



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Eric Campbell, City Manager  
From: Rachel Drescher, Zoning Administrator and Harrisonburg Planning Commission  
Date: December 10, 2019 (Regular Meeting)  
Re: Sign Ordinance Comprehensive Update

## **Summary:**

Public hearing to consider relocating the City's sign regulations from within the City's Building Code (Title 11 of the City Code) and placing them within the Zoning Ordinance (Title 10, Chapter 3). Along with relocating them within the code, the sign regulations were comprehensively amended, which included removing content-based language in response to the Supreme Court of the United States determination in the case *Reed v. Town of Gilbert* (2015) and other amendments.

## **Background:**

The purpose of the Sign Ordinance is to regulate the size, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of neighborhoods, the creation of a convenient, attractive and harmonious community, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that call for regulation.

On June 15, 2015, the Supreme Court of the United States determined in the case *Reed v. Town of Gilbert* there are limited circumstances where municipalities can enforce content-based restrictions without infringing on First Amendment rights. The Town of Gilbert, Arizona restricted the size and time limit for temporary ideological signs more strictly than temporary political signs. A local church challenged the regulations alleging First Amendment infringements. Eventually the case went to the U.S. Supreme Court, who found sign ordinances that regulate based on content are unconstitutional. Sign ordinances shall not regulate based upon the content or message of the sign. Municipalities continue to have the power to regulate signs based upon time, place, and manner.

The City's Sign Ordinance was last comprehensively reviewed and adopted on April 23, 1996. Over the past two and a half years staff has worked on the Sign Ordinance to remove content-based language and to provide opportunities for temporary signage, change penalties for illegal signage from criminal to civil, organize the ordinance to be more easily navigated, along with other changes.

## **Key Issues:**

Below is a list summarizing major changes from the current Sign Ordinance to the proposed sign ordinance.

### **Removal of content-based language**

- Section 11-7-11 in the current Sign Ordinance regarding ‘special regulations for downtown area’ would be removed as this section is content based.
- Clarified content-based language under current Section 11-7-3(3), 11-7-3(4), and 11-7-3(5) regarding sign permit not required.

### **Civil penalties**

- Relocate the Sign Ordinance within City Code from Chapter 11, Building Code Regulations to Chapter 10, Planning and Development, specifically within the Zoning Ordinance to allow civil penalties for violations instead of criminal penalties. Note that the Building Codes division would continue to review sign permit applications and inspect for compliance with the Building Code.
- The civil penalties for illegal signage would be as follows: \$100 for first offense, \$200 for second offense, and \$500 for every subsequent offense. Note that state code does not allow municipalities to charge penalties for signs located within the public right-of-way. (Proposed Section 10-3-13(2)(a)(ii))

### **Comprehensive sign plans**

- Comprehensive sign plans would continue to be an option in the proposed Sign Ordinance; however, the proposed regulations would provide more parameters for approval and would be reviewed and approved administratively and would no longer require approval by City Council. (Proposed Section 10-3-214)
- Add ability for property owners to apply for a comprehensive sign plan for M-1 zoned properties (Proposed Section 10-3-214(b)). Remove ability for off-premises signage, such as billboard advertising, in the M-1 District.

### **Temporary signage**

- Expand temporary sign permits from only allowing specific events of government, civic, and charitable organizations to allowing any person, firm, or corporation to apply for a temporary sign permit. This signage would be in addition to each use’s allowable sign amount, may be applied for two times per calendar year, and may not be erected for longer than 30 days. (Proposed Section 10-3-208(5))
- Add an allowance for grand opening signage (when a business name changes, changes in business or activity, or the site is redeveloped). The grand opening time period would begin on the day the business is open to the public and lasts for a maximum of 30 days. During this time, six extra signs, each up to the maximum size of 32 square feet and eight feet in height, would be allowed with a temporary sign permit. Feather flags would also be permitted during this time. (Proposed Section 10-3-208(5)(d))

### **Signage allowance changes**

- Increase the allowable sign area for signs located in the R-1, R-2, R-3, R-4, R-6, R-7, U-R, MH-1, and MH-2 zoning districts from 24 square feet to 32 square feet to match the state

building code allowance for signs without an engineered review. Increase the allowable sign height from six feet to eight feet.

