

CITY OF HIGH POINT

AGENDA ITEM



Title: Text Amendment 18-06
(City of High Point)

From: Lee Burnette, Planning & Development
Director

Meeting Date: February 4, 2019

Public Hearing: Yes

Advertising Date: January 24, 2019, and
January 30, 2019

Advertised By: Planning & Development

Attachments: A. Planning and Zoning Commission Recommendation
B. Staff Report
C. Text Amendment Ordinance

PURPOSE:

A request by the City Attorney to amend various sections of the Development Ordinance, pertaining to sign regulations, to maintain compliance with state and federal laws. This request proposes to amend Section 3.8.7.E Gateway Corridor Overlay, Section 5.7.7 Exempt Signs, Section 5.7.8 Signs Not Requiring a Sign Permit, Section 5.7.9 Freestanding Signs Requiring a Sign Permit, Section 5.7.11 Outdoor Advertising Sign Requiring a Sign Permit, to add Section 5.7.14 Savings Clause and to amend various sign related definition in Section 10.4.

BACKGROUND:

The staff report and the Planning & Zoning Commission's recommendation are enclosed.

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

- A. Staff recommended *approval* of this request, as outlined in the attached staff report.
- B. On January 22, 2019, a public hearing was held before the Planning and Zoning Commission regarding Text Amendment 18-06. The Planning & Zoning Commission recommended *approval* of this request, as outlined in the staff report and recommended by staff, by a vote of 6-0.

PLANNING AND ZONING COMMISSION RECOMMENDATION

City of High Point

Text Amendment 18-06

At its January 22, 2019 public hearing, the Planning and Zoning Commission reviewed a request to amend various sections of the Development Ordinance, pertaining to sign regulations, to maintain compliance with state and federal laws. All members of the Commission were present except for Mr. Ozzie Hough and Ms. Angela McGill. Mr. Robert Robbins, Development Services Administrator, presented the text amendment and recommended approval as outlined in the staff report

Speaking on the request:

Speaking in favor of the request was Mr. Chad Essick, attorney with Poyner-Spruill LLC, 301 Fayetteville Street, Suite 1900, Raleigh, NC. He is assisting the City Attorney in this matter and provided an overview of the legal aspects of this amendment and how it is intended to address recent US Supreme Court and Circuit Court rulings pertaining to sign regulations and the freedom of speech.

Also speaking was Mr. Bobby Soule, VP/GM at Lamar Outdoor Advertising, 433 Coopers Hawk Drive, Asheville, NC. He asked various questions pertaining to whether the proposed text amendment would allow the placement of billboards in the City of High Point. Mr. Lee Burnette, Planning Director, addressed these questions, noting that the amendment would remove the differences between on-site and off-site signage.

Planning & Zoning Commission Action

Consistency & Reasonableness Statements

The Commission stated that the recommended changes are deemed necessary to correct potential deficiencies in City sign regulations and they do not conflict with adopted policies. Furthermore, the Commission stated that the request is reasonable as the City must ensure that adopted sign regulations are compliant with applicable State & federal laws.

The Planning & Zoning Commission adopted these statements by a vote of 6-0.

Text Amendment

The Commission recommended *approval* of Text Amendment 18-06, as recommended by staff, by a vote of 6-0.

**CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
TEXT AMENDMENT 18-06
January 22, 2019**

Request	
Applicant: City of High Point City Attorney – JoAnne Carlyle	Affected Ordinance Sections: Section 3.8.7.E. Gateway Corridor Overlay General Standards; Section 5.7.7. Exempt Signs; Section 5.7.8. Signs Not Requiring a Sign Permit; Section 5.7.9. Freestanding Signs Requiring a Sign Permit; Section 5.7.11. Outdoor Advertising Sign Requiring a Sign Permit; Section 5.7.14. Savings Clause (<i>new</i>); and Section 10.4. Definitions.
Proposal: A request by the City Attorney to amend various sections of the Development Ordinance pertaining to sign regulations to ensure compliance with applicable State and federal laws.	

Background

The City's sign regulations have not been comprehensively updated since 1992 and a project to comprehensively rewrite those regulations is currently underway. The case law governing sign regulations has changed in recent years and is constantly evolving. The City Attorney is recommending these changes to ensure compliance with current law. These changes are separate from the more comprehensive regulatory change that will be recommended by the sign regulation rewrite project. The sign regulation rewrite project will continue to move forward as planned.

