

MEMORANDUM

TO: Mayor & City Council
Planning Commission

VIA: Tony Tomasello, City Manager

FROM: Kirk Eby, GIS Planner

DATE: January 16, 2020

SUBJECT: CTAM-8364-2019, Sign Ordinance Repeal and Reenactment

BACKGROUND

The City last made a major change to its Sign Ordinance (Article IX of Chapter 24) in 2006. Since that time, the Supreme Court and federal appeals courts have held that sign standards cannot be based upon the content of the sign. In addition, new technologies and design strategies have developed since 2006, which were not envisioned under the current ordinance. Recognizing these trends and court cases, the Mayor and City Council, as part of the FY 2020 Strategic Directions, included an Action Item to evaluate the current sign ordinance and present a new ordinance for adoption. Staff is proposing extensive changes to the sign ordinance that respond to the recent court cases, protect and reflect existing rights, proactively set standards for the newer technology and popular design trends, narrow the definition of “sign,” reduce the number of sign waivers reviewed by the Planning Commission, and make the ordinance more user-friendly by utilizing tables and illustrations. The comprehensive nature of this update requires the entire ordinance to be repealed and replaced.

CURRENT CODE

The existing sign ordinance includes several provisions that appear to use content as the basis for its standards, such as election signs, real estate signs, construction signs, directional signs, community identification signs, and off-site signs. The current ordinance’s definition of “sign” is worded so broadly that it includes “any device designated to inform or attract the attention of persons.” This broad definition captures many items that are not usually thought of as “signs,” such as architectural lighting and features, murals and graphics with no words or letters, and holiday decorations like Santa Claus and candy canes. The content-based provisions, combined with the broad definition of “sign,” not only restrict the use of commercial messages on signs, but also set standards for or prohibit the display of non-commercial messages, such as “birthday party here →” or “support our troops in Afghanistan.” The current ordinance also has similar or related provisions in different sections, making it difficult to navigate and understand all of the standards that are applicable to particular sign types. Lastly, the standards for commercial signs in the current ordinance may not be flexible enough to accommodate newer technology and popular design trends that allow signs to remain competitive with other advertising tools. Such physical on-site marketing with signs is critical for a healthy business climate that fosters economic development.

PROPOSED AMENDMENT

The proposed sign ordinance replacement seeks to:

- Respond to recent court cases by taking a content-neutral approach:
 - Eliminates sign types that are based on the content included on the sign, such as “real estate” signs.
 - Categorizes signs into generic types, such as “freestanding” and “banner,” and limits the standards to the time, place, and manner of sign installation.
 - Replaces “community identification” signs with “geographic area” signs that are associated with a subdivision or similar area of land, and establishes standards only for the size and location of the geographic area sign, not its content.
 - Creates a new definition for an “off-site” sign as “a sign focused on a sponsor or entity that does not conduct any activity on the land where the sign is located.”
- Preserve or expand existing sign rights:
 - Honors existing approved sign packages and design guidelines and allows those to prevail over the new sign ordinance standards.
 - Allows the same amount of signage on most properties that is allowed under the current ordinance, or allows more signage than currently allowed.
 - Clarifies that most signs on single-family residential properties are not subject to the standards and do not require sign permits.
 - Allows signs to be placed on all façades of a building, rather than just those sides that face a public street or public entrance.
- Accommodate newer technology and popular design trends:
 - Electronic message displays (video screens) are allowed with fewer restrictions on the number and location of such signs.
 - Allows freestanding (“teardrop”) banners and projected image signs, consistent with their use by businesses in Rockville and Montgomery County.
 - Does not consider stand-alone lighting a sign, such as a light wall or accent lighting for a building.
 - Excludes architectural features from the area and size limits of the sign face.
- Narrow the definition of “sign”:
 - A “sign” must generally include words, letters, or characters.
 - If a potential “sign” consists of only graphics or symbols, it must include a trademark, identifying mark, or corporate logo in order to be considered a “sign” that must meet the ordinance’s standards.
 - The new definition clarifies items that are not “signs” and thus are not subject to the ordinance’s standards, such as addresses, government flags, architectural features, and welcome mats.
- Balance design standards with business and geographic context:
 - Adds a minor waiver process to allow more flexibility in sign approval, but still requires basic findings to ensure that such signs are appropriate for the circumstances.
 - Reduces the number of signs that need Planning Commission approval by eliminating the requirement (such as icon signs) and expanding the allowable sizes (such as monument signs adjacent to a major road).

