



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

MAY 10, 2022

ZONING ORDINANCE AMENDMENT - SIGNS PART II PRELIMINARY CONCEPTS

On March 19, 2019, the Board of Supervisors (Board) adopted the Signs Part I Zoning Ordinance Amendment, which focused on rewriting the sign regulations in a content-neutral manner. As part of a follow-on motion, staff was directed to report back to the Board on any recommended amendments to the regulations and to provide relevant compliance data. On September 21, 2021, staff issued a status update memo to the Board outlining complaint data and providing an analysis of the major issue areas. This memo is included as Attachment 1.

Staff has begun working on a Part II effort, which proposes to review processes and standards for comprehensive sign plans in planned districts and special exceptions for an increase in sign area for conventional districts. In addition, the proposed amendment includes a review of other sign-related topics. The Signs Part II amendment is a carryover from the 2018 Zoning Ordinance Amendment Work Program and is included on the [FY 2022/2023 Zoning Ordinance Work Program \(ZOWP\)](#).

This white paper outlines the potential topic considerations for the amendment that will be presented to the Board for direction and feedback at the May 17, 2022, Land Use Policy Committee, and summarizes the outreach to date and next steps for the amendment.

POTENTIAL TOPIC CONSIDERATIONS

1. Comprehensive Sign Plan, Special Exception, and Special Permit Process

Currently, the Zoning Ordinance includes three ways for an applicant to request additional signage on their property:

- Comprehensive sign plan (CSP) – A CSP allows for an increase in size and number of signs and modification in placement and location of signs in a planned district (P district) from what would otherwise be permitted in a conventional district. This allows for flexibility in the overall design of P districts and aids in placemaking. Limited standards include requiring the signs to be consistent with the scale and design of the development and to be located and sized to be convenient to the users of the development. The signs may not add to street clutter or detract from architectural and urban design elements of the development. Signs must also meet the applicable P District standards in Section 2105 of the Zoning Ordinance.
- Special exception (SE) – An SE allows for an increase in sign area, an increase in sign height, or a different location of a sign for properties in Commercial or Industrial Districts (C or I Districts). For the Board to approve an SE, per subsection 7102.2.B(2), the applicant must demonstrate “unusual circumstances or conditions in terms of location, topography, size, or configuration of the lot; access to the lot; unusual size or orientation of the structure on the lot; or other unique circumstance of the land or structure that



PLANNING & DEVELOPMENT

Department of Planning and Development
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5507
Phone 703-324-1314
Fax 703-803-6372

www.fairfaxcounty.gov/planning-development

impacts the applicant's ability to provide for a reasonable identification of the use,” along with other standards.

- Special permit (SP) – An SP is available to: (1) increase the height of a freestanding sign in a neighborhood or community shopping center, or to allow additional sign area or height or a different arrangement of sign area distribution for a regional shopping center, specifically when application of the provisions would cause hardship due to topography; or (2) allow building-mounted signs for a shopping center without frontage visible from the street. According to our records, only one such SP application has been submitted since 2003.

In addition, an administrative comprehensive sign plan (ACSP) is an administrative process to authorize a different allotment of the total permitted sign area to various tenants of a building.

Staff Proposal

Instead of the current provisions which include multiple different entitlement options and do not address all potential circumstances, staff recommends consolidating the CSP, SE, and SP processes for increased signage into one request type. The approach to combine the entitlement applications into one process has received general support during outreach, and staff recommends a combined CSP process available for P Districts and all nonresidential conventional zoning districts. This process is not recommended for conventional residential districts, as additional signage would not be appropriate in stable residential areas. Lots developed with a residential use are allotted certain sign allowances, and any increase beyond the by-right signage would not be compatible with the nature of these districts. For nonresidential uses in residential districts, signage is reviewed and can be further limited as part of the special exception or special permit approval process for the use.

Staff proposes that a singular CSP process continues to go to the Planning Commission for approval, and staff also recommends including an appeal process to allow the application to be brought to the Board for consideration (similar to the current process for Final Development Plans). Staff also proposes to include additional review standards and submission requirements in the Zoning Ordinance. Review standards may include consideration of the height and size of the sign in relation to the building and surrounding development, locational guidelines, the quantity of signs to prevent sign clutter, as well as consideration of unique site characteristics among other standards. The addition of review standards will ensure a more consistent staff review of applications and provide guidelines for analysis. In addition, inclusion of submission requirements will create consistency among sign application packages, requiring the provision of all materials necessary for review as part of the application acceptance process.

A consolidated CSP application could result in the following:

- **Additional flexibility for signs in Commercial and Industrial Districts.** Currently, the SE standards are extremely limiting, effectively requiring an applicant to prove a

hardship of unusual circumstances to justify modification of the sign regulations. A unified CSP process would remove this standard for C and I Districts, allowing for more generalized review criteria. In developing the draft amendment, staff will consider whether a unified set of standards would be appropriate or if separate standards should be applicable to P Districts and C and I Districts. Allowing for increased flexibility in C and I Districts would expand placemaking opportunities to these areas.

