



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: May 16, 2017
AGENDA ITEM: E. 3.
CASE: TA2017-03005
ORDINANCE NO.: 9029-17
REQUEST: Review and recommendation to the City Council, of amendments to the Community Development Code Regarding Signage.
INITIATED BY: City of Clearwater, Planning and Development Department

BACKGROUND:

In June 2015, the United States Supreme Court issued a decision in *Reed v. Town of Gilbert, Ariz.*, -U.S.-, 135 S. Ct. 2218 (2015) which clarified that temporary signs must be regulated in a content-neutral manner. This ruling impacted sign codes across the country, including Clearwater's, because temporary signs are typically regulated by sign message. The Community Development Code currently provides specific regulations for temporary signs including real estate, election, free expression, construction, etc. These regulations are content-based and must be revised.

The Court also confirmed in June 2015 that government speech is not subject to First Amendment scrutiny in *Walker v. Texas Division, Sons of Confederate Veterans, Inc.* 135 S. Ct. 2239 (2015). This has implications for the City's sign ordinance because there are a number of regulations for a variety of government signs.

City Council authorized the City Attorney to hire William D. Brinton, Rogers Towers, P.A. as outside counsel to review the sign code and make recommendations on any amendments necessary to make the Clearwater sign code consistent with the *Reed* decision.

In August, City Council discussed expanding the uses that are eligible to have electronic changeable message signs and directed staff to prepare code amendments for Council's consideration. The Planning and Development Department reviewed ordinances from across the country, considered Council's discussion and worked with the City's outside legal counsel to develop some targeted amendments for Council's consideration.

ANALYSIS:

Proposed Ordinance No. 9029-17 implements recommendations by the City's outside legal counsel to address the decisions of the *Reed* and *Walker* cases. It also includes limited changes to the electronic changeable message sign provisions and includes several amendments generated by the Planning and Development Department. The ordinance revises Community Development Code Article 8, Definitions and Rules of Construction with regard to certain sign definitions. It also deletes and replaces Article 3, Division 18, Sections 3-1805 General Standards and 3-1806 Signs without a Permit in their entirety. Sign provisions found in these subsections not related to temporary or government signs will remain, but are reorganized and located in the new Section 3-1805 entitled General Provisions for Signs. Section 3-1806 is re-titled and limited to regulations for temporary signs. The ordinance also includes one amendment to Article 3, Division 21, Temporary Uses pertaining to signage.

Proposed Amendments Addressing Temporary Signs

Amendments addressing the *Reed* case primarily focus on the deletion of definitions of temporary sign types and their associated regulations. This includes definitions and regulations specific to construction, real estate, election, free expression, garage/yard sale and public purpose signs, as well as those for allowable temporary uses.

Proposed new Code Section 3-1806, Temporary Uses, includes two new tables - one which regulates sidewalk signs and the other which sets forth parameters for all other temporary signs. While Table 3-1806.1.a is new, all of the current sidewalk sign requirements have been incorporated into the table and footnotes. In addition to primary retail and restaurant uses, the Planning and Development Department is proposing that valet stands and parking garages/lots also be permitted to erect a sidewalk sign. Such signs for these two uses will assist the traveling public in making decisions about where to park, which can positively impact traffic circulation in the vicinity of these uses. While the Code currently allows a valet stand to have a small sign (4 square feet), this proposed revision would allow a larger, more visible sidewalk sign.

Proposed Table 3-1806.1b sets forth the criteria and limitations for temporary signs. Allowances for sign area, height, location, number of signs allowed per property, spacing, etc. are determined by the property's location in either a residential or nonresidential zoning district. As proposed, the regulations are content neutral and address the issues identified by the *Reed* decision. The new regulations will allow non-residentially zoned properties to have up to four signs, 16 square feet each, and residentially zoned properties up to eight signs, 4 square feet each. All signs must be separated by a distance of 15 feet.

Proposed Amendments for Electronic Message Center Signs

To address feedback received from City Council about its desire to consider electronic changeable message signs for certain institutional uses, the Planning and Development Department is proposing changes to several sections of the sign code. Specifically, proposed Section 3-1807.B.6 confirms that electronic changeable message signs may be used for fuel price and menu signs, and for facilities and venues with more than 2000 seats; it also allows them for schools and places of worship. To ensure a high quality appearance is presented, certain design standards are also proposed. Electronic changeable message areas shall be:

- limited to 40% of the total sign face area
- located on the lower portion of the sign face
- contiguous to the other sign copy area (no gaps)
- architecturally integrated into the design of the sign face
- consistent with the width and depth of the sign cabinet

In addition to the above criteria, new illumination standards have been added to Code Section 3-1805.G.1 that regulate the brightness levels of self-luminous signs during the daytime and nighttime. These standards are important because electronic signs can generate significant amounts of light that can create negative impacts on surrounding properties. The existing provisions regarding the prohibition of animated signs, etc. will remain in effect as well. Lastly, the dwell time of messages is proposed to be one hour instead of the current six hour rule.

Other Proposed Amendments

In addition to the main subjects of this ordinance, the Planning and Development Department, as well as the outside legal counsel, proposed some additional amendments.

