



# MAYOR & COUNCIL COMMUNICATION

December 5, 2017

Subject: C8-16-09 Sign Code Revision Project (City Wide)

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Issue – 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 (Reed)*; 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.

Throughout the past year, these proposed revisions have been reviewed extensively through the Citizen Sign Code Committee and Planning Commission with the help of stakeholders from the business community, sign code industry, and neighborhood advocates. Please see Attachment A for the Draft Sign Standards as of November 1, 2017.

City Manager's Office Recommendation – It is recommended to approve the Sign Code Revision Project ordinance, set the sunset date at August 31, 2019, and consider the text changes as noted in Attachment B – Language Clarifications.

Citizen Sign Code Committee / Planning Commission Recommendation – On July 12, 2017 the Citizen Sign Code Committee voted 8-0 and the Planning Commission voted 7-0 to recommend the Mayor and Council adopt the proposed Sign Code Revision Project text amendment with an 18 month sunset date. Please see Attachment C for the joint Planning Commission and Citizen Sign Code Commission recommendation letter.

Background – The June 2015 U.S. Supreme Court decision in the case *Reed v. Town of Gilbert* made it necessary for all jurisdictions in the country desiring to avoid legal challenges to review and amend their sign codes to be content-neutral. As a result, staff worked diligently to bring the City of Tucson's Sign Code into conformance with the *Reed* decision. Additional background information about the *Reed* case is available in Attachment D.

About the time that the *Reed* decision was announced, members of the business community raised concerns that the City's Sign Code is out of date, overly restrictive, and difficult to use in comparison to other regional and Arizona jurisdictions.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 2016 Study Session, several community 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.

Since those initial steps, the proposed revisions have been extensively reviewed. The project has been reviewed at 14 joint subcommittee meetings of members of the Citizen Sign Code Committee and the Planning Commission, six (6) individual Citizen Sign Code Committee study sessions, six (6) individual Planning Commission study sessions, two (2) joint public meetings by the Citizen Sign Code Committee and Planning Commission, and one (1) joint public hearing by the Citizen Sign Code Committee and Planning Commission. Ultimately on July 12, 2017, both the Citizen Sign Code Committee and the Planning Commission voted unanimously to favorably recommend the draft presented to them by staff with two minor revisions (please see Attachment E for materials from that meeting). For a graphical depiction of the public review process, please see Attachment F.

On October 10, 2017, Mayor and Council held a Study Session to review and discuss the Sign Code Revision Project, and its status to-date. At that meeting, staff responded to questions from Mayor and Council and were directed to set a public hearing date, currently scheduled for November 21, 2017. Please see Attachment G for an overview of questions and comments that arose at that study session, and responses from staff. Additionally, Mayor and Council inquired about potential expedited review for certain parties, and what the timeline of current and proposed processes is. Please see Attachment H for a graphic depicting the timelines for those processes.

Present Consideration(s) – When the 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. For a detailed list of all changes discussed and made through the process, along with the committees and stakeholder relative positions on those issues, please see Attachment I. The following is how these three items were addressed:

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

- Purpose Statement – Statements were added to assure protection of First Amendment rights, property rights, as well as preservation of public safety and an improved visual environment.
- Substitution Provision for Non-Commercial Speech – This provision already exists and was transferred into the draft to assure that all sign types accommodate commercial and non-commercial speech.
- Design Option – While a design option is not required by *Reed*, the draft includes a portable sign master plan option that helps to assure that groups like the local real estate industry will have an opportunity to make a case for special signage needs that are inherent with that segment of the business community.
- Portable Sign General Standards – This new provision creates a new sign type that is content-neutral and can accommodate both commercial and non-commercial speech in

residential, commercial and industrial areas. The sign type is called a portable sign, defined as one made of lightweight materials similar to materials used for current temporary signs.

It revises the concept of temporary signs by allowing a property owner a sign area allotment of portable signage based on existing precedents for temporary signs, such as Arizona Revised Statutes standards for political signs, case law regarding number of temporary signs on residential property, as well as spacing standards in the current Sign Code for freestanding signs.

- Renaming and Deleting Sign Types to be Content-Neutral – Numerous sign types were deleted or grouped so as to be content-neutral, including eight real estate sign types such as, real estate directional signs, on-site subdivision signs, and construction signs.

After *Reed*, signs types that are similarly grouped but that have separate regulations become problematic, such as time and temperature signs (renamed in the current draft as a content-neutral version, i.e., a one-minute change rate digital sign) and directional signs (renamed as access point signs in the current draft and regulated based on location, rather than content).