Details of Proposal

The recommended changes would:

1. Remove the distinction between on-site and off-site signage in the regulations;
2. Clarify that both commercial and noncommercial speech are permitted on signs;
3. Delete Section 5.7.11. regarding outdoor advertising signs;
4. Add a Savings Clause that states the regulatory intent and clarifies that the content of the message on a sign is not a consideration in determining whether a sign is permitted under the sign regulations; and
5. Delete or modify several associated sign definitions.

Analysis

The proposed text amendment is in response to recent changes in the laws governing sign regulations. These changes are recommended by the City Attorney upon the advice of the outside legal counsel retained to assist the City in this matter. They are aimed at eliminating any distinction

between on-site and off-site signage, commercial and noncommercial speech, and different forms of noncommercial speech. Because these changes are being made to address recent changes in the law, the City Attorney recommends these interim changes be adopted immediately and any further changes and refinements can be considered during the ongoing comprehensive sign regulation rewrite project.

Consistency with Adopted Policy Guidance:

Whether and the extent to which the proposed text amendment is appropriate and is consistent with the City's adopted policy guidance.

The recommended changes are deemed necessary to correct potential deficiencies in City sign regulations and they do not conflict with adopted policies.

Reasonableness/Public Interest:

An approval of the proposed text amendment is considered reasonable and in the public interest.

The City must ensure that adopted sign regulations are compliant with applicable State & federal laws.

Recommendation

Staff recommends approval.

Required Action

Planning and Zoning Commission:

The NC General Statutes require that the Planning and Zoning Commission place in the official record a statement of consistency with the City's adopted plans when making its recommendation. This may be accomplished by adopting the statements in the Analysis section of this report or by adopting its own statement.

City Council:

The NC General Statutes require that the City Council also place in the official record a statement of consistency with the City's adopted plans and explain why the action taken is considered to be reasonable and in the public interest when rendering its decision in this case. This may be accomplished by adopting the statements in the Analysis section of this report or by adopting its own statement.

Report Preparation

This report was prepared by Planning and Development Department staff member Robert L. Robbins, AICP and reviewed by G. Lee Burnette, AICP, Director.

AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of the City of High Point adopted the “City of High Point Development Ordinance” on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on January 22, 2019 and before the City Council on February 4, 2019 regarding **Text Amendment 18-06**; and

WHEREAS, notice of the public hearings was published in the High Point Enterprise on January 9, 2019 for the Planning and Zoning Commission public hearing and on January 23, 2019 and January 30, 2019 for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

SECTION 1.

Section 3.8 *Overlay Zoning Districts*, subsection 3.8.7.E. regarding the Gateway Corridor Overlay (GCO), of the City of High Point Development Ordinance shall be amended as follows:

E. General Standards

1. GCO district standards for a specific gateway corridor shall follow the policy direction in the gateway corridor plan approved by the City Council. The GCO district shall, at a minimum, address the following elements:

- ~~(a)~~**1.** The name and boundaries of the overlay district.
- ~~(b)~~**2.** The development along the corridor to which the overlay district applies (typically all new development and certain expansions and remodels).
- ~~(c)~~**3.** Any variations from the requirements of the underlying general zoning district(s).
- ~~(d)~~**4.** The uses allowed in the district, if appropriate.
- ~~(e)~~**5.** The development and form standards of the overlay district, including some or all of the following:
 - ~~(1)~~**(a)** Dimensions (height, setbacks, build-to-lines, etc.);
 - ~~(2)~~**(b)** Streetscape landscaping;
 - ~~(3)~~**(c)** Sidewalks and pedestrian circulation features;
 - ~~(4)~~**(d)** Off-street parking;
 - ~~(5)~~**(e)** Landscaping and tree preservation/reforestation;

- ~~(6)(f)~~ Open space set-asides;
 - ~~(7)(g)~~ Signage;
 - ~~(8)(h)~~ Exterior lighting;
 - ~~(9)(i)~~ Building design and form; and
 - ~~(10)(j)~~ Road access and traffic circulation.
- ~~(f)6.~~ The extent to which a general or district-specific standard may be modified.

~~2. Outdoor advertising signs are prohibited in the GCO.~~

SECTION 2.