- **Potential increase in the number of applications for additional sign area.** With increased flexibility, additional locations will have the opportunity to request a modification of the sign regulations. This may result in additional applications coming forward for review; however, staff believes that the addition of review criteria will allow staff to make appropriate recommendations to the Planning Commission, and the public hearings will provide an opportunity for community input to ensure the proposals are compatible with surrounding development.

An alternative to CSP approval would be to require special exception approval for all sign modifications. This would involve an additional public hearing for those applications currently falling under the CSP process, resulting in a longer timeline. However, the approvals would all fall under Board purview with this process.

For administrative approvals, staff recommends keeping the separate administrative comprehensive sign plan process and considering whether a limited amount of additional sign area could be authorized with administrative review based on specific standards.

2. **Electronic Display Signs**

The Part I amendment added electronic display signs as a new sign type with associated standards. As part of the community outreach, concerns have been raised about electronic display signs and ensuring that they remain limited in size and brightness levels. The Department of Code Compliance (DCC) staff has received relatively few complaints (10) on electronic display signs since adoption of the Part I amendment through April 4, 2022.

Staff would like to re-evaluate allowable brightness levels for electronic signs. The Ordinance regulates sign brightness through a maximum nit allowance. Nits are a measurement of how much light a screen sends to the viewer's eyes within a given area, otherwise known as "luminous intensity." Currently, the regulations require a photocell to dim the sign to 40–100 nits at sunset. However, industry representatives have stated that technology has progressed to the point where a higher nit level may be appropriate and that the current nit level is extremely low, making the sign unreadable after sunset. The brightness levels should be balanced between readability and ensuring that they do not impact the surrounding community. In terms of size limitations, the electronic display area is currently limited to 50% of the allowable freestanding sign area for the property, and only one electronic display sign is allowed. During outreach, certain industry groups found the 50%

size limitation to be too limiting, while comments were received from the community that the size of electronic signs should be further limited.

Staff Proposal

Staff proposes to research industry standards and best practices regarding appropriate brightness levels and review electronic display regulations in other jurisdictions to evaluate the appropriate maximum nit level. This review may include consideration of a daytime nit level in addition to review of the current nighttime dimming standard. Staff also will review whether an increase in the size and number of electronic signs would be appropriate as part of the new consolidated CSP process discussed above. This may include additional review criteria specific to electronic display signs.

3. Other Topics for Consideration

Staff has identified additional minor or technical issues for consideration during the upcoming amendment process, including the following:

- Clarification of sign regulations for mixed-use developments and multifamily buildings, including how to calculate allowed sign area for different building types and how to measure building frontage
- Review of roof-mounted sign regulations
- Consideration of signage standards for mobile pickup parking spaces
- Menu boards for drive-throughs
- Other potential updates

COMMUNITY OUTREACH

Summary of Outreach Efforts

While staff began public outreach and education efforts on the Part I amendment following Board adoption in 2019, these efforts were put on hold in 2020 and 2021 during the COVID-19 pandemic, which created economic impacts to many small businesses and resulted in a proliferation of signage. In December 2021, staff resumed education on the current sign regulations, as well as on the DCC enforcement process and the signs in the right-of-way program, and staff began initial outreach on the Part II amendment. Since December 1, 2021, Zoning Administration and DCC staff have held 20 meetings with more than 230 individuals attending. These meetings targeted a variety of stakeholders including the development community, land use attorneys, shopping center owners, faith and non-profit leaders, realtors, and a variety of community and citizen organizations. A complete list of meetings is included as Attachment 2. Staff will continue public engagement efforts throughout this year on draft concepts before returning to the LUPC in the fall. A [Signs Part II website](#) has been created where staff provides notice of upcoming meetings, copies of PowerPoint presentations, links to recorded meetings, and handouts on the current regulations (including copies of the handouts in Spanish and Korean). Staff will continue to update this website with any handouts, draft text, and outreach materials.

Additional Comments Received During Outreach

In addition to the comments previously noted, staff received additional comments during outreach meetings that are summarized below:

