



## MEMORANDUM

**TO:** Timothy J. Baroody, City Manager  
**FROM:** Marne E. Sherman, Development Administrator  
**RE:** Proposed Amendments to Sign Regulations  
**DATE:** June 5, 2017 (for the June 13, 2017 meeting)

---

### ISSUE

Shall the Unified Development Ordinance (UDO) be amended to update sign regulations to remove content-based provisions in accordance with the U.S. Supreme Court ruling in the case of Reed v. Town of Gilbert, Arizona and make general updates?

### RECOMMENDATION

Approval of the attached ordinance on first read.

### PLANNING COMMISSION RECOMMENDATION

The Planning Commission held public hearings at three separate meetings (on March 15, March 29, and May 10). The public offered substantial comment (8 different public speakers) and over 25 emails from business owners, residents, and interested parties. The majority of the public comments at the meetings and by email requested the Planning Commission to recommend eliminating the current allowance for electronic variable message signs in some or all zoning districts and maintaining the prohibition on sail signs and architectural lighting in all zoning districts. However two downtown business owners offered that architectural lighting on the outside of buildings “adds character and encourages night life” while lighting outlining the inside of building windows helps to brighten up displays and provide an added level of security.

The Planning Commission spent the three meetings and one additional work session (on April 26) reviewing and refining the draft ordinance with the primary focus on four issues: electronic variable message signs, lighting outlining parts of a building or ornamental features, illuminated signs located inside of buildings within the Historic District, and sail signs. Staff developed and presented a menu of options for each of the four topics (see Sign Ordinance Alternatives, dated June 13, 2017) and added design standards for electronic message signs into to the draft ordinance for consideration.

In consideration of all of the previously received public comment and following the close of the public hearing on May 10, the Planning Commission finalized its choices on the four topics as noted below and voted unanimously to recommend approval the draft ordinance.

#### I. Electronic Variable Message Signs

Electronic variable message signs shall following the newly proposed design criteria:

- (1) Shall only be permitted only in conjunction with Institutional Uses and Gasoline Sales Uses as defined by Article 4 in all districts excluding Residential Districts, PD-R, C-T, C-D, the Historic District, the Lafayette Boulevard Corridor Overlay District along Lafayette Boulevard from the Blue Gray Parkway to Kenmore Avenue, and the Princess Anne Street Corridor Overlay District along Princess Anne Street.
- (2) Shall be limited to freestanding signs.
- (3) No more than 40 percent of permitted sign area may be an electronic variable message display.
- (4) Message changes shall alternate on not less than eight-second cycle. All electronic variable message signs, regardless of current cycle time, shall conform to this subsection by [1 year from date of ordinance adoption].
- (5) Signs are limited to a black, non-illuminated background with a single color for the illuminated display.

## II. Lighting Outlining Parts of a Building or its Ornamental Features Options

Maintain existing prohibition for lighting outlining parts of a building or its ornamental features in all zoning districts including the Historic District on the exterior of buildings only.

## III. Illuminated Signs located inside of Buildings within the Historic District

Maintain the current allowance for illuminated signs (of any size/number) as long as they do not display flashing, intermittent lights, lights changing degrees of intensity, or animation prohibition for lighting outlining parts of a building or its ornamental features in all zoning districts including the Historic District.

## IV. Sail Signs (Feather Flags)

Maintain the current prohibition of sail signs (feather flags) in all zoning districts.

## **ADDITIONAL PUBLIC OUTREACH/INPUT**

*Architectural Review Board (ARB) Meeting – April 24, 2017*

At its supplementary meeting on April 24, staff presented the draft ordinance highlighting three elements that may have a direct effect on properties within the Historic District. The ARB reviewed the new language in the Exempt Signs section, continued prohibition on lighting that outlines a building or its ornamental features, and the proposed prohibition in the Historic District on illuminated signs inside of buildings within one foot of the window.

The feedback provided support for the added language in the Exempt Signs section and continued prohibition on lighting that outlines a building or its ornamental features. One ARB member noted that lighting on the inside and outside of buildings can be a “detriment to character defining features.” Members provided support for removing the proposed prohibition on signs inside windows stating that signs in the Historic District have “historically been really lively and rich” and that “neon is a character defining feature of several architectural styles.”

*Fredericksburg Main Street, Inc.*

Following the review of the draft text amendments with the director of Fredericksburg Main Street, Inc. on April 25, many downtown business owners were directly alerted to the proposed text amendments and their potential impacts. This outreach generated direct participation in the process by two business owners and expected future input at City Council’s public hearing by Fredericksburg Main Street, Inc.

## **BACKGROUND**

The U.S. Supreme Court has made several major changes to First Amendment law, including a decision regarding local sign ordinances. One effect of this is the explicit invalidation of local ordinances regulating signs based on their content. Sign ordinances across the country have typically been content-based, for example referring to signs based on their status as “directional signs”, “for sale signs”, or “political signs.” This type of ordinance is no longer constitutional.

The proposed replacement for the current sign ordinance removes impermissible content-based distinctions. Instead, the draft ordinance focuses more generally on the sizes, locations, and general characteristics (illuminated, moving, variable message, etc.) of signs. The general intent of the ordinance is to continue to allow signs that are currently allowed, and to prohibit signs that are currently prohibited however, several additional updates to the ordinance are recommended in the attached draft.

