



PLANNING COMMISSION / CITIZEN SIGN CODE COMMITTEE

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

DATE: June 21, 2017

TO: Planning Commission and Citizen Sign Code Committee

FROM: Lynne Birkinbine *Lynne Birkinbine*
Executive Secretary, Planning and Development Services

SUBJECT: C8-16-09 Sign Code Revision Project

Issue: This is a Public Hearing for the Planning Commission and Citizen Sign Code Committee to jointly consider 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 in *Reed v. Town of Gilbert*; Simplify the Sign Code by integrating it into the Unified Development Code; 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 Citizen Sign Code Committee (CSCC) and the Planning Commission (PC) 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.

At this time, staff seeks a recommendation from the joint Commission on the remaining issues as identified by the Planning Commission and Citizen Sign Code Committee, along with consideration of public input.

Recommendation: Staff recommends that the joint Planning Commission and Citizen Sign Code Committee recommend approval of the proposed amendments (see Attachment A) to repeal and revise Tucson Code Chapter 3 Sign Code and portions of Chapter 10A, and add them to City of Tucson Code, Chapter 23B, Unified Development Code (UDC) Section 7A Sign Standards.

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

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the time that *Reed* was announced, members of the business community raised concerns that the City's Sign Code is out of date, overly restrictive, and difficult to use in comparison to other regional and Arizona jurisdictions.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 raised concerns that this revision project may cause the current Sign Code to be weakened. It is the intention of the Sign Code Revision project to create a document where future rights to signage are roughly proportional to the current Sign Code, where the legal implications of *Reed* are addressed, and where process improvements eliminate existing problems.

CSCC – PC Joint Subcommittee Review of the Preliminary Draft Sign Standards - Between October 2016 and March 2017, a joint subcommittee to review the Sign Code revisions met fourteen times. Overall, the subcommittee members met for a combined total of 170 hours of meetings and reviewed 49 committee suggested edits (Attachment C) at least two times each. During the process, staff has sent out more than sixty emails to the subcommittee and notification group. 146 stakeholders attended these meetings representing 32 different organizations (not including individuals representing themselves). At the call to the audience 87 speakers addressed the subcommittee, and 32 comments were submitted on the Sign Code Revision website. Links to the website and public/stakeholder comments received to date are included in Attachment D.

This subcommittee reviewed the entire draft Sign Standards document and forwarded the following key remaining issues requiring resolution (detailed list is included in Attachment E) to the full bodies of the Planning Commission and Citizen Sign Code Committee to be reviewed jointly:

- Rate of change on digital signs
- Definition of premise
- Design option criteria (prohibited signs, specific caps, uniform background color, etc.)
- Public notice of design options
- Prohibition of feather banners
- Alterations to nonconforming signs
- Menu board sound mitigation
- Window sign standards
- Parapet and canopy sign standards
- Portable sign area allotment
- Scenic Route sign spacing standards
- Sign Design Review Committee appointment and quorum numbers.

In preparation for review by the Planning Commission and the Citizen Sign Code Committees, both individually and jointly, staff prepared an updated Draft Sign Standards. This draft, dated March 30, 2017, incorporated all of the edits and changes addressed during the subcommittee meetings, and provided options for the key remaining issues listed above.

Planning Commission Study Sessions – To date, the Planning Commission has held four individual study sessions for staff to provide updates on the process and progress related

to the Sign Code Revision Project. At those meetings, staff has presented an overview of *Reed v. Town of Gilbert* and the problems it has created, procedural complications with the existing code brought up by staff and the business community, and ultimately proposed strategies for *Reed* compliance and process improvement. The March 1, 2017 Planning Communication, which details these items, is provided in Attachment F, for reference.