- **Single-Family Dwellings Undergoing Active Construction or Renovation.** As detailed in the Status Update Memo provided to the Board on September 21, 2021 (Attachment 1), DCC received a significant number of complaints specifically related to signs on properties with single-family dwellings undergoing active construction or alteration. These signs are given a timeline for removal based on the use — for a single-family dwelling unit, the sign must be removed within seven days after the renovation is completed or within six months, whichever is less. This timeline has proven to be difficult for enforcement purposes, as the point of discovery by DCC begins the clock for enforcement. The community has expressed concerns that this allows signs to remain in residential areas beyond the intended timeframe. However, the development community has shared that these signs are incredibly important for their business, and a majority of their renovation projects extend well beyond the six-month timeframe. While a permitting process could assist with tracking how long a sign has been posted, this would be costly and involve the need for additional staff in DPD. At this time, staff does not recommend revisiting these standards; however, staff will continue to monitor complaints.
- **Yard Signs.** Yard signs, which are minor signs associated with a residential use, were also a topic of discussion during the Part I amendment. At this time, staff does not recommend changes to the yard sign provisions. While the community raised concerns about potential sign clutter (specifically in residential areas), based on complaint data, the straightforward yard sign regulations are easily applied during DCC inspections, and the violator can immediately come into compliance through removal of excess signage.
- **Signs for Nonresidential Uses in Residential Districts.** Staff has received comments to further limit signs for nonresidential uses in residential districts. The size of allowed signs differs depending on the use, but a majority of nonresidential uses in residential districts are allowed up to 50 square feet of building-mounted signs and one freestanding sign up to 40 square feet and eight feet in height. Most of these uses require approval of a special exception by the Board or a special permit by the Board of Zoning Appeals (BZA). During review of the application, staff or the community can identify any sign that may be of concern, and the Board or BZA may limit the size, location, height, type, and duration of any sign through development condition. While proposed signs are not always included in the application materials, in response to community concerns, staff now asks applicants to identify proposed signage early in the review process and evaluates the size and location of such signage. When proposed signage is not provided, staff evaluates the potential impacts of signage at the maximum permitted size, height, and location outlined in the Zoning Ordinance and includes proposed development conditions that further limit signage when appropriate, particularly for those nonresidential uses in residential districts. A discussion of the proposed signs and an evaluation of impacts is included in the staff report. Staff does not recommend any changes to this sign type as part of this amendment.

NEXT STEPS

Following Board direction, staff will begin compiling draft concepts and text to share during further outreach efforts. Outreach will include additional public meeting opportunities, as well as social media campaigns, potential surveys, informational videos and graphics, and other engagement tools. Staff anticipates returning to the LUPC in the fall and potential authorization and public hearings in late 2022/early 2023.

Questions and comments can be directed to Casey Judge, Principal Planner at casey.judge@fairfaxcounty.gov or 703-324-1314.

ATTACHMENTS

1. Status Update Memo to Board
2. Community Outreach Meetings



County of Fairfax, Virginia

MEMORANDUM

DATE: September 21, 2021

TO: Board of Supervisors

FROM: Leslie B. Johnson *Leslie B. Johnson*
Zoning Administrator

SUBJECT: Status Update on Adopted Zoning Ordinance Amendment (ZOA) ZO-19-479 – Signs

Introduction

This memorandum provides an update on the major revisions to the sign regulations adopted by the Board on March 19, 2019. A copy of the Signs ZOA staff report is included as Attachment 1, and a link to the March 19, 2019 [Board Item](#) is included. This status update is in response to a follow-on motion in which the Board:

Directed staff to report to the Planning Commission and Board within 18 months after the enactment date of the Sign Ordinance to recommend amendments to the ordinance, if such changes are necessary. This report should include available compliance data such as the number of complaints received since the enactment date, and other information deemed pertinent as determined by the Zoning Administrator.

This amendment repealed and replaced the previous Article 12 (now Article 7 under the new Zoning Ordinance), partly in response to the U.S. Supreme Court's 2015 ruling, *Reed vs. Town of Gilbert (Reed)*. The amendment rewrote the regulations of signs to be content-neutral, while also more uniformly regulating signs in all zoning districts and deleting redundant or outdated provisions. This effort was identified as a Phase I amendment, with a second phase (Phase II) to focus on a broader review of sign policies.

Background

In its 2015 ruling in *Reed*, the U.S. Supreme Court held that when a municipality regulates signs based on the message, the regulations are content-based, presumptively unconstitutional, and unlikely to survive the judicial test of strict scrutiny. Following the *Reed* decision and after extensive public outreach by County staff and input from the public, the Board unanimously adopted [ZO-19-479](#) on March 19, 2019, and it which became effective on March 20, 2019.

While the ZOA focused on revising the regulations for content neutrality, there were a number of topics revised that were considered major issue areas:



- Definition of a sign
- Exemption of public uses
- Vehicle signs
- Administrative provisions for building-mounted signs for schools
- Yard signs and minor signs for nonresidential land uses
- Off-site directional signs
- Freestanding sign height in residential districts
- Electronic display signs in all districts

This memo addresses the major topic areas and discusses certain considerations for future amendments based on implementation of the regulations since the effective date of the amendment, and contains an analysis of complaints received by the Department of Code Compliance (DCC).

Complaint Data

DCC enforces the sign regulations by responding to and investigating complaints. When a complaint is received, DCC staff investigates following standard enforcement protocols. If the sign is found to be compliant with the Zoning Ordinance, the complaint is closed as unfounded. In the case of a violation of the sign regulations, a Notice of Violation (NOV) is issued requiring compliance within a set amount of time. Compliance often means removal or modification of the sign.

