



MEMORANDUM

DATE: October 11, 2016

TO: Honorable Mayor Rothschild

FROM: Jim Mazzocco,
Zoning Examiner

SUBJECT: Response to Mr. Mark Mayer's 17 Concerns on the September 20, 2016 Preliminary Sign Code Draft.

Mr. Mayer has sent to you 17 areas of concern on the September 20, 2016, Preliminary Sign Code Draft. You asked that I respond to these concerns in writing.

Below in *italics bold* are Mr. Mayer's areas of concern from his September 20, 2016 letter. Regular black print is the staff response.

We look forward to assisting the joint subcommittee of Planning Commission and Citizens' Sign Code Committee as well as Mr. Mayer and other stakeholders in the public process following the August 9, 2016 direction from Mayor and Council.

1. A new purpose statement skews away from a focus on aesthetics and traffic safety to business wants and needs.

The September 20, 2016 Preliminary Draft provision cited is in Sec. 7A.1.1.

One of the key *Reed* compliance points brought before the Mayor and Council on August 9 was to revise the purpose statement to reflect traffic safety and the visual environment more clearly. We believe both of these issues are addressed in the revised draft. Various modern sign codes and codes that were *Reed* compliant were reviewed to find appropriate draft purpose statement language.

The goal is to ensure that the way they are stated would clearly indicate under judicial review that the City holds the visual environment and traffic safety in high regard. If Mr. Mayer has a better statements or if the Citizens' Sign Code Committee (CSCC)/ Planning Commission or the Mayor and Council prefer other language, then the purpose statement can be revised.

Here are the statements on both issues from the current preliminary draft:

Provide an improved visual environment for the citizens and visitors to the City and protect prominent natural scenic views by exercising reasonable control over the character and design of signs;

Enhance the flow of traffic and protect pedestrians and motorists by encouraging legible, well-placed signs, that reduce distractions caused by clutter and impairment of sight lines.

2. Billboards would be allowed in the Planned Area Development Zone for the first time.

The Preliminary Draft provision cited is in Sec. 7A.11.4.

In reviewing the Planned Area Development (PAD) zone and potential process improvements, both Planning and Development Services Department (PDS) staff and the business community separately recommended that master sign programs should be allowed in PAD zones. In rewording what sign types are allowed in the PAD, the draft states that PADs may use the proposed master sign program or if the PAD already exists, it can use the sign types permitted in the base zone on which the PAD is modeled.

Every PAD document states that the base regulations of the PAD is a certain zone such as C-1 or C-2 zone. Mr. Mayer noticed that if a PAD had a C-3, I-1 or I-2 zone as its base zone, then this wording would allow a billboard as a permitted sign type.

There was no intent in the preliminary draft to expand the use of billboards in a PAD. At this point, the issue should be reviewed by the joint subcommittee and then it can be clarified in a future draft. It would be simple to prepare replacement wording to address this matter.

3. Electronic signs would have no regulations at all as to frequency of message change.

The Preliminary Draft provision cited is in Sec. 7A.6.5.C.

In reviewing the legal advice on *Reed* from various national experts, one common recommendation is to reduce the overall number of sign types a jurisdiction has in its sign code and by doing so it reduces its exposure to *Reed*-like challenges.

The current Sign Code has the term, electronic message center (EMC) in the Prohibited Sign section that applies to EMCs where the message change occurs in less than an hour. This provision has been interpreted to mean that if the change in electronic sign copy is greater than an hour, the EMC is permitted. There are numerous signs around the City that have EMCs that meet the over-an-hour rule.

The proposed draft instead of referring to an EMC as a sign type, it refers to it as a component of a sign called 'electronic sign copy.' It is permitted to change once an hour. (Note: the term 'copy' may be too limiting and the term 'sign graphic' may be more comprehensive to include non-copy features like color patterns).

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Instead of referring to a term that sounds like a sign type then requiring an interpretation to understand what feature of a prohibited sign is permitted, this proposal attempts to state directly that a one-hour or greater change in electronic sign copy is permitted.

