

STAFF REPORT

To: Asheville Planning & Zoning Commission Date: November 2, 2011

From: Judy Daniel, AICP Prepared by: Shannon Tuch, RLA
Planning & Development Director Assistant Planning Dir

Subject: Wording Amendment – Miscellaneous sign code amendments

Summary Statement: Over the last several months, interest in a collection of sign code amendments has grown and been intermittently discussed amongst staff and the Planning & Economic Development Committee. The purpose of this amendment is to clarify and expand sign code standards to better address existing needs and practices.

Background: The City of Asheville has had sign regulations since 1977 and has gone through a variety of amendments over the years with perhaps the most significant amendment occurring in 1989 when the standards were overhauled and new allowances established with significant stakeholder input – this is what was commonly referred to as the “sign code”. In 1997 the zoning code, sign code, and other separate codes were incorporated into the current **Unified Development Ordinance (UDO)** where the basic sign allowances were generally maintained. At this time, however, the sign standards were also expanded to include a number of new categories of signage not previously considered. This provided more flexibility and options for affected properties and for some unique signage needs.

During this same time period (late 80’s and early 90’s) there was much attention given to signs and sign standards with equally fervent opinions expressed from both business owners who wanted more and larger signs to provide better business identification, and from citizens who were fighting the proliferation of sign “clutter” that they believed was becoming increasingly common and objectionable from an aesthetic, wayfinding, and safety perspectives. In response, a large and diverse stakeholder group was formed and met regularly for approximately a year as standards were negotiated and revised. Every effort was made to be fair and reasonable, and to satisfy the number of divergent concerns. The critical work of this group continues to influence the city’s application and development of sign standards with an emphasis on providing opportunity for legitimate business needs while controlling intrusions and unnecessary distractions that could cause safety hazards for drivers and pedestrians.

Our experience reflects that the sign code standards and their interpretation and application receive the greatest level of resistance from some sectors of the business community over any other section in the zoning code, despite the extent of the options and the moderate allowances offered. And enforcement of this code also receives a very strong scrutiny from the public and business competitors. In conversation with senior staffers, concern over sign standards goes back as far as one can recall and consistently gets raised periodically, year after year. And the pendulum seems to swing from year to year from concern that there is inadequate enforcement to concern that the standards are overly restrictive. Additionally, when speaking with other zoning enforcement personnel across the region, and seeing the content of sessions at national conferences, the tension with sign code standards appears to be a fairly universal phenomenon and is notorious for the challenges involved with enforcement.

Asheville has attempted to overcome some of this tension by convening stakeholder groups to identify the fair and reasonable “middle ground” and an informal benchmarking study conducted three years ago confirmed Asheville’s position as neither the most restrictive nor the most lenient of cities in the southeast. Nevertheless, Asheville City staff continues to experience complaints on a regular basis (on both sides of the debate) for numerous reasons.

Review: Eventually, a new Comprehensive Plan will be developed and the UDO will likely require some significant updating as part of implementing that new plan. There has been growing interest in simpler form-based codes for certain sections of the ordinance, and the sign code is one section that translates very well into a form-based version. Until that time however, there is a series of relatively minor amendments that can be considered.

As with all ordinances, it is challenging to anticipate all development possibilities and most standards are designed for the most common situations. For those that are atypical, a variance process is provided and relief from the sign standards can be considered when there exists a physical hardship to the site. The variance process has been an effective tool and is a relatively simple and expedient application process. This same variance process has also been very effective in revealing common scenarios where consideration of new standards to address recurring situations may be of benefit. This, combined with the identification of common permitting challenges, frequently applied interpretations, and news and information from the planning profession and sign industry, has helped establish a small list of sign code amendments that are designed to bring clarity to the existing standards, while also providing new opportunity for difficult but not entirely uncommon situations. A summary of those amendments is as follows:

Article XIII Amendments

Campaign signs. Clarify that the 30 days begins prior to the first day of polling, which will begin with early voting.

