

**CITY OF RIVIERA BEACH CITY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 12/2/2015

Agenda Category: ORDINANCE ON FIRST READING

Subject: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28 OF THE CITY’S CODE OF ORDINANCES ENTITLED “SIGNS”, SECTION 28-1 “DEFINITIONS”, SECTION 28-5 “PROHIBITED SIGNS”, SECTION 28-125 “PROGRAMMABLE DIGITAL SIGNS”, AND CHAPTER 31 OF THE CITY’S CODE OF ORDINANCES ENTITLED “SUPPLEMENTAL DISTRICT REGULATIONS”, SECTION 31-551, IN ORDER TO CREATE STANDARDS FOR INSTALLATION AND USE OF DIGITAL FUEL PRICE SIGNAGE ON PROPERTY WITH SELF SERVICE FUEL PUMPS; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Recommendation/Motion: Staff is recommending approval of this Ordinance

Originating Dept	Community Development	Costs	\$371.52
User Dept.	Community Development	Funding Source	N/A
Advertised	Yes	Budget Account Number	
Date	11/18/15		
Paper	Palm Beach Post		
Affected Parties	Not Required		

Background/Summary:

On June 25, 2015, Jon E. Schmidt and Associates, the authorized agent for the Ferber Company for WaWa, Inc., submitted the official Site Plan application (SP-15-11) and Special Exception application (SE-15-02) to the City for a WaWa convenience store. The applicant is proposing to build a single story 6,119 square foot WaWa convenience store with 8 fuel pumps and 16 pumping stations. The applicant desires to utilize digital signage for fuel prices. The City's current Sign Code does not provide for digital fuel price signs, so the applicant submitted the official Text Amendment Application to amend the City's Code of Ordinances to allow digital fuel price signs in the City.

On November 12, 2015, the proposed regulations were presented to the Planning and Zoning Board for review and approval. The Planning and Zoning Board unanimously recommended approval of the draft regulations. The proposed digital fuel price code regulations as presented are consistent with and compatible with the City's Comprehensive Plan and Code of Ordinances and Staff recommends approval of the Ordinance on first reading.

Fiscal Years	2015	2016	2017	2018	2019
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Department	Reviewer	ACTION	Date
Community Development	Mckinney, Mary	Approved	11/18/2015 - 2:01 PM
Finance	sherman, randy	Approved	11/20/2015 - 7:54 AM
Attorney	Ryan, Pamala	Approved	11/23/2015 - 1:34 PM
City Clerk	Robinson, Claudene	Approved	11/23/2015 - 1:38 PM
City Manager	Jones, Ruth	Approved	11/23/2015 - 1:59 PM

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28 OF THE CITY'S CODE OF ORDINANCES ENTITLED "SIGNS", SECTION 28-1 "DEFINITIONS", SECTION 28-5 "PROHIBITED SIGNS", SECTION 28-125 "PROGRAMMABLE DIGITAL SIGNS", AND CHAPTER 31 OF THE CITY'S CODE OF ORDINANCES ENTITLED "SUPPLEMENTAL DISTRICT REGULATIONS", SECTION 31-551, IN ORDER TO CREATE STANDARDS FOR INSTALLATION AND USE OF DIGITAL FUEL PRICE SIGNAGE ON PROPERTY WITH SELF SERVICE FUEL PUMPS; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Riviera Beach's Comprehensive Plan and Code of Ordinances controls and directs development and uses throughout the City; and

WHEREAS, The Ferber Company, the Applicant and Contract Purchaser for WaWa, Inc. desires to develop a single story 6,119 square foot WaWa convenience store building with eight onsite fuel pumps with sixteen fueling stations located on the southwestern intersection of West Blue Heron Boulevard and Garden Road on a 2.50 acre parcel of commercial land on PCN: 56-43-42-30-11-002-0000; and

WHEREAS, WaWa, Inc. desires to incorporate digital fuel price signage as a design feature on the onsite monument sign for the referenced WaWa convenience store; and

WHEREAS, the City's current Code of Ordinances prohibits the use of animated signs, except for digital billboards and programmable digital signs permitted under the Community Facilities Zoning District; and