Citizen Sign Code Committee Study Sessions – The Citizen Sign Code Committee also held four study sessions for staff to provide updates on the process and progress related to the Sign Code Revision Project. Similar to the Planning Commission meetings, staff presented an overview of *Reed v. Town of Gilbert* and the problems it has created, procedural complications with the existing code brought up by staff and the business community, and ultimately proposed strategies for *Reed* compliance and process improvement. Additionally, at the April 19, 2017 study session, the Citizen Sign Code Committee voted on the issues yet to be resolved, and were forwarded to the joint study session of the Planning Commission and Citizen Sign Code Committee as a recommendation. Also at that meeting, Commissioner McLaughlin presented her recommendation for the Sign Design Option, which is provided in Attachment G.

Joint Study Session of the Planning Commission and Citizen Sign Code Committee – On May 3, 2017 the Planning Commission and the Citizen Sign Code Committee held a joint study session to review the Sign Code Revision Project. At that meeting, both the Planning Commission and Citizen Sign Code Committee voted to set the Sign Code Revision Project for Public Hearing on June 21, 2017 (see attachment H for the Legal Action Report). Additionally, they directed staff to bring back a revised draft that incorporates issues yet to be resolved in the March 30, 2017 draft. At this meeting, the Planning Commission directed staff to utilize the Citizen Sign Code Committee votes and recommendations when revising the Draft Sign Standards.

Present Considerations – When Mayor and Council directed staff to begin the Sign Code Revision Project their direction was to address three items through the process. These three items were: (1) comply with the 2015 U.S. Supreme Court decision in *Reed v. Town of Gilbert*; (2) simplify the Sign Code by integrating it into the UDC; and (3) make practical changes that modernize the Code, improve the quality of design and flexibility of the overall code, and ground it in technical standards. The following is how these were addressed:

Compliance with Reed v. Town of Gilbert – In creating a strategy to revise the current Sign Code, the following has been used to strengthen the City’s defense against any *Reed* challenges:

- 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. In addition to *Street Graphics and the Law*, several other technical studies were consulted. While these studies can be very complex, they are useful

tools in combining technical viewpoints with the City's own position on creating a pleasing visual environment.

- Purpose Statement - Have a Purpose Statement with a clear connection to traffic safety and the visual environment. The Purpose Statement makes clear the prominence of compliance with First Amendment rights as well as the use of technical standards in the development of the sign standards.
- Substitution and Severability Clause - Have a substitution clause that states all commercial signs permitted are also available to non-commercial signs and a severability clause which explains that 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.

Simplify by Integrating into the UDC – Through this process, staff has revised and amended the sign standards to simplify the terms, processes and appeals, as well as using staffing resources more efficiently by placing the Sign Code in the UDC. The majority of the simplification of terms and processes were areas that have been highlighted as problems by both the business community utilizing the code and the PDS staff reviewing the sign permits.

Practical Changes to Modernize the Code, Improve Quality of Design, and Ground it in Technical Standards – The revised code introduces 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. Through the Sign Design Option, sign design proposals will be required to consider vehicle reaction time, legibility, architectural integration, and clutter management.

Citizen Sign Code Committee Review of Edits – At the April 19, 2017 Citizen Sign Code Committee, staff presented the members with the March 30, 2017 draft and a list of the issues brought forward from the joint subcommittee, on which they voted. The following is a list of the issues presented:

- Five-Minute Rate of Change for Digital Signs (Sec. 7A.6.4)
- Premise Definition (Sec. 7A.6.11)
- Design Option - Not Allowing Prohibited Signs (Sec. 7A.7.1.B)
- Design Option - Dark Skies Illumination Interim Design Guideline (Sec. 7A.7.1.E.1)
- Design Option - Uniform Background Color for Listed Tenants (Sec. 7A.7.1.E.2)