- More than one freestanding sign would be allowed to be located within the setback for parcels that are permitted more than one freestanding sign. (Proposed Section 10-3-213, note 1) The current Sign Ordinance only permits one freestanding sign to be located within this setback for parcels that are permitted more than one freestanding sign. (Current Section 11-7-3(14))

### **Organization and clarity**

- Using the Local Government Attorneys of Virginia's (LGA) suggested language, the purpose and intent of the Sign Ordinance would be strengthened by:
  - Including a substitution clause that noncommercial language may be substituted for commercial language. (Proposed Section 10-3-206(1))
  - Including a severability clause that the article continues to be valid even if a specific provision does not in a court of competent jurisdiction. (Proposed Section 10-3-206(1))
- Expand the definitions section and alter definitions to align with the suggested LGA language. (Proposed Section 10-3-207)
- Outlines the sign permitting process to include:
  - Staff processing time limit. (Proposed Section 10-3-208(2)(b))
  - Grounds to revoke a sign permit within proposed Section 10-3-208(4)(b), which includes:
    - Application was false.
    - Sign was not installed according to sign permit application.
    - Sign violates the law.
- To be more reader friendly, a chart would describe the signs allowed for each zoning district. (Proposed Section 10-3-213)
- Nonconforming sign language was amended according to the LGA suggestion. This includes stronger language to remove signs where a use is no longer in operation. (Proposed Section 10-3-217)
- Signs permitted for parcels with no street frontage would be clarified. (Proposed Section 10-3-215)

### **Elements of the Sign Ordinance that are relatively unchanged include, but are not limited to:**

- How sign allowance is calculated. (Proposed Section 10-3-212, current Section 11-7-23)
- The cost of applying for a permit. (Proposed Section 10-3-208(3), current Section 11-7-3(22))
- When a permit is required. (Proposed Section 10-3-209, current Section 11-7-3(1))
- Prohibited signs. (Proposed Section 10-3-210, throughout current Section 11-7-3)
- Sign allowances for B-1, B-2, and M-1 Districts. (Proposed Section 10-3-213, current Sections 11-7-6, 6.1, and 7)

- Ability to apply for a comprehensive sign plan. (Proposed Section 10-3-214, throughout current Sign Ordinance based on zoning district)
- Ability for parcels without site frontage to advertise (Proposed Section 10-3-215, current Section 11-7-9)
- Ability for properties located within an eight hundred (800) foot radius of the center of any Interstate 81 ramp intersection with the closest boundary of an intersecting street to have a taller sign. (Proposed Section 10-3-216, current Section 11-7-8)

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the Ordinance amendments;
- (b) Approve the Ordinance amendments with additional amendments; or
- (c) Deny the Ordinance amendments.

**Community Engagement:**

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing and twice advertising for City Council's public hearing. The advertisement was published as shown below:

***Sign Ordinance Comprehensive Update***

Public hearing to consider relocating the City's sign regulations from within the City's Building Code (Title 11 of the City Code) and placing them within the Zoning Ordinance (Title 10, Chapter 3). Along with relocating them within the code, the sign regulations were comprehensively amended, which included removing content-based language in response to the Supreme Court of the United States determination in the case *Reed v. Town of Gilbert* (2015), while also adjusting the ordinance to be more reader friendly, adding and amending definitions, changing signage allowances in the R-1, R-2, R-3, R-4, R-6, R-7, U-R, MH-1, and M-2 zoning districts from 24 square feet to 32 square feet to match Building Code regulations and increasing the allowed sign height in those districts from 6-ft. to 8-ft., providing new opportunities for temporary signage, allowing comprehensive sign plans to be reviewed administratively instead of requiring approval by City Council, and changing penalties for illegal signage from criminal to civil court. The purpose of the Sign Ordinance is to regulate the size, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of neighborhoods, the creation of a convenient, attractive and harmonious community, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development.

In addition, staff held two public input sessions on January 17, 2019 and September 18, 2019. Local sign contractors, professional associations, and business associations who staff identified as having interest in changes to the Sign Ordinance were notified of the public input sessions and of the public hearings at Planning Commission and City Council.

**Recommendation:**

Staff recommends alternative (a) approval of the Ordinance amendments.

**Attachments:**

1. Planning Commission Extract
2. Proposed Sign Ordinance
3. Current Sign Ordinance
4. Public comments collected after public input session #1 on January 17, 2019 (Note: no comments were received after public input session #2 on September 18, 2019.)

**Review:**

Planning Commission recommended to approve (4-0) the Sign Ordinance Comprehensive Update as presented.