WHEREAS, the Sign Code, which is part of the City's Code of Ordinances, needs to be amended in order to incorporate, regulate and control the location of digital fuel price signs within the City; and

WHEREAS, the Planning and Zoning Board held a public meeting on November 12, 2015 to discuss the proposed language to amend the City's Sign Code relating to the implementation of digital fuel price signs; and

WHEREAS, the Planning and Zoning Board recommended approval of these regulations for digital signs; and

WHEREAS, the City Council has determined that the enactment of this Ordinance is appropriate and in the public interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That Chapter 28 “Signs”, Article I, “In General”, section 28-1 “Definitions” is amended, by adding the following definition:

Digital sign means a type of animated sign capable of displaying words, symbols, figures, numerals, or images that can be electronically or mechanically changed by remote or automatic means and its components may include, but are not limited to, light-emitting diodes, liquid crystal display screens, plasma screens, and their functional equivalents. Sign display elements may be internally illuminated or may be illuminated by reflected light. A digital sign may be part of another permanent sign that is not a digital sign.

Fuel price sign means the display of fuel prices on a monument sign located at a “self-service fueling station”, which shall be that portion of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from fixed, approved dispensing equipment into the fuel tanks of motor vehicles by persons other than the service station attendant.

SECTION 2. That Chapter 28 “Signs”, Article I, “In General”, section 28-5 “Prohibited Signs” is amended as follows:

Sec. 28-5. – Prohibited signs.

It shall be unlawful for any person to erect or use within the city:

- (1) Any swinging sign.
- (2) Any snipe sign.
- (3) Any banner.
- (4) Any sign erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
- (5) Any sign attached to a standpipe or fire escape.
- (6) Any sign or other advertising structure which by reason of its position, shape or color interferes, obstructs or may be confused with any authorized traffic control device or emergency vehicle signal.
- (7) Any sign or advertising structure, portable or fixed, other than directional signs erected by authorized city, county or state officials placed or erected on or over any part of the public right-of-way, sidewalk, street or curb or

- building setback line, except as provided for projection clearance for wall signs in section 28-118
- (8) Any other type or kind of sign which does not comply with the terms, conditions and provisions contained in this section and ordinances amendatory hereto and supplemental hereto.
 - (9) Any unauthorized sign on city property.
 - (10) Any sidewalk, A-frame or sandwich sign.
 - (11) Any animated sign, except time and temperature signs with a complete time and/or temperature sequence span of four to eight seconds, except for digital signs and fuel price signs meeting the requirements provided within Chapter 28.
 - (12) Any add-on signs unless they shall have been issued a permit in conformance with the sign code.
 - (13) Any sign in or on the waters of Lake Worth.

SECTION 3. That Chapter 28 “Signs”, Article III, “Construction and Installation Standards” is amended with as follows:

Section 28-125. Programmable Digital Signs

- (a) A digital sign may be permitted subject to the following requirements:
 - (1) *Permitted locations.*
 - a. Digital signs shall be located only within the Community Facility (CF) Zoning District. The digital sign and its messages must be associated with a public use.
 - b. Only one digital sign is permitted per development site, measuring no more than 100 square feet in area per street front.
 - c. No digital sign shall be located within 250 feet of a residentially zoned parcel or residential structure.
 - d. No digital sign shall be placed within a visibility triangle which shall be measured 30 feet from intersecting street right-of-way lines.
 - e. Digital signs shall be located in a manner that will not adversely interfere with the visibility or functioning of traffic signals and traffic signage, by taking into consideration the physical elements of the digital sign and the surrounding area, such as physical obstructions, line of sight issues, sign brightness and visual obstruction or impairment issues.
 - (2) *Operational limitations.*
 - a. Digital signs shall contain static, motionless messages only.
 - b. Displaying any form of motion, or the optical illusion of movement, video or varying light intensity is prohibited.

