



PLANNING COMMISSION Staff Report

Zoning Text Amendment

Section 706 Signage

12/30/2020

Synopsis

Adopt a new sign ordinance to improve clarity, conform to modern case law, and reduce permitting requirements.

Summary:

- Completely new text
- Conforms to current sign regulation case law regarding free speech, religious liberty, etc.
- Reduces complexity of sign regulation and allows many signs to be erected without a permit

Analysis

Overview

The current sign regulations are 15-20 years old, and some provisions are no longer legal based on court cases during that time. Also, the ordinance is not well suited to Buena Vista's particular needs—there is unnecessarily complexity in defining types of signs and regulating different parameters of the signs.

The proposed text loosens sign regulations overall and allows some signs to be erected without a permit, for instance most window signs and temporary signs on private property. In some cases, the current sign ordinance technically requires a permit for these, but the City does not pursue or enforce this—for example the “Thank you Jesus” yard signs many residents have.

History

The text is based on the Virginia Local Government Attorney's association model sign ordinance, and much of the work drafting the alterations to the model for Buena Vista was done by Timothy Mack, an intern with the City. The Planning Commission reviewed and discussed the proposed text between October 2019 and March 2020, and planned to take to public hearing in April 2020.



**CITY OF
BUENA VISTA**
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City of Buena Vista Land Development Regulations Signage

Section 706

Draft 12/29/2020

706.00 Findings, Purpose and Intent; Interpretation

706.00-1 Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private and public property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.

706.00-2 Signs not expressly permitted as being allowed by right or by conditional use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by City Council are forbidden.

706.00-3 A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection (a) of this section.

706.00-4 These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

706.00-5 These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

706.00-6 These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

706.01 Definitions: For the purposes of this section, and when applicable other sections of the Land Development Regulations, the following words are defined.

706.01-1 *A-frame sign* means a two-faced sign with supports that are connected at the top and separated at the base, forming an “A” shape not more than four feet high. These are also referred to as “sandwich board” signs. An A-frame sign may be permanent or temporary.

706.01-2 *Advertising* means any words, symbol, color or design used to call attention to a commercial product, service, or activity.

706.01-3 *Animated sign* means a sign or part of a sign that is designed to rotate, move or appear to rotate or move, or has a conspicuous and intermittent variation in illumination, message or physical position of any or all of its parts. Such a sign is sometimes referred to as a “moving sign.”

706.01-4 *Awning sign* means a sign placed on the surface of an awning.

706.01-5 *Banner* means a temporary sign of flexible material affixed to a framework or flat surface.

706.01-6 *Building frontage* means the length of the main wall of a building which physically encloses usable interior space, and which is the architecturally designed wall that contains the main entrance for use by the general public.

706.01-7 *Bulletin board* means a wall or freestanding sign or sign structure designed for posting multiple smaller signs or notices, usually intended to be seen by pedestrians. Items posted on a permanent bulletin board are considered changeable sign copy.

706.01-7 *Business sign* means a sign which directs attention to a commercial product, service or activity

706.01-8 *Canopy sign* means a sign attached to a canopy.

706.01-9 *Changeable copy sign* means a sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged without altering the face or surface of the sign. This includes chalk boards, white boards, and similar surfaces used as signs, but does not include *Electronic Message Boards*.

706.01-10 *Comprehensive sign plan* means a

706.01-11 *Electronic message board sign* is an electronically controlled internally illuminated sign which displays text or images that change less than once every minute.

706.01-12 *Feather sign* is a lightweight, portable sign mounted along one edge on a single, vertical, flexible pole the physical structure of which at may resemble a sail, bow, or teardrop.

706.01-13 *Flag* means a piece of cloth or similar material, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.

706.01-14 *Flashing sign* means a sign that includes lights that flash, blink, or turn on and off intermittently.

706.01-15 *Freestanding sign* means any non-portable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to a building.

706.01-16 *Ground-mounted sign* means a freestanding sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.

706.01-17 *Height*, means the maximum vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

706.01-17.1 Existing grade prior to construction; or

706.01-17.2 The newly established grade after construction, exclusive of any filling, berming, mounding or excavating primarily for the purpose of mounting or elevating the sign.

706.01-18 *Holiday displays* mean temporary, non-advertising displays erected on a seasonal basis in observance of religious, national, or state holidays.

706.01-19 *Illegal sign* means any sign erected without a required permit or which otherwise does not comply with any provisions of this article.