As shown in Table 1 below, between March 26, 2019, and August 9, 2021, DCC received 322 complaints related to signs. These complaints generally fell into the broad categories listed in Table 1. Certain complaints mentioned multiple issues, but only one category was selected based on the main concern identified in the complaint:

| Nature of Complaint | Total # | Resolved by Compliance ¹ | Closed as Unfounded ² | Under Review ³ |
|--|------------|-------------------------------------|----------------------------------|---------------------------|
| Minor Signs During Construction | 86 | 61 | 22 | 3 |
| Signage in a Residential District | 76 | 43 | 32 | 1 |
| Prohibited Sign Type | 73 | 44 | 27 | 2 |
| Location of Signs | 17 | 4 | 12 | 1 |
| Signs on an Actively Marketed Property | 13 | 4 | 9 | 0 |
| Too Much Signage | 11 | 9 | 2 | 0 |
| Electronic Signs | 9 | 4 | 4 | 1 |
| Other | 37 | 23 | 12 | 2 |
| Total | 322 | 192 | 120 | 10 |

¹ The sign was found to violate the Zoning Ordinance and the violation was resolved through removal, relocation, reduction in size, or other action to comply with the regulations.

² Upon investigation, the sign was found not to violate the Zoning Ordinance. Oftentimes, the sign was no longer located on the property.

³ A DCC investigator is currently working on the investigation and had not closed the complaint at the time of data collection.

- **Minor Signs During Construction:** The majority of complaints received involved construction signs, typically those relating to a builder's or contractor's sign being placed on a property before the commencement of construction or remaining on the property following the completion of construction. Approximately 90% of the complaints received on this topic were submitted for properties in the Dranesville District. Other complaints involved these signs exceeding the maximum allowable sign area of four-square feet or height of four feet for a single-family dwelling unit undergoing construction.
- **Signage in a Residential District:** The second greatest number of complaints related to signage in a residential district, predominantly signs in association with dwellings. These complaints often mentioned signs being too large or too numerous on a property. While the Ordinance does not regulate content, 18 of the complaints in residential districts either directly mentioned in the complaint or upon inspection were found to be related to signs displaying a political message. 33 of the complaints in this category were received from August to November of 2020 during the presidential election campaign. Nine of these complaints mentioned signs in a residential district advertising a commercial business.
- **Prohibited Sign Type:** Several complaints (73) related to a prohibited sign type being located on the property. [Section 7100.5](#) includes general prohibitions, prohibitions based on materials or design, and prohibitions on location. A majority of the complaints fell under the prohibitions based on materials or design, with complaints related to moving or windblown signs (also known as "feather flags") being most often reported.
- **Location of Signs:** This complaint type predominantly included reports of freestanding signs associated with nonresidential uses in residential districts where the sign is located less than five feet from a property line; 12 of the 17 complaints received were submitted on the same day on properties in the same neighborhood.
- **Signs on Property Actively Marketed for Sale, Rent, or Lease:** Complaints were also received for signs on properties actively marketed for sale, rent, or lease. [Subsection 7100.4.B](#) includes regulations on the number of signs, the size of signs, and the time following the sale by which the sign must be removed. Complaints often mentioned for sale signs continuing to be posted well after the sale of the home was completed, as well as for sale signs being erected prior to a home being listed. Another common complaint listed off-premise commercial signs remaining posted throughout the week, with the complainant noting that the signs are "realtor" signs. The allowance for these types of signs to be located off the premise was added to the ZOA at the request of the Northern Virginia Association of Realtors to accommodate open house signs, and they are permitted, on a content-neutral basis, only for display as a yard sign on residentially zoned lots from noon on Fridays through noon on Mondays.
- **Too Many Signs or Size of Signage on Nonresidential Development:** Several complaints were received for too much signage, referencing either the number of signs on a property or the size of the signs. This complaint type includes signs on properties developed with nonresidential uses in residential districts, but does not include complaints for signs on residentially developed lots, as those are captured under the Signage in a Residential District category.

- **Electronic or Illuminated Signs:** Nine complaints were received for electronic signs and illuminated signs. These complaints typically mentioned flashing lights, colors, and potential safety issues for drivers.
- **Other:** Many complaints related to other topics, such as signage associated with uses in commercial districts, the content of signs, or included a broad statement such as “unpermitted sign” without enough context to categorize the basis of the complaint.

While complaints were received in all nine magisterial districts, the most complaints received were in the Dranesville District with 136 (42%) in total, and 77 related to minor signs displayed during construction. The Mason District had the next greatest number of complaints with 70 in total (22%); 41 of these complaints involved prohibited sign types. The remaining seven magisterial districts received relatively few complaints in comparison, with the Springfield District receiving 32 complaints and the Braddock District receiving 26 complaints. The Hunter Mill, Lee, Mount Vernon, Providence, and Sully Districts each received fewer than 20 complaints. A breakdown of the complaint type by Magisterial District is included in Table 2, and a graph showing the overall number of complaints received per Magisterial District is provided in Figure 1 below.