- c. Each message on a digital sign must be individually complete and shall not continue on a subsequently displayed message.
 - d. Audio mechanisms, producing sounds, messages or music are prohibited.
- (3) *Display time.*
- a. Each message on a digital sign must be displayed for a minimum duration of six (6) seconds.
- (4) *Brightness.* Digital ~~billboards~~ signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. This requirement is based on levels established by the Illuminating Engineering Society of North America (IESNA) for Light Emitting Diode (LED) signage as amended from time to time. Certification confirming that brightness levels are below the 0.3 foot candles threshold shall be provided to the city every two years.
- a. Each digital sign must have a light sensing device that will adjust the display brightness in real-time as ambient light conditions change so that at no time a sign shall exceed a brightness level of three tenths (0.3) foot candles above ambient light.
- (5) *Photometric Plan.* Each application for a digital sign shall be accompanied by a photometric plan. The photometric plan shall demonstrate the digital sign's maximum light intensity, in foot candles above ambient light, at locations identified by the applicant or city staff that may be impacted within 300 feet of the proposed digital sign location. This plan may be reviewed by a third party lighting specialist selected by the city. Costs associated with third party review shall be paid by the applicant to the city.
- (6) *Malfunction.* Digital signage shall have a default mechanism installed to either turn the display off or only show black on the display in the event of a malfunction.
- (7) *Display of public emergency and public service information.* Owners of digital signs shall coordinate with local public safety authorities to display emergency information and public service information important to the traveling public including, but not limited to Amber Alerts, Silver Alerts, Blue Alerts, traffic alerts, public safety messages and emergency management information. Digital sign operators shall provide for regional emergency

announcements and alerts to be displayed on the digital sign without charge as requested by the City Manager or designee.

- (8) *Personalized messages.* The display of personalized "smart" messages, that are triggered or initiated by license plate recognition, facial recognition or by reading or analyzing electronic signals from traffic or an individual vehicle, such as but not limited to a radio station, is prohibited unless used in a public emergency or public service capacity.
- (9) *Message sequencing.* The practice of using multiple sequential messages to present a single advertisement on an individual or combination of digital signs shall be prohibited.
- (10) *Fees and penalties.* A fee of \$500.00 per day shall be assessed for a violation of this ordinance.
- (11) Exceptions. Fuel price digital signs shall be permitted as part of a monument sign, subject to the following:
 - a. Location. Must be part of a monument sign located at a self-serviced fueling station within the City.
 - b. Maximum area. Shall only utilize 50% of allowable sign area to display digital fuel prices.
 - c. Maximum size. Numerals shall not be greater than 16 inches in height.
 - d. Limitations.
 - i. Digital portion shall only display numerals for fuel prices.
 - ii. The numerical values displayed for fuel prices shall only be illuminated in white numbers. No amber, red, green, or other colors shall be permitted to be illuminated on the fuel price digital signs.
 - iii. Fractions or portions of a whole number shall be at least half the size of the largest whole number for fuel prices per Florida Statutes 526.111, or as amended.
 - iv. Fuel Price shall be advertised with the tax included per Florida Statutes 526.111, or as amended.
 - v. Fuel price shall be the same for the same grade of gasoline dispensed from one pump than from another pump supplied from a common storage at the same location. This shall not prohibit price differential between cash sale and credit sale per Florida Statutes 526.121, or as amended.

- (3) These standards are designed to promote development and redevelopment where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible architectural elements. Such elements shall relate the design characteristics of an individual building or project to the other existing and planned structures in a harmonious manner, resulting in a coherent overall development and redevelopment pattern and streetscape.
- (4) The standards used in this section are intended to discourage development types that bear little relation to the planned redevelopment pattern of Riviera Beach.
- (b) *Delineation of the overlay district.* The Riviera Beach Principal Arterial Overlay District shall be superimposed on all commercial zoned properties fronting on any of the following roads in the city:
 - (1) Dr. Martin Luther King Jr. Boulevard.
 - (2) Old Dixie Highway.
 - (3) Blue Heron Boulevard.
 - (4) Broadway (U.S. Highway No. 1).
 - (5) 13th Street.
 - (6) Military Trail.
 - (7) Congress Avenue.
 - (8) Australian Avenue.
- (c) *Applicability.* This section shall apply to all new commercial developments, additions or renovations in excess of 50% of assessed value of building within any 12-month period, and for signs or signage changes in excess of \$500.00, as determined by the city's director of community development.
- (d) *Exceptions.* The city council may approve exceptions to these regulations as conditions of a site plan approval.
- (e) *Appearance.*
 - (1) All structures on the same parcel of land or in the same development shall have one architectural theme.
 - (2) Building walls exposed to public view shall be designed through the use of a coherent and clear architectural design consistent with the character of the building. Building designs should incorporate architectural details and natural lighting.
 - (3) Buildings facing a public street or interior courtyard space shall be architecturally emphasized through entrance treatments and building details. Buildings with more than one facade facing a public street shall provide architectural treatment on each such facade.