706.01-20 *Illuminated sign* means a sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.

706.01-21 *Inflatable sign* means a sign consisting of balloons and/or inflatables made of firm or soft materials used for the purpose of attracting attention.

706.01-22 *Marquee* means a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

706.01-23 *Marquee sign* means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

706.01-24 *Minor sign* means a wall or freestanding sign not exceeding two (2) square feet in area, not exceeding four feet in height, and not illuminated.

706.01-25 *Monument sign* means a freestanding sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

706.01-26 *Neon sign* means a sign containing exposed tubes filled with light-emitting gas.

706.01-27 *Nonconforming sign* is any sign which was lawfully erected in compliance with applicable regulations of the City/County/Town and maintained prior to the effective date of this chapter of the zoning ordinance and which fails to conform to current standards and restrictions of the zoning ordinance.

706.01-28 *Off-premises sign* means a sign that directs attention to a business, product, service or activity at a location other than the premises on which the sign is erected.

706.01-29 *Portable sign* means any temporary sign not affixed to a building, structure, vehicle or the ground. It does not include a flag or banner.

706.01-30 *Projecting sign* means any sign, other than a wall, awning or marquee sign, affixed to a building and supported only by the wall on which it is mounted.

706.01-31 *Public area* means any public place, public right-of-way, any parking area or right-of-way open to use by the general public, or any navigable body of water.

706.01-32 *Public art* means items expressing creative skill or imagination in a visual form, such as painting or sculpture, which are intended to beautify or provide aesthetic influences for public areas or areas which are visible from the public realm.

706.01-33 *Roof sign* means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

706.01-34 *Sculptural sign* means a spherical, freeform, or other nonplanar sign. Such sign may be a freestanding sign, projecting sign, or roof sign.

706.01-35 *Sign means* any object, device, display, structure, or part thereof, visible from the public right-of-way or area open to use by the general public which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. The term does not include public art, architectural elements incorporated into the style or function of a building, or flags of any nation, state, or other geopolitical entity not related to a commercial business, product or service. The term “sign” also does not include the display of merchandise for sale on the site of the display.

706.01-36 *Sign face* means the portion of a sign structure bearing the message.

706.01-37 *Sign structure* means any structure bearing a sign face; or any portion of a sign, including the area devoted to message or display, and all poles, posts, supports, uprights, bracing, framework, border, background and structural trim.

706.01-38 *Temporary sign* means a sign that ~~can be~~ **is** displayed for no more than 30 consecutive days at one time; for a maximum of two (2) 30-day periods, separated by no less than one week, during a calendar year.

706.01-39 *Vehicle or trailer sign* means any sign attached to or displayed on a vehicle or trailer, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

706.01-40 *Wall sign* means any sign attached to a wall or painted on or against a flat surface of a structure, including the roof. Wall signs shall include murals.

706.01-41 *Window* means a transparent or translucent element of the building envelope, bounded by a frame of another material, allowing transmission of light into a building. A single window is a visually-identifiable discrete architectural unit, but may be comprised of multiple sashes or panes of glass.

706.01-42 *Window sign* means any sign visible outside a window and attached to or within 18 inches in front of or behind the surface of a window.

706.02 Permit Required. A sign permit is required prior to the display and erection of any sign except as provided in subsection 706.03.

706.02-1 Application for permit; signs permitted by right.

706.02-2 An application for a sign permit shall be filed with the City on forms furnished by the City. The applicant shall provide sufficient information to determine if the proposed sign is permitted under the zoning ordinance and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.

706.02-2.1 The Zoning Administrator or designee shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.

706.02-2.2 If the application is rejected, the City shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

706.02-3 Permit fee. A nonrefundable fee as set forth in the fee schedule adopted by the City Council shall accompany all sign permit applications.

706.02-4 Duration and revocation of permit. If a sign is not installed within six months following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 30 days unless another time is provided in the zoning ordinance. The City may revoke a sign permit under any of the following circumstances:

706.02-4.1 The City determines that information in the application was materially false or misleading;

706.02-4.2 The sign as installed does not conform to the sign permit application;
or

706.02-4.3 The sign violates the zoning ordinance, building code, or other applicable law, regulation, or ordinance.

706.02-5 Application for permit; special exceptions.

706.02-5.1 Comprehensive sign plans may be approved by special use permit in districts for uses allowed by special use permit. Signage included in an approved comprehensive sign plan may deviate from regulations within this ordinance; provided that the intent of this ordinance is maintained.