| Complaint Type | Magisterial District | | | | | | | | |
|-------------------------------------|----------------------|-----------|----------|-----------|-----------|----------|----------|-----------|----------|
| | BR | DR | HM | LE | MA | MV | PR | SP | SU |
| Minor Signs During Construction | 1 | 77 | 1 | 0 | 1 | 2 | 0 | 2 | 2 |
| Signage in a Residential District | 13 | 14 | 1 | 2 | 4 | 1 | 7 | 24 | 2 |
| Prohibited Sign Type | 5 | 19 | 2 | 1 | 41 | 0 | 3 | 2 | 0 |
| Location of Signs | 0 | 2 | 1 | 1 | 13 | 0 | 0 | 0 | 0 |
| Signs on Actively Marketed Property | 1 | 11 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| Too Much Signage | 2 | 7 | 0 | 2 | 2 | 1 | 2 | 1 | 2 |
| Electronic Sign | 1 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 2 |
| Other | 3 | 6 | 7 | 10 | 6 | 2 | 2 | 3 | 1 |
| Total | 26 | 136 | 12 | 17 | 70 | 6 | 14 | 32 | 9 |

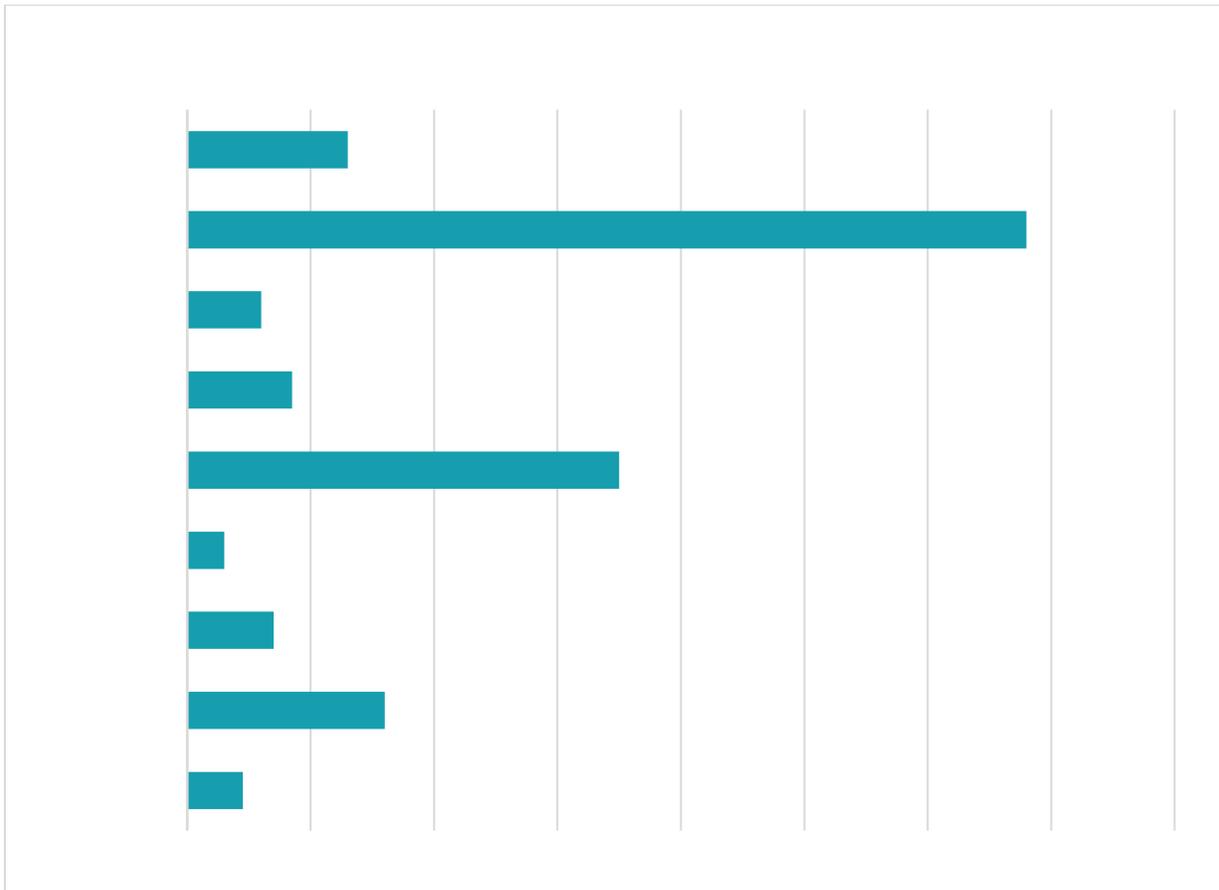


Figure 1: Complaint Data by Magisterial District

Summary of Major Issue Areas

The following topics were identified during the ZOA process as major issue areas and, based on implementation of the regulations and complaint data since the adoption of the ZOA, the following issues are presented for the Board’s consideration.

