



CITY OF TAMPA

Bob Buckhorn, Mayor

Office of the City Attorney

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City Attorney

MEMORANDUM

TO: THE HONORABLE CHAIR AND MEMBERS OF CITY COUNCIL

FROM: Kristin Mora, Assistant City Attorney 

DATE: June 13, 2017

SUBJECT: **June 22, 2017 Agenda**

In preparation of the June 22, 2017 City Council Regular Meeting, please see the following revised sign code summary and attached support documents:

The 2017 comprehensive Sign Code revisions are intended to address two major areas. First, the United States Supreme Court decision in *Reed v. Town of Gilbert, Arizona*. Second, in the years since the adoption of the current electronic sign regulations, the technology has changed significantly, leading to significant complaints and code enforcement issues.

Content based signs

In the *Reed* decision, the Supreme Court created a new broad test of whether speech is content based:

“[g]overnment regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.”

To ensure that the City’s Sign Code meets the *Reed* test, distinctions between types of temporary signs have been eliminated in the revised code, and temporary signs are treated uniformly for duration, size, and location, with two exceptions. Warning signs and address signs, both of which are essential for public safety, continue to be separately allowed. Because the distinction of types of flags in the current code is no longer viable after *Reed*, a content neutral definition of flag and regulation of flags has also been implemented in the revised Sign Code.

In addition, at the direction of City Council at the February 23, 2017 Workshop, the current definition of off-site signs was maintained, though it was clarified that it applies to commercial, and not non-commercial speech. This change is also more consistent with the existing code, which always

allows substitution of non-commercial speech. A second definition of off-site signs was added for additional protection from legal challenges.

In order to bring all sign regulations throughout the Code into compliance, Overlay Districts with sign regulations have also been amended where needed to refer to the primary sign regulations regarding off-site signs. As a part of implementing the Overlay District changes, the procedural parts of these sections have also been updated. Currently, some refer to the outdated procedure of the VRB reviewing appeals of design exceptions. Since these Overlay Districts were created, Council revised section 27-61 to provide that Council will perform the review of a design exception decision. As necessary, the Overlay districts were updated in the proposed ordinance to refer to the current procedure in Sec. 27-61, set by Council in 2010.

Electronic signs

Council acknowledged the high number of complaints for electronic signs and the difficulties in enforcing the electronic sign regulations. Council directed staff to address these issues in the amendments. Specific complaints included: overly bright signs, failure to adhere to the 5-minute dwell time, and distractions due to size of some signs.

After consultation with sign lighting experts, it was determined that signs being too bright in the evening was likely the result of inadequate lighting controls. This has been addressed in the revised Sign Code by requiring GPS automatic dimmers that adjust sign brightness based on sunrise and sunset at the sign location. The old requirement, a light sensor, has now been made an optional brightness control that can be used only when it will not be influenced by artificial light.

A contributing problem to the lack of dwell time enforcement is the current 5 minutes time frame. Due to the cycle of the signs containing multiple sign faces, code enforcement officers have been required to watch signs for substantial time, up to a half hour or more per location, to determine if the dwell time was being met throughout the cycle. Surrounding jurisdictions were consulted for their dwell times. After review and discussion at the February 23, 2017 Workshop, Council directed that a dwell time of between 60 seconds (1 minute) to 8 seconds be considered as the new dwell time. A 60 second dwell time was included in the proposed ordinance.

Further, new electronic sign technology now allows signs to be changed almost instantaneously. Code enforcement has found that properties receiving citations for electronic sign violations will change the sign to bring it into Code to ameliorate the code enforcement action, then change it back to out of Code compliance, as soon as the case is dropped. To stop circumvention, staff recommended amending chapter 23.5 to provide for civil citations for electronic sign violations. This change will be made in a subsequent ordinance to be presented to Council.

Finally, to address concerns regarding the size of and distraction caused by electronic signs, staff considered various sources and typical dimensions of street sections throughout the City. The direction from Council to address separation, the current size regulations, sign publications regarding sign readability, and configurations of electronic and non-electronic signs throughout the City were considered. From this analysis, Ms. Catherine Coyle developed a table, generally setting sign size in

proportion to street width and configuration, that includes maximum electronic sign sizes for freestanding signs based on road width and configuration (one-way versus two-way traffic). Also from this analysis, and in consideration of the functionality of freestanding signs and building signs, Ms. Coyle developed a ratio for electronic and non-electronic portions of building signs.

Revised Sign Code Support Documents

The following attached documents were considered in the development of the revised Sign Code:

- Highway Sign Visibility
- Summary of electronic sign regulations from around Florida
- Watchfire Signs PowerPoint on Brightness and Hold Time Settings

Thank you.

Cc: Dennis Rogero, Chief of Staff
Salvatore Territo, City Attorney
Rebecca Kert, Senior Assistant City Attorney
Catherine Coyle, Planning Manager
Martin Shelby, City Council Attorney
Shirley Foxx-Knowles, City Clerk
Sandy Marshall, Deputy City Clerk