

ORDINANCE NO. C-16-10

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE AMENDING SUBSECTION J. – “MESSAGE CENTER SIGNS,” OF SUBSECTION 47-22.3 – “GENERAL REGULATIONS” OF THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO REVISE THE CRITERIA FOR PERMITTING MESSAGE CENTER SIGNS, SIGN LOCATION REQUIREMENTS AND REVIEW PROCESS; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, signs have the potential to be traffic hazards that divert drivers' attention from the roadway and have a distracting effect that contributes to traffic accidents. *Metromedia v. City of San Diego*, 453 US 490, 509 (US 1981); and

WHEREAS, the unregulated proliferation of signs can harm the aesthetics of the City resulting in harm to the general welfare of the City; and

WHEREAS, the City of Fort Lauderdale has an interest in protecting the health, safety and welfare of the public through ensuring traffic safety and protecting the beauty and aesthetics of the City and this interest is furthered by limiting the proliferation of signs through regulation; and

WHEREAS, the City of Fort Lauderdale declares that it has a strong governmental interest in promoting and preserving a vibrant cultural, social, artistic, and educational events culture as an essential element to the fabric of a successful City and to that end has created an Arts and Sciences District as the City's downtown arts and sciences cultural district involving areas where cultural, civic, entertainment, institutional and other complementary high-active uses draw patrons from the surrounding South Florida Region; and

WHEREAS, in promoting and preserving the City of Fort Lauderdale's Arts and Sciences District and the cultural, social and community events located in the District, the City of Fort Lauderdale has a corresponding significant interest in assisting the public in identifying the time and place of significant cultural, social, artistic, and educational events; and

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WHEREAS, the City of Fort Lauderdale has determined and declares, in limited instances, that the interest in ensuring traffic safety and aesthetic is compatible with the interest in assisting the public in identifying the time and place of significant cultural, social and community events in the form of governmental message center signs in the vicinity of the City's Arts and Sciences District. See *Metromedia v. City of San Diego*, 453 US 490 at 512 (US 1981); and

WHEREAS, the City of Fort Lauderdale finds that the public rights-of-way under the control of the City of Fort Lauderdale may also serve as appropriate locations in which to permit the erection of governmental message center signs; and

WHEREAS, the observers may reasonably believe that the City of Fort Lauderdale has endorsed the message of a sign erected within the public rights-of-way under the control of the City of Fort Lauderdale, *Mech v. School Board of Palm Beach County, Florida*, 806 F.3d 1070 (11th Cir. 2015) (citing *Sumnum*, 555 U.S. 460 at 472; see, e.g., *United Veterans Mem'l & Patriotic Ass'n v. City of New Rochelle*, 72 F.Supp.3d 468, 474–75 (S.D.N.Y.2014) (Gadsden flag at a government armory was government speech), aff'd, 615 Fed.Appx. 693 (2d Cir.2015); *Am. Atheists, Inc. v. Davenport*, 637 F.3d 1095, 1115–16 & n. 8 (10th Cir. 2010) (cross memorials on the side of public highways were government speech)); and

WHEREAS, the messages of the message center signs erected in the City of Fort Lauderdale-controlled public rights-of-way in the vicinity of the City's Arts and Sciences District are declared to be government messages and the content of the message is subject to the control of the City Commission of the City of Fort Lauderdale; and

WHEREAS, Section 47-22.3.J of the Unified Land Development Regulations (ULDR) of the City of Fort Lauderdale provides the review processes and requirements for the permitting of message center signs; and

WHEREAS, the City Commission desires to amend Section 47-22.3.J of the ULDR entitled "Message Center Signs" to revise the criteria for permitting message center signs, sign location and the review process; and

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WHEREAS, the Planning and Zoning Board, acting as the local planning agency, at its meeting of February 17, 2016 (PZ Case T15005), did recommend to the City Commission that the amendment to the ULDR is consistent with the City of Fort Lauderdale Comprehensive Plan; and

WHEREAS, notice was provided to the public that this ordinance would be considered at the City Commission meeting to be held on Tuesday, May 3, 2016 and Tuesday, May 17, 2016 at 6:00 o'clock P.M., in the City Commission Room, City Hall, Fort Lauderdale, Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 47-22.3.J of the Unified Land Development Regulations (hereinafter referred to as "ULDR") of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 47-22.3. – General regulations.

...

J. Message center signs. Message center signs shall only be permitted in accordance with the following review processes and requirements:

1. Application. An application ~~to construct~~ for issuance of a development permit authorizing the construction of a message center sign shall, in addition to the requirements provided in Section 47-24, Development permits and procedures, include the following:

a. A description of how the proposed message center sign meets each of the characteristics provided in subsection J.4. ~~and how the proposed message center sign addresses each of these criteria.~~

b. Provide an opinion from an expert in message center signs describing how the proposed message center sign ~~and its~~

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~~characteristics will protect the public health, safety and welfare. is~~  
designed in a manner that will further the governmental interest of  
promoting significant venues of cultural, social, and community  
artistic, and educational events while not compromising traffic safety  
or the City's aesthetics. City may have its own message sign  
consultant analyze a proposed message center sign at the cost of  
applicant.