706.03 Permit Not Required

706.03-1 Signs erected by a governmental body or required by law.

706.03-2 Flags up to 16 square feet in size not containing any commercial advertising; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane or adjoining street.

706.03-3 The changing of messages on signs with movable lettering, or the changing of flyers on bulletin boards

706.03-4 The repair and maintenance of an existing permitted sign.

706.03-5 One or more temporary signs with an aggregate area of twelve (12) square feet.

706.03-6 Not more than two minor signs per parcel.

706.03-7 Movable A-frame signs which are erected for a duration of less than 24 hours at a time and which have a sign face of no more than six (6) square feet per side.

706.03-8 Pavement markings. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.

706.03-9 One or more permanent window signs which do not exceed 25% of the area of a single window, where the aggregate area of window signs on the same elevation does not exceed 25% of the gross window area of the same elevation. Signs exceeding 25% of the area of a single window require a permit.

706.03-10 One or more bulletin boards with an aggregate area of twelve (12) square feet.

706.04 Prohibited Signs. In addition to signs prohibited elsewhere in this Code or by applicable state or federal law, the following signs are prohibited:

706.04-1 General prohibitions.

706.04-1.1 Signs that violate any law of the Commonwealth relating to outdoor advertising.

706.04-1.2 Signs attached to natural vegetation.

706.04-1.3 Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized city official as a nuisance.

706.04-1.4 Freestanding signs more than 25 feet in height.

706.04-1.5 Any sign displayed without complying with all applicable regulations of this chapter.

706.04-2 Prohibitions based on materials.

706.04-2.1 Animated signs. This subsection does not apply to flags expressly permitted under this article, or to content on electronic message board signs which changes no more often than once every minute (60 seconds).

706.04-2.2 Inflatable signs.

706.04-2.1 Flashing signs or other signs displaying flashing, scrolling or intermittent lights or lights of changing degrees of intensity, except where such signs are expressly permitted within this article.

706.04-2.3 Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.

706.04-2.4 Signs that emit sound.

706.04-3 Prohibitions based on location.

706.04-3.1 Permanent off-premises business signs, unless specifically permitted by this chapter.

706.04-3.2 Signs erected on public land other than those approved by an authorized City official in writing. Any sign not so authorized is subject to immediate removal and disposal by any authorized official.

706.04-3.3 Signs extending above the roofline of a building or its parapet wall.

~~706.04-3.4 Neon signs, except in windows.~~

706.04-3.5 A sign that obstructs free or clear vision, or otherwise causes a safety hazard for vehicular, bicycle, or pedestrian traffic due to its location.

706.04-3.6 Sign constructed or attached so as to obstruct the use of any window, door, stairway or other opening for ingress, egress, ventilation, or light as required by the Virginia Uniform Statewide Building Code or any other applicable regulations.

706.05 Measurements of Sign Area and Height

706.05-1 Supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions.

706.05-2 In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed as if there were a single tenant or user.

706.05-3 Sign area.

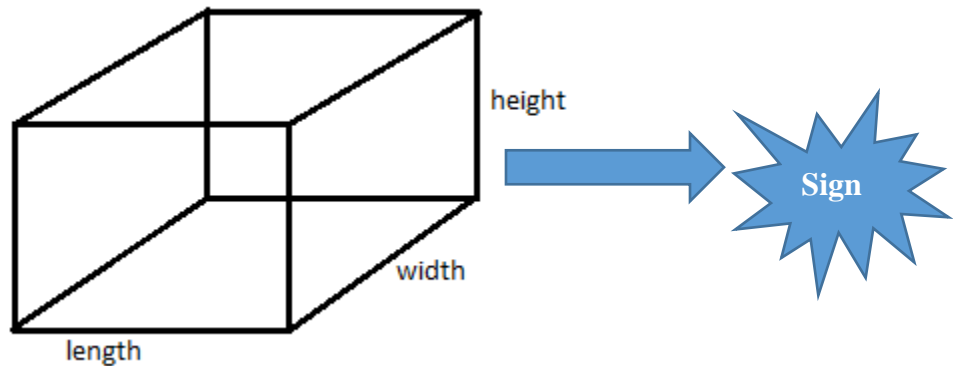
706.05-3.1 Sign area is calculated under the following principles:

706.05-3.1-1 With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.

706.05-3.1-2 The permitted area of a double-faced sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area. A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.

706.05-3.1-3 For projecting signs with a thickness of four inches or more, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.