- (4) Roofs shall give the appearance of having a pitch of 6/12 with overhangs. The roofing shall be incombustible material such as shingles, clay or cement tiles, or metal.
 - (5) Roof and exterior wall surfaces, with the exception of glass, shall be nonreflective. Reflective or mirrored glazing at ground level, visible from the sidewalk, is prohibited.
 - (6) The rear and side of buildings shall be finished with material that in texture and color resembles the front of the building.
 - (7) Glass windows and doors must make-up a minimum of 20% of the primary elevation and a minimum of 10% of the secondary elevation. The primary elevation is defined as facing the abutting arterial road. The secondary elevation is defined as facing a perpendicular side road.
 - (8) The coloration of all building walls shall be with a maximum of three colors, exclusive of the roof color. The use of "earth tone" and pastel colors shall be encouraged. Semi-transparent stains are recommended for application on natural wood.
 - (9) Canopies over vehicular use areas shall have a maximum clearance of up to 14 feet above grade and shall be consistent with the main building design. The canopy columns shall be architecturally finished to match the building.
 - (10) Work area or storage doors and open bays shall not open toward or otherwise be visible from any of the designated principal roads.
 - (11) Heating, ventilation, air conditioning equipment, duct work, air compressors, other fixed operating machinery shall be either screened from public view or located so that such items are not visible from a designated arterial, adjacent residential properties or intersecting street.
 - (12) No temporary structures shall be permitted, except those used in conjunction with and during construction. Office-type mobile units when used as temporary facilities shall be screened from view from a designated arterial and equipped with rigid skirting on all sides. Any towing gear shall be removed, and if not removable, shall be screened from a designated arterial.
- (f) *Landscaping, walls and fencing.* Commercial development must comply with the landscaping requirements in article VIII of chapter 31 in the Riviera Beach Land Development Code as well as the items specified below:
- (1) The use of planters shall be encouraged in the overall landscape design.
 - (2) A tiered effect is required when multiple hedges are utilized.
 - (3) Landscaped areas shall be surrounded with a six-inch raised curb.

- (4) Chain-link or similar fencing along a designated arterial is prohibited. Where such fencing can be viewed from a designated arterial, landscaping or berms shall be provided to minimize visibility from the designated arterial.
 - (5) Perimeter walls shall be architecturally compatible with the principal building.
- (g) *Signage and lighting.*
- (1) Monument signs compatible with the architectural design of the development are the only permitted freestanding sign. Only one such sign is permitted per site and it can measure no more than seven feet high and six feet in width. If there are separate businesses on a site, they may share identification on the one monument sign.
 - (2) Canopies shall not contain any signage, striping or other graphics.
 - (3) Window signage, whether permanent or temporary, shall be permitted up to 20% coverage of a window.
 - (4) Lighting fixtures shall be baffled and arranged so that illumination is deflected away from adjacent properties and roads.
 - (5) All signage must comply with these regulations within five years of adoption of this section.
 - (6) Fuel price digital signs shall be permitted as a monument sign feature subject to meeting the digital fuel price sign requirements of Chapter 28-125.
- (h) *Location criteria for developments with drive-up facilities.*
- (1) No drive-up facilities may be located within 500 feet of an existing facility located on the same side of a designated arterial. Such distance shall be measured from the point of ingress or egress of an existing site to the point of ingress or egress of the proposed site.
 - (2) Existing drive-up facilities located closer than 500 feet may be improved or upgraded provided that are able to meet the other requirements of this section.