2. Standards. Message center signs shall only be approved in association  
with buildings or facilities used primarily for as public assembly, for the  
presentation of cultural, social, artistic, educational or athletic events, or to  
hold public expositions, fairs and conventions, or some combination thereof  
and shall meet the following ~~minimum and maximum~~ requirements, but are  
~~subject to additional~~ in addition to the criteria provided in subparagraph 4.  
below.

2.1.1. Purpose: Message center signs may only be permitted ~~on a development~~  
~~site~~ in association with facilities or locations that meet the following  
criteria:

a. ~~A building or facility primarily used for public assembly, the~~  
~~presentation of entertainment or athletic events or the holding of~~  
~~public expositions, fairs and conventions, or some combination~~  
~~thereof is located on the development site; and~~ The message center  
sign is located on the same development site as and is associated  
with a building or facility that:

i. Has the capacity to seat a minimum of twelve thousand (12,000)  
persons; and

ii. Is a minimum of two hundred thousand (200,000) square feet in  
floor area;

or

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- b. ~~The building or facility seats at least twelve thousand (12,000) persons and has two hundred thousand (200,000) square feet in floor area; or~~ The message center sign is located on the same development site as and is associated with multiple buildings or facilities that:
  - i. The development site is a minimum of seventy (70) acres; and,
  - ii. The combined capacity to seat a minimum of four thousand (4,000) persons; and,
  - iii. Have a minimum total of one hundred thousand (100,000) square feet in floor area combined for all buildings and facilities located on the development site;

or

- c. ~~The A message center sign may be located within the a public right-of-way controlled by the City of Fort Lauderdale adjacent to and contiguous with a property and located within or within two hundred (200) feet of the City's Downtown Regional Activity Center, Arts and Sciences District in association with a building or facility that meets the following criteria:~~
  - i. ~~The development site is at least seventy (70) acres; and,~~
  - ii. ~~There are at least three (3) buildings or facilities on site that in total, The Buildings buildings and facilities are located on the property within the City's Downtown Regional Activity Center, Arts and Sciences District; and~~
    - i. ~~There are at least three (3) buildings or facilities on site that in total, The Buildings buildings and facilities are located on the property within the City's Downtown Regional Activity Center, Arts and Sciences District; and~~
  - ii. The buildings or facilities have the capacity to seat at least four thousand (4,000) persons; and,
  - iii. The buildings or facilities have a ~~in~~ minimum total combined floor area of ~~have a minimum~~ one hundred thousand (100,000) square

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~~feet in foot floor area~~ of one hundred thousand (100,000) square feet; and,

~~iv. The building or facilities are used for the purposes provided in 2.1.1.a.~~

d. ~~For both 2.1.1.b. or c., messages on a message center sign shall be limited to providing information for on-premise events.~~

2.1.2. Location. The location of a message center sign shall be as follows:

a. A message center sign may only be located on a development site or public right-of-way that abuts a regional right-of-way with a minimum width of one hundred (100) feet as shown on the Broward County Trafficways Plan; and

b. A message center sign shall not be permitted in a residentially zoned district nor be within three hundred (300) feet of any residentially zoned property. The measurement shall be taken from the outermost edge of the sign closest to the residential property to the closest point located along the residential property line. In measuring the three hundred-foot distance, an intervening public right-of-way or waterway shall not be included in the measurement; and

c. ~~When located within the public rights-of-way, a A message center sign may shall be permitted in the public rights-of-way~~ subject to the following conditions:

i. ~~The message center sign shall be Associated~~ associated with a development site and proposed sign location are located within a downtown regional activity center, arts and sciences zoning district as listed in Section 47-13.1.1.A List of Districts – Downtown; and,

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- ii. The message center sign shall be ~~In association~~ associated with a development site that meets the criteria of ~~Section~~ subsections 47-22.3.J.2.1.2.a and 47-22.3.J.2.1.2.b; and,
- iii. The message center sign shall be located no further than eight hundred (800) feet from the use which it serves; and,
- iv. The message center sign shall not be located within three hundred (300) feet of any property located outside of the downtown regional activity center; and,
- v. The message center sign shall not be located within fifteen hundred (1,500) feet of any other permitted message center sign located either within a public right-of-way or within a development site; and
- vi. The message center sign shall only be permitted in public rights-of-way under the control of the City of Fort Lauderdale
- vii. The message center sign shall be located within or within three hundred (300) feet of the City's Downtown Regional Activity Center, Arts and Sciences District
- viii. The messages displayed on a message center sign authorized under this subsection are government speech and are subject to the approval of the City of Fort Lauderdale.