- Bases the size, area, and quantity limits for signs on a review of existing signs and lot sizes in the City.
- Recognizes the desire of commercial property owners to have a physical sign leading into the property, and encourages the use of monument signs over freestanding signs by allowing larger monument signs to be installed. (In the proposed ordinance, monument signs must touch the ground along the entire base of the sign, whereas freestanding signs do not have to touch the ground except at the supports.)
- Allows more temporary signs than the current ordinance and allows most of the temporary signs to remain for a longer period of time than the current ordinance. This accommodates the variability of temporary signs without using content as part of the standard, and allows “for sale” and “elect a new sheriff” signs to be treated the same way.
- Establishes standards to ensure that signs do not become visual clutter, do not result in blight, and do not become safety hazards.
- Create a more user-friendly experience:
 - Reduces excessive code narrative.
 - Groups similar standards together, rather than having them spread out over different sections.
 - Includes graphics to illustrate the intent of the standards, such as height measurement, sign face dimensions, and façade area for multiple tenants.
 - Uses tables to list the standards for temporary and permanent signs, such as the size, number allowed, and any time limits.
 - Uses both the actual land use and the zoning category as standards for the amount of signage allowed by the table, which ensures consistent treatment of uses, regardless of the type of zone (residential, commercial, floating). This is particularly useful for apartment buildings, day care facilities, and churches.
 - Adds a new section of standards for certain sign types, such as building signs and projected image signs.
 - Considers building signs, geographic area signs, and freestanding signs as independent groups, which simplifies the calculation of an overall signage cap for each sign group.

CODE CHANGES

The following is a summary of staff’s recommended changes to Articles I and IX of Chapter 24, listed by section:

ARTICLE I. IN GENERAL

§ 24-1. Definitions.

- Change the definition of sign in this section of Chapter 24 to refer to the definition included in Article IX (signs), rather than repeating the definition here verbatim, which reduces the possibility of conflicting language.

ARTICLE IX. SIGNS

All Sections.

- Where possible, changed the word “shall” to “must” to clarify that an action or requirement is mandatory.
- Where an action or requirement is not mandatory, used the word “may” for clarification and consistency.
- Where appropriate, divided long passages of code text into shorter clauses and sub-clauses, to improve readability and clarity.
- Updated the code text to use “city manager or designee” for consistency, where reference is made to the City Manager.

§ 24-208. Purpose.

- Revised the purpose statements from the current sign ordinance to better express the rationale for each goal:
 - Promote pedestrian and vehicular safety by allowing people to locate goods, services, facilities, and geographic areas without difficulty, danger, or confusion
 - Enhance the unique character of the City by maintaining and complementing the aesthetic, built, and natural environments
 - Protect property values by preventing damage from signs, avoiding visual clutter, and ensuring compatibility with the surrounding land uses
 - Do not become a public nuisance, create blight, or pose a hazard through unregulated construction, placement, or display
 - Create an attractive business climate that fosters economic vitality and sustainability
 - Appear and act as an accessory and incidental use to the primary use on the property
 - Communicate legibly and effectively under the circumstances in which they are seen
 - Preserve public property and rights-of-way and its authorized users and franchisees
 - Minimize the possible adverse effect of signs on nearby public and private property
- Combined similar goals from the current sign ordinance.
- Added new purpose statements related to constitutional rights, property values, economic vitality, and signs serving as an incidental use.

§ 24-209. Definitions, signs.

- Carried forward the majority of the definitions from the current sign ordinance and added several new ones to support the standards tables, sign types, and general provisions.
- Changed the definition of sign to narrow its scope and provide clarity:
 - *Sign.* Any device, object, or thing that (1) is in the shape of or contains letters, characters, graphics, or symbols and (2) is used or intended to direct, identify, or inform the public and (3) can be viewed by the public while outdoors.

- Made minor grammatical changes to these definitions:
 - balloon sign
 - double-face sign
 - externally-illuminated sign

- Modified these definitions for clarity:
 - A-frame sign
 - Banner
 - blade sign
 - channel letters
 - conforming sign
 - decorative pole banner
 - directional sign
 - directory
 - façade
 - flashing sign
 - freestanding sign
 - gooseneck lights
 - grade (adjacent ground elevation)
 - graphic sign
 - halo-lighted sign
 - illegal sign
 - illuminated sign
 - incidental sign
 - marquee sign
 - monument sign
 - mixed-use town center
 - multi-tenant center
 - non-conforming sign
 - off-site sign
 - on-site sign
 - permanent sign
 - pole sign
 - portable sign
 - principal sign
 - sign
 - street, private
 - street, public
 - structurally altered
 - temporary sign
 - traffic control sign
 - window sign