706.05-3.1-4 For sculptural signs with varying dimensions and shapes, sign area is calculated by enclosing an imaginary rectangular prism around the shape of the sign. See below.



706.05-3.2 The supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure area are designed in such a manner as to form an integral background of the display.

706.05-4 Maximum height. The maximum height for any sign shall be 25 feet unless otherwise specified within this chapter

706.05-5 Window area. The gross window area of each elevation of a building shall be considered to be sum of the area of transparent or translucent window surfaces on the given building elevation.

706.06 Maintenance and Removal

706.06-1 All signs shall be constructed and mounted in compliance with the Virginia Uniform Statewide Building Code.

706.06-2 All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.

706.06-3 The building official may cause to have removed or repaired immediately without written notice any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof as provided in Chapter 14 of this Code.

706.06-4 The zoning official may cause to have removed immediately any temporary sign which is in violation of the provisions of this ordinance. The zoning official shall notify as soon as practicable the property owner, and party which appears responsible for the sign if different, in writing of the nature of the violation and removal of the sign.

706.06-5 The owner of any advertising sign, other than a permitted off-premises sign, located on commercial property where the use or business has ceased operating shall, within 60 days of the cessation of use or business operation, replace the sign face with a blank face until such time as a use or business has resumed operating on the property.

706.06-6 Any sign which constitutes a nuisance may be enforced and abated by the City under the provisions of Chapter 8 or Chapter 14 of the Code of the City of Buena Vista or Virginia Code §§ 15.2-900, 15.2-906, and/or 15.2-1115.

706.07 Illumination. All permitted signs may be backlit, internally lighted, or indirectly lighted, unless such lighting is specifically prohibited in this article.

706.07-1 In the case of indirect lighting, the source shall be so shielded that it illuminates only the face of the sign. However, shingle signs shall be indirectly illuminated or have shielded direct lighting, unless otherwise prohibited within this chapter. Indirect lighting shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the sign to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the sign.

706.07-2 Illumination shall be situated in a way that does not affect traffic and road safety, nor interfere with residential dwellings or neighboring businesses.

706.08 Nonconforming Signs

706.08-1 Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the zoning administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into compliance with the current ordinance.

706.08-2 No nonconforming sign shall be enlarged nor shall any feature of a nonconforming sign, such as illumination, be increased.

706.08-3 Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. Nonconforming signs shall not be extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area.

706.08-4 No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.

706.08-5 A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its area may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this article.

706.08-6 A nonconforming sign which is changed to becoming conforming or is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.

706.08-7 A nonconforming sign structure shall be subject to the removal provisions of Section 708 of the Land Development Regulations. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such structure sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the zoning administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

706.09 Non-Commercial Signs; substitution. Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.

706.10 Dimensional regulations for signage

	Wall	Freestanding	Awning, Marquee, Projecting	Flags	Window
Maximum Size	100% of wall	60 sq. ft. per sign	50% of wall area	8' x 12'	25% of gross window area per elevation
Minimum Setback	N/A	Height of sign; no setback for	N/A	Height of flagpole; no setback for	N/A

		signs under 5 ft. tall		flagpoles under 5 ft.	
Maximum Height	Height of wall	25ft.	Height of wall	45 ft.	N/A

706.10-1 City Council may approve a conditional use permit granting deviation from the dimensional regulations of this table if it finds that the deviation would be consistent with the intent of the regulations.



CITY OF BUENA VISTA
Planning & Community Development
2039 Sycamore Avenue
Buena Vista VA 24416

STAFF REPORT

DATE: 2/6/2020
TYPE: Zoning Text Amendment
SUBJ: New Sign Ordinance

Overview

A new sign ordinance is needed to conform to recent law, to better reflect the regulatory goals of the City, and to improve the process for permitting and enforcement of signage. Rather than rework existing adopted text or draft text from some years back, a model ordinance from the Local Government Attorneys of Virginia organization was used as the basis for the new text.

Analysis

Background

Sign regulation is nearly universal to zoning ordinances because signage can negatively impact the overall community if it gets “out of hand.” An extreme example would be a massive billboard in a residential neighborhood.