It is reasonable to discuss the exact language that addresses the rate of change of copy (Note: the draft states 'scrolling' but another term may be a better choice e.g., 'rate of change') and whether we should use a more comprehensive term like 'sign graphic'. The joint subcommittee can review that issue.

A common theme background research showed was that most sign codes fail in keeping pace with changing sign technology. Signs like everything else have a 'smart' version. A sign face can be a type of computer screen and if it can meet all of the other standards of the Sign Code including the City's Outdoor Lighting Code there is little reason to prohibit a sign with more advanced technology.

4. Electronic displays on nonconforming signs could be upgraded (not just repaired).

The Preliminary Draft provision cited is Sec. 7A.9.1.

Mr. Mayer is referring to a proposal allowing a change of the sign's electronic components on a non-conforming sign. One example I am familiar with involved the review of a permit for a sign that was a typical monument sign, but it was non-conforming because the setback was ten feet versus twenty feet. The applicant explained that the electronic components were no longer made for this sign. The interpretation was made that replacement of the electronic components qualified as a reasonable repair. In order for this interpretation to be fully disclosed and understood, it is in the draft stating more specifically that replacing electronic components is a reasonable alteration of a nonconforming sign.

Mr. Mayer's concern may be that this interpretation and the proposed language opens up the opportunity for other non-conforming signs to be altered to allow electronic sign copy.

The joint subcommittee/CSCC/Planning Commission should address this issue so PDSD staff has more clarity in the future and the business community understands whether a non-conforming sign can be repaired with new technology or electronic components or not.

5. The Citizen Sign Code Committee's powers would be taken away and transferred to the Planning Commission.

The Preliminary Draft provision cited is in Sec. 7A.13.

In the current draft, the Citizens' Sign Code Committee is still an advisor on sign amendments. It is still appointed by the Mayor and Council. In the preliminary draft it would advise the Planning

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Commission. Per Arizona Revised Statute 9-462.04, the Planning Commission is required to hold a public hearing on a potential zoning ordinance like this draft proposal.

The Commission is the official advisor to the Mayor and Council on zoning amendments. This amendment is in line with the Mayor and Council's direction to place the Sign Code in the Unified Development Code.

However, there is nothing in the preliminary draft that states the CSCC cannot make a separate recommendation or that the recommendation of the CSCC is not mentioned to the Mayor and Council.

Additionally, the CSCC under the draft will become the design review committee for the draft sign code's design options of master sign programs for permanent and portable signs and for individual sign option, which replaces the integrated architecture section in the current Sign Code. The Citizen Sign Code Committee still has an important and relevant role in how sign policy is developed and how sign standards apply in the community.

The joint subcommittee, CSCC and the Planning Commission as well as stakeholders can review this proposal during the public review process.

6. A "Master Sign Program" would be established with no limits on sign height or face area.
The Preliminary Draft provision cited is in Sec. 7A.7.1.

The master sign program in Sec.7A.7 Sign Design Options expands design review of signs that now applies only in the current Sign Code's Integrated Architecture section, which most users of this process agree does not give enough guidance to the applicant, staff, or the review committee to make a consistent design decision.

Having the recommended expanded draft design review section provides several benefits to the City.

1) It provides a rationale that supports a *Reed* defense of its sign code. Part of a *Reed* defense is to cite technical standards that show a reliance on technical analysis as a component of the standards. The Design Option includes a section on technical documents that can be used as design guidelines, and allows for additional best practice technical standards to be used if approved by the City's Design Professional. This type of provision creates a technical viewpoint for the standards and removes the argument that the process and the code rely on arbitrary and capricious provisions or decisions by its reviewers.

2) The draft maintains review flexibility that is in the current Sign Code. The Mayor and Council was informed at the August 9, 2016 study session that the PDS staff's preliminary draft would attempt to assure that the *Reed* adjustment of the Sign Code did not intentionally

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remove a property owner's right to signage or reduce significantly flexible standards that had been previously adopted.

