



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ORD 19-025

File ID: ORD 19-025 Type: PH-Zoning Ordinance Status: Approval Review

Version: 2 Agenda Section: In Control: Planning Commission

File Created: 11/05/2019

Subject: Final Action:

Title: Consider Sign Ordinance Comprehensive Update

Internal Notes:

Sponsors:

Enactment Date:

Attachments: CC Memorandum (Sign Ordinance Comprehensive Update), Extract from 11-13-19 Planning Commission, Proposed Sign Ordinance, Current Sign Ordinance, Public comments collected after public input session #1, PC Memorandum, PC Proposed Sign Ordinance, PC Current Sign Ordinance, PC Public comments collected after public input session #1

Enactment Number:

Contact:

Hearing Date:

Drafter: thanh.dang@harrisonburgva.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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2	Planning Commission	11/13/2019	recommended to full council	City Council	12/10/2019		Pass
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Action Text: A motion was made by Whitten, seconded by Finks, that this PH-Zoning Ordinance be recommended to full council to the City Council, due back by 12/10/2019. The motion carried by a voice vote.

Notes: Chair Way read the request and asked staff to review.

Rachel Drescher, Zoning Administrator, said that 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.

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)

It was drawn to staff's attention that in 10-3-213 *Signs allowed per zoning districts* we do not state where sidewalk signs are allowed to be located. We are adding a note. We will change the temporary sign note to five (5) and added a note (4) for sidewalk signs that states:

Within allowed districts, sidewalk signs should be located only in front of the business advertised and only during the hours of operation.

An additional revision is located on page 4 of the sign ordinance, section 10-3-208(5)(d)1, feather flags will be changed to feather *signs* according to the definition used in section 10-3-207.

Staff recommends approval of the Sign Ordinance Comprehensive Update.

Chair Way asked if there were any questions for staff.

Commissioner Finks said that there do not seem to be substantial changes from what the ordinance currently states regarding the districts in which sidewalk signs are allowed.

Ms. Drescher said that it directly transfers from our current ordinance to our proposed ordinance. We simply changed the name. We previously called them portable signs. Now

we are calling them sidewalk signs due to the confusion regarding what portable meant.

Commissioner Finks asked if there was any mention regarding a lighting ordinance during the discussions for the Sign Ordinance update. Was there any discussion regarding adopting a lighting ordinance in Harrisonburg, at least in regard to signs?

Ms. Drescher said that very early in the discussion we did talk about it. There are dark sky ordinances in many localities. It was a bigger project than what our Sign Ordinance review was ready to tackle. It is a separate conversation.

Commissioner Finks said that if the City were to consider a comprehensive lighting ordinance, how would that affect the Sign Ordinance in its current form or in the proposed changes? Would it require another change of the Sign Ordinance if the City were to adopt a lighting ordinance?

Ms. Drescher said that it could. We have illumination in section 10-3-211. That would be where the adjustments would be made.

Commissioner Finks said that a lighting ordinance would have more to do with the time of day rather than the type.

Commissioner Colman asked for more information regarding section 10-3-214(2)(b), Comprehensive Sign Plan in B-2 and M-1 Districts. Individual parcels waive their right to a freestanding sign if they take part in a comprehensive sign plan. A campus would have a primary sign, but each business within also needs to attract people. Where can each business have signs so that people know how to find them?

Ms. Drescher said that the mall has a comprehensive sign plan and is located on multiple parcels. They have one for each entrance. The development is treated as one parcel, one shopping center.

Commissioner Colman said that if there is an industrial park. There would be a sign in the front where all the businesses are listed, but if I go in the complex, how do I find the business I am going to? We are advocating for trees and landscaping, but they can impede visibility. How do clients find the businesses? It seems that they should have a sign at their respective entrances. We may not have that situation right now, but they do in other larger cities. JMU has numerous signs identifying the various buildings on campus so that people can find them. There should be the opportunity to have signs identifying the businesses within, along the connector path.

Ms. Drescher said that she would need to look at the specific situation.

Mr. Fletcher said that in many instances there will be wall signage that will be able to identify the buildings.

Ms. Drescher said that the purpose of the sign ordinance is to prevent clutter from the public street. If I am going into a development and it is internal and not visible from the street or adjacent properties, it might be permitted. It may not be something regulated by our ordinance.

Commissioner Whitten said that the office park behind Steven Toyota is a good example.

Ms. Banks said that if there is an industrial park that is on a private street. For example, along Acorn Drive you have your sign that lists the businesses, then you turn on a private street and you are looking at things that are not seen from the public street. If it is not on the public street, but on the private street, you can have signs. You could have wall signs, as well.

Commissioner Colman said that trees and landscaping obstruct the view of wall signs. Some of the commercial parks in Richmond have signs for each group of buildings. I cannot see them from the public street because they are obstructed by trees. I have to enter and drive along to find them.

Mr. Fletcher said that there are ways to accommodate that from an advertising perspective for the development. It could be that they have one freestanding sign on the front parcel that identifies the complex and the business in which that sign is located. They may choose to not do a comprehensive sign plan. When you turn in, each individual lot would have a freestanding sign. This is if you want to place multiple businesses on the sign out front.

Ms. Banks said that this is not new to the Sign Ordinance; but is not something that the Planning Commission has reviewed. Comprehensive sign plan requests went directly to City Council.

Commissioner Colman said that now is the chance to look at these things and see if we need to adjust them. It has been there for a long time, and I do not know that we have an issue with it. I am thinking ahead.

Ms. Drescher said that if it is a development where you are driving in and it is interior then that is not what we are regulating. This is to regulate signs placed on private property for exterior observation.

Commissioner Whitten said that when you drive into places and you cannot find anything because the signs are so small or so low, you know that they have a restrictive sign ordinance. We want people to be able to find things.

Mr. Fletcher said that we would likely regulate any freestanding sign. I think that when a situation like that comes up, we would brainstorm with them and try to figure things out. If it does not work, as with any ordinance, if we need to make any amendments, we may.

Commissioner Colman said that it makes sense. I want to ensure that we are forward looking. This is not a simple document.

Chair Way asked if there were any further questions for staff. Hearing none, he opened the public hearing and asked if there was anyone wishing to speak to the sign ordinance update. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Colman asked to see section 10-3-13(1)(a)(ii).

Mr. Fletcher indicated the sections location within the document.

Commissioner Finks asked who could apply for a comprehensive sign plan.

Ms. Drescher said that the property owner has to sign off on comprehensive sign plans. We allow the property owner or tenant or a contractor on behalf on either one of those to apply for a regular sign permit.

Commissioner Whitten moved to recommend approval of the Sign Ordinance Comprehensive Update, as presented.

Commissioner Finks seconded the motion.

All members voted in favor of recommending approval, as presented (4-0). The recommendation will move forward to City Council on December 10, 2019.
