



PLANNING COMMISSION

Planning & Development Services Department • 201 N. Stone Ave. • Tucson, AZ 85701

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TO: Planning Commission

FROM: Manjeet Ranu, AICP
Executive Secretary, Planning and Development Services

SUBJECT: Sign Code Revision Project

Issue: This is a study session to provide the Planning Commission an update on the Joint Subcommittee to review the Sign Code Revision Project as directed by Mayor and Council (see Background below for details). On August 9, 2016, the Mayor and Council initiated a Sign Code revision process and gave direction to do the following:

Comply with the 2015 U.S. Supreme Court decision on *Reed v. Town of Gilbert*; Simplify the Sign Code by integrating it into the Unified Development Code, and Make practical changes that modernize the Code, improve the quality of design and flexibility of the overall code, and ground it in technical standards; Have the Citizens Sign Code Committee and the Planning Commission hold joint study sessions and public hearings on the proposed changes to the Sign Code; Have staff return to the Mayor and Council with a recommendation no later than January 2017.

Note several councilmembers stated that Mayor and Council may consider a longer period of time at a study session if needed.

Recommendation: Receive the staff report and provide direction.

Background: The June 2015 U.S. Supreme Court decision in the case *Reed vs. The Town of Gilbert* has required all jurisdictions in the country to review and amend their sign codes to be content-neutral. This case resulted in the City of Tucson needing to bring its Sign Code into conformance with the *Reed* decision. Additional background information about the *Reed* case is available in Attachment E.

About the time that *Reed* was announced, members of the business community raised concerns that the City's Sign Code is out of date, overly restrictive, and difficult to use in comparison to other regional and Arizona jurisdictions. After the Mayor and Council's August Study Session, several stakeholders not related to the business community have raised concerns that this revision project may cause the current Sign Code to be weakened.

Citizen Sign Code Committee – Planning Commission Joint Subcommittee Update -
 Since October 2016, a joint subcommittee to review the Sign Code revisions has met thirteen times. The Subcommittee’s key remaining issue areas include:

- Rate of change on digital signs
- Public notice of design options
- Design option criteria
- Alterations to nonconforming signs
- Sign type standards
- Menu board sound mitigation
- Sign Design Review Committee appointment and quorum numbers.

Overall, the subcommittee members have met for a combined for a total of 155 hours of meetings and reviewed 49 committee suggested edits (Attachment D) at least two times each. During the process, staff has sent out more than fifty emails to the subcommittee and notification group. 120 stakeholders have attended these meetings representing 29 different organizations (not including individuals representing themselves). There have also been 76 speakers at the call to the audience and 32 comments submitted on the Sign Code Revision website. Links to the website and public/stakeholder comments received to date are included in Attachment F.

Planning Considerations

Reed and Sign Code Problems – One of the lessons of *Reed* is not to name signs by the message they convey. Instead, it is preferable to be content-neutral by naming the sign by time, place or manner. Here are several examples:

<i>Content Problem</i>	<i>Content Neutral Option</i>
Real Estate Sign	Temporary Sign - time
Directional Sign	Access Point Sign - place
Freestanding Identification Sign	Freestanding Sign - manner

Exempt Signs –National legal analysts recommend closely reviewing the Sign Code’s Exempt Section as a potential problem area where the code often gives more flexibility to some signs that are message-oriented. The current Sign Code has only six exempt signs and only one appears to be a problem that a minor renaming will resolve.

Message-oriented Signs - The other problem area is message-oriented sign categories. In reviewing the Sign Code, the following signs are problems: real estate, directional, political, time and temperature, home occupation, grand opening, building memorial marker. At the same time, these Sign Code signs are probably acceptable: A-frame, awning, banner, canopy, freestanding, freeway, wall, portable, projecting, and window.

One idea that may be appropriate in Tucson is using an overall sign area allotment per property for a newly defined sign type called a portable sign. It is basically a long-term

temporary sign made of light materials like wood, plastic, light metal, and various thick paper products that may practically be erected for several months or several years. A total sign area allotment along with dimensions such as total number, height, setback and maximum sign area per sign allow for a content-neutral strategy to control typical clutter typically related to temporary signs.

Simplification Problems - In 2012, the Mayor and Council adopted the Unified Development Code (UDC) that helped to simplify the City's zoning standards. Placing the Sign Code into the UDC could further simplify zoning standards. By placing the Sign Code in the UDC, it removes redundant terms, processes, and appeals, allows for a more efficient use of staff resources, and creates clearer rules for the public to use. It further allows for adjustments to measurement standards, reviewing provisions where interpretations have been needed, introducing a more comprehensive design review process, updating of all the graphics and maps.

Business Community Concerns – Sign Code section staff reviewed the Sign Code for what they found to be particularly problematic in reviewing sign permit applications. Staff met with the business community representatives to discuss their comments and concerns. The business community mentioned the ongoing need to debate with staff the meaning of unclear provisions when interpreting the existing Sign Code and not being allowed to use design techniques that are common in other jurisdictions. Below are examples of some issues that have been raised:

Alteration of non-conforming signs - In addressing alteration of non-conforming signs, staff has interpreted a reasonable alteration to include replacing out of date electronic components with newer components. This type of alteration should be clarified in any sign code update.

Roof/Wall Sign using tall parapets - There has been a longstanding allowance to use a tall parapet (up to ten feet higher than the adjoining parapet) on a building as a grand entrance to the building. There have been some inconsistent interpretations as to whether the taller parapet is a prohibited roof sign or a wall sign. Staff has interpreted that a parapet that is up to ten feet may have a sign as a type of wall sign. This point should be clarified in a sign code revision as either a conditional roof sign or a wall sign allowance.