LED signs. Allow digital and LED changeable copy messages to change once every 4 hours.

Second tier development signage. Remove second tier allowances and replace with an option that would allow a land-locked property tenant signage on an adjacent free-standing, multi-tenant sign. Requires cooperation from adjacent property owner. Intent is to maintain sign allowances and not increase the number of structures, but allow existing sign structures to be shared.

Signs on vehicles. Clarify standards so that vehicles with signage parked on site must be parked in a proper, striped space and shall not be parked in aisles, or grassy medians, etc. and cannot block another businesses sign. Vehicles with signage stored off-site must be parked to minimize visibility. Add a second clarifier to prohibit mobile billboards.

Temporary sign material. Allow a temporary material to be used for a permanent sign for a period of 6 months to one year – after which its replacement with a permanent material would be treated as a face change.

A-frame signs. Clarify standards to permit one A-frame sign per public entrance when entrances are located on separate street frontages.

Housekeeping. 1) Add Urban Place and Airport to the table for commercial signage. 2) Fix allowance (60 s.f.) for NCD, CBI, NB, URD and UP.

Signs in City rights-of-way. Allow signs to be located within a city right-of-way when:

- The right-of-way is greater than 75 feet
- The City Traffic Engineer has determined that no traffic concern is created
- Sign location is a minimum of 25' from edge of pavement
- No variances to sign allowances are permitted

Article XIV Amendments

The following amendments will be reviewed separately as part of an upcoming amendment to Temporary Uses; however, these amendments will impact signage for these events/uses as described below. Additional research is being conducted and these descriptions/thresholds are subject to change.

Temporary events. Create separate allowances for events not lasting more than 3-4 days.

- Less than 100 people: 32 s.f. total
- 100+ people (at any given time): 64 s.f. total
- *1,000+ people per day: 300 s.f. total (may be distributed amongst multiple venues). No limit on off-site directional signage. Other decorative, non-animated attention getting devices may also be considered by special approval of the Planning Director and Building Safety Director.

[*Additional research is being conducted to help determine appropriate thresholds – these numbers may change]

Identification located on portable on demand (POD) storage containers.

Treat POD's with signage similarly to the signs on vehicles – when visible from a public right-of-way, the POD should be positioned to minimize visibility or, when not practical, have the sign covered.

Temporary signage for legal non-residential uses. Allow legal, non-residential properties (schools, churches, etc.) to support temporary events and allow a limited amount of signage for those events.

Strategic Operating Plan: This proposal supports goals for job growth and community development by expanding options for businesses while also researching new formats for the UDO.

Pros:

- Provides greater flexibility for difficult but not uncommon signage situations.
- Provides improved clarity to existing sign standards.

Cons:

- Adding new standards may contribute to the overall complexity of the code.
- Increasing opportunities could increase the total number of signs in the environment.

Fiscal Impact: No direct fiscal impact.

Recommendation: City staff recommends approval of this wording amendment.

Attachment:
(1) Ordinance

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE CONCERNING CLARIFICATIONS TO AND EXPANSION OF CURRENT SIGN CODE STANDARDS

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the Unified Development Ordinance of the City of Asheville currently provides fair and balanced standards for various commercial sign needs; and

WHEREAS, it has been determined that there may be existing standards that require clarification and other standards that warrant reconsideration; and

WHEREAS, providing greater clarity and flexibility for sign identification is beneficial for the City of Asheville; and

WHEREAS, this proposed change to the ordinance is determined to be reasonable and in the public interest as follows:

- a. It will provide greater clarity to some standards and reduce disparate application and enforcement.
- b. It will update current standards to better match existing needs and practices.
- c. It will provide more flexibility for commercial sign identification needs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 7 of the Asheville Code of Ordinances be amended by

a. Amending Sec. 7-13-2(d)(6) to read:

