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October 16, 2019

HONORABLE CITY COUNCIL

RE: CPC Comments on Proposed Sign Ordinance of 9/30/2019

The City Planning Commission staff has received from City Council the most recent Law Department draft of amendments to seven different chapters of the 2019 Detroit City Code with regard to signs. We commend the authors for having fashioned a comprehensive revision and updating of definitions, regulations, and procedures that have needed attention for a decade. We look forward to continued contribution to this effort via informal and formal review.

It has been the express desire to merge regulations for on-premises business signs and off-premises advertising signs into the same chapter; the Chapter 4 amendments accomplish that task. The ordinance also allows owners to legally generate revenue from the display of super-graphics on their buildings downtown, as the proposed ordinance removes longstanding obstacles.

We acknowledge and appreciate the changes in the proposed ordinance from earlier versions and for its recognition of the importance of aesthetics:

- The creation of “sign districts” based on Master Plan classifications provides applicants and City staff a clear and objective basis for understanding which signs can go where.
- The value of local artists is recognized by the ordinance’s favoring of painted wall graphics.
- Landscaping requirements will improve the aesthetics of solitary billboards on a vacant lot.
- Downtown advertisers will be subject to considerable accountability requiring they be current with tax responsibilities and their building possessing a certificate of occupancy and certificate of compliance.

- For the first time, signs will be subject to amortization, consistent with state law and case law, requiring eventual compliance of existing noncompliant signs with proposed standards.
- The ordinance’s statement of purpose is more robust and in line with cities of comparable size.
- Stringent provisions relating to obsolete, vacant, neglected and abandoned signs are clearly stated.
- Dynamic/digital advertising signs are specifically regulated for the first time.
- Portable signs in the right-of-way (sidewalk signs) are permitted and regulated.

Comments and Concerns

As is true of any major ordinance revision, there are innumerable “I’s” to dot and “T’s” to cross. We find a variety of sections where corrections are merited and where alternate language would be appropriate; those are listed in Attachment A. Additionally, certain provisions formally recommended by vote of the City Planning Commission in 2015 are missing from the most recent draft. Most importantly, however, several features of the ordinance have intended or unintended consequences that give us great pause, specifically:

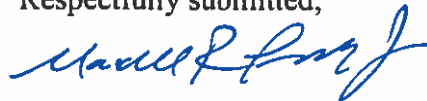
- While the driving force behind the current revisions has been to remove the prohibition of advertising signs in the Central Business District (CBD), the Chapter 4 ordinance dramatically increases the areas where conventional billboards and advertising wall signs can be displayed outside the CBD—areas, including residential districts, where advertising signs have long been held as inappropriate (*§4-4-103(9)*). Concerns over new advertising sign allowances and the repeal of longstanding advertising sign prohibitions and limitations were strongly voiced at community/stakeholder meetings earlier this year. A more detailed description of this expanded allowance is provided in Attachment B.
- Review of signage is no longer able to be undertaken as part of site plan review—an unnecessary fragmenting of the project review process. Among other things, this precludes City Council from reviewing/approving/denying signage in large developments on land zoned SD4 (Special Development District, Riverfront Mixed-Use) and in SD5 (Special Development District, Casinos) (*§50-2-1*, *§50-3-113(7)*, *§50-3-135(4)(p)*, *§50-3-152*, *§50-3-180*). Excluding signage from site plan review may compromise the integrity of approved plans and have unintended impacts on the right-of-way.
- City Council is stripped of its authority to approve/deny signage as part of its “special district review” responsibility. Special district review requires Council to authorize alterations to the exterior appearance of buildings and premises on land zoned PC (Public Center) and PCA (Public Center Adjacent, Restricted Central Business District). The City Planning Commission is similarly stripped of its authority to review such signage.

(§50-11-66) and §50-11-96)

- Those who object to an administrative decision or to a waiver or adjustment in favor of a sign applicant, such as neighboring property owners/residents/other businesses, have no right to appeal the determination. *(§4-4-20(k)(6); §4-4-21)*
- Sign application review staff is responsible for determining whether an advertising sign application is compliant with spacing and setback requirements, yet the ordinance repeals the provisions that place a burden on the applicant to indicate a proposed sign's proximity to nearby dwelling units, schools, parks/playgrounds, historic districts, rights-of-way, and other advertising signs *(§50-6-80 through 50-6-84)*. More robust "submittal requirements" are warranted in general and for comprehensive sign plans in particular *(§4-4-22)*.
- Nonconforming signs that have until January 1, 2030 to become subject to the proposed sign ordinance appear to enjoy a loophole to disregard the "no signs on vacant buildings" provision and the "Protection of Minors" prohibition against alcohol/tobacco advertising in certain locations. Tighter wording would be appropriate. *(§4-4-19, §4-4-11(a))*

CPC staff suggests these items be addressed prior to introduction of the proposed Chapter 4 amendment in order to ensure the integrity of the public hearing process and harmony with existing and related proposed code changes.