Section 5.7.7 *Exempt Signs*, of the City of High Point Development Ordinance shall be amended as follows:

5.7.7. EXEMPT SIGNS

The following signs are exempt from the requirements of this section except that a lighted sign requires an electrical permit:

- A. A governmental sign.
- ~~B. A work of art with no commercial message.~~
- ~~C.B.~~ Lights and decorations with no commercial message that are temporarily displayed on ~~traditionally accepted~~ civic, patriotic or religious holidays.
- ~~D.C.~~ A hand carried sign.
- ~~E.D.~~ A sign located on the interior of a building, court, lobby, athletic field, stadium, or other structure which is not intended to be seen from the exterior of the building or structure.
- ~~F. A sign located on or affixed to an athletic field scoreboard that is not oriented toward the playing field, unless the sign:~~
 - ~~1. Is an off site sign or outdoor advertising sign;~~
 - ~~2. Is larger than, or protrudes from the scoreboard;~~
 - ~~3. Is a projecting sign; or~~
 - ~~4. Is illuminated.~~

- G.E.** A sign affixed to a vehicle or trailer used on a regular basis for ~~in~~ the normal transport of goods or persons ~~where the sign is incidental and accessory to the primary use of the vehicle or trailer.~~
- H.F.** A sign affixed to the window of a vehicle ~~displaying information on the terms of sale for the vehicle.~~
- I.G.** A sign not legible from a public or private street.
- J.H.** A flag without a commercial message with an area of not more than 60 square feet. ~~Flags of the United States, North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the local governing body, except they are subject to the laws found in the U.S.C, Title 4, Chapter 1, Title 18, Chapter 33 and Title 36, Chapter 10.~~
- K.I.** A window sign painted on or attached to a window, covering a maximum of 25% of the window area.
- L.J.** A sign painted on an active public water tower.

SECTION 3.

Table 5.7.8.B: *Requirements For A Sign Not Requiring A Sign Permit*, of the City of High Point Development Ordinance shall be amended as follows:

TABLE 5.7.8.B: REQUIREMENTS FOR A SIGN NOT REQUIRING A SIGN PERMIT					
SIGN TYPE	NUMBER PERMITTED	AREA (SQ. FT.)	SETBACK (FEET)	MAXIMUM HEIGHT (FEET)	ILLUMINATION
Flags, emblems, insignia of corporate, political, professional, fraternal, civic, or educational organization in all districts	1/frontage	60	R/W	<u>640</u>	Indirect

The remainder of the table is unchanged.

SECTION 4.

Section 5.7.8 *Signs Not Requiring A Sign Permit*, subsection B.2. *Additional Specific Standards*, of the City of High Point Development Ordinance shall be amended as follows:

- (e) Temporary religious, philosophical, educational, real estate, yard sale, construction, ~~a~~ and political ~~off-site~~ signs shall comply with the following standards:
 - (1) Be located outside the street right-of-way, or at least 6 feet from the back of curb or edge of pavement where no curb exists;
 - (2) Not be placed in public street medians or traffic islands;
 - (3) Not interfere with or obstruct pedestrian or vehicular traffic, or obstruct safe sight distances at intersections;
 - (4) Not be placed on private land without the consent of the landowner or occupant; ~~and,~~
 - ~~(5) Be posted only within the hours from noon on a Friday to noon on the following Monday.~~

SECTION 5.

Section 5.7.9 *Freestanding Signs Requiring A Sign Permit*, of the City of High Point Development Ordinance shall be amended as follows:

PART A.

Section 5.7.9 *Freestanding Signs Requiring A Sign Permit*, subsection A.1, *Location Standards* shall be amended as follows:

- 1. **Location Standards**
 - (a) It shall be allowed only on a lot with ~~as an accessory to~~ an existing principal use.
 - ~~(b) Except where otherwise specified, all signs shall be restricted to an on-site location.~~
 - ~~(c)~~(b) If greater than 6 feet in height, it shall not be located within 100 feet of a residential district.

~~(d)~~(c) Where 2 or more establishments at the same location receive approval of directional signs, the signs shall share the same support structure.

PART B.

Table 5.7.9.B: *Requirements For A Freestanding Sign Requiring A Sign Permit, shall be amended as follows:*

TABLE 5.7.9.B: REQUIREMENTS FOR A FREESTANDING SIGN REQUIRING A SIGN PERMIT							
ZONING DISTRICT OR SIGN TYPE		MAXIMUM NUMBER PER LOT FRONTAGE	AREA (SQ FT)		SETBACK FROM ROW (FEET)	MAX HEIGHT (FEET)	AREA COMPUTATION (SQUARE FEET PER EACH LINEAR FOOT OF LOT FRONTAGE)
			MAX	MIN [1]			
SIGN STANDARDS BY ZONING DISTRICT							
RC District	development identification sign	1/street frontage	300 <u>200</u>	200 <u>n/a</u>	10	30 [3]	n/a
Off-premise directional signs in the GB, LI, HI districts		1 total	8	n/a	n/a	6	n/a

The remainder of the table is unchanged.

PART C.