The Sign Design Option creates a master sign program for portable signs that addresses the flexibility embedded in the current Sign Code for signs used by the real estate industry. The draft provisions are different and more controlled. However, they would allow an applicant to obtain a permit for signs that are similar to what has been previously allowed but with more focus on design, legibility, spacing, wayfinding rationale, and other standards intended to assure an environment where sign clutter is controlled. This new approach would continue to address business needs yet remaining content-neutral and enforcing a clutter management policy.

3) It would allow for an expanded and clearer design review option for all signs. The design review process creates a design review committee to make recommendations, design standards, and a set of findings on which to base a decision. The standards and findings are related to the purpose statement that addresses scenic and aesthetic values, economic development goals, public and traffic safety goals and further allow for the use of technical and design standards that provide best practice guidelines of sign design. Examples of sign review features include basic sign structural component design, dark sky compatible illumination, siting of the sign, compatibility with the existing building height profile of surroundings, sign copy legibility, uniformity in sign copy presentation, scenic view impact, proportionality when applicable to walls, and a way finding and identification rationale.

Master sign programs have become a common feature of more recent sign codes in other jurisdictions. The cities and towns of Mesa, Flagstaff, Peoria, Scottsdale, Marana, Oro Valley, and Sahuarita to name a few have master sign programs or as they are also known comprehensive sign programs in their sign codes.

Mr. Mayer and other stakeholders may believe that a master sign program is not a good idea for the City because there is a lack of specific dimensional standards and that they have the tone of 'let's make a deal.' Mr. Mayer stated at a recent Citizens' Sign Code Committee that if the City adopts a master sign program it should follow the lead of Peoria that only allows 25% greater height and sign area from its general standards. He acknowledged that most jurisdictions' master sign programs do not set dimensional limits but use design standards.

The proposed master sign program as well as the entire Sign Design Option section will be reviewed by the joint subcommittee, the CSCC and Planning Commission during the public process in the next few months.

7. The prohibition on roof signs would be repealed.

The Preliminary Draft provision cited is in Sec. 7A.10.4.C.3.

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In about November 2015, PDSD made an interpretation on allowing parapets that were up to ten feet above an adjoining parapet to have a sign. At the time, it was considered a type of wall sign but could also be considered a roof sign.

The interpretation was based on numerous permits issued by PDSD staff over at least a ten-year period. Since staff was able to see pictures of at least twenty examples of such signs already existing in the City, it appeared there was already a working interpretation. Including the interpretation in the preliminary draft as the only type of roof sign permitted is consistent with the long standing treatment of tall parapets often used as a way to signify the main entrance of a building. This interpretation in the preliminary draft to confirm the interpretation is a single type of roof sign permitted or to make it clear to PDSD staff and applicants it would no longer be allowed.

The joint subcommittee, CSCC and Planning Commission during the public process in the next few months can review the interpretation for final inclusion in the draft.

8. The prohibition on projecting signs outside of the Pedestrian Business District would be repealed.

The Preliminary Draft provisions cited are in Sec. 7A. 10.2 Table 1 and 7A.10.4.C.2.

In assembling a list of content-neutral sign types, while preparing a preliminary draft the projecting sign is content-neutral and appeared in the definitions of the current Sign Code but was not in one of the main sign districts. In making the preliminary draft, it was first perceived as an oversight being allowed as a sign type in commercial and industrial districts. The size noted in question #16 was based on another jurisdiction's maximum sign area for a projecting sign.

It appears from Mr. Mayer's concern that the City specifically intended to prohibit projecting signs from the Sign Code and allow them only in the Pedestrian District. If the size of 24 square feet and including this sign type in other zones is viewed as a problem during the public review process, the current sign area and permitted zoned can be left as is in a future draft. PDSD staff will make sure Mr. Mayer's concern is raised before the joint subcommittee so they can make a final recommendation on it.

A side issue also brought up by a stakeholder related to the topic of projecting signs is the clearance of twelve feet under the sign should be reviewed for greater flexibility.

The joint committee, CSCC, and Planning Commission most likely will hear about both items from stakeholders and can make a recommendation during the public process.