2. Simplify through Process Improvements and 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 repealing Tucson Code Chapter 3 and placing the Sign Code into 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. The following is a list of changes that should improve the application review process for erecting a sign:

- Place Sign Code in the Unified Development Code (UDC) – This change places the Sign Code in the UDC and removes the need for a duplicate Planning Commission and Board of Adjustment. The organization has been improved, definitions are consolidated, and longstanding interpretations have been clarified. It is easier for customers and staff to understand, and follows a similar format to other zoning development standards.
- Clarify Sign Districts and UDC Zones – Placing the sign standards in the UDC removes the need for duplication of zoning districts that are similar, but not the same as, zones used for other development standards. It also removed unused districts for business parks and park areas.
- Grade Changes – The current Sign Code has a complicated measurement standard that requires special equipment and often causes field adjustments to a sign over a few inches of sign height. Sometimes it requires the applicant to remove and modify sign by small amounts at their expense causing delays and adding costs to a project at the last minute without a noticeable improvement of the visual environment. The revision allows for a simpler measurement using an average finished grade where a single point can be derived. It is consistent with how measurement is done in other sections of the Unified Development Code.

- Premise Definition – The term premise refers to the unified site that has signs. This change treats the site for signs the same way it is treated for access points, parking and landscaping. It allows the applicant to plan their signing of a site with more confidence without being concerned that an interpretation or a property line within a unified site will cause the need to apply for a variance.
- Interpretations on Electronic Components in Non-conforming Signs - This change clarifies a recent interpretation regarding what is a reasonable alteration of an older sign. Some non-conforming signs require newer replacement parts because the original parts are discontinued.
- Interpretation Roof Sign/Wall Sign Clarification – There was a need to clarify the difference between a roof sign and wall sign. Past interpretations have varied and caused applicants to be allowed several years ago to erect a sign but later denied a permit for the same situation. This change clarifies definitively what an applicant can and cannot do based on the architecture of the building. It also helps staff avoid varied interpretations in the future.
- Interpretation of Sign Area – Since a sign’s area is measured as the area enclosed in a rectangle from its edges, this change allows for some flexibility when a sign design has large amounts of open space within the rectangle. Thus only the parts of the sign that are physical and visible are counted when the sign has more space than visible physical parts. An example might be a cross where the edges create large non-physical areas within the sign’s design.
- Increasing Sign Area for Non-residential Uses in Residential Zones – This draft allows more sign area for non-residential uses like religious organizations. These uses often must seek variances because they are limited by the current Sign Code’s limit on sign area in residential zones. Most religious organizations need more than the total allowable twenty square feet for all freestanding and wall signs.
- Interior Sign Type – This sign type refers to either signs indoors or outdoors that may be viewable but not intended to be readable from the right of way. Such signs include directory signs in mall parking lots or small projecting signs under colonnades in the walking area of a shopping center. These signs will not be included in the overall sign area allotment for a commercial development center.
- Digital Sign – The sign type, electronic message board (EMB,) was renamed to the more modern term digital sign. The EMB is currently prohibited if the sign copy rate of change is less than one hour. Thus, except for time and temperature signs, EMBs have a sign copy change rate of more than one hour. Prior to commencement of the Sign Code Revision Project, the Citizen’s Sign Code Committee had been discussing whether to reduce the sign copy change rate to five minutes. This discussion continued through the public review process associated with the Sign Code Revision Project, with ultimate agreement to reduce the change rate to one minute. The concern with change rates is that if there are many signs and the copy change is done too often they can become a distraction to drivers

and create an unpleasant visual environment. Ultimately, at the July 12 meeting of the CSCC and PC, both agreed to a one minute change rate. The joint committees reasoned that a one minute change rate is not a substantial distraction, and that a driver would likely only be aware of a sign copy change on a sign at an intersection where there is a traffic light.

- Illumination Design Guideline – PDS staff has prepared a preliminary design guideline for illumination of freestanding signs. This guideline has been reviewed by the CSCC, PC and a lighting engineer. It is intended to assist applicants in choosing low illumination designs for signs using the design option. It is meant to be a starting point in a possible revision to the Outdoor Lighting Code for illumination of freestanding signs. This guideline was also discussed with the Outdoor Lighting Committee who felt it was a desirable first step in reviewing future revisions to the Outdoor Lighting Code. All signs were, and still are, required to conform to the Outdoor Lighting Code.
- Canopy Sign – During the Joint Subcommittee process canopy sign standards were discussed as being overly complex. Canopy sign refers to a sign type on a permanent canopy structure extending from a building. It can also refer to a simple curved beam attached to a building wall. In both cases the sign copy may be attached separately above, on, or hanging down from the beam or fascia board. Both applicants and staff have complained about the standards being too complex and often requiring a variance. The CSCC and PC recommend to consider the canopy sign as a type of wall sign and the key standard being that it cannot extend above the building's roofline.
- Feather Banners, Commercial Banners and Flags – During the Joint Subcommittee's review of portable signs, the issue of how to handle feather banners and commercial flags was discussed. There was debate whether a feather banner was a prohibited sign or allowed under the banner definition. The Subcommittee considered a flag/banner option in lieu of portable signs in commercial/industrial areas. This option involved flags/banners with uniform colors and one portable sign. The CSCC's final recommendation and ultimately the joint CSCC/PC recommendation was to allow the flag/banner option but make feather banners a prohibited sign.
- Historic Landmark Sign – During the public review process there was discussion about revising the historic landmark sign to include all signs types. The current standard only applies to freestanding signs, however, under the current standard a historic roof sign along Broadway could not be replaced. This revision would allow for all signs to apply for the historic landmark sign review process.