Yard Signs and Minor Signs for Nonresidential Land Uses: Extensive changes from the prior regulations were made to regulations of minor signs, which were identified as “temporary signs.” Minor signs include any sign that is designed to be easily moved and is typically not permanently attached to a structure or the ground, such as a banner, window sign, or yard sign. These signs are typically more temporary in nature, but for most of the minor sign types, no display time limits were included for ease of enforcement. A display time limit would require a permitting process to track the duration of the sign; otherwise, it would be a challenge to enforce with no way for staff to prove when the sign was first posted and that it remained posted for the specified duration. Specifically, the following types of minor signs were often the subject of a complaint:

Yard Signs: Regulations adopted as part of the ZOA allow yard signs on a lot developed with a residential use. These signs are limited to a cumulative total of 12 square feet, with no single sign exceeding four square feet or four feet in height. Based on content-neutrality, the message of the sign cannot be regulated. For example, these

signs can display messages related to political affiliation, a sports team logo, or a variety of different content, as long as the signs meet area and height limitations. During an investigation of a complaint, DCC is able to measure the signs and can determine if they met the size limitations. For these sign types, compliance was often attained through the removal of signage that did not conform to the regulations.

Staff Recommendation: At this time, staff believes the yard sign regulations with regard to size and number of signs are an appropriate and effective tool in regulating signs on residential properties. While staff does not recommend any changes at this time, we will continue to monitor whether another approach, such as imposing a total maximum sign area for lots developed with residential dwellings, would be appropriate.



Figure 2: Examples of Yard Signs

Signs During Active Construction or Alteration: One sign (limited to four square feet and no more than four feet in height) is permitted for an individual single-family dwelling unit undergoing construction, improvement, or renovation. The sign cannot be displayed prior to commencement of the improvement or renovation work and must be removed within seven days of completion of the work, or within six months (whichever is less). This regulation was the subject of the most complaints received since the new regulations went into effect. In an effort to educate the building community on these limitations, staff has issued an [interpretation](#) (Attachment 2) highlighting and clarifying these regulations. In addition, outreach on these regulations is being conducted with the Northern Virginia Building Industry Association (NVBIA) and NAIOP, the Commercial Real Estate Development Association, as well as the Custom Builders Council.

Staff Recommendation: Staff recommends codifying the interpretation in the future Phase II amendment to the Sign Ordinance by clarifying what constitutes the commencement of construction for this purpose.



Figure 3: Example of a Sign During Active Construction or Alteration

Minor Signs for Nonresidential Land Uses and Freestanding Sign Height in Residential Districts: Minor signs are permitted on properties developed with nonresidential land uses, and the maximum permitted signage varies based on the location of the property. A maximum of 32 square feet of building-mounted and freestanding minor signs are allowed if a lot has frontage on a major thoroughfare. A maximum of two signs up to four feet in height are permitted if the signs are freestanding. For all nonresidential uses in a residential district that do not have frontage on a major thoroughfare, building-mounted and freestanding minor signs are limited to a maximum of 24 square feet, and the limit of two freestanding signs up to four feet in height also applies. The ZOA expanded the allowance for minor signs to nonresidential uses, resulting in an increase in allotted signage. In addition to minor signs, permanent freestanding signs for nonresidential uses in residential districts are limited to 40 square feet and no more than eight feet in height. A majority of the nonresidential uses in residential districts require approval of a special exception by the Board or a special permit by the Board of Zoning Appeals (BZA). During review of the application, staff or the community can identify any sign that may be of concern, and the Board and BZA may limit the size, location, height, type, and duration of any sign through development condition.



Figure 4: Example of a Freestanding Sign

Staff Recommendation: As previously discussed, complaints have been received related to the presence of too many signs and on the size of signs for nonresidential development in residential zoning districts, and staff has received comments recommending that the maximum sign area be tied to lot size. However, staff does not recommend any changes at this time, but will continue to monitor these complaints and will have these be a focus area during upcoming outreach and education efforts. As with residential dwellings, an amendment limiting the overall maximum signage for nonresidential uses in residential districts, inclusive of minor signs and freestanding signs, could be considered to further limit the cumulative impact of signs in residential districts.

Off-Premise Signage: Off-premise, or off-site, signs are prohibited in the adopted regulations, although certain provisions allow for wayfinding and branding programs operated by the County or County partners in Commercial Revitalization Districts and areas designated as activity centers in the Comprehensive Plan. In addition, off-premise commercial signs are prohibited when displayed 12:01 PM Monday through 11:59 AM Friday but are allowed to be displayed from noon on Fridays through noon on Mondays. This regulation allows signs (such as those advertising an open house or mentioning a business having a sale) to be located on a separate private property, subject to the applicable minor sign provisions. This does not, however, allow signage in the right-of-way, which is prohibited by State Code.

Staff Recommendation: A number of complaints have been received on the topic of off-premise commercial signs. These complaints mostly relate to the sign not meeting the display time limitation, as the sign remained posted throughout the week. While this will be discussed during outreach and education meetings, staff does not recommend any changes at this time, as this standard was added to address a concern raised by the Northern Virginia Relators Association during the previous ZOA public hearing process. More importantly, depending upon the outcome of the upcoming U.S. Supreme Court of *City of Austin v. Reagan National Advertising of Texas*, involving

regulation of off-premises vs. on-premises signs (discussed below), regulations related to off-premise commercial signs may need to be reconsidered.

