



**A. The current purpose statement provides the necessary legal justification and position to support the regulations within the Sign Standards. Any change has the potential to weaken that legal position should the City receive a challenge.**

Q. It is very thorough, but some stakeholders would like to see the language put emphasis on Economic development.

**A. Economic Development is addressed in the purpose statement along with other topics such as, freedom of speech, public safety, and aesthetics that provide a solid legal foundation for the sign standards.**

Q. We need to make sure it is clear there is an expedited review for businesses coming for permits.

**A. The idea of expedited review for sign applications creates first amendment problems. One could argue that the City would be providing speedier approval of signage [a type of speech] to one group vs. another group and this could ultimately expose the City to potential liability under Reed. To be clear, existing timelines for the approval of a sign permit are, and will continue to remain, quite short (see attachment 1). In general, most applications are submitted electronically and if complete, are approved in one to two days.**

**In the Design Option of the draft, the Sign Design Review Committee can only continue a case one time, while the applicant may ask for any number of continuances. In the case of a scheduled hearing, if the committee is not yet formed or does not have a quorum, the PDSO Director can appoint the Design Professional to hear the case and make a recommendation, thus moving the application along without further delay to the applicant.**

#### 4. Sign Users

Q. Who makes the most sign applications? Is it mostly the business community?

**A. Yes, it is mostly business.**

**The stakeholders will continue to be a part of the process.**

Q. There is a need to help business through the sign permitting process

**A. The state requires that for any sign that is electrified or when the sign and installation costs exceed \$1,000, that it be submitted by a licensed sign professional. So, while we are always happy to help businesses, generally we are working with the sign professionals to move them through the process.**

#### 5. Change of Copy

Q. Level of alteration - someone wants to make changes to the copy face, it should be straight forward - no process. Maybe they should not have to walk in. Please clarify the vagueness of what is meant by "depends on level of alteration."

**A. For change of copy, there are two criteria (1) if it is under 10sf, PDSO does not require a permit, (2) minor electrical changes may occur but staff also checks if any change to the electrical components of the sign triggers a new electrical or structural permit. An example is a change from static lighting components to digital illuminated components.**

#### 6. Real Estate Signs in the Right-of-Way

Q. There needs to be some level of flexibility in how the signs can be placed. How is it that we are distinguishing between some signs and not others? This sounds like a content issue.

**A. Tucson Association of Realtors asked staff to review the regulations for ‘home for sale’ signs allowed by Oro Valley which permit ‘home-for-sale’ signs in the right of way. Staff asked the Department of Transportation to also review them. They suggested a modified set of special conditions that could apply to this situation.**

**This type of signage issue would be addressed by applying for a Portable Master Sign Program like any City applicant who wants to apply for special sign needs. Staff has discussed this situation with TAR and SAHBA, they are in agreement with applying for a Portable Master Sign Program (P-MSP) to fit its membership’s needs.**

**7. Feather Banners**

**Q. What is the difference between feather banners and banners?**

**A. Feather banners are defined in the draft as, “A sign typically made of a flexible fabric attached vertically to a freestanding pole in the general shape of a feather, teardrop, or similar shape.” A banner is a more general term defined as, “A type of portable sign that is constructed of a piece of fabric or similar material attached to the ground or to a wall by one or more edges to a pole, rod or cord.” The joint commissions recommended that feather banners be prohibited. The current draft allows for a flag or banner option, in commercial or industrial zones, in lieu of the allowed four portable signs, of four commercial flags and banners consisting of two colors with one portable sign. However, feather banners are prohibited.**

**8. Street and Building Frontages**

**Q. Can the Zoning Administrator be given latitude to approve changes to signage near intersections?**

**A. This proposal appears to be a comment related to the transfer of signage from one street frontage to another with the approval of the Zoning Administrator or Planning Director. The proposal was not discussed at length during the public process. Staff has recommended that it be an item discussed during the 18-month review period prior to the sunset date. The initial concern was that such a transfer proposal could have a significant impact on residential property on a local street where there is no commercial or institutional freestanding signage. If the situation is one where there is no negative impact on residential property, the current Sign Standards’ provision on the Singular Sign Design Option would allow for the needed flexibility.**