9. The sign allowance of the O-1 Office Zone would be quadrupled.

The Preliminary Draft provision cited is in Sec. 7A.3 Table 2.

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Mr. Mayer brought this concern up at the Citizens' Sign Code Committee. Staff agreed at the meeting to review the item and believed that there was a basic misunderstanding of the O-1 zone being unique in that it addresses former residential buildings that have become non-residential uses. There is no problem to adjust the sign area back to the original amount. PDSD staff will make this item clear to the joint subcommittee.

10. *The sign allowance for non-residential uses in single family residential zones would be quadrupled.*

The Residential and Multiple Family Residential district Preliminary Draft provisions cited are in Sec. 7A.10.3 Table 2. This is also a response to Question # 12 which has to do with increasing the sign area in a Multiple-Family Residential district.

Sign Section staff has noticed that there is a clear maximum sign area for non-residential uses and a more ambiguous reference to a sign area in Sec. 3-73 of the current Sign Code in Chapter Three of the City Code.

The ambiguous reference on a potential non-residential use states, "*The establishment of a more intensive use in conformance with an approved site plan, development plan or plat shall re-designate the property to the applicable sign district.*" It is not clear what this provision means but some had hoped it would allow more flexibility for non-residential uses such as churches, which continually have problems with fitting all their symbols, freestanding signs and wall signs into the maximum sign area limit of 20 square feet.

If the 'more intensive use' such as a church could use the next 'applicable district,' then a church in an SR or R-1 zone could use the Multiple Family Residential District's sign area and have a maximum area of 50 square feet.

However, staff has interpreted the very specific 20 square feet as the maximum sign area limit for churches (a non-residential use) in the Residential District. Most of these churches are on arterials such as Speedway and Wilmot but retain their R-1 or SR zone designations. At the same time, they are often next to commercial uses in commercial zones with much more intensive sign area available to their businesses.

Therefore, churches which are a common non-residential use located in residential zones are common applicants for maximum sign area and other sign variances in the City.

The sign consultants and PDSD staff have recommended that something be done to allow churches more sign area. They tend to have unique problems with freestanding sign size, multiple religious symbols, multiple building names, and changeable copy to notify their congregation and the community of their regular and special services.

The proposed draft deletes the vague phrase cited above but follows the idea of adjusting the maximum sign area of non-residential uses for both the Residential and Multiple Family Residential Districts to 50 and 80 square feet respectively. It should also be noted that Sign Section staff have said that the 50 square feet sign area proposal in the preliminary draft may still be not be enough sign area for some churches. The draft proposal also limits the sign area of a freestanding sign in Residential and Multiple Family Residential Districts to 32 and 40 square feet respectively.

It appears that Mr. Mayer may not support this adjustment in sign area. We believe it is worth the effort for the joint subcommittee, the CSCC/Planning Commission and Mayor and Council to review this proposal to consider if churches should receive more sign area and/or consider a sign area increase for non-residential uses that are located on arterials.

11. Only signs that can be seen from the right-of-way would be regulated instead of all outdoor signs.

The Preliminary Draft provisions cited are in Sec. 7A.3.7 and 7A.10.1.B.

Mr. Mayer is referring to provisions in the preliminary draft that create a sign type called 'interior signs.' This sign type refers to existing settings where the Sign Code does not apply like an indoor mall as well as a courtyard and hallway not visible from the street.

The new setting added to this group of 'interior signs' includes outdoor areas on private property where the sign is not facing or is not readable from the right of way or is not designed or intended to be readable from the right of way. These outdoor signs in the preliminary draft would not be required to be reviewed under the current Sign Code. They would be required to be reviewed for building codes and outdoor lighting code.

The group of sign types that would now be under the new definition of interior sign include, typical freestanding signs such as 1) menu board defined as a sign showing the bill of fare for a drive through restaurant, 2) directory sign defined as an onsite sign listing tenants and occupants and directing the public to locations, and 3) traffic directional sign defined as an onsite sign directing the reader to a location.