Definition of a Sign: Prior to the ZOA, the definition of a sign included language where devices and structures that are “visible from the public right-of-way or from adjoining property” were considered a sign. As the Zoning Ordinance did not define “public right of way,” this language was removed; the adopted and current [definition of a sign](#) now uses the language “visible from any public or private street.” There were concerns at the time of adoption of the ZOA that these changes could negatively impact certain properties that were allowed signage under the previous provisions which exempted signs that were not visible from the public right-of-way or from adjoining property. No issues have been reported since the regulations took effect.

Staff Recommendation: No changes are recommended at this time.

Exemption of Public Uses: Prior to the ZOA, public uses, including Fairfax County Public Schools (FCPS) and the Fairfax County Park Authority (FCPA), were exempt from most Sign Ordinance regulations. During adoption of the ZOA, the Board exempted property owned by the County, FCPS, and FCPA from the minor sign provisions of [subsection 7100.4](#). By exempting these entities, minor signs helping advertise school and park programs such as after school programs and summer concert series, can be erected without subject to limitations. With this exemption, there have been no issues identified by FCPS and FCPA, and no complaints were received.

Staff Recommendation: No changes are recommended at this time.

Vehicle Signs: Changes to the Sign Ordinance included the deletion of a 25-foot setback requirement for vehicle signs from any public street line and instead included broader regulations that allow vehicle signs, provided that the vehicle is operable and parked at its associated place of business within a designated parking space. The area of the vehicle sign is not counted towards the maximum allowed sign area for a property. No complaints have been received on this topic.

Staff Recommendation: No changes are recommended at this time.

Building-Mounted Signs for Schools: During the amendment outreach, there was discussion about building-mounted signs in association with schools. This includes “spirit” or “accolade” signs that commemorate academic or athletic achievements, such as “Cross Country State Champions 2020.” The adopted regulations allow lettering or numbers permanently attached to or painted on the façade of a building or of any school, college, or university, limited to a maximum of ten percent of the area of the façade on which they are placed. In addition, the regulations prohibit illumination of these signs. In consultation with FCPS, no issues have been identified at this time. However, FCPS will continue to monitor the ten percent maximum to ensure that this limitation is appropriate as additional achievements are commemorated over time. One complaint has been received regarding signage in association with a private school,

and that complaint is currently under investigation. It is unclear if the complaint is related to a building-mounted sign or a freestanding sign.

Staff Recommendation: No changes are recommended at this time.

Electronic Display Signs: The ZOA added electronic display signs as a new sign type with associated use standards. These standards limit each lot to one electronic display sign with the size limited to 50 percent of the maximum allowable area of that freestanding sign. The message or copy of an electronic sign may not move or change more frequently than once every eight seconds; the change must be instantaneous without rolling, fading, or the illusion of movement, and it may not flash or vary in brightness. Limitations on background color and nighttime level brightness also apply. As discussed previously, only nine complaints have been received relating to electronic display signs, and the adopted regulations appear to appropriately regulate these sign types.

Staff Recommendation: No changes are recommended at this time. However, this topic has been identified as one that should be highlighted during upcoming outreach and education efforts to ensure businesses and other nonresidential uses, especially those in residential districts, are aware of the limitations.

Other Topics

The following topics were not previously identified as major topic areas, but have been identified as topic areas needing additional discussion during outreach efforts:

Signs Displayed on a Property Actively Marketed for Sale, Rent, or Lease

Certain provisions relate to signs that are displayed on a lot or property that is actively marketed for sale, rent, or lease. Specifically, one building-mounted or freestanding sign is permitted (with two signs on a corner lot when each sign faces a different street frontage). The sign must be removed within seven days of settlement. Signs are limited based on the proposed or existing development as follows:

- Single-family detached or attached dwellings: six square feet and six feet in height
- Multifamily: 12 square feet and eight feet in height
- Nonresidential uses, and residential properties with at least 20 acres: 32 square feet and eight feet in height

- **Staff Recommendation:** Several complaints have been received on this topic, specifically mentioning the sign not being removed in a timely manner. Based on these complaints, staff has identified these regulations as a topic to highlight during upcoming outreach and education efforts.

Signs During Active Construction for New Residential Developments with Three or More Dwelling Units: Similar to the provisions allowing limited additional signage for active construction or alteration projects for single-family dwellings, additional signage is allowed for construction of new residential developments containing at least three dwelling units. One sign up to 60 square feet and ten feet tall is allowed, and for those lots on multiple road frontages, one additional sign up to 32 square feet and eight

feet tall is permitted per street frontage. These signs must be located at least five feet from all lot lines and removed within 14 days of completion of construction. No sign may be displayed for more than two years from issuance of the first building permit; however, a sign permit may allow continued display of the sign if construction has not been completed and permits are still active.