**9. Master Sign Program**

**Q. The difference between criteria for some smaller developments vs. larger ones is a concern from Home Builders.**

**A. Staff has discussed with SAHBA how the homebuilding industry uses signage to direct customers to sites that inherently move as new subdivisions are adopted and being built with houses. One issue discussed was a reminder that at the August 2016 meeting, the direction given by Mayor and Council was that the Sign Code Project staff do everything practical to assure property owners had similar signage rights as they had before the *Reed* decision.**

**A potential portable master sign program used by the SAHBA membership could include a refined version of existing signs that are used and portable signs allowed under the new Sign Standards. Note that the number of signs may differ from site to site but the overall wayfinding and identification plan will be based on a template of design standards. The individual member application would be evaluated for how it accomplishes wayfinding and on-site identification using best practices of portable sign design-based on an approved**

**SAHBA template. The design would include minimizing overall signage to the amount traditionally allowed previously and, using legibility in the sign design along with design uniformity.**

**10. Other Jurisdictions**

Q. How does Oro Valley currently issue permits for their portable signage?

**A. The idea for the Portable Master Sign Program is for signs in the ROW, like the open house signs, to require a one-time permit per brokerage firm. This permit would cost \$55 and would not require renewal.**

**11. Signage Approved by Other Agency**

Q. What can be done about signage that was already approved by another agency or jurisdiction? Would it be approved by the COT?

**A. There are significant differences between sign standards in Tucson and sign standards in other jurisdictions. There is currently a process in the Permanent Sign Master Sign Program whereby an applicant may use a Master Sign Program concept from another jurisdiction as a best practice option, when approved by the Design Professional.**

**12. Scenic Views**

Q. What is the difference between “protect” and “respect” scenic views?

**A. Legal Staff reviewed the definitions of the two words ‘protect’ and ‘respect’ when used as verbs. With respect to a scenic view the applicable features of the definitions are the following:**

**To protect – to aim to preserve**

**To respect – to admire as a result of qualities.**

**The design standards and findings in the Design Option were prepared so that one could derive a measurable unit or a graphic representation of the standard or finding. It is easier to interpret “protect” as graphically preserving a view than to “respect” a view as admirable. If the City has to defend a finding in court about protecting a view, it is easier to graphically represent and explain the impact of the amount of scenic view being protected than arguing respecting a view that is directed more at a subjective evaluation that could differ from person to person. The change to ‘respect’ would weaken compliance with the purpose statement.**

**13. Freeways**

Q. What is the definition of freeway, and does it include ADOT designated corridors?

**A. Currently a freeway is defined as is listed in the Major Streets and Routes Plan, which is an Interstate. Any change to the definition, such as ADOT designated corridors, would allow for a significant increase in signage throughout the City.**

Q. Can we include language that embraces arterials like Houghton?

**A. The standards related to freeways are intended for signs along an Interstate, not Pima Association of Government regional routes or State routes. Oracle Road, Ajo Way, and Houghton Road are all State roads. This change was introduced in the June 15, 2017 MPA letter prior to the June 21, 2017 Joint public hearing of**

the two bodies. It was considered and rejected by both the Citizens' Sign Code Committee and the Planning Commission. A freeway sign can be up to 48 feet in height and 360 square feet in area. This is also counterproductive to the direction provided by a previous lawsuit regarding billboards.

#### 14. Dark Skies

Q. What is the distinction between outdoor lighting code and the protection and preservation of our dark skies listed in the purpose statement?

A. One is a regulatory code (Outdoor Lighting Code) and the other is a reference to a concept of protecting against light pollution born out of the International Dark Sky Association (dark skies). The Outdoor Lighting Code regulates illumination on all land uses and development. It is particularly important in regulating commercial development involving large parking lots with large illuminated signs on the buildings. Such development, if uncontrolled, could have a negative effect on astronomical observation and potentially trespass lighting onto nearby residential property.