Respectfully submitted,



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M. Rory Bolger, Staff

Attachments

cc: Tonja Long, Law Department
Daniel Arking, Law Department
Arthur Jemison, Chief of Services and Infrastructure
Katy Trudeau, Deputy Director, Planning and Development Department
Karen Gage, Director of Zoning Innovation, Planning and Development Department

ATTACHMENT A: CPC staff concerns over 9-30-2019 draft of Sign Ordinance.

- City Planning Commission’s “Special District Review” authority to review and City Council’s authority to approve/deny proposed signage on land zoned PC (§50-11-66) and PCA (§50-11-96) is not preserved.
- Authorization to review signage as part of site plan review is not preserved (§50-3-113(7), §50-3-135(4)(p), §50-3-180).
- Restrictions on signage for home occupations are not preserved (§50-6-112(3); §50-6-132; §50-12-488).
- The definition of “building frontage” (§4-1-1) is more confusing than the current definition because of the phrase, “...as perpendicularly projected....”
- Punctuation and wording are flawed in the definition of “Directional Sign” (§4-1-1).
- Obsolete signs are required to be removed but it is not stated whether BSEED is required to issue a notice of removal (§4-4-10).
- Billboards that are currently nonconforming appear to be able to disregard the alcohol-tobacco limitations until January 1, 2030 (§4-4-19) and the “no signs on vacant buildings” provision (§4-4-11(a)), among other provisions.
- Many existing billboards are conforming uses (i.e., permitted in a given district), but are nonconforming structures—too high, too big. Unclear when billboards that are nonconforming structures are subject to the new Chapter 4 (§4-4-19).
- Violations of the “protection of minors” ordinance (alcohol/tobacco provisions) are classified as misdemeanors but BSEED is responsible for enforcement; unclear whether BSEED writes misdemeanor tickets (§4-3-2, §4-3-3).
- Chapter 4 is silent on when billboards that are/were conforming under Zoning but not compliant with Chapter 4 height/area specifications have to come into compliance.
- The definition of “sponsorship sign” (§4-1-1) implies a much broader applicability than as specified under the sign regulations as accompaniments to public art (§4-4-63(a)(3)). As defined, a sponsorship sign could advertise/identify an off-premises sponsor/supporter of a given land (for example, an alcoholic beverage advertising on a theater or concert hall); however, the regulatory provision seems to presume the sponsorship sign would only identify the sponsor of a public art work. The definition should more closely reflect the connection to public art.

- Submittal requirements for permit applications (§50-6-80 through 50-6-84) not requiring a waiver are not preserved—placing all the burden on the application review staff to ascertain spacing between advertising signs, spacing from schools, historic districts, parks/playgrounds, setbacks from right-of-way and residential units.
- Prohibition against advertising signs “wrapping” two or more facades of a building or structure (§4-4-7(2)) inaccurately implies that one façade could be wrapped even though no wall sign can cover the entirety of a façade (§4-4-45; 4-4-131).
- The subsection numbering of §4-4-41 is flawed.
- Advertising signs require a BSEED permit which cannot be issued “except upon approval of a waiver of such prohibition...” (§4-4-102), however, no cross-reference is provided for “such prohibition.” Rather, advertising signs are implicitly permitted without need for a waiver in “High-density commercial/industrial,” “High-density residential/mixed use,” and “Low-density commercial/institutional” sign districts where they comply with required findings and dimensional specifications. Reference to a “prohibition” is confusing and misleading.
- The only sign districts where advertising sign are not permitted are “low-density residential” and “recreation/open space” (§4-4-103(9)), thus newly permitting billboards in Master Plan-designated Institutional areas which are often zoned in residential or non-residential zoning classifications where they are currently prohibited. The “Low-density commercial/institutional” sign district and “High-density residential/mixed use” sign district should be added to §4-4-103(9) to prevent a significant expansion of the area where billboards (pole signs) and/or advertising wall signs are permitted and would newly impact neighborhoods.
- Policy formally adopted by the CPC on March 15, 2007 relative to signs for casino complexes on land zoned SD5 were recommended by the CPC for inclusion as part of the Sign Ordinance in its vote of June 18, 2015 on the insistence of counsel; these unique provisions are not reflected in the ordinance. CPC staff can provide the provision as earlier referred to Council for adaptation to the proposed Chapter 4 (§61-6-131).
- Waivers and adjustments are permitted for “dimensional or operational” standards (§4-4-20); no clear statement is provided as to waivers/adjustments for actual permissibility of a given sign type in a given sign district.
- Appeals of conditional approvals and denials are afforded to the petitioner (§4-4-20(k)(6)), but no appeal of an approved waiver or adjustment is afforded to a party objecting to a petition, such as a neighbor or community organization or concerned business. This contrasts to the Zoning Ordinance’s allowance of appeals of BSEED and BZA by parties aggrieved by the approval.