The typical wall-mounted sign types that might fit under the interior sign type include the following: 1) incidental sign defined as an onsite sign informing the public of facilities, services and prohibitions related to the property, 2) emergency/safety sign which is self-defining, 3) directory sign, and 4) various minor wall and window signs.

The wall-mounted group requires a baseline as to when the sign is an interior sign and when it qualifies as a wall sign intended to be read by the public from the right of way. The preliminary draft recommends that wall-mounted signs that are twelve square feet in maximum area or less be classified as interior signs unless the zoning inspector interprets the sign as intended to be read

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from the right of way. Twelve square feet is what one might see as the largest pedestrian-oriented sign at an establishment with, for example, a restaurant's menu for the entering customers to read. However, there are parts of the City where the buildings are very close to the right of way and if the sign is located facing the right of way and has sign copy large enough to be read from the right of way, then it should be classified as part of the total allowed wall sign area for the premise and not as an interior sign.

Interior signs could also include certain pedestrian and internally-oriented portable signs. A-frames located to be viewed only within the premise or minor portable signs intended for pedestrian customers may qualify.

In developing an amendment that complies with *Reed*, most legal analysts strongly recommend the jurisdiction reduce its exposure to challenges by regulating only the sign types that most affect the public realm that connects private property to the visual environment of the public right of way.

Sign types such as a menu board, directory sign, and traffic directional sign are not content-neutral and if regulated must be renamed and have their standards re-formulated to address content neutral signage. The content-neutral version must carefully consider regulations that are not specific to a message favoring one business type. For example, the definition of a menu board is defined to favor drive-through restaurants, however, there are car washes that want to use menu boards for their customers also.

An important *Reed* case outcome is a jurisdiction must create a sign type based on 'time, place and manner' and not create one for one type of user and no one else. The current dimensional standards for menu board, and directory sign, and traffic directional sign are different. What would be the dimensional standards for the content-neutral versions of these sign types?

There is a practical side to consider for the City as to how it wants to distribute its resources in permitting and enforcement of a larger group of signs that have only a partial connection to its purposed statement for sign standards. The issue would be, if the City wants to regulate all list of content-neutral interior signs, it must create separate standards for them and have the resources to both regulate and enforce them.

The joint committee, CSCC, and Planning Commission can review this proposal and make their recommendation after the public review process.

12. Sign allowances in the multi-family residential district would be increased.

The Preliminary Draft provision cited is in Sec. 7A.10.3 Table 2. See question #10 above.

13. Sign heights could be increased by measuring from either base grade or the nearest curb.

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The Preliminary Draft provision cited is in Sec.7A.6.5

The current standard states the following on sign height grade, *'the grade of a sign is the elevation of the outside edge of the street or roadway travel lane nearest to the sign measured perpendicular to the travel lane.'* What this statement appears to mean is that the grade under the sign is not the point of measurement of the sign's height but instead it is always the 'outside edge of the street.'

Therefore, if there is a discrepancy between the two grades, and the Sign Code allows a total sign height of ten feet, then subtracting the 'edge of the street' grade level from the sign structure's actual grade level will help to give the actual allowed sign height.

So if the actual sign's grade is six inches above the 'edge of street's' grade, the sign can only be 9 feet and 6 inches in sign height not ten feet. If the actual sign grade is six feet above the 'edge of the street' grade level, the actual sign can be only four feet in height.

Both the business community and PDS staff pointed to this provision as a problem. It means that every freestanding sign application should have in the application packet the two measurements and then derive the sign's height by subtracting the street grade from the actual sign structure grade. The result could be a very short sign or require a sign structure to be adjusted for mere inches of variation. Often national companies will manufacture the sign outside of Tucson and send it to Tucson using the Sign Code's specifications of ten feet in height.

It appears that this provision makes what should be a straight forward measurement into a very complicated measurement. One must ask if there is a significant community benefit to having such an inflexible measurement. When a provision is strict like this one, it can easily cause an oversight by counter staff but could be caught by an inspector in the field thus causing delay and expense to a sign customer.