The purpose and intent statement states the following:

*“Section 101.3 Purpose and intent. The purpose of this code is to preserve the relationship of the residents of the City of Tucson, Arizona and Pima County, Arizona to their unique desert environment through protection of access to the dark night sky. Intended outcomes include continuing support of astronomical activity and minimizing wasted energy, while not compromising the safety, security, and well-being of persons engaged in outdoor night time activities. It is the intent of this code to control the obtrusive aspects of excessive and careless outdoor lighting usage while preserving, protecting, and enhancing the lawful nighttime use and enjoyment of any and all property. It is recognized that developed portions of properties may be required to be unlit, covered, or have reduced lighting levels in order to allow enough lumens in the lighted areas to achieve light levels in accordance with nationally recognized recommended practices”.*

Currently staff is working with the Outdoor Lighting Committee to establish interim design guidelines for illumination when an applicant chooses to use the Sign Design Options. The goal is to ultimately use the guidelines as the basis for addressing sign illumination, especially as regards larger signs that may be allowed with the Design Option in the Outdoor Lighting Code. Please note that all signs currently are required to meet the Outdoor Lighting Code and will still be required to meet the Outdoor Lighting Code under the proposed Sign Standards.

#### 15. Sunset Date

Q. Can the current proposed timing for the sunset date of 18 months be shortened?

A. A shorter sunset period (i.e. 12 months) allows for less experience with the new standards. It will take at least a month to set up the new sign review and new sign design review process. It normally takes about 6-8 months to conduct a public review process involving various issues that were delayed in the current process and new issues such as unintended consequences resulting from the new Sign Standards. At any time during the 18-month period, the Mayor and Council can direct action on a specific problem that they, staff or the review committee identifies. With a 12-month process the amount of experience with the code is shortened as is the overall review time.

An 18-month sunset date has been used with the IID Amendment process in the past and has been effective in reviewing and developing needed amendments. As noted, if there is a substantive issue that arises within

18-months, it can be addressed directly and separately during the 18-months with direction by Mayor and Council.

16. Non-Residential Signage

Q. How would the new code affect signage such as St. Mary's cross? Do we have a way to approve through the integrated design process?

A. Staff is familiar with the application and it would have been an ideal candidate for a Singular Sign Program or a Master Sign Program. If they were to apply under the new code they not only have the design options, but have additional sign area allotment for non-residential in residential zones and the new calculation method allows for more flexibility in calculating area of symbols, such as a cross.

17. Reed v. Town of Gilbert

Q. What are other cities doing on *Reed* case?

A. Staff has monitored other Arizona and national jurisdictions. Some jurisdictions used the *Reed* decision to revise their sign codes comprehensively to be more modern and meet the content-neutral position of the *Reed* case. This strategy is what Tucson used in its Sign Code Project. Flagstaff revised its code in 2016 and came up with the term 'portable sign' to define a sign made of light materials that was intended to be displayed for a short but undefined time period. Looking at the nature of typical signs today, that time period could be years (a real estate sign on industrial property), days (a promotional event sign), months (a commercial center real estate sign) or hours (daily A-frame sign). Besides Flagstaff, Mesa, Scottsdale and Tucson have used this sign type name that allows the most flexibility and efficiency in dealing with the nature of temporary signs and regulating them. Temporary signs requiring a time period are defined as a subcategory of portable signs with timeframes.

Some jurisdictions made incremental changes mainly to their temporary sign types only. Phoenix and Peoria are doing updates and *Reed* adjustments and are nearing the end of their public reviews. Tempe is an example of a comprehensive revision of the sign code. Their feature of naming sign types by letters versus common names is more complicated than most examples.

In looking at other sign codes, staff learned that even a sign code that has been adjusted for the *Reed* decision, may still have content-neutrality problems within it. At a national conference, the Sparks, Nevada sign code was presented as a model for content neutrality yet in discussing this sign code with a national sign policy expert, the expert stated that he and his colleagues that reviewed it, still believed it had content-neutrality problems. The same thing occurred with the Flagstaff adjusted sign code where after the planner's presentation during a national webinar, the two sign policy legal experts both pointed out content-neutrality problems.

While staff reviewed other sign codes, the City Attorney's Office continued to monitor recent post-*Reed* case law. In comparing the draft to cases coming forward so far, the draft Sign Standards would likely not cause a challenge. There is consensus among sign policy experts that the *Reed* case still requires more case law to confirm what is content-neutral. However, the current draft was prepared reviewing the case law currently available and both the City Attorney's Office and PDS believe it is a reasonable accommodation of First Amendment rights at this time.