- P&DD is required to maintain a “transcript or other written or audio recording of the public hearing” involving waivers/adjustments (§4-4-20(m)(19)); unclear whether the transcript/written recording must be verbatim as for hearings at the BZA.
- P&DD is required to provide advisement of a hearing to owners and occupants within 300 feet of a premises involving a waiver/adjustment (§4-4-20(g)(3)); however, failure/refusal by P&DD to issue advisement or collect/admit comment does not constitute deprivation of a nearby individual’s right (§4-4-20(p)). This provision appears to render advisement of the public hearings to that of a “courtesy notice” and to immunize P&DD against procedural due process claims for appeal.
- Appeals of administrative decisions may only be made by the entity that is subject to the decision (§4-4-21); it appears that parties aggrieved by the administrative decision, such as neighbors, community organizations, other businesses, have no right of appeal. This contrasts to the Zoning Ordinance’s allowance of appeals of BSEED and BZA by parties aggrieved by the approval.
- CPC staff had recommended to Law (5/25/2019 and 6/12/2019) limiting the placement of advertising signs outside of the CBD to streets designated by the Master Plan as “major thoroughfare” or “secondary thoroughfare” or in “freeway adjacent areas;” the omission of that restriction permits advertising signs to be displayed on side streets (§4-4-103(9)).
- It is unclear why “portable signs” should be allowed to be illuminated and/or dynamic in select sign districts, including in the right-of-way, where they are closer and potentially more distracting to passing traffic and abutting uses (§4-4-41).
- It is unclear why “Raceway signs” are distinguished from “wall signs” (§4-4-43).
- Currently, signs in residential districts (e.g., schools, churches) are limited to 32 sq. ft. (§50-6-112) and signs for home occupations are prohibited in R1 and R2 districts and limited to 144 sq. inches in other residential districts (§50-12-488); the proposed ordinance would allow a wall sign to cover 10% of a façade in a low-density residential sign district (§4-4-45(c)). A house façade measuring 45’ X 20’ = 900 sq. ft.; a wall sign equaling 10%, or 90 sq. ft. would be permitted by the proposed ordinance—significantly more than what is currently allowed. However, the “maximum aggregate business sign area” permitted in low-density residential sign districts is specified as six sq. ft. in §4-4-62(a)(1). Unclear which of the two standards takes precedence? The ordinance seems to lack a “conflicting provisions” clause similar to §50-1-9, which specifies that the more restrictive provision controls.
- Directional signs count against the “maximum aggregate business sign area” and are accorded only a minimal increase over business signs (§4-4-63(d)). yet certain businesses, such as parking structures, have a disproportionate need for directional

signage.

- Business signs on multiple-story buildings may be 40 feet high (§4-4-65(b)(1)) except in low-density residential sign districts; however, “mechanical signs” are limited to 10 feet (§4-4-48(d)), “monument signs” are limited to 15 feet (§4-4-39(d)), “pole signs” are limited to 15 feet or 25 feet depending on street width (§4-4-40(d)), “portable signs” are limited to 4 or 5 feet (§4-4-41(e)). Unclear whether the 40 foot limit is meant to apply only to wall signs or to any business sign on the premises.
- The conversion of an existing static advertising sign to a dynamic sign is not straightforwardly addressed as it had been in earlier sign ordinance drafts; the permit requirements of §4-4-102 require “waiver of such prohibition” but no prohibition is referenced and no public hearing is clearly mandated. A mandate for a public hearing could be appropriately stated in §4-4-35.
- While affording considerable private benefit, the allowance of 60 advertising signs in the CBD ensures no clear public benefit except for the “Mitigation of harmful visual aesthetics” provisions (§4-4-132). The “mitigation” provisions are only triggered by a (one-time) negative finding by the director of BSEED rather than by a legislative presumption of harmful visual effect. Unclear why the director of BSEED, rather than the director of P&DD or the director of Arts and Culture, is authorized to make an aesthetics determination. The BSEED director has authority only to request, rather than require, payment of a specified and proportionate monetary contribution by the applicant to a fund for public art purposes. The ordinance is silent on the City’s recourse where the applicant declines to make a monetary contribution. [Note: §4-4-132(e)(1), Pg 121, Lines 5-6, incorrectly reference “wall signs” twice.]
- Given the stated purpose of protecting public safety/traffic safety (§4-4-1(b)(2)), the rationale is unclear for permitting advertising signs in the right-of-way (§4-4-165), placing vehicles even closer to distraction.
- The rationale for the inconsistency between the 250-foot spacing provision between advertising signs in the right-of-way (§4-4-165(7)) and the general 1,000 foot spacing provision between advertising signs (§4-4-103(1)) is unclear.
- The enforcing authority for misdemeanor violations of the “Development Notification Signs” provisions is not identified (§4-5-2).