SECTION 5. If any word, phrase, clause, subsection or section of this Ordinance is for any reason held invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

SECTION 6. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 7. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 8. That this Ordinance shall take effect immediately upon its final approval and adoption.

SECTION 9. Specific authority is hereby granted to codify this Ordinance.

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PASSED AND APPROVED on the first reading this _____ day of _____ 2015.

PASSED AND ADOPTED on second and final reading this _____ day of _____ 2015.

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

TERENCE D. DAVIS
CHAIR PRO TEM

BRUCE A. GUYTON
COUNCILPERSON

KASHAMBA L. MILLER-ANDERSON
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

1ST READING

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

C. THOMAS _____

D. PARDO _____

T. DAVIS _____

2ND & FINAL READING

MOTIONED BY: _____

SECONDED BY: _____

B. GUYTON _____

K. MILLER-ANDERSON _____

C. THOMAS _____

D. PARDO _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, B.C.S. CITY ATTORNEY

DATE: _____



**STAFF REPORT – CITY OF RIVIERA BEACH
DIGITAL FUEL PRICE SIGN ORDINANCE
PLANNING AND ZONING BOARD – NOVEMBER 12, 2015**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28 OF THE CITY’S CODE OF ORDINANCES ENTITLED “SIGNS”, SECTION 28-1 “DEFINITIONS”, SECTION 28-5 “PROHIBITED SIGNS”, SECTION 28-125 “PROGRAMMABLE DIGITAL SIGNS”, AND CHAPTER 31 OF THE CITY’S CODE OF ORDINANCES ENTITLED “SUPPLEMENTAL DISTRICT REGULATIONS”, SECTION 31-551, IN ORDER TO CREATE STANDARDS FOR INSTALLATION AND USE OF DIGITAL FUEL PRICE SIGNAGE ON PROPERTY WITH SELF SERVICE FUEL PUMPS; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

A. Applicant: The Ferber Company, the Applicant and Contract Purchaser
Authorized Agent: Jon E. Schmidt and Associates

B. Request: The applicant is requesting an amendment to Chapter 28 “Signs”, Article I “In General” and Article III “Construction and Installation Standards” and Chapter 31 “Zoning”, Article VI “Supplemental District Regulations” to establish new regulations pertaining to the placement of digital fuel price signs at locations with self-service fuel pumps. The applicant is also requesting site plan and special exception approval to develop 2.50 acres of commercial land to build a single story 6,119 square foot Wawa Convenience Store with 8 onsite fuel pumps with 16 fueling stations.

C. Location: The proposed development is located on southwest intersection of W. Blue Heron Boulevard and Garden Road. However, the proposed text amendment will apply to all locations with self-service fuel pumps.

D. Property Description and Uses: The subject property description and uses are as follow:

Parcel Control Number: 56-43-42-30-11-002-0000;

Parcel Size: 2.50 acres;

Existing Use: 2-story commercial office building;

Zoning: General Commercial (CG) Zoning District; and

Future Land Use: Commercial.

The proposed text amendment will apply to all convenience stores with fuel pumps, which are currently only permitted in the General Commercial (CG) and Downtown Core (DC) Zoning Districts.

E. Adjacent Property Description and Uses: N/A

F. Background:

The way in which the City regulates signage is currently being contemplated as technological advancements occur. Discussions have ensued regarding the potential use of digital fuel price signage to display fuel prices at locations with self-service fuel pumps. Currently, the City's Code of Ordinances prohibits the use of animated signs, except for digital billboards and digital signs. The City's Code must be amended in order to allow the potential use of digital fuel price signs at locations with onsite fuel pumps. Staff has developed regulations for the use of digital fuel price signs within the City for review and approval.

G. Staff Analysis:

Digital signs utilize new technologies which continue to adapt as mechanical advancements occur. Research on the costs and benefits of digital signs is somewhat inconclusive regarding revenues generated and information provided compared to the potential to distract individuals driving automobiles, aesthetic impact, and overall cost of maintenance. Due to this, City staff recommends the use of digital fuel price signage only at locations with self-service fueling pumps if specific requirements are met.

H. Recommendation: Staff recommends approval of the proposed Digital Fuel Price Sign Ordinance.