- Design Option - Use More Prescriptive Standards (dimensional caps) on Sign Dimensions (Sec. 7A.7.1.E.2.c)
- Design Option – Public Notice of Application for Design Review (Sec. 7A.7.4)
- Roof Signs Remain Prohibited (Sec. 7A.8.2.F)
- Prohibiting or Allowing Feather Banners (Sec. 7A.8 Prohibited Signs & Sec.7A.10.3.C.2)
- Alteration Of Electronic Components On Non-Conforming Signs (Sec. 7A.9.1.C)
- Interior Signs - Menu Board Setbacks (Sec. 7A.10.1.C)
- Window Sign Standards (Sec. 7A.10.1.F)
- Increase Maximum Sign Area in Residential Zones for Non-residential Uses on Arterials and Collectors (Sec. 7A. 10.2.B)
- Canopy Sign Standards (Sec. 7A.10.2.C.1)
- Increase / Decrease All Portable Sign Area Allotment and Number of Signs (Sec. 7A.10.3.A)
- Roof Sign, Wall Sign and the Extended Parapet Option (Sec. 7A.8.2.F, Sec. 11.4.24, & Sec. 7A.10.2.C.3)
- Scenic Route Signs Spacing (Sec. 7A.11.3)
- Composition of Sign Design Review Committee (SDRC) (Sec. 2.2.12.C)
- Mayor and Council or City Manager Appointment of SDRC (Sec. 2.2.12.D)
- SDRC Quorum Number (Sec. 2.2.12.H)

A complete list of those issues is presented along with the procedural vote count in Attachment E.

Edits / Changes Since Previous Meeting – At the PC/CSCC joint study session held on May 3, 2017 the joint committee directed staff to bring forward a revised draft that incorporated votes from the Citizen Sign Code Committee, comments from commissioners such as the exhibit from Commissioner Martin, historic items being reviewed by the Tucson-Pima County Historical Commission - Plans Review Subcommittee, and minor staff clean-ups. The revised draft Sign Standards (see Attachment A for June 1, 2017 draft) is a generally clean document. All new text that has been added since the March 30th draft is in red, but all of the options and highlighting that previously existed have been moved to a separate document (see Attachment B for a detailed list of changes in the June 2nd draft) which details all of the changes that have occurred. The following is an overview of the edits made:

- Citizen Sign Code Committee - Per the direction of the Planning Commission and Citizen Sign Code Committee at the May 3rd meeting, the language that remains

in the June 1st draft Sign Standards is representative of the votes taken by the Citizen Sign Code Committee at their April 19, 2017 meeting.

- Commissioner Martin's Memo – At the May 3, 2017 joint study session, Commissioner Martin submitted a list of questions and potential edits (see Attachment J). In response, staff has reviewed all of the items and addressed them in Attachment K. Some of them just required clarification, but others required small changes to the text of the Sign Standards Draft. All of those changes are documented in Attachment B.
- Revisions to Historic Items - On May 18, 2017 staff requested direction from the Tucson-Pima County Historical Commission - Plans Review Subcommittee (TPCHC-PRC) about whether to include four issues concerning historic signs in the current Sign Code Revision Project. Those issues presented were the following:
 - Due to the current interpretation of the Sign Code, Historic Landmark Signs (HLS) are not allowed in historic overlay zones, such as a Historic Preservation Zone (HPZ) or Historic Landmark (HL).
 - Allow for a wall sign to be designated as a Historic Landmark Sign.
 - Allow for rooftop-mounted signs for a building listed or eligible for listing on the National Register of Historic Places, when the applicant can show that there are no wall or building mounted options that would not damage historic integrity or have an adverse effect. In these cases the signs must be static channelized exposed neon or non-lit metal letters.
 - Increase in maximum sign area allotment for Historic Districts when zoned as commercial (currently 8 square feet per street front and per sign).

At that meeting the TPCHC-PRC voted to recommend staff move forward with the four items presented. For additional information please see Attachment L for the Staff Memo and Legal Action Report from that meeting. Additionally, all changes are documented in Attachment B.

- Minor Staff Clean-ups – While making the revisions to the March 30th draft, staff noticed a few items that require a clean-up before adoption. Those were minor, but are documented both in Attachment I and noted in red text throughout the June 1st draft. At the May 3rd meeting staff was also asked by the joint committee to address questions related to the clarity of the Sign Design Option. This has been addressed in Attachment O. Additionally, the City Manager's office requested the boundary of the Mercado Pedestrian District be changed as a part of this process. The maps for the Mercado Pedestrian District have been changed to reflect the removal of everything south of Cushing Street.

