outer circle, the words “Inc. 1981” inside the inner white circle along with a large star in the center and two

wheat stalks going up either side of the inner circle starting from the bottom center as set forth below:



### **Sec. 22.07.005 – Custodian**

The City Secretary or their designee is the custodian of the City Logo and the City Seal. Further amendment may alter the custodian of the City Logo but not the City Seal, unless at such time Texas Local Government Code Section 22.0703(b)(2) it determined not to constrain such amendment.

### **Sec. 22.07.006 – Official Use of the City Logo and City Seal**

(a) City Logo and City Seal are property of the City of Dripping Springs.

(b) **City Logo Official Uses** – The City Logo may be used by city employees and elected and appointed city officials in connection with the performance of official city business or city-sanctioned events, including but not limited to placement of the city logo on city vehicles, equipment, stationary, the city flag, department websites, handouts for city training sessions, city brochures, city presentations, city uniforms, and city-issued articles of clothing, department news releases, city-sponsored events, and city memorabilia used to promote the city. Branding guidelines adopted by the City Administrator or the Administrator’s designee shall be followed in all use of the logo.

(c) **City Seal Official Uses** – The city secretary, the city secretary’s designee, or the interim city secretary is authorized to use the City Seal on any ordinance, resolution, proclamation, commendation, certificate, or other instrument approved by the City Council or executed by the mayor or other city officials and to use the city seal to authenticate official documents in the conducting of official city business.

### **Sec. 22.07.007 – Other Approved Uses**

(a) The City Administrator may approve other uses of the City Seal or Logo by any person or entity by the procedure set forth below in Section 22.07.008, provided that such use is not in direct conflict with the message and intent of the city, nor the primary purpose of the City Seal or Logo which is to promote the best interests of the city and its residents therein.

(b) All political or artistic expression, or non-commercial editorial expression for purposes of education or history, whatever the medium, that does not have the tendency to confuse

reasonable members of the public as to the City’s endorsement of said expression will be deemed an Approved Use, subject to Section 22.07.009 of this ordinance.

**Sec 22.07.008 – Organizational Use of City Seal or City Logo.**

Any organization or person (“Applicant”) wishing to use the City Seal or City Logo shall make an application for a license for such use to the City Administrator, who shall have discretion to approve or deny such requests. The City Administrator may designate another person or entity to process such applications.

(a) **Contents of Application.** The Applicant’s application for use of City Seal or Logo shall be on a form approved by the City Council. The application shall contain such information as is prescribed by the City Council, but shall include, at a minimum, the following:

1. The name of the Applicant that wishes to use the City Seal or City Logo;
2. If applicable, acknowledgment and proof of the Applicant’s identification as a recognized 501(c)(3) tax exempt organization;
3. If applicable, acknowledgment of the Applicant’s identification as a nonprofit organization;
4. The complete address and telephone number of the contact person submitting the application on behalf of the Applicant, this contact should be where Applicant prefers to be communicated;
5. The event or advertising material for which the City Seal or City Logo will be used by the Applicant;
6. The starting and ending dates in which, the Applicant will use the City Seal or Logo;
7. The location in which the Applicant will use the City Seal or Logo; and
8. Information that provides whether any promotional materials or items using the City Seal and/or Logo will be sold.

(b) **Application Assessment and Issuance.** Within thirty (30) business days of receiving a complete application submitted pursuant to this section, the City Administrator or their designee shall review and determine whether to approve or deny the application. Incomplete applications received by the city will be denied without further review, subject to subsection (2). The City Administrator or their designee will communicate the decision to the Applicant via their preferred method indicated on their application.

(1) The City Administrator or their designee shall base their approval or denial on written guidelines set forth by the City Administrator or their designee consistent with the following

provisions that may be amended, as well as other applicable ordinances, State and Federal laws and Constitutional provisions:

- (i) the effects of association by the City with the event or occurrence;
- (ii) the City's traditional sponsorship of this or similar activities; and
- (iii) other criteria which shall be fairly and neutrally applied to all requestors.

(2) City Seal and Logo use shall not be denied for applications submitted whose criteria fall under Section 22.07.007(b), whether applications received are complete or incomplete.

**(c) Appeal.**

(1) An appeal pursuant to this section shall be in writing and shall state the specific reasons for the appeal and the grounds asserted for relief. The appeal shall be filed with the City Secretary, no later than fourteen (14) days after the date of communication of the City Administrator's decision. The failure to file an appeal in the time or in the manner prescribed in this section waives the organization's right to appeal.

(2) After a timely appeal has been filed with the City Secretary, a hearing date, time, and place shall be set. The City Council shall hear the appeal. The hearing shall be set for a date within a reasonable time period after the date of receipt of the appeal. Reasonable efforts shall be made to set the hearing date not less than ten (10) days nor more than twenty (20) days after receipt of the appeal.

(3) The Applicant requesting the hearing shall be notified in writing of the date, time, and place set for the hearing at the manner of communication requested in the application, unless specified different on the appeal. The City Secretary shall send the notice to the appellant at the address provided on the appeal by the appellant. Service shall become effective on the date of first class mailing. Failure of the appellant to receive such notice shall not affect the validity of any proceedings taken.

(4) The City Council may affirm the City Administrator's decision or direct the City Administrator to allow the organization to use the City Seal and/or Logo. The City Council's decision shall be final. The City Secretary shall issue to the appellant the City Council's decision in writing within 10 business days, stating the reasons for its decision. The City Secretary or their designee will communicate the decision to the appellant via their preferred method indicated on their application or appeal.

**Sec. 22.07.009 – Unauthorized Uses**

(a) Any uses of the City Logo or City Seal that do not fall under Sections 22.07.006-.007 are deemed unauthorized uses.

(b) In specific, the following uses shall not be permitted or deemed to be permitted under Sections 22.07.006-.007 of this Code:

(1) No person, including any elected officer of the City, may use the City Seal or any City Logo in any correspondence or other printed materials distributed in favor of or against any ballot measure, or in favor of or against any candidate for public office if such use has the tendency to cause public confusion on the City's position in favor of or against any ballot measure or candidate.

(2) No person, corporation, or other similar entity shall use the City Seal or the City Logo for commercial purposes without obtaining express consent under this ordinance.

It shall be unlawful for any person, corporation, or similar entity to make or use the City Seal or City Logos, or other indicia of the City deceptively, fraudulently, or without express written permission from the City, whether for public or private use. Unauthorized use of the City Seal, City Logos, or other City Logos is guilty of a misdemeanor. Such unauthorized use is also declared a public nuisance and the City can abate or enjoin such use pursuant to this code.

#### **Sec. 22.07.010 – City Creation of Additional Logos, Seals, or Insignias**

The City retains the right to create variations of the City Seal and City Logo, and to adopt and establish other official City Seals and City Logos. Such variations may include, but are not limited to, centennial seals, or other seals which mark anniversaries, events, apparel, and any other city occasion the City Council wishes to commemorate. Such seals and logos, for the purposes of this Ordinance Section, shall be treated as either a City Logo or City Seal, respectively.

#### **Sec. 22.07.011– No Effect on Any Pending Accrued Violations or Litigation**

That all rights or remedies of the City of Dripping Springs, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding the unauthorized use of either the City Logo or the City Seal 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 or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.