3. 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. The Sign Design Option replaces the current integrated architecture (IA) process reviewed by the Board of Adjustment at a public hearing. The current IA process does not have a set of standards or findings.

Unlike the IA process, the Sign Design Option includes a master sign program with design standards, findings, and review by a design review committee, then a decision by the PDSD Director. This process is similar to other UDC options like the individual parking plan, the Infill Incentive District and Main Gate District design review. Through the Sign Design Option, sign design proposals will be required to consider vehicle reaction time, legibility, architectural integration, and clutter management.

Furthermore, master sign programs are common in modern sign codes. The option includes sign design references from national best practice manuals and documents that can be used by applicants, the committee and staff in a review. It will also include guidance on using the best practices of illumination for dark skies. For a more detailed review of the Master Sign Program please review Attachment J.

*Consideration of 18 Month Sunset Date* – Staff recommends a sunset provision of 18 months for the proposed changes in the Sign Code Revision Project. Eighteen 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.
- Review of Sign Standard's Effectiveness – Throughout the first year, once the sign standards become 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.
- Development of Templates for Portable Master Sign Program – Since the July 12<sup>th</sup> joint CSCC / PC meeting, staff has been working with the real estate community to develop templates for them to use once the proposed revisions are adopted. Once the revisions are adopted, staff will continue to work with them to bring them through the Sign Design Review Committee for approval.
- Remaining Items from MPA/Chamber/SAHBA Letter – Throughout the process, there have been multiple opportunities for stakeholders to be involved and suggest needed changes to the draft. Ultimately all of these were considered, reviewed, and discussed for recommendation by the CSCC and the PC. A portion of those reviewed were

recommended for review during the 18 month sunset period. Please see Attachment K for the most recent MPA/Chamber/SAHBA Letter to Mayor and Council.

Clarifications Needed Since October 10, 2017 Study Session – On October 10, 2017, Mayor and Council held a Study Session to review and discuss the Sign Code Revision Project, and its status to-date. Since that meeting, staff has determined there to be two corrections that need to be addressed and two clarifications to be asked of Mayor and Council. The two corrections to be addressed are as follows:

1. Language has been added, in the November 1, 2017 Sign Standards, to the Singular Sign Option to address restrictions for billboards.
2. In the translation of the existing Chapter 3 Sign Code to the new Sign Standards, the height for Freeway signs was incorrectly changed to 40 feet from 48 feet. This has been changed, in the November 1, 2017 Draft Sign Standards, to reflect a continuation of the existing regulation for the height of Freeway signs. It was the intent of the Sign Code Revision Project, when possible, to keep regulations roughly the same from the existing Sign Code to the proposed Sign Standards.

In addition to the two above corrections, staff requests clarification from Mayor and Council on the following two items related to the proposed Sign Standards, (1) Feather Banners and (2) Temporary Banners. Please see Attachment B for an overview and proposed clarifications with choices of proposed language.

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.*

Financial Consideration(s) – N/A

Operating Cost and Maintenance Input – N/A

Legal Consideration(s) – The City Attorney's Office has reviewed and approved this Memorandum.

Respectfully submitted,



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AE/SC/db  
PLANNING AND DEVELOPMENT SERVICES

Attachments:

- A. Draft Sign Standards – November 1, 2017
- B. Language Clarifications
- C. Joint Planning Commission and Citizen Sign Code Recommendation Letter
- D. Background on Reed v. Town of Gilbert
- E. CSCC / PC Materials from the Joint Meeting on July 12, 2017
- F. Updated Infographic on Sign Code Revision Public Process
- G. Response to M&C Questions and Comments from October 10, 2017 Study Session
- H. Infographic on Timelines of Existing and Proposed Sign Code Processes
- I. Matrix of Changes / Edits Made Throughout the Sign Revision Project
- J. 7A Design Option Overview
- K. MPA/Chamber/SAHBA September Letters to Mayor and Council  
Proposed Redline Ordinance  
Ordinance