The current sign regulation text, Section 706, appears to have been written in the 1990’s or early 2000’s and has seen only minor edits since that time. The current text adequately addresses different types of signs and follows standard practice in sign regulation. However, the following needs were identified for revision:

- *Definitions* – Definitions of sign terms were incorporated with the definitions applicable to the entire land use regulations. Multiple terms are defined, but then never used in the actual code; and there are key words in the code that are not defined, resulting in lack of clarity on certain points.
- *Clear language and ease of application* – Because different types of signs are treated very differently (e.g. window versus ground versus wall) and because of the specificity of dimensional regulations, the code is complicated and difficult to navigate for a business that wants to put up a sign. Additionally, mural signs painted directly on a building require special approval by the Board of Zoning Appeals, adding an extra step and cost.
- *Conformity with Reed v Gilbert (2015)* – The Reed v Gilbert (2015) US Supreme Court case significantly impacted many sign regulation provisions, effectively broadening free speech rights and limiting the ways that localities can regulate signs. In very general terms, localities may not base regulatory categories on sign content. Multiple provisions and definitions in the current text need to be revised or struck to conform.
- *Suitability for Buena Vista* – What is appropriate for one town is not always appropriate for another.

- *Temporary Sign Regulations* – Temporary signs, both commercial and noncommercial, are the most common signs around town, yet the current regulations on them are conflicting and don't address all scenarios.

New Text

Primarily because of the need for greater simplicity and better legal compliance, staff chose to start from scratch rather than edit the existing text. A model ordinance crafted after the *Reed v Gilbert* decision was the starting point, which provided a fresh organization for the regulations. Because the text was entirely rewritten, a side-by-side comparison is not possible. This section highlights the meaningful changes.

The new rules were written to consider the actual “risks” to Buena Vista if a given sign were erected. In other words, if we allowed a certain type or size of sign, what is the “worst case scenario” in terms of neighborhood character, aesthetics, property values, etc. Limits and prohibitions were designed to prevent “worst case scenarios” but otherwise allow creativity and ease of permitting.

Definitions

The definition section was reduced dramatically, from 65 words to 41. Current code defines dozens of terms which do not occur in the code, making the definitions entirely superfluous. Additionally, many of those terms create content-based categories which cannot legally be treated differently by regulations. Only the terms necessary were given definitions.

More signs permitted by right without a permit

Currently, under the letter of the law, all signs visible from the public right-of-way require a permit. This is not always strictly enforced, especially in the case of political or ideological signs, because it would be administratively burdensome and would defy common sense.

The new text creates a class of signs that do not require any permit at all, so property owners may put these up at will. Among these are

- Temporary signs of any type with an aggregate area of 12 sq ft
- Up to two “minor signs” per parcel. This is a new term developed by localities after *Reed v. Gilbert*. In our new text, a minor sign is “a wall or freestanding sign not exceeding two (2) square feet in area, not exceeding four feet in height, and not illuminated.” This will cover a host of signs, including most political signs; “Thank you Jesus” ideological signs; small business identification signs; and so on.
- Window signs. Because of their low cost these are some of the most popular business signs, so allowing all window signs without a permit takes away one of the permitting steps for many new businesses. Window signs will be limited in all cases to 25% of the window.

Signs prohibited entirely

This list is very similar to the current list, as it includes animated or flashing or moving signs or signs that obstruct sightlines for motorists or pose a hazard to pedestrians. New or clarified prohibitions:

- Electronic message boards remain prohibited, but are now more clearly defined as electronically-controlled signs with a message or image that changes more frequently than once per minute.
- No sign (unless it is a wall sign attached to a building) can be more than 25 feet tall. This is actually an increase from 18 feet in current code, but is much simpler than the current table in which maximum height is determined by setback and sign face size.

Measurement of sign area

Current code has pages of rules for how to measure sign area and multiple diagrams. Because the new text has much simpler and looser limits on sign area, this specificity is not needed. New rules for sign area measurement are much simpler—basically, draw a rectangle around the sign and that’s the area.

Dimensional Regulations

This section, in combination with new definitions, shows the most dramatic changes. A single table with four rows and five columns replaces pages of rules for different sign types. The maximum sign area for wall (including mural), awning, marquee, and projecting signs is drastically increased. The setback rules for freestanding (including ground/monument) signs are drastically simplified, from a series of tables connecting sign face size, height, and setback to a single rule.

Process

This is the initial public presentation of the sign code draft. Close review by the Planning Commission and the public is desired and staff is sending out to local businesses and other entities that may be interested. Based on initial review, staff would proceed with Planning Commission Public Hearing at the March meeting followed by City Council Public Hearing and adoption in April.