## **INITIAL PROCESS**

On December 13, 2016, staff presented an initial draft to City Council. City Council expressed concern about illuminated signs inside of buildings in the Old and Historic Fredericksburg Overlay District. To discourage the use of illuminated signs located inside a building and close to the window in the Historic District, §72-59.7.D.(3) was added to the draft and prohibits illuminated signs located inside a building, within one foot of a window, for all properties in the Historic District. Staff notes that the code change will create many non-conformities throughout the district as well as administrative challenges.

Additionally City Council directed staff to send the initial draft ordinance to stakeholders who displayed interest in or suggested changes to UDO §72-59 in the past. The draft ordinance (December 13, 2016 version) was emailed to eight stakeholders. The group was given two and a half weeks to review the draft and provide comments. Four parties offered input as outlined in the attached January 11, 2017 Summary of Public Input. Two of the responders, Mike Harvey, owner of Harvey Signs, and Kim McClellan, Public Policy Director for the Fredericksburg Area Association of REALTORS, appreciated the opportunity for review and were satisfied with the proposed changes.

On January 24, 2017, City Council adopted Resolution 17-07 formally initiating the text amendment process and referring the item to the Planning Commission for a public hearing, review, and recommendation.

## **PROPOSED TEXT AMENDMENTS**

In addition to addressing the Supreme Court ruling, City Council directed staff to review existing ordinances and propose changes in the best interest of the City, its residents, and business owners. Several updates are identified that will comply with federal regulations and address gaps in the existing regulations, consolidate regulations to ease in the use and enforcement of the UDO, address state legislation, and harmonize signage throughout the City. The summary below is broken down by UDO code section, as organized in the draft Ordinance.

### **Section 72-59: Signs**

1. Eliminates content-based references to comply with the Supreme Court ruling.

2. Revises and expands exempt signage to cover signs that were previously exempt due to specific content (§72-59.3.)
3. Clarifies that exempted signs are still required to obtain a Certificate of Appropriateness, building permit, and electrical permit, as applicable, and that all regulations applicable to particular zoning districts still apply. (§72-59.3.)
4. Exempts any sign within a building, if the sign does not display flashing or intermittent lights or lights changing degrees of intensity, and if the sign is not in motion by any means. (§72-59.3.M.)
5. Generally maintains current list identified prohibited signage (§72-59.4.)
6. Creates uniform design standards that will apply to all zoning districts using the previously adopted design standards established in Commercial and Industrial Districts and adds new standards for electronic variable message signs. (§72-59.6.)
7. Requires all existing electronic variable message signs to conform to the 8-second cycle standard within one year of adoption of the text amendments. (§72-59.6.A.(4))
8. Removes the requirement to landscape the base of freestanding signs.
9. Reduces setbacks for freestanding signs to equal half the height of the proposed sign to property lines and a distance equal to the height of the proposed sign to existing freestanding signs, more in keeping with setbacks generally established throughout the City. (§72-59.6.B.)
10. Clarifies that limitation on 200 square feet of building signage in the Commercial and Industrial Districts is per building side, not overall total. The total building signage allowed will still be based on the length of the building front. (§72-59.7.A.)
11. Updates criteria and newly permits additional freestanding signs at major entrances for shopping centers, industrial parks, and office parks/retail centers in specific Commercial and Industrial Districts. (§72-59.7.A.)
12. Establishes a standard for building mounted signs for non-residential principal uses in Residential and PD-R Districts. (§72-59.7.A.)
13. Updates the size allowance for freestanding signs for non-residential principal uses in the Residential and PD-R Districts based on the width of an adjacent right-of-way, more in keeping with the scale of residential neighborhoods. (§72-59.7.A.)
14. Removes restriction for building signs in the PD-C zoning district to be limited to three sides of the building. (§72-59.7.B.)
15. Implements design standards adopted in the Princess Anne Street and Lafayette Boulevard Corridor Design Guidelines by prohibiting the use of electronic variable message board signs. (§72-59.7.D)
16. Consolidates regulations for temporary signs (banners) to one section. (§72-59.8.)

**Section 72-33: Planned Development Districts**

1. Removed and consolidated sign regulations into Article 5.

**Section 72-34.6: Gateway Corridor Overlay Districts**

1. Removed and consolidated sign regulations into Article 5.

**Section 72-41: Principal Use Standards**

1. Removed and consolidated sign regulations pertaining to Bed and Breakfasts into Article 5.

**Section 72-43.3: Temporary Use Standards**

1. Simplifies sign regulations and clarifies that signs associated with yard sales are not permitted in the public right-of-way.

**Section 72-64: Nonconforming signs**

1. Deletes existing regulations to conform to enabling legislation.

**Section 72-82.8: Sign Measurements**

1. Consolidates existing sign measurements into one section.
2. Sets maximum height allowance for building mounted signs. (§72-82.8.H.)

**Section 72-84: Definitions**

1. Revises the definition of “Structure” to include flagpoles.
2. Creates definitions for Public Art, Office Park/Retail Center, Roof Sign, and Variable Message Sign.

Attachments:

Draft Ordinance (Text Amendments)

Sign Ordinance Alternatives, dated June 13, 2017

Draft Planning Commission Minutes, dated May 10, 2017

City Council Resolution 17-07