Section 5.7.9, *Freestanding Signs Requiring A Sign Permit*, subsection B.3. *Specific Standards By Sign Type* shall be amended by deleting paragraphs **(d) Instructional Sign (All Districts)** and **(e) Off-Site Directional Sign in the GB, LI and HI Districts** in their entirety, and re-lettering paragraphs (f) *Special Promotion Sign (All Districts)*, (g) *Electronic Changeable Copy Sign Requiring A Permit* and (h) *Video Signs – Freestanding* as **(d)**, **(e)** and **(f)** respectively.

PART D.

Section 5.7.9 *Freestanding Signs Requiring A Sign Permit*, subsection B.3. *Specific Standards By Sign Type* shall be amended as follows:

~~(g)~~(e) Electronic Changeable Copy Sign Requiring a Permit

(1) General Standards

(iii) Location and Type

Electronic changeable copy signs shall be located ~~on-site~~, as a portion of, and on the same support structure with a legal conforming accessory freestanding sign. Such signs shall not be added to a sign that is nonconforming, nor shall any part of an existing nonconforming sign be converted to an electronic changeable copy sign.

The remainder of this subsection is unchanged.

PART E.

Section 5.7.9 *Freestanding Signs Requiring A Sign Permit*, subsection B.3. *Specific Standards By Sign Type* shall be amended as follows:

~~(h)~~(f) Video Signs – Freestanding

(1) General Standards

(iii) Location

Video signs shall be allowed only on a lot with an existing principal use ~~shall be located on-site~~. No part of a freestanding video sign shall be closer than 25 feet from intersecting street rights-of-way. No encroachment by any part of the sign face, its base or support structure into the street right-of-way is permitted. Such signs shall not be incorporated with, or added to, any other freestanding sign, nor shall any other freestanding sign be converted to a video sign.

~~(3) — Only On-Site Advertising Permitted
Video signs shall only be used to advertise goods or
services available on-site, or to provide information
related to on-site businesses, promotions or events.~~

The remainder of this subsection is unchanged.

SECTION 6.

Section 5.7.11 *Outdoor Advertising Sign Requiring A Sign Permit*, of the City of High Point Development Ordinance shall be deleted in its entirety. Sections 5.7.12 *Sign For Historic Structures or Properties*, 5.7.13 *Common Signage Plan*, and 5.7.14 *Encroachment Agreement For Entrance Sign* shall be re-numbered as Sections 5.7.11., 5.7.12., and 5.7.13. respectively.

SECTION 7.

A new Section 5.7.14. entitled *Savings Clause* shall be added to the City of High Point Development Ordinance, which shall read as follows:

5.7.14. SAVINGS CLAUSE

Subject to the property owner's consent, a noncommercial message of any type may be substituted in whole or in part for the message displayed on any sign for which the sign structure or mounting device is legal, without consideration of message content. Any change to the structure or mounting device, or the refacing of a sign shall be subject to the requirements of Section 5.7. Signage, a common signage plan, and permitting, as may be applicable. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, and to prevent favoring of any particular noncommercial message over any other noncommercial message.

SECTION 8.

Section 10.4 *Definitions*, of the City of High Point Development Ordinance shall be amended as follows:

SIGN, GOVERNMENTAL	A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information <u>of significant importance</u> , and direct or regulate pedestrian or vehicular traffic.
SIGN, OFF-SITE	A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than upon the lot where the sign is displayed.
SIGN, OFF-SITE DIRECTIONAL	A sign that indicates only the name and/or logo and direction to businesses, churches, hospitals, colleges, or similar campus uses.
SIGN, ON-SITE	A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing on the same lot where the sign is displayed; provided, an on-site sign may also display a noncommercial message.
SIGN, OUTDOOR ADVERTISING (BILLBOARD)	A sign which directs attention to a business, commodity, service, entertainment, or attraction sold, offered, or existing elsewhere than the lot where the sign is displayed.
SIGN, TEMPORARY OFF-SITE	A sign that is displayed in a location different than the principal use it is advertising, is not permanently mounted, and in place for only a limited period of time.
SIGN, WARNING	An on-site sign with no commercial message that displays information pertinent to the safety or legal responsibilities of the public such as signs warning of high voltage, "no trespassing," and similar directives.

The remainder of this section is unchanged.

SECTION 9.

Should any section of provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 10.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11.

This ordinance shall become effective upon adoption.

**Adopted by the City Council
City of High Point, North Carolina
The 4th day of February 2019**

By: _____

Jay W. Wagner, Mayor

ATTEST:

Lisa B. Vierling, City Clerk