- (6) *Political signs.* Signs for candidates or election for issues on a ballot shall be allowed in any zoning district providing such signs do not exceed equity square feet in area per display face and two faces per sign. All such signs may not be erected prior to 30 days before the first official day of polling for the appropriate primary, or 45 days before the appropriate general or run-off referendum and must be removed within five days after the primary, general or run-off election or referendum. Provided, however, nothing herein shall prohibit the use of off-premise signs for such candidates or issues according to the restrictions for such signs in zoning districts where they are permitted. Such off-premises signs shall not be subject to the time limits for erection prior to removal

following any election. In all cases, the property owner and the political candidate shall be equally responsible for the removal of the signs.

b. Amending Sec. 7-13-2(d)(12) to read:

(14) *Business signs on vehicles.* Signs displaying a business name, trademark, or other identifier shall be allowed provided the vehicles are moved periodically during the normal course of business and maintain a current and valid registration and inspection. When not in use and parked on the business property, said vehicles are to be parked in properly striped parking spaces or loading zones and shall not obscure the visibility of any adjacent business sign(s). When parked off-site, said vehicles shall be parked in such a manner so as to minimize their visibility from the street and other public properties.

c. Amending Sec. 7-13-4(a)(14) to insert a new “l” and keep and re-label the existing “l” as “m”:

l. Digital or LED changeable copy messages shall remain static for a minimum of four hours.

d. Amending the first sentence of Sec. 7-13-3(2) to read:

(2) *Signs located in the city right-of-way.* Unless otherwise provided for in this article, all signs whether temporary or permanent, within any street right-of-way ~~with the exception of governmental notices or signs are prohibited; provided . . .~~

e. Amending Sec. 7-13-5(2) to read:

(2) *Encroachment into the right-of-way.* No part of any sign shall be located on, or extended into, a public right-of-way unless it can meet the following criteria:

- a. The property is located along a city right-of-way with a width greater than 75 feet.
- b. No part of the sign footer or structure is located closer than 25 feet from the edge of pavement.
- c. The City’s traffic engineer has determined that the sign would not create any traffic hazard.
- d. The sign does not conflict with any utility or traffic control device.
- e. The sign complies with all height and square footage allowances.

f. Amend Sec. 7-2-5 by removing the definition for *Second tier development*:

~~*Second-tier development* means a development which meets the following criteria:~~

- ~~(1) The development is located at least one lot back from a thoroughfare;~~
- ~~(2) There is more than one structure on the site;~~
- ~~(3) All structures share a common design or theme;~~
- ~~(4) All structures and uses in the development share the same access road(s); and~~
- ~~(5) The development has its primary access off a street classified as a major arterial by the city thoroughfare plan.~~

g. Amend Sec. 7-13-5(c) by removing subsection “c” in its entirety and replace with a new “c” that reads:

- (c) *Second tier development signage.* Properties located one lot back from a thoroughfare with no direct street frontage and having shared access with adjacent or adjoining parcels may share space on an adjacent property’s free-standing sign. This option limits allowances to those normally provided for under the applicable zoning district in which the sign is located and does not increase square footage allowances or render a single tenant property multi-tenant.

~~(c) *Second tier development signage.*~~

~~(1) *General.* Upon a determination by the planning and development director that a development meets the criteria set forth in the definition of a second tier development, said development shall be permitted signs meeting the standards set forth hereinafter. Following the determination that the development is a second tier development and the installation of signs meeting the standards set forth in this subsection 7-13-10, all structures and uses in the development shall be considered a part of the second tier development and shall be subject to the sign standards established for a second tier development. Owners of or tenants in structures and uses in the development shall not apply for signs not permitted as part of the second tier development sign package.~~

~~a. *Computation of sign area* the area of a sign shall be considered to be that of the smallest rectangular figure which encompasses all lettering, wording, design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction. The area of a wall or window sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, or window shall be considered to be that of the smallest rectangular figure which encompasses all of the letters or symbols and the background and illuminated part of such sign when either or both are designed as an integral part of and related to the sign.~~

~~b. *Encroachment into right-of-way.* No part of any sign shall be located on or extended into a public right-of-way.~~

