

STAFF ANALYSIS FOR PLANNING COMMISSION

REPORT DATE: March 13, 2020

RESPONSIBLE STAFF: Kirk Eby,
GIS Planner

PUBLIC MEETING DATE

March 18, 2020

APPLICATION NUMBER

CTAM-8364-2019

TITLE

AN ORDINANCE TO AMEND CHAPTER 24 (CITY ZONING ORDINANCE) OF THE CITY CODE, ARTICLE I, ENTITLED, "IN GENERAL," § 24-1, ENTITLED, "DEFINITIONS," AND TO REPEAL AND REENACT ARTICLE IX, ENTITLED "SIGNS," IN ITS ENTIRETY, TO COMPLY WITH RECENT CASE LAW AND TO ACCOMMODATE NEWER SIGN TECHNOLOGY AND POPULAR DESIGN TRENDS

STAFF RECOMMENDATION

Staff recommends that the Planning Commission **RECOMMEND ADOPTION OF TEXT AMENDMENT CTAM-8364-2019 TO THE MAYOR AND CITY COUNCIL.**

Recommend Approval

Recommend Denial

Defer

Enclosures:

Staff Comments

CTAM-8364-2019 Index of Memorandum and Exhibits **(in Bold)**

STAFF COMMENTS

This item is on the Commission's agenda for a transmittal of a recommendation to the Mayor and City Council. The joint public hearing regarding CTAM-8364-2019 was held on February 3, 2020. There were two members of the public who testified during the hearing. The Planning Commission held its record open until 5:00 PM on March 10, 2020. At the time of the Commission's record closing, one additional written testimony was received into the record. There are currently 18 exhibits in the record.

Background

The purpose of this amendment is to repeal and replace the sign ordinance (Article IX of Chapter 24) in its entirety, and update the definition of "sign" in Section 24-1 to match the proposed definition in Article IX. The last major change to the City's sign ordinance was made in 2006 and since that time, new case law has developed that restricts the use of content-based standards for signage. In addition, new technology and popular design trends have developed, which are not addressed by the current sign ordinance. This text amendment proposes to replace the existing sign ordinance with one that responds to recent case law, preserves or expands existing sign rights, accommodates newer technology and popular design trends, narrows the definition of "sign," balances sign standards with business and geographic context, and creates a more user-friendly experience.

During the joint public hearing, two speakers from the public voiced concern about the proposed prohibition of temporary real estate directional signs in the public right of way on the weekends. The Mayor and City Council discussed the merits and challenges of having temporary signs in the public right of way, and recommended that staff develop a way to continue to allow these types of temporary signs on the weekends.

In response to the joint public hearing, staff has developed two revised drafts that include revisions to Section 24-210A(h), which address temporary signs in the right of way on weekends. Also incorporated into those drafts are four minor changes in other sections (definitions, geographic area signs, prohibited signs, and sign abandonment) to provide clarification.

Staff received additional comments after the revised drafts were posted on the City's web site, and in response is proposing minor changes to the geographic area signs and comprehensive sign packages sections, for clarity.

Revised Draft Ordinances in Response to Joint Public Hearing

The two revised draft ordinances, Exhibits 11 and 12, have both modified Section 24-210A(h) to allow all temporary signs in the right of way, regardless of their message (content). Both drafts limit the time window for these signs to the period between noon on Friday and sundown on the following Monday, which allows these “weekend” signs to be installed and removed outside of the typical rush hours on Friday and Monday. Both drafts also restrict where these signs may be placed, establish safety standards that must be met, and allow the City to remove these signs if they violate the sign ordinance. The Option A draft¹ establishes the same size standards (3 square foot sign face, 3 feet in height, and 3 feet in width) for all such temporary signs. The Option B draft² allows larger signs (3 square foot sign face, 3 feet in height, and 3 feet in width) in the right of ways for “major highways” (as defined in the sign ordinance), but restricts signs in other right of ways to a smaller size (1.5 square foot sign face, 2 feet in height, and 2 feet in width).

Staff explored other options for weekend temporary signs in the right of way, in addition to the approaches included in the two draft ordinances. The first would allow all noncommercial signs, such as those used for nonprofits, but restrict commercial signs to only “real estate directional” ones, similar to the current ordinance. Unfortunately, a “real estate directional” sign is based upon the content of the signs, so it should not be used as the standard. Staff considered a standard that would require commercial signs in the right of way to be installed by an owner or agent of real estate that was for sale or lease, but this approach had several shortcomings. Enforcement would be challenging, as it would be difficult to determine who installed the sign and whether or not the installer actually had real estate for sale or lease. Even if the installer did have real estate for sale or lease, that real property does not have to be located within the City limits. Finally, since the content of the sign cannot be restricted, the sign could have any message on it, not just one stating that a property was for sale or lease. In short, staff concluded that these approaches would place a burden on our Neighborhood Services enforcement staff to make in-the-field decisions on whether or not a sign was “commercial” and should be removed, so neither option discussed above was included in the revised draft ordinance.