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STAFF REPORT

DATE: 3/4/2020
TYPE: Zoning Text Amendment
SUBJ: New Sign Ordinance

This staff report only addresses changes and the items raised at the last meeting. For the full discussion of this text amendment see the staff report from the February 2020 Planning Commission meeting.

Analysis

Items that were raised at the last meeting (grouped thematically not in the order raised).

1. Regulating “unprofessional” looking signs, e.g. hand-lettered signs. This is not feasible or legal to do, because one person’s hand-lettering looks like computer-designed font and another person’s looks like a three year old. We want to allow a wide variety of sign materials and paint/imaging types. Additionally, we should allow a business to represent themselves as they see fit.
2. Window signs
 - a. The point about facades with multiple windows was important. I reworked definitions and some other provisions so that you now have two categories:
 - i. Small window signs that are 25% or less of a single window – allowed without a permit
 - ii. Other window signs require a permit and are limited to 25% of the total window area of that elevation of that story. For example, on a downtown building with large storefront windows, the store could obscure one whole window as long as it was less than a quarter of their total storefront window area. This max would not count toward the offices renting the 2nd floor of the building, nor to window signage on the rear of the building where a second tenant rents space out.
 - iii. If you wanted a neon OPEN sign and it took up more than 25%, just get a permit.
 - b. Flyers in windows – I think the majority of these cases will fall under the 25%-of-single-window rule. For example, Original Italian frequently posts flyers but their storefront windows are large and I expect they do not obscure more than a quarter of the window with flyers. The intent of the limitation is that windows remain, for the most part, open to light transmission and visibility. If you want to have a

whole lot of flyers for the public, create a fixed bulletin board, which would not be a window.

3. Temporary sign duration limits, etc.

- a. On the particular issue of flyers and bulletin boards, I added a definition and provision for bulletin boards. I think these are more in the category of permanent signs with changeable message content than the category of temporary signs. This relieves shop owners from worrying whether a particular flyer has been up for 30 days, or whether they have exceeded the “minor sign” size limit with fliers.
- b. Replacement of one temporary sign with another containing the same message. The sign regulations and limits on temporary signs are based on the physical sign. We cannot regulate based on the specific content (beyond the commercial/noncommercial distinction), and it would be impossible anyway—I would have to determine over how similar two messages were. You can take down one temporary sign and put up another with the same message right after and they are different signs. This is an unavoidable weakness but I don’t expect it to be an issue very often.
- c. Clarifying about political signs. Right now we have a very “hands off” policy with these and people can put up whatever they want. Political signs are protected by state code and court decisions as important forms of free speech, but the point of our new sign code is that we are regulating based on size, type, height, location, and duration—not content. So there could be some political signs that would be prohibited. However, you could place political signs on your property under several provisions:
 - i. As permanent minor signs, totaling no more than 2 sq ft, without a permit
 - ii. As temporary signs, totaling no more than 12 sq ft, without a permit but only in place for 30 days
 - iii. As permanent freestanding signs, totaling no more than 60 sq ft and meeting setback formula, with a permit

Also remember that on Labor Day, most of the signs are actually placed in the public ROW, not on private property. The City has a lot more discretion on public property with signs.

4. Directional signage

- a. Clarified that permanent, off-premise, business signs (including directional signs) are prohibited. Temporary off-premise business signs would still be allowed.

5. Pavement signs – leaving this as is. Pavement markings are permitting without a permit on private property.

6. Roof signs – struck language prohibiting signs painted on the surface of a roof, and expanded definition of “wall sign” to incorporate roof surface signs.

7. Height limit – I added a CUP safety valve to all the dimensional regulations.

8. Flag size – Based on recommended height/size ratios for flags, I lowered the max height of flag poles to 45’ and increased the max flag size to 8’ x 12’. Unlikely to get many that big.
9. A-frame signs – clarified definition of these. If they are permanent then they are considered freestanding signs. If they are temporary they are considered portable signs. Freestanding sign setback rules apply to them, but it’s moot because A-frame signs are limited to 4 feet in height, so there is zero setback anyway.
10. Seminary Hill Historic District overlay – there are no additional rules that apply to signs in the SHHD. The SHHD says only that signs must comply with Section 706 (what we are amending), and that you have to get a COA for them. I don’t think there is a place in the new sign code text to refer to the SHHD, but I will definitely put it in the explanatory document for the public.

Process

This is the second round of review with the Planning Commission but we have not had the Public Hearing yet. I would like to hold Planning Commission Public Hearing at the April PC meeting, then have Council Public Hearing on May 7th.