- **Staff Recommendation:** As part of the Phase II amendment, staff recommends revisiting these provisions and analyzing whether three dwelling units is the appropriate threshold, and whether there should be consideration of adding a requirement that these lots must be contiguous.

Training and Outreach

Following adoption of the Signs ZOA, staff began outreach and education efforts. By the time many in the community became aware of the new regulations, the COVID-19 pandemic had begun, which created economic impacts to many small businesses and resulted in a proliferation of signage. Now that the County is beginning to see signs of an economic recovery, staff believes it is appropriate to resume education about the Sign Ordinance regulations through a joint effort between DPD and DCC. Outreach and education efforts will begin this fall, and staff will report on these efforts as part of the introduction to the Signs Phase II amendment. Staff is developing an outreach and education program that will include presentations on the existing regulations and solicitation of feedback that could be considered during the Phase II amendment. In addition to general community engagement meetings, staff will solicit input from other stakeholders, including the Fairfax County Chamber of Commerce, the Northern Virginia Association of Realtors, the Small Business Commission, and retail shopping center owners. A detailed [Sign Ordinance website](#) is available, as well as an [FAQs page](#), and presentation materials and additional publications will be added to the website as they are developed.

Phase II Amendment

In addition to potential changes as discussed above, the Phase II amendment is anticipated to include consideration of the following topics:

- Expansion of the ability to request a Comprehensive Sign Plan (CSP) application in commercial areas (currently this request is limited to Planned Districts)
- Inclusion of review standards and submission requirements for all CSP applications
- Clarification of sign regulations for mixed-use development and multifamily buildings
- Review of roof-mounted sign regulations
- Consideration of signage standards for mobile pickup parking spaces and drive-through uses

Following the initial outreach, it is anticipated that staff will bring an overview of the Phase II amendment to a Board of Supervisors Land Use Policy Committee for preliminary discussion in the spring/summer of 2022. Work on the ZOA will continue through the end of 2022.

September 21, 2021

Page 12

Upcoming U.S. Supreme Court Case

On November 10, 2021, the U.S. Supreme Court is scheduled to hear an argument in *City of Austin v. Reagan National Advertising of Texas*, which concerns whether Austin's city code includes unconstitutional content-based regulations, as it makes a distinction between on-premise signs (which may be digitized) and off-premise signs (which may not). The Fifth Circuit Court of Appeals previously found that Austin's sign ordinance violated *Reed* by allowing digital billboards on-site and prohibiting digital billboards off-site. Staff will monitor this case to determine whether any ordinance change is needed as a result of the Supreme Court's decision.

Staff is available to discuss this topic in more detail. Please feel free to contact Casey Judge if you have any questions.

ATTACHMENTS:

Attachment 1 – Zoning Ordinance Amendment on Signs Staff Report

Attachment 2 – Interpretation of Minor Signs Permitted During Active Construction or Alteration on Single-Family Residential Lots

cc: Planning Commission
Bryan J. Hill, County Executive
Rachel Flynn, Deputy County Executive
Elizabeth D. Teare, County Attorney
Barbara Byron, Director, Department of Planning and Development
Jack W. Weyant, Director, Department of Code Compliance
Jill Cooper, Director, Department of Clerk Services
David Stoner, Deputy County Attorney, OCA
Cherie Halyard, Assistant County Attorney, OCA
Andrew Hushour, Assistant Zoning Administrator, DPD
Carmen Bishop, Assistant Zoning Administrator, DPD
Casey Judge, Principal Planner, DPD

Signs Part II – Outreach Meetings
December 2021 – May 2022

| Group | Date |
|--|------------|
| Development Process Advisory Committee | 12/1/2021 |
| Land Use Attorneys Monthly Workgroup | 12/8/2021 |
| Board Office Land Use Aides | 12/10/2021 |
| Shopping Center Owners | 1/14/2022 |
| Signs Outreach Lunch and Learn | 1/18/2022 |
| Signs Outreach Evening Meeting | 1/28/2022 |
| Great Falls Citizen Association | 2/10/2022 |
| Faith and Non-Profit Leaders - Lunch and Learn | 2/15/2022 |
| Braddock Land Use & Environment Committee | 2/15/2022 |
| G-7 Committee | 2/16/2022 |
| Faith and Non-Profit Leaders - Evening Meeting | 2/22/2022 |
| Mason District Council | 2/23/2022 |
| Norther Virginia Association of Realtors | 3/7/2022 |
| Mount Vernon Council of Citizen Associations | 3/7/2022 |
| Hunter Mill Land Use Committee | 3/15/2022 |
| McLean Citizen Association Planning and Zoning Committee | 3/29/2022 |
| Lee District Land Use Committee | 4/11/2022 |
| Providence District Council | 4/13/2022 |
| Planning Commission Land Use Policy Review Committee | 5/12/2022 |
| Sully District Land Use and Transportation | 5/16/2022 |

**Approximately 230 attendees through 4/13/2022*