Consideration of 18 Month Sunset Date – Staff recommends a sunset provision of 18 months for the proposed changes in the Sign Code Revision Project. 18 months is recommended as it allows for a full year to determine the efficacy of the proposed amendments, then another 6 months to make the necessary changes and go through the

text amendment process. The following are examples of potential items to be addressed or studied prior to the 18 month sunset date:

- Future General Plan Update - Consider in a future update to the General Plan inclusion of 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.
- Major and Minor Reviews – Prior to the 18 month sunset date, staff recommends the consideration of a major and minor review process. Data from projects during the first year could provide insight as to what types of projects should require a full Sign Design Review Committee review and what projects may be more suited to a review by a Design Professional.
- Interim Dark Skies Guidelines – Prior to the proposed sign standards becoming approved and effective, staff will work to develop a set of interim dark skies guidelines with the help of the Outdoor Lighting Committee and a lighting engineer. Those guidelines will provide assistance for applicants using the sign design options.
- Review of sign standard’s effectiveness – Throughout the first year, once the sign standards becomes effective, staff will monitor approvals of sign permits and the proposals using the Sign Design Option. From this data, a review will be conducted to understand if we have appropriately met the goals of the Sign Code Review Project and what changes may be made to increase the efficacy of the proposed amendments.

Plan Tucson Consideration(s) - 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 as 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, a focal point of this proposed Sign Code revision project is to improve design in the public realm. This item is consistent with the Elements of (1) Historic Preservation and (2) Land Use, Transportation, & Urban Design. Specifically, this item is supported by the following policies:

HP-4 Identify historic streetscapes and preserve their most significant character defining features.

LT-4 Ensure urban design that: a. is sensitive to the surrounding scale and intensities of existing development; b. integrates alternative transportation choices, creates safe gathering places, and fosters social interaction; c. provides multi-modal connections between and within building blocks; d. includes ample,

usable public space and green infrastructure; e. takes into account prominent viewsheds.

Conclusion: These draft Sign Standards have undergone a significant public review process to get to this point. It has been reviewed individually by both the Planning Commission and Citizen Sign Code Committee; jointly as a subcommittee of the Planning Commission and Citizen Sign Code Committee; and jointly between the two larger bodies of the Planning Commission and Citizen Sign Code Committee. Staff believes it is both within the scope directed by Mayor and Council on August 9, 2016 and achieves the goal for the sign standards to (1) comply with the 2015 U.S. Supreme Court decision in *Reed v. Town of Gilbert*; (2) simplify the Sign Code by integrating it into the UDC; and (3) make practical changes that modernize the Code, improve the quality of design and flexibility of the overall code, and ground it in technical standards. Staff recommends the Commission forward the current draft to Mayor and Council for adoption.

LB/jm/db
Planning and Development Services Department

Attachments:

- A – Sign Standards Draft – June 2, 2017
- B – Detailed List of Changes in June 2, 2017 Sign Standards Draft
- C – Updated Matrix of Suggested Edits
- D – Links to website and public - stakeholder comments received to date
- E – CSCC Overview - Draft Sign Standards Issues Requiring Resolution – Updated on April 19, 2017
- F – March 1, 2017 PC Communication for Sign Code Revision Project
- G – Commissioner McLaughlin’s Recommendation for the Sign Design Option
- H – Legal Action Report from May 3, 2017 Joint PC/CSCC Meeting
- I – Background on *Reed* and the Subcommittee Process
- J – Commissioner Martin’s Memo of Questions and Potential Edits
- K – Staff Response to Commissioner Martin’s Memo
- L – Staff Memo to TPCHC-PRC and Legal Action Report
- M – Sign Table of Changes
- N – Chapter 3 – Current Sign Code
- O – Design Option Overview for June 21, 2017 Public Hearing
- P – List of Variances