- Added these new definitions:
 - ancillary sign
 - billboard sign
 - building sign
 - changeable copy sign
 - commercial sign
 - copy
 - depth, sign face
 - electronic message display
 - flag
 - geographic area sign
 - hanging sign
 - height, freestanding sign
 - home-based business
 - inflatable sign
 - legally non-conforming sign
 - length, sign face
 - luminous tubing sign
 - major highway
 - marquee
 - non-commercial sign
 - nonresidential
 - projected image sign
 - provision, regulatory
 - provision, permitting
 - residential, single household
 - residential, multiple household
 - seasonal event
 - shelter sign
 - sign face
 - sponsor
 - subdivision, overall
 - subdivision, overall nonresidential or mixed-use
 - subdivision, overall residential
 - vehicle
 - vehicle sign
 - wall sign
 - width, freestanding sign

- Removed these definitions:
 - business identification sign
 - canopy sign [replaced with shelter sign]
 - changeable letter sign [replaced with changeable copy sign]
 - construction sign
 - electronic sign [replaced with electronic message display]
 - internally-illuminated sign
 - neon sign [replaced with luminous tubing sign]
 - projecting sign [replaced with blade sign]
 - special event sign

§ 24-210. Applicability, minimum requirements, and severability. [new section]

- Created an applicability section that:
 - Declares which items are subject to the sign ordinance.
 - Affirms the validity of previously-adopted comprehensive sign packages and design guidelines approved prior to the adoption of this new sign ordinance.
 - Exempts some signs from the standards of the sign ordinance, although such signs may still be subject to permits and regulation by other city codes or governments.
 - Temporary signs on multifamily residential and nonresidential properties, installed within twenty (20) days of a seasonal event.
 - Exempts some signs from the sign permit requirements of the ordinance, though such signs are still subject to the ordinance’s design standards.
 - Freestanding signs one square foot in size or smaller
 - Freestanding signs between one and six square feet in size that do not have a footing or foundation
 - Window signs
 - Projected image signs
 - Building signs two square feet in size or smaller.
 - Noncommercial temporary signs held by a person on nonresidential property
 - Exempts some signs from both the standards and permit requirements of the sign ordinance, though such signs may be subject to permits and regulation by other city codes or governments.
 - Accessory commercial signs
 - Signs that are integrated into a structure
 - Interior signs
 - Most murals, works of visual art, and landscaping
 - Public signs
 - Seasonal event signs
 - Certain signs on single family residential property
 - Vehicle signs on a moving or parked vehicle
 - Signs smaller than one square foot attached to certain objects
 - Signs associated with internments
- Created a minimum requirements section to clarify that the standards included in the sign ordinance are the minimum requirements.

- Created a code conflicts section to indicate that, should a conflict arise within the sign ordinance or between the ordinance and another section of City Code, the more restrictive language will apply.
- Created a severability section to reference § 1-6 of the City Code, which allows a court to strike a specific part of the code text that it finds invalid, but does not invalidate the rest of the code.

§ 24-210A. General provisions. [formerly § 24-210]

- Added the method used to calculate the number of signs allowed per lot area, which is used in the standards tables found in § 24-211 and § 24-211A.
- Revised the area computation for signs section and added drawings to clarify the method used to calculate the area of a sign.
- Included a provision to allow the Planning Commission to grant a minor waiver to allow a larger on-site permanent sign.
- Clarified which signs are included in the total allowable signage and provided a list of sign types that are not counted towards the total allowed.
- Retained the maximum general height cap of ten (10) feet for freestanding signs, and included a provision that allows the Planning Commission to grant a minor waiver for a taller permanent on-site freestanding sign. The standards tables of § 24-211 and § 24-211A limit the height of most freestanding signs other than monument signs to less than ten (10) feet.
- Carried forward the majority of the provisions relating to placement or location, added a requirement for spacing between freestanding signs and monument signs, revised the distance above grade requirement for signs above pedestrian and vehicular areas, and added a provision regarding signs in easement areas.
- Revised and re-organized the provisions for signs placed in a public right-of-way.
- Retained the provisions relating to lighting and non-English language signs.
- Moved the provisions for non-conforming signs to this section.
- Moved the provisions for home-based business signs to § 24-210C(b) [restricted signs].

§ 24-210B. Standards for specific sign types. [new section]

- Added the following standards:
 - Blade signs
 - Changeable copy signs
 - Electronic message displays
 - Geographic area signs
 - Incidental signs
 - Internally illuminated box signs
 - Projected image signs
 - Shelter signs
- Retained and modified the standards for the following signs [§ 24-212 of the current ordinance]:
 - A-frame signs
 - Building signs

