



Planning Department

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TO: Planning Commission

**CC: Planning Department
Travis Parker, Director**

FROM: Stephen Wilson, Planning – Development Assistance

DATE: February 21, 2018

SUBJECT: Zoning Ordinance – Sign Ordinance Update

Background

The City's current sign ordinance has been in effect since April 1, 2013. Since the time of adoption, staff has received feedback from the Lakewood community and the U.S. Supreme Court has made a decision affecting sign ordinances across the country.

The U.S. Supreme Court case, *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), can be summarized as follows:

In 2005, Gilbert, Arizona adopted a municipal sign ordinance that regulated the manner in which signs could be displayed in public areas. The ordinance imposed stricter limitations on signs advertising a qualifying event (religious services for example) than signs displaying "political" or "ideological" messages. When the town's Sign Code compliance manager cited a local church for violating the ordinance, the church's pastor, Clyde Reed, filed a lawsuit in which they argued the town's sign regulations violated their First Amendment right to the freedom of speech.

The case made its way to the U.S. Supreme Court where the court ruled 6-3 in favor of the church. The majority opinion written by Justice Thomas concluded that the town's sign ordinance imposed content based restrictions that did not survive strict scrutiny because the ordinance was not narrowly tailored to the government's stated purposes.

Given this decision, jurisdictions' across the U.S. must be prepared for strict scrutiny of their sign regulations for content neutrality.

In response to input from the community, staff's experience using the current sign standards for the past 5 years and the Supreme Court case, Lakewood staff is proposing to revise sections of the Zoning Ordinance. The intent is to improve the existing standards, to create content neutral regulations and to simplify the format.

Process

Staff established a working group with community stakeholders representing neighborhoods, businesses, and those in the sign-industry. The group met three times to discuss the ordinance, refine details, and give direction to the updates.

In addition to the working group, staff consulted with legal counsel. The updated ordinance was reviewed by Brian Connolly of the Real Estate and Land Use Law firm Otten, Johnson, Robinson, Neff + Ragonetti. Mr. Connolly, an expert in sign regulations post *Reed v. Town of Gilbert*, provided recommendations and amendments that have been incorporated into the ordinance update.

Staff provided information at two Study Sessions with the Lakewood Planning Commission and comments from those sessions have been incorporated into the ordinance update. There was general agreement with the direction on yard signs, electronic message center signs, projecting signs, banner pole signs, and painted wall signs. Updates from the last Study Session include an increase in the sign area allowance for yard signs, the addition of a time limit for yard signs, and the definition of canopy has been revised.

The ordinance update has been referred both internally and externally and comments from Planning staff, as well as others, have been incorporated into the document.

Please note that the Lakewood Code Enforcement Division has recommended against having time limits for yard signs due to lack of enforceability and impact to current staff resources. The Code Enforcement Division continues to voice concerns about time limits and recommends adding a minimum yard sign size limitation to the standards. Code Enforcement staff may provide additional testimony at the public hearing.

Summary of Proposed Amendments

Article 2: Procedures and Appeals, Section 17.2.9: Comprehensive Sign Plans – This section was updated to remove ambiguous language, refine approval criteria and to clarify process.

Article 9: Signs Standards – This section was a complete re-write. Significant changes to the sign standards include:

- Creation of “Yard Signs” that will replace several content based sign types including but not limited to Construction Signs, Election Signs and Ideological Signs.
- Restrictions on Electronic Message Centers including limitations on brightness.
- Allowances for Projecting signs.
- Allowances for Banner Pole signs.
- Revised language for better compliance with applicable State and Federal law.
- Simplification of the ordinance’s formatting and language.

Article 12: Nonconformities, Section 17.12: Signs on Nonconforming Buildings – This section was updated to improve, clarify and refine the standards. This section was previously located in Article 9.

Article 13: Definitions – This section includes updates and new definitions are listed below:

- Awning
- Canopy
- Commercial Speech
- Flag
- Pad Site
- Scoreboard
- Sign, Banner Flag
- Sign, Blade
- Sign, Cabinet
- Sign, Commercial Post
- Sign, Home Business
- Sign, Interior
- Sign, Menu Board
- Sign, Off-Premise
- Sign, Public
- Sign, Residential Property Transition
- Sign, Temporary
- Sign, Transit Shelter
- Sign
- Street Frontage
- Use, Institutional
- Building Frontage
- Clear Zone
- Decorative Lighting Display
- Noncommercial Speech
- Residential Zone
- Sign Without Backing
- Sign, Banner Pole
- Sign, Bus Bench
- Sign, Canopy
- Sign, DeMinimus Area
- Sign, Directional
- Sign, Major Tenant Identification
- Sign, Neighborhood
- Sign, Projecting
- Sign, Residential Business
- Sign, Roof
- Sign, Transit
- Sign, Yard
- Signable Area
- Use, Commercial
- Use, Public

Staff Recommendation

The Planning Commission recommend that the City Council approve the updated sign standards.