



Legislation Text

File #: ID-369-18, **Version:** 1

Department of Community Development

Reference: Sign Code Amendment

To: Mayor Kenneth J. Kreutzer and Members of City Council

Through: Philip A. Rodriguez, City Manager

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PURPOSE

City staff is requesting that the City Council amend the current sign regulations within Section 17-20-100 ("Sign Code") of the Municipal Code. The recommendation by City staff is to repeal the current Sign Code and replace it in its entirety with new text, tables, and graphics. City staff has been working with consultants from the law firm of Murray Dahl Beery & Renaud LLP and Plan Tools LLC to draft the proposed amendment. As City Code can only be modified via ordinance, City staff is bringing forward the code amendment in ordinance form to be voted on by the City Council.

STRATEGIC FOCUS AREA

Recognizable and Well-Planned Community

BACKGROUND

Brighton's Land Use and Development Code contains provisions for signs that were last amended in 2017 to remove references to political signs prior to the upcoming local elections. This was done with the expectation that the rest of the Sign Code would be revised shortly thereafter. The proposed amendment is necessary in order to eliminate content-based regulations that were deemed inappropriate by the US Supreme Court via its ruling in *Reed v. Town of Gilbert* (2015). The decision found that the city's sign code was unconstitutional as it contained content-based regulations and, therefore, was invalid. In their decision, the Court noted that a variety of signs are problematic as the applicable restrictions and requirements typically relied upon the subject matter or message of the sign itself. The Court ruled that regulations related to the content or type of sign are presumptively unconstitutional, as the same relate to core First Amendment-protected speech. Municipalities across the country have had to reevaluate their sign codes since the Court's ruling.

Brighton has content-based regulations in its current Sign Code. The necessary changes require reworking the entire Sign Code. This provided the City with the opportunity to re-format the Sign Code in order to add more graphics and make other improvements that create a more user-friendly document.

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM

Section 17-8-90 of the Land Use and Development Code addresses amendments to the Code, and allows the Community Development Director, City Manager, Planning Commission, and City Council the option to initiate text amendments. This section further outlines the process for review, recommendation, and adoption.

SUMMARY OF FINDINGS / STAFF ANALYSIS

This code amendment is being proposed as the City needs to remove content-based regulations for signage. The draft amendment, if adopted, will legally regulate signs based upon the most current jurisprudence. Municipalities are allowed to implement time, place, and manner restrictions on signs as long as they do not address the content of the sign.

Twenty-two subsections are proposed for this amended section. Provided within the first four are the purpose and intent of the section, the definitions of all relevant terms, and an outline of when this section is applicable. These sections include definitions for the new content-neutral sign categories. The fifth subsection outlines non-conforming signs and covers when these signs shall be brought into compliance. Enforcement, violations, penalties, when a permit is required, and the necessary permit procedures are addressed in the next four subsections. The next two subsections deal with comprehensive sign plans and the criteria for bonus sign area. These two remain practically unchanged from the current code. Exempt signs are covered by the next subsection and these include such signs as those used for traffic control. Prohibited signs are detailed in the following section and these include those that produce noise, emit smoke, or have a strobe light.

Subsection (n) outlines all permitted signs by residential or non-residential district in tables. Each sign type is outlined with the specific standards for their number, area, and height. Size and height limits for Freestanding Pole and Monument Signs remain unchanged from the current Code.

Subsection (o) details permanent signs. Graphics are used here to further display the types and their applicable regulations such as location, lighting, quantity, area, and height. More standards that are specific to each type are further broken out in this subsection. Billboards are removed from this Code. In the present Code, they are only allowed on large undeveloped properties along highways.

Subsection (p) details temporary signs. Like the preceding section, graphics are used to further display the types and their applicable regulations. New language is included in the draft to cover feather banners and inflatable signs.

The remaining six subsections cover items such as sign measurement, site design, construction, installation, maintenance, removal, alteration, and abandonment. Sign measurement standards have been simplified and three new graphics accompany this particular subsection.

Development Review Committee (DRC) Review:

The DRC and referral agencies have reviewed the code amendment and all comments have been evaluated and considered. The referral agencies included representatives from the Brighton Fire Rescue District, City Manager's Office, Planning Division, Building Division, Historic Preservation, Parks and Recreation, Police, Public Works, and Utilities. From the business side, this amendment was also sent out to representatives of BURA, EDC, the Chamber of Commerce, and Digitron Signage.

PUBLIC NOTICE AND INQUIRY

Pursuant to Article 17-8 of the Land Use and Development Code, a notice was published in the *Brighton Standard Blade* on October 24, 2018 (attached). As of the date of this staff report, no formal comments have been received by staff.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission initially heard the request on October 9, 2018, at a public hearing and recommended unanimous approval at their October 23, 2018, meeting (see attached Resolution No. 18-14).

STAFF RECOMMENDATION

As federal court decisions are made that affect the power of local municipalities to exercise their police powers, it is important that the City have regulations that mirror those decisions so as not to put the City at risk of new legal challenges. Staff believes the proposed code amendment accomplishes this goal.

Staff finds that the proposal meets the review criteria found in Section 17-8-90 of the Land Use and Development Code, and therefore recommends approval of this code amendment.

A draft ordinance has been provided to the Council should it decide to proceed with the application as presented.

OPTIONS FOR COUNCIL CONSIDERATION

The City Council has four options when reviewing this amendment. City Council may:

- 1.) Approve the Ordinance on first reading as drafted;
- 2.) Approve the Ordinance on first reading with specific changes;
- 3.) Deny the Ordinance as drafted with specific findings to justify the denial; or
- 4.) Continue the item to be heard at a later, specified date.

ATTACHMENTS

- Draft City Council Ordinance with Exhibit A (Text of the Proposed Code Amendment)
- Copy of the Planning Commission Recommendation (Resolution No. 18-14)
- Newspaper Notice
- Newspaper Publication Proof
- Draft City Staff PowerPoint