~~c. *Visibility* No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.~~

~~d. *Illumination.* Illuminated signs shall be subject to the following conditions:~~

~~1. Any light used for the illumination shall be shielded so that the beams or rays of light will not shine directly into surrounding areas or on the public roadway.~~

~~2. Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles or for pedestrians.~~

~~(2) Off premises signs. The following sign regulations shall be applicable for second tier developments in any zoning district:~~

~~a. One off-premises development identification sign shall be permitted for a second tier development.~~

~~b. The off-premises development identification sign must be located within 1,000 feet of the closest point of the second tier development it identifies.~~

~~c. The off-premises development identification sign must be a ground sign.~~

~~d. The maximum size for the off-premises development identification sign shall be 90 square feet per face or the maximum size permitted for ground signs in the zoning district in which the sign is located, whichever is less.~~

~~e. The maximum height of the off-premises development identification sign shall be 12 feet or the maximum height for signs permitted in the zoning district in which the sign is located, whichever is less.~~

~~f. Setbacks for the off-premises development identification sign shall be as follows:~~

~~15 feet from the leading edge of the curb;~~

~~10 feet from any other property line;~~

~~25 feet from any other sign of any type.~~

~~(3) Tenant identification sign. One tenant identification sign shall be permitted per building in the development to identify the tenants of that building. Tenant identification signs shall meet the following requirements:~~

~~a. The sign shall be an awning, a wall, or a projecting sign.~~

~~b. Sign area shall not exceed ten square feet per tenant or 25 square feet for multiple tenants, whichever is less.~~

- ~~c. The sign shall be located at the primary public entrance to the building.~~
- ~~(4) Directional signs. Directional signs are permitted to direct persons to buildings and uses in the second tier development provided that the signs meet the following requirements:~~
 - ~~a. Directional signs shall not exceed four square feet per face, not more than two faces per sign.~~
 - ~~b. Directional signs shall not exceed three feet in height if freestanding.~~
 - ~~c. Directional signs may be freestanding or attached.~~
 - ~~d. Directional signs shall not be located on the roof of any structure.~~
 - ~~e. The maximum number of directional signs per development shall be four.~~
 - ~~f. Directional signs may be internally or externally illuminated.~~
 - ~~g. Directional signs shall be located on the premises of the second tier development.~~
- ~~(5) Variances. Variances from the standards set forth herein shall be limited to a ten percent increase in the dimensional standards (size, height, and setback).~~

h. Amend Sec. 7-13-4(a)(8)(c)(2) to read:

- 2. Businesses are permitted one A-frame sign per operable public entrance located on separate road frontages, in addition to all other signage permitted by this chapter provided all requirements for A-frame signs set forth in this section are met.

i. Amend Sec. 7-13-4(a)(8) by adding a new subsection "d" that reads:

- d. Signs made of a temporary material may be permitted as a permanent sign for a period of up to 6 months, with a possible extension of up to an additional 6 months as approved by the Planning director, provided all other applicable standards are met.

j. Amend the table of Sec. 7-13-4(c)(b) by replacing the table with a new updated table that reads:

- b. The sign(s) shall meet the following requirements based on the zoning district in which it is located.

Zoning District	Max. Hgt. Allowed	Max. Sq. Footage per face
Residential (all districts)	6 ft.	25 sq. ft.

Office I & II, Office/Business, INST, Resort	8 ft.	90 sq. ft.
CBII, HB, RB, River, CI, IND, Airport	25 ft.	200 sq. ft.
CBD, Urban Village	20 ft.	75 sq. ft.
NBD, CBI, NCD, URD, UP	12 ft.	40 60 sq. ft.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. This ordinance shall be enforced as provided in Article XVIII of Chapter 7, and Sec. 1-5 of the Asheville City Code.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance is effective upon adoption.

Read, approved, and adopted this _____ day of _____ 2011.

City Clerk

Mayor

Approved as to form:

City Attorney