ATTACHMENT B: Random Sample of Master Plan Subsectors (20 of 54)

CPC staff analysis of Master Plan maps reveals many specific locations where advertising signs outside of the Central Business District have heretofore been deemed inappropriate but would now be permitted by the proposed ordinance as pole signs (billboards) and/or wall signs, subject to applicable dimensional standards. Staff can provide copies of these Master Plan maps upon request. Staff anticipates analysis of all 54 Master Plan subsectors in the immediate future.

Master Plan Cluster	Subsector/ Neighborhood	Area of Impact, Zoning	Sign District	Master Plan Classification	Council District
1	Airport	Status quo			3
1	Grant	E. Outer Drive btw Van Dyke, Conner: Church, hospital—R5	Low-Density Commercial/ Institutional	Institutional	3
1	State Fair	Status quo			2 and 3
2	Conner	Conner Ave: former De la Salle HS site—R3 Hayes Rd (west) at Houston-Whittier—R1	Low-Density Commercial/ Institutional “.....”	Institutional Mixed-Town Center	4
3	Chandler Park	Alter Road btw Mack, E. Warren—R2 Chalmers btw Mack, E. Warren—R2 Dickerson btw Mack, E. Warren—R2	High-Density Residential Mixed-Use “.....” “.....”	Neighborhood Commercial “.....” “.....”	4
3	Finney	E. Warren/Canyon: former Austin HS site—R1	Low-Density Commercial/ Institutional	Institutional	4
3	Jefferson/Mack	Dickerson btw E. Jefferson, Mack—R2 Chalmers btw E. Jefferson, Mack—R2, R3 Moross btw Chandler Park Dr.: hospital, Mack—R6	High-Density Residential Mixed-Use “.....” Low-Density Commercial/ Institutional	Neighborhood Commercial “.....” Institutional	4
3	St. Jean	Status quo			4

Master Plan Cluster	Subsector/ Neighborhood	Area of Impact, Zoning	Sign District	Master Plan Classification	Council District
4	Lower East Central	Lafayette Park, Elmwood, Hyde Park—R3, R5, R6	High-Density Residential Mixed-Use	Medium Density Residential	5
4	Middle East Central	Gratiot btw Chene, Mt. Elliott—Gateway Radial Thoroughfare	High-Density Residential Mixed-Use	Mixed Residential Commercial	5
4	Upper East Central	Status quo			5
5	Chadsey	McGraw (north) west of Martin: Boysville—R2	Low-Density Commercial/ Institutional	Institutional	6
5	Springwells	Status quo			6
5	West Riverfront	Status quo			6
6	Winterhalter	Ewald Circle btw Dexter, Cortland—R2, R3	High-Density Residential Mixed-Use	Medium Density Residential	7
7	Cody	Status quo			7
8	Brightmoor	South of Schoolcraft, west of Evergreen: Vaughn, Heyden, Kentfield, Stout—R1, R2	Low-Density Commercial/ Institutional	Retail Center	1
8	Redford	Status quo			1
9	Harmony Village	Marygrove—R5 Schaefer btw Puritan, W. McNichols—R2 Meyers btw Lyndon, Puritan—R2, B1	Low-Density Commercial/ Institutional High-Density Residential Mixed-Use "....."	Institutional Medium Density Residential "....."	2
10	McNichols	University of Detroit Mercy--R6	Low-Density Commercial/ Institutional	Institutional	2
All	Citywide	Former school sites, former hospital sites.	Low-Density Commercial/ Institutional	Institutional	1-7

The Low-Density Commercial/Institutional sign district would allow both pole signs, such as billboards, and wall signs; the High-Density Residential Mixed-Use sign district would allow advertising wall signs on nonresidential buildings.

The intended or unintended consequences of permitting advertising signs outside of the Central Business District where they are currently prohibited can largely be addressed by amending Sec 4-4-103(9) to add “Low-Density Commercial/Institutional Sign District” and “High-Density residential Mixed-Use Sign District” to the list of sign districts where advertising signs are not permitted and by adding a subsection (10) to Sec. 4-4-103 to specify that advertising signs are not permitted on streets other than those designated as “major thoroughfare” or “secondary thoroughfare” by the Master Plan or that are in a freeway adjacent area. (Such a change would be consistent with the CPC communications to the Law Department of 5/25/2019 and 6/12/2019.)