



LAW DEPARTMENT

MEMORANDUM

To: Chair Oliver
Planning Commission

From: Brent Lloyd
Jennifer Ferri
Assistant City Attorneys

Date: June 16, 2017

Subject: **Sign Regulations – Proposed Code Amendments in Response to Resolution No. 20170608-037**

At your meeting on June 21st, 2017, the Codes & Ordinances Joint Committee will consider a proposed ordinance amending provisions of City Code Chapter 25-10 (*Sign Regulations*). The amendments, which Council initiated by Resolution No. 20170608-037 (copy attached), relate to recent court decisions affecting local sign regulation.

We will be available at the June 21st meeting to answer any legal questions the Committee may have regarding the proposed amendments, which are described more fully below.

Scope & Objective of Proposed Ordinance:

The proposed amendments, which were developed in consultation with City staff, seek to remove content as an element of the City's sign regulations, particularly with respect to noncommercial messages and signs advertising on-premise activity. The goal is to ensure that, except for the well-established ban on new "off-premise" advertising (i.e., billboards), the City's sign regulations can be administered and enforced without having to read the sign.

In order to achieve this objective, while retaining existing levels of restriction on the number, scale, and location of signs, the proposed amendments restructure several code sections and incorporate limitations similar to those used by several other Texas cities. Additionally, based on our review of other local ordinances, these amendments revise several existing definitions and add a “substitution clause” authorizing any lawfully installed sign to display noncommercial messages without obtaining a permit.

Summary of Ordinance Provisions:

- **§ 25-10-1 (*Purpose and Applicability*) @ pp. 1-2**

This section would replace the existing applicability provision of Chapter 25-10 with a new section that both specifies the overall scope of Chapter 25-10 (*Sign Regulations*) and describes in greater detail the purpose of the City’s sign regulations. It’s modelled after similar provisions found in other municipal sign codes and is intended to provide a stronger foundation for the City’s sign regulations.

- **§ 25-10-2 (*Noncommercial Messages and Message Substitution*) @ p. 2**

This section would authorize any noncommercial message to be displayed on a lawfully installed sign. It’s modelled after similar “substitution clauses” found in other municipal sign codes and central to the overall purpose of the ordinance. The result would be that a sign which meets the stated requirements could display any message other than an off-premise commercial message, which remains prohibited per existing Section 25-10-102 (*Signs Prohibited in All Districts*), or a message that is otherwise prohibited by state or federal law.

- **§ 25-10-3 (*Definitions*) @ pp. 2-7**

This section amends several existing definitions to remove references to sign content and adds new definitions that work in tandem with revisions to substantive regulations contained elsewhere in the ordinance. Of particular significance is the new definition of “sign,” which establishes the specific

types of message-conveying displays and installations that would be subject to the City's sign regulations.

Consistent with the approach used in most other municipal codes, the new definition casts a wide net for what constitutes a "sign," but then specifically exempts many types of displays and installations that have historically either not been regulated under Chapter 25-10 (*Sign Regulations*) or have been allowed unconditionally. In conjunction with the streamlined applicability clause in new Section 25-10-1(B) and other revisions to Chapter 25-10 (*Sign Regulations*), the new definition would provide a comprehensive and straightforward description of what is and isn't subject to the ordinance.

- **§ 25-10-101 (*General On-Premise Signs*) @ pp. 7-10**

This new section, which would replace existing Section 25-10-101 (*Signs Allowed in All Districts Without a Permit*), includes requirements for all the different categories of on-premise and noncommercial signs traditionally allowed under Chapter 25-10 (*Sign Regulations*) on a permanent basis. However, in order to ensure content neutrality, the rules for each type of sign are tied to land use rather than to the purpose of the sign.

In order to generally mirror the type of physical restrictions that exist under current code, the revised regulations carry forward specific numerical limits on area, height, and number of signs. Additionally, a few new limitations were added for those categories of signs that are currently regulated only by restrictions on content.

- **§ 25-10-102 (*Temporary Signs*) @ pp. 10-12**

This new section, which replaces an identically titled existing section, includes requirements for all the different categories of signs that are currently allowed on a temporary basis. Similar to the changes proposed for Section 25-10-101 (*General On-Premise Sign*), these requirements remove content as a basis for regulation and instead tie the restrictions to particular temporary activities and land uses.

- **§ 25-10-103 (*Signs Prohibited in All Sign Districts*) @ pp. 13-14**

The only amendments proposed to this existing section are renumbering it and deleting an outdated grandfathering provision for mobile billboards in Paragraph (7), which is no longer applicable.

- **§ 25-10-104 (*Signs Prohibited in Public Easements*) @ p. 13**

These amendments clarify what constitutes “public property” where certain restrictions on the placement of signs apply. These amendments also remove the content-based description of memorial markers, while continuing to permit governmental agencies to place those markers and other signs in the right-of-way.

- **Sign District Amendments in Parts 7-15 @ pp. 14-15**

These amendments remove references to content that appear sporadically throughout Article 7 (*Regulations Applicable to Certain Sign Districts*). No substantive changes are proposed, except that the allowance for “building names” under Section 25-10-133 (*University Neighborhood Overlay Zoning District Signs*) is revised to include an engraving requirement that appears to further the intent of this provision.

- **Parts 16-22 @ pp. 15-17**

These amendments remove references to content that appear sporadically throughout Article 8 (*Special Signs*).

cc Members, Codes & Ordinances Joint Committee
 Greg Guernsey
 Director, Planning & Zoning Department
 Rodney Gonzales
 Director, Development Services Department

RESOLUTION NO. 20170608-037

WHEREAS, the City of Austin is currently in the process of considering the adoption of a new Land Development Code through the CodeNext process; and

WHEREAS, in light of recent case law affecting municipal sign regulation, updates to the City's current sign regulations should be considered in advance of CodeNext; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

1. The City Council initiates amendments to Title 25 (*Land Development*) of the City Code relating to the regulation of signs.
2. The City Manager, in consultation with the Law Department, is directed to:
 - (a) Develop proposed code amendments that are deemed appropriate to achieve consistency with federal and state case law affecting municipal sign regulation;
 - (b) Include only those regulatory changes that are recommended based on recent case law; and
 - (c) Present a proposed ordinance for Council to consider at its August 17, 2017 meeting.

ADOPTED: June 8, 2017

ATTEST:


Jannette S. Goodall
City Clerk