Staff also considered the option of allowing only noncommercial signs in the right of way. Although such a “commercial sign” prohibition is probably not content-based and could be used, this option does not reflect the joint public hearing discussion, since it would prohibit “real estate directional” signs. Further, this option would have the same challenging enforcement as the first two options studied, since enforcement staff must read the sign and use their judgement to determine whether it is

¹ Exhibit 11

² Exhibit 12

“commercial” or “noncommercial” in nature. As a result, the revised draft ordinance proposes to allow both commercial and noncommercial temporary signs in the right of way, regardless of content.

Staff also reviewed different sizes of signs and felt that the current ordinance’s standards of a 3 square foot sign face and 3 foot height limit were a reasonable maximum, given that most of the actual temporary signs observed around the City were that size or smaller. To avoid “visual clutter,” staff mocked up several “minimum distance” scenarios using actual signs and found that a six (6) foot radius around each sign produced a good balance between readability and the overall amount of signage that could be placed in the right of way.

Sign mock-up using size and distance limits of 3 square feet in area, 3 feet in height, 3 feet in width, and 6 feet between signs:



Sign mock-up using size and distance limits of 3 square feet in area, 3 feet in height, 3 feet in width, and 3 feet between signs:



Minor Changes for Clarification Included in Revised Draft Ordinances

Within the revised draft ordinances, staff has included four minor changes to various sections, to provide clarification.

- The definition of a “flashing sign” in Section 24-209: change “electronic message board” to “electronic message display,” consistent with the terminology used for the definition included in the sign ordinance.
- Geographic area signs, Section 24-210B(h): added a new subsection (6) to cross-reference the public right of way standards for geographic area signs in Section 24-210A(h)(1)d.
- Prohibited signs in Section 24-210C(a): Changed the listing order so that Fence Signs are in the correct alphabetical order. (Staff notes that Unauthorized Signs remains out of order, but logically, this should be the last item in the list for ease of use, since it is a “catch-all” prohibition.)
- Sign Abandonment provisions in Section 24-212A(c)(2): remove the dangling “or” at the end of subsection (2).

Additional Proposed Changes for Clarification (not included in revised drafts)

Staff is proposing two additional minor changes, in response to comments received after the joint public hearing and the posting of the revised draft ordinances on the City’s web site. These changes will be incorporated into future draft ordinance versions, if so recommended.

The first change is to clarify that, where a conflict arises between an approved sign package and the sign ordinance, the approved sign package standard will govern.

Comprehensive Sign Packages – Proposed additional language for § 24-210(a)(2):

- d. Where a conflict exists between an adopted comprehensive sign package for a specific development and the provisions of Chapter 24, the comprehensive sign package controls.

This proposed language will clarify that where an approved sign package for a development includes deviations from the sign ordinance, those deviations will be allowed for any proposed signs in that development. The proposed language will also clarify that the “most restrictive language applies” provision of Section 24-210(b) does not apply to adopted sign packages. This proposed language is similar to and consistent with the language used for design guidelines in Section 24-210(a)(3).

The second change is to allow geographic area signs for subdivisions with a common ownership association³ to have additional options for their placement, rather than being restricted to placing such a sign only on land in common ownership.

Geographic Area Signs – Proposed additional and revised language for § 24-210B(h):

- (4) If the geographic area sign is located within a subdivision that has a ~~homeowner's~~ common ownership association, the sign must be placed on:
~~located on commonly-owned property.~~
- a. Commonly-owned property; or
 - b. Property owned by the master developer; or
 - c. Some other property identified on an approved site plan.
- (5) If the geographic area sign is located within a subdivision that does not have a ~~homeowner's~~ common ownership association, the sign must be placed:

* * * *

This proposed language clarifies that any common ownership association, rather than just a homeowner's association, is subject to the standards for a geographic area sign. The language also adds flexibility for the placement of geographic area signs in a subdivision that has a common ownership association. Timing and development considerations may result in the need for a geographic area sign to be located on land that is not commonly owned. For example, the Lakelands monument sign at the corner of Main Street and Darnestown Road is located on land owned by the City, and the large sign for the Crown development at the corner of Fields Road and Sam Eig Highway is located on privately-owned land that is used solely as retail.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission **RECOMMEND ADOPTION OF TEXT AMENDMENT CTAM-8364-2019, INDICATING THEIR OPTION PREFERENCE FOR TEMPORARY RIGHT OF WAY SIGNS AND SUPPORTING THE ADDITIONAL CLARIFICATION CHANGES PROPOSED BY STAFF, TO THE MAYOR AND CITY COUNCIL.**

³ Common ownership associations include homeowner's associations (HOAs), condominium associations (COAs), and similar associations that are created by covenants or declarations recorded in the Land Records.