- Decorative pole banners
- Marquee signs
- Monument signs
- Window signs
- Removed the following standards from the current ordinance [§ 24-211 of the current ordinance]:
 - Banners
 - Child care or elderly care signs
 - Civic, religious, and quasi-public signs
 - Construction signs
 - Election campaign and ballot questions signs
 - Permanent identifications signs [replaced with geographic area signs]
 - Private traffic direction signs [now considered incidental signs]
 - Public signs
 - Real estate signs
 - Street banners
 - Temporary signs
- Removed the following standards from the current ordinance [§ 24-212 of the current ordinance]:
 - Canopy signs [replaced with shelter signs]
 - Changeable letter signs (non-electronic) [replaced with changeable copy signs]
 - Directional signs for other lots
 - Directories
 - Electronic signs [replaced with electronic message displays]
 - Icon signs
 - Lots without buildings [moved to § 24-210C(b) – restricted signs]
 - Off-site commercial signs [moved to § 24-210C(b) – restricted signs]
 - Projecting signs [replaced with blade signs]
 - R-B zone signs [moved to § 24-210C(b) – restricted signs]
 - Roof signs [moved to § 24-210C(a) – prohibited signs]
 - Service station signs
 - Window neon signs

§ 24-210C. Prohibited and restricted signs. [formerly § 24-210A]

- Retained the following sign prohibitions in the current ordinance, with minor changes:
 - Attaching signs to other objects
 - Flashing signs
 - Illegal advertising
 - Moving signs and devices
 - Obscene signs
 - Off-site signs
 - Paper signs
 - Portable, moveable, and relocatable signs
 - Traffic hazards
 - Vehicle signs

- Added the following sign prohibitions:
 - Balloon signs
 - Billboard signs
 - Fence signs (except temporary signs)
 - Inflatable signs
 - Person signs [commercial hand-held signs]
 - Roof signs
 - Short-term rentals
 - Temporary signs that are illuminated
 - Unauthorized signs
- Removed these sign prohibitions:
 - Changeable letters (non-electronic) [moved to sign type standards of § 24-210B]
- Created a restricted signs section, which allows signs for the following use types, subject to additional standards:
 - Bed and breakfast
 - Family day care
 - Home-based business
 - Lots without buildings
 - Off-site commercial signs
 - Residential Buffer (R-B) Zone uses

§ 24-211. On-site permanent signs. [new section]

- Created tables for each group of on-site permanent signs, with the standards based upon the land use and zoning districts.
- Items covered by the standards include the size of the sign, the height of the sign, and the number of signs allowed.
- Building signs have standards that are independent of the other sign groups.
- Geographic area signs have standards that are independent of the other sign groups.
- Signs not attached to a building, other than geographic area signs, are treated as a group, with an overall limit on the amount of these signs, as well as individual standards for each type of sign:
 - Banners attached to a support pole or fence
 - Changeable copy signs
 - Decorative pole banners
 - Electronic message display
 - Freestanding signs
 - Monument signs
 - Projected image signs
 - Wall signs

§ 24-211A. On-site temporary signs. [new section]

- Created tables for each type of on-site temporary signs, with the standards based upon the land use and zoning districts.

- Items covered by the standards include the size of the sign, the height of the sign, the number of signs allowed.
- Temporary signs do not count toward the allowable signage limits for permanent signs.
- Standards vary depending on the type of temporary sign:
 - A-frame signs
 - Banners attached to buildings
 - Freestanding banners
 - Freestanding signs other than banners
 - Projected image signs

§ 24-212. Sign permits. [formerly § 24-213A]

- Carried forward the majority of the language from the current sign ordinance and made minor changes for clarification.
- Clarified when sign permits are required and when additional permits are required in connection with the installation of a sign, such as electrical permits.
- Moved and revised the sign adjustment process to § 24-213, to create the major waiver process.

§ 24-212A. Enforcement and penalties. [formerly § 24-213B]

- Carried forward the majority of the language from the current sign ordinance and made minor changes for clarification.
- Removed the content-based sign abandonment provision.
- Clarified that the provisions allowing the City Manager or designee to order the removal of a sign and actually remove a sign are applicable to all such signs, not just those that have been abandoned.
- Clarified that the provision holding the sign owner or permittee liable for costs of removal when a noncompliant sign is removed by the City Manager or designee is applicable to all such signs, not just those that have been abandoned.

§ 24-213. Waiver from Article IX. [new section]

- Created a new minor waiver process to allow flexibility in the approval of signs with minor deviations from the sign ordinance.
 - Only allowed where the sign ordinance text includes a specific provision allowing the granting of a minor waiver.
 - Requires four basic findings be made.
- Moved and revised the sign adjustment process in the current sign ordinance (§ 24-213A) to this section, to create a new major waiver process that allows approval of signs that deviate significantly from the provisions of the new sign ordinance.
 - Allows for any deviation from the sign ordinance that cannot be approved by the minor waiver process.
 - Must satisfy the requirements of a minor waiver and six additional more rigorous findings, which are similar to those used for the sign adjustment process in the current sign ordinance.