Premise definition - The term, premise has been problematic for applicants. It is interpreted to include single-owned property. This interpretation is a problem for a unified development complex using common parking, landscaping and other standards. Only signs standards are treated by separate parcel when the signage should be reviewed and permitted as another development component of the entire unified development center.

Grade definition – Concerns have been raised over the strictness of the grade calculation when the existing or finished grade of the sign structure is higher than the adjoining street's elevation. For such signs, the sign height which is normally

ten feet, is reduced by the amount that the existing grade is higher than the street grade. For example, if the sign structure's existing grade is three feet above the road, the sign structure cannot exceed seven feet in height, if four feet above the road then six feet in height and so on.

The Planned Area Development zone (PAD) - PAD is often used in the rezoning of large developments like shopping malls, power centers, and other types of business and retail complexes. The applicants often request the use of a master sign program that creates a unified design of signs for wayfinding and identification. The current Sign Code does not allow this option. Such an option could allow for more flexibility with standards in exchange for greater attention to integrated identification and wayfinding, architectural design, legibility, and vehicle reaction time.

Portable Signs –There are businesses in Tucson that have traditionally used portable signs as part of their advertising, wayfinding and identification programs. A master sign program could be considered for this type of use also where clutter management, legibility, and unified design could be considered for a greater signage allowance.

Religious Institutions in Residential Zones – It is common for religious institutions to have sign problems. They often must request sign variances for sign area. The current residential zone maximum sign area permitted for non-residential uses is 20 square feet for all signs on the property. There is also in the same section of the code a provision that appears to give some flexibility but staff has not used it because at the same time there is another provision that states 20 square feet is the maximum area. This duplication is confusing and a single clear standard is needed.

Integrated Architecture Option - The current Sign Code has an integrated architecture option. This provision is a step in the right direction except it lacks clear standards and findings to do a more thorough review prior to allowing an application to use the option. An individual sign design option with greater design review criteria would be an improvement that most Sign Code users would welcome. It could include the use of best design practices that consider vehicle reaction time, integrated architectural design, legibility, and clutter management as part of the review.

Approaches to Consider for Reed and Process Improvement - In creating a Sign Code revision strategy to revise the current Sign Code, the following points would improve the City's defense against any *Reed* challenges, be a step forward in process improvement, and encourage the use of best design practices:

Technical Studies - Include in the adopting ordinance for a sign code revision references to the technical studies that were reviewed in the preparation of the standards. Besides Street Graphics and the Law several technical studies have

been consulted. While these studies can become very complex, they are useful tools in combining technical viewpoint with the City's own position on creating a pleasing visual environment.

Purpose Statement - Have a Purpose Statement that with a clear connection to traffic safety and the visual environment. The Purpose Statement can also make it clear the prominence of being in compliance with First Amendment rights as well as using technical standards in the development of the sign standards.

Substitution and Severability Clause - Have a substitution clause that states all commercial sign permitted are also available to non-commercial signs and a severability clause that basically states if a portion of the Sign Code is found unconstitutional that the remaining ordinance is still constitutional. The current Sign Code has both of these provisions

Sign Type Changes - Amend or delete all message-oriented sign types currently in the Sign Code. This strategy will also require an approach to temporary signs that are re-named portable signs where clutter management becomes a more prominent issue for government to address and sign messages become the concern of the property owner and not the government.

Design Options - Introduce a more robust sign design process tied to technical and visual environment standards that protect views, and improve signs so as not to be disorienting and distracting. Good design should consider vehicle reaction time, legibility, architectural integration, and clutter management.

Simplification - Simplify the terms, processes and appeals as well as using staffing resources more efficiently by placing the Sign Code in the UDC.

Future General Plan Update - Consider in a future update to the General Plan to include a sign policy that addresses the key provisions stated in the Purpose Statement. This type of policy is very useful in showing a community-wide endorsement of a more comprehensive sign policy in the case that the Sign Code is legally challenged.

The current *Plan Tucson* mainly addresses the treatment and removal of non-conforming signs. The current proposed revision project is not in conflict with these non-conforming sign policies.

Policy on non-conforming signs should be refined at some point in that many non-conforming signs may qualify to be future historic landmark signs for which Tucson has a positive national reputation. The *Plan Tucson* policy HP4 refers to identifying and preserving significant character defining features along streetscapes which could include historic landmark signs.

Further, this proposed Sign Code revision project has as one of its focal points to improve design in the public realm and is consistent with *Plan Tucson* policy LT4 that encourages design which is sensitive to the surrounding scale and intensity of existing development.

Next Steps:

Once the Joint Subcommittee of the Planning Commission (PC) and Citizen Sign Code Committee (CSCC) are completed with their review of the Sign Code Revisions, they will each hold their own study session and then both groups will hold a joint study session and make independent recommendations to the M&C. Staff anticipates the draft going to Mayor and Council in early summer. It will include a sunset provision to look at it again in 18 months to determine if additional revisions are needed.

NEG/jm

Planning and Development Services Department

Attachments:

A - Preliminary Sign Standards Sections

B - Preliminary Sign Standards Draft

C - Sign Table of Changes

D - Updated Matrix of Suggested Edits

E – Background on *Reed* and the Subcommittee Process

F – Links to website and public - stakeholder comments received to date