- In response to the U.S. Supreme Court confirming the *Walker* case, government signs are proposed to be exempt from the sign regulations (Section 3-1803 Exempt Signs). Several other amendments are made throughout the sign ordinance to recognize these signs are no longer subject to Article 3, Division 18.
- The flag provisions are being revised, primarily with regard to the number of flags on non-residential property and the establishment of a maximum flag size of 24 square feet. Flags on nonresidential properties less than .5 acres will be permitted one flagpole with two flags and on those over .5 acres up to 3 flagpoles with two flags per flagpole. Currently each nonresidential parcel is permitted three flags. The existing Code does not provide guidance on whether or not that means flags or flagpoles. The Planning and Development Department conducted a study of sites with flags and determined the proposed amendments are reasonable and consistent with the community character.
- A flexibility provision is proposed for the required five foot setback for freestanding signs based on the presence of physical site constraints.
- Due to concerns about maintenance and quality issues, the proposed ordinance eliminates the ability to use banners or flags as permanent freestanding and attached signage.
- Language regarding street address signs is being revised to require address signs.
- A new provision is being added that requires signs to be maintained in good repair and landscaping around signs to be properly maintained and free of litter.
- The amount of signage allowed for a school is proposed to be increased from 20 square feet to 50 square feet and increased from six feet in height to 14 feet because the majority of schools are located in nonresidential zoning districts. Furthermore, it would be impractical to accommodate an electronic changeable message area within a 20 square foot sign.

CRITERIA FOR TEXT AMENDMENTS:

CDC Section 4-601 sets forth the procedures and criteria for reviewing text amendments. All text amendments must comply with the following:

1. The proposed amendment is consistent with and furthers the goals, policies and objectives of the Comprehensive Plan.

A review of the Clearwater Comprehensive Plan identified the following Goals, Objectives and Policies which will be furthered by the proposed Code amendments:

Goal A.3 The City of Clearwater shall ensure that all development or redevelopment initiatives meet the safety, environmental, and aesthetic needs of the City through consistent implementation of the Community Development Code.

The general principles and purposes of Division 18 recognize that safety and community appearance are of paramount interest to the City of Clearwater and all regulations contained in Ordinance No 9029-17 implement those purposes and principles. Appropriate sign regulations are critical in creating a safe and attractive environment. Amendments are necessary to bring consistency with the City's sign ordinance and the Reed case. Revisions allowing the very limited use of electronic changeable message signs for certain institutional uses, along with design standards, limited dwell times and illumination standards will ensure safety and aesthetic concerns are met. New maintenance standards and the elimination of banners as allowable permanent signs will have a positive impact on the aesthetic needs of the City.

Objective A.3.1 All signage within the City of Clearwater shall be consistent with the Clearwater sign code, as found within the Community Development Code, and all proposed signs shall be evaluated to determine their effectiveness in reducing visual clutter and in enhancing the safety and attractiveness of the streetscape.

Proposed Ordinance No. 9029-17 includes amendments which balance citizen and business needs for temporary signage with the City's objective to have an uncluttered, safe and attractive environment. The proposed permitted sign area and number of signs is sufficient for those purposes. Design standards established for electronic changeable message signs, along with the limited use of them, will minimize their impact on the visual environment and help maintain an attractive visual and business environment. Establishing limits on illumination for such signs, in conjunction with the reasonable allowances for sign area, and limited land uses that can erect them, will greatly aid in minimizing and preventing visual clutter, enhancing safety and maintaining an attractive community.

2. The proposed amendment furthers the purposes of the Community Development Code and other City ordinances and actions designed to implement the Plan.

The proposed text amendments will further the purposes of the CDC in that it will be consistent with the following purposes set forth in Section 1-103.

- It is the purpose of this Development Code to implement the Comprehensive Plan of the city; to promote the health, safety, general welfare and quality of life in the city; to guide the orderly growth and development of the city; to establish rules of procedure for land development approvals; to enhance the character of the city and the preservation of neighborhoods; and to enhance the quality of life of all residents and property owners of the city (*Section 1-103.A., CDC*).
- It is the further purpose of this Development Code to make beautification of the city a matter of the highest priority and to require that existing and future uses and structures in the city are attractive and well-maintained to the maximum extent permitted by law. (*Section 1-103.D, CDC*)
- Protect the character and the social and economic stability of all parts of the city through the establishment of reasonable standards which encourage the orderly and beneficial development of land within the city. (*Section 1-103.E.2, CDC*)
- Preserve the natural resources and aesthetic character of the community for both the resident and tourist population consistent with the city's economic underpinnings. (*Section 1-103.E.5, CDC*)
- Coordinate the provisions of this Development code with corollary provisions related to parking, fences and walls, signs, minimum habitable area and like supplementary requirements designed to establish an integrated and complete regulatory framework for the use of land and water within the city. (*Section 1-103.E.12, CDC*)

The amendments proposed in Ordinance No. 9029-17 will further the above referenced purposes by implementing the Comprehensive Plan policies related to signage, establishing a regulatory framework that limits the height, size, number and setback of temporary signs, regardless of duration and content, and in a manner that promotes vehicular and pedestrian safety. Furthermore, the temporary sign amendments and those associated with electronic changeable message signs will not result in signage that contributes to clutter or distracts from the City's community character. An attractive built environment will be maintained which will contribute to the economic stability of the City.

SUMMARY AND RECOMMENDATION:

The proposed amendments to the Community Development Code seek to remove any content bias and to simplify the process of regulating temporary signs. While it expands the uses allowed to make use of electronic changeable message signs, it provides for design standards, illumination and dwell time standards that will ensure a high quality use of such sign. The proposed ordinance is consistent with and will further the goals of the Clearwater Comprehensive Plan and the purpose of the Community Development Code. Based upon the above, the Planning and Development Department recommends **APPROVAL** of Ordinance No. 9029-17 that amends the Community Development Code.

Prepared by Planning and Development Department Staff: _____
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ATTACHMENTS: Ordinance No. 9029-17