During the public process the joint subcommittee can better review whether the City benefits in its overall sign policy from having such a strict rule. More than likely the required grade comparisons and sign height adjustments are not noticeable to the public but add a unique difficulty for a customer of the City.

In the case of sign structure grade level that is lower than the street grade, most sign codes allow for a grade level lower than the street grade to measure the sign height from the street grade and not count actual sign grade level to street grade level measurement as part of the sign's height. The reason is that such a sign would otherwise be sent for a variance, and it would most likely receive a variance because the property's topography creates a sign visibility disadvantage in comparison to a property with a grade that is even with the street grade. Note the City allows this type adjustment administratively currently and does in the preliminary draft too.

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In reviewing other sign codes, there was an example where an artificially increased sign grade by building up a mound, is added to the sign height. However, only the City's appears to penalize someone who has a higher existing sign structure grade than the street grade. Building a mound for a sign is unlikely in that the sign would need a more secure soil base for its footing so it doesn't topple over. In reviewing this issue with PDSD staff, there were no common examples of mound building in the City occurring. However, it is possible that someone would add fill to a site to stabilize or level uneven ground conditions. In this case, that type of adjustment should not cause a need to create a sign regulation and penalize a fairly common site preparation activity by an applicant.

The proposed draft would remove the sign grade penalty and the need for the applicant to do a comparison survey of street and actual sign grade and adjust the sign structure's height. Instead the sign height would be from the sign's existing grade as it is in most jurisdictions.

The joint committee, CSCC, and Planning Commission can review whether this provision should be amended during the public process.

14. *The City Manager could approve commercial banners over streets.*

The Preliminary Draft provision cited is in Sec.7A.6.10.

Banners have been allowed across the street. Because of *Reed*, the City may approve or deny a banner application but it cannot have in the sign standards what a banner in the right of way may say. There is a long provision in the current Sign Code stating what can and cannot be on a banner. Legal staff has advised that this provision on banner sign copy content should be considered for deletion.

This type of banner is noted in a section called *Signs in or over the Public Rights of Way*. There is no change in the approval process between the preliminary draft and the current Sign Code. The provision states, "*The city manager may grant a special license for building and curbside banners and for across-the street banners...*"

The joint subcommittee can review this matter during the public review process in more detail to better understand if there are options on limiting sign copy when the City allows a sign in its rights of way.

15. *Window signs attached to the interior of a window would no longer be regulated.*

The Preliminary Draft provision cited are in Sec. 7A.3.14 and 7A.10.1.F.

In preparing the preliminary draft, PDSD staff recommended that the word 'interior' be struck from the definition of Window Sign. The impact is that a window sign attached to the interior of a window would not be regulated by the Sign Code.

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The definition of a 'window sign' from the current Sign Code states, "*Any sign affixed to the interior or exterior window surface.*" Further, in the Generally Permitted Signs for window signs it states, "*Window signs are permitted wherever wall signs are permitted.*"

The Sign Code's treatment of window signs like wall signs is important because all wall signs are exterior signs.

The main reason to remove interior window signs from the Sign Code is that these signs could be anything from small hand bills, to adhesive decals meant for pedestrians to see the business' hours of operation. But it is true that they could also be larger posters advertising products. For interior window signs, it becomes impractical to track and enforce such signs.

An important distinction in the Current Sign Code's window sign definition is that it does not include illuminated window signs that are inside and hang in front of windows displaying 'Open' or a product name such as 'Boar's Head' sold by the establishment.

It is reasonable not to include these interior lit window signs because such signs can be moved and changed and should not involve a City permit or enforcement situation under the sign code. This same rationale should apply to the interior small and large posters and the various decals that are attached to the door or window giving pedestrian-oriented information.

By removing the '*interior window surface*' from the regulation, this type of regulation would fit the overall intent stated in the provision that window signs should be regulated like wall signs which are on the exterior of a building.

While striking the word 'interior' from the preliminary draft means interior affixed signs are not regulated by the Sign Code, however, they are still regulated under a provision of the City Code in Chapter 7, *Businesses Regulated - Late Night Retail Establishments*, Sec. 7-411 that states in part the following:

"All glass on doors, and all glass that lies above thirty-six (36) inches from the floor of the late night retail establishment and below eighty-four (84) inches from the floor of the late night retail establishment, shall be free of all signage, posters, merchandise displays or window coverings."

The Chapter 7 regulation is relevant and has a direct connection to public safety and the ability of the police to have clear lines of sight into businesses especially where money is handled.

In reviewing *Reed* analysis from legal experts, they recommend that jurisdictions regulate only the most important signs that reflect and impact the community's character. It is best to reduce one's exposure to legal challenges by focusing on the key regulations. While it can be argued that some interior window signs are similar in size to exterior window signs, it needs to be determined during the public process if it is practical that such signs be enforced and tracked

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with a permitting system. Ultimately, enforcement needs to be weighed against the availability and best use of PDSO resources.

The joint subcommittee, CSCC, and Planning Commission can be briefed on this issue and can make their recommendation based on the input they receive during the public review process.

16. *The maximum size for projecting signs is increased from 20 to 24 square feet.*

See the response in question #8 above.

17. *Feather banners and other banners not attached to a building wall would be allowed for the first time.*

The Preliminary Draft provision cited is in Sec. 7A.10.6.C.4

Whether a feather banner is a prohibited sign type seems to stir debate. Commercial flags and pennants are called out as prohibited in Sec.3-53 of the current Sign Code. If one interprets a feather banner as a commercial flag then it is a prohibited sign type.

Sec.3-11.K of the current Sign Code defines a banner as "*A piece of fabric permanently attached by one or more edges to a pole, rod or cord.*" There is not a specific reference to feather banners or to vertical banners or to ground-mounted banners in the Prohibited Sign section. It appears one can argue or interpret the banner definition to mean that feather banners are the same 'banner' in the definition and currently permitted. If the Mayor and Council prefers to prohibit them as a sign type, that change can be made part of the preliminary draft.

In the current preliminary draft, a feather banner is an example of a portable sign. Portable signs are a key part of the *Reed* adjustment to the Sign Code. The *Reed* case decision specifically allows signs to be regulated based on materials.

Portable signs are signs that are made of fabric, particle board, light metal, plastic, cardboard or other light-weight materials that are intended for signs that have a limited display time. By the nature of their materials, they tend to be temporary signs but temporary could mean several days, several months, or several years.

PDSO staff is aware there are City stakeholders and possibly members of the CSCC that believe that feather banners are unsightly and should be a prohibited sign type. There is no problem prohibiting this portable sign type under *Reed*.

There are existing examples of when mixed with other portable signs, feather banners can add to a disorganized cluttered looked with multiple colors and haphazard spacing at a site. Further, they can be installed singularly and haphazardly at developments in multiple colors and unattractive designs. At same time, other developments have used feather banners with a uniform

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size, color and spacing and there is a marked improvement of their appearance. With that said, there are persons who will not approve of this sign type's use in any circumstance.

The preliminary draft attempts to acknowledge 1) feather banners appear to be currently permitted, 2) there are Tucson companies that manufacture feather banners, and 3) if displayed in an organized uniform manner, they have the potential of not being an objectionable form of a portable sign along a right of way.

In the draft proposal, they are only allowed when they are the only portable sign type. Further, they must be uniformly spaced and of the same background color.

The draft is not meant to express a particular position but rather is meant to acknowledge that it appears the current Sign Code allows them and, if they remain permitted in a *Reed* context, their display should reflect an element of forethought and design so as not to create a disorganized, cluttered look along the City's rights of way.

The joint committee, CSCC/Planning Commission, and the Mayor and Council should review the draft and decide what if any role feather banners have in the Sign Code.

cc
Council Members
Michael J. Ortega, P.E., City Manager
Albert Elias, Assistant City Manager
Mike Rankin, City Attorney
Nicole Ewing Gavin, Director PDSD

Attached:
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