2.1.3. Dimensional requirements. The setbacks, height and size of the sign shall be as follows:

- a. Maximum ten (10) feet in height above natural elevation of the ground adjacent to the sign;
- b. Maximum twelve (12) feet in width;

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- c. Maximum one hundred twenty (120) square feet of sign face per side; and,
- d. Seventy-five (75) square feet of digital display area per side.
- e. Notwithstanding the dimensional limitations of subsection ~~47-22.3.J.2.1.3.a~~, 47-22.3.J.2.1.3.a message center signs may exceed the maximum dimensional requirements if located on Broward Boulevard, east and west; 17th Street Causeway; State Road 84 west of I-95 and U.S. 1/Federal Highway subject to the following:
  - i. Maximum of twenty (20) feet in height above natural elevation; and
  - ii. Maximum of twenty (20) feet in width; and
  - iii. Maximum of three hundred (300) square feet of sign face per side; and
  - iv. Maximum of one hundred twenty (120) square feet of digital display area per side.
- f. The supporting structure of a message center sign shall be subject to the following:
  - i. Support structure(s) shall not exceed six (6) feet in height; and,
  - ii. Support structure(s) shall have a decorative finish and design.
  - iii. The height of the support structure positioned for a message center sign located within a right-of-way shall be subject to the requirements of the City Engineer.

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- g. Yard Setbacks for message center signs shall be subject to the following:
- i. Minimum of a ten-foot yard setback measured from the closest point of the sign to the property line or measured from the closest point of the sign and a paved walkway for public use, whichever setback is greater; and,
  - ii. Message center signs shall not be placed in the required sight triangle.
  - iii. When positioned within a right-of-way in association with a development site the message center sign shall be subject to the requirements of the City Engineer for location.

2.1.4. Display characteristics. The display portion on a face of a message center sign shall comply with the following:

- a. Sequencing, or the rate at which frames of information change, shall be a minimum rate of one and one-half (1½) and shall not exceed the rate of three (3) seconds.
- b. Delay time at the end of a sequence of frames shall be a minimum of one and one-half (1½) and shall not exceed three (3) seconds.
- c. There shall be no exposed incandescent light bulbs. All lamps or bulbs shall be covered.
- d. In no case shall any incandescent bulb exceed four (4) watts.

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- e. Letters may scroll only from left to right, from top to bottom or from bottom to top. Letters may also “coalesce” or fade in and out. No flashing, zooming, twinkling, sparkling, scintillating or revolving sequencing may be displayed. No delivery method that resembles flashing shall be permitted. No display or illumination resembling traffic signals or implying the need or requirement to stop may be displayed. ~~Streaming video~~ Video shall not be permitted.
- f. Messages shall be limited to providing information for on-premise events.
- g. No message center sign shall incorporate into the graphic display any use of colors identical to or similar to colors used for traffic signalization or used by police, and no message shall include graphics and words which are identical to or similar to signage used for traffic direction and control.
- h. Illumination shall be limited to a level no greater than 0.3 foot candles above the ambient light levels at the given location. Foot candle readings shall be taken at the ground level at a maximum of one hundred fifty (150) feet from the face of the sign.
- i. Signs shall be equipped with both a dimmer control and a photocell, which will automatically adjust the display’s intensity according to the natural ambient lighting conditions and maintain the display within the illumination intensity as described in this section.
- j. Signs shall not produce noise such as audio tracks, sound effects, etc. Noise emitting from the operation of the sign itself shall be minimal.
- k. Signs shall contain a default mechanism that shall automatically freeze the image or turn the sign off in the case of a malfunction or the sign shall be turned off within twenty-four (24) hours of a malfunction.

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- I. Applicant shall submit a certificate issued by a recognized sign professional certifying that all of the requirements provided in this subsection (a) through (k) have been met.

2.1.5. Additional requirements.

- a. Freestanding message center signs shall comply with the landscaping requirements of Section 47-22.3.E.3.
- b. Message center signs shall be constructed of materials that are compatible with the principal structure, and of similar, compatible architectural design as the principal structure.
- c. Message center signs located at government owned or government operated facilities may provide public service messages about governmental, public service, cultural or educational activities, sponsored by the same governmental entity, scheduled to take place either at the location where the sign is located or at governmental facilities of the same governmental entity other than the facility where the message center sign is located.
- d. Message center signs, time, and temperature units in existence at the time this regulation is adopted (July 16, 1996) shall have nine (9) years from the date of adoption to meet the colored letters requirement provided in this subsection J.

3. Review process.

- a. ~~Approval of a site plan level I permit as described in Section 47-24.2 and review and approval by the city commission.~~ Message center signs when located on a development site shall be subject to the following review process:

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- i. Approval of a site plan level I permit as described in Section 47-24.2 and review and approval by the City Commission.
        - ii. A review of the application from the department shall be forwarded to the City Commission and scheduled on a City Commission agenda within thirty (30) days of the completion of the department review or such date thereafter as soon as the same may be scheduled.
      - b. ~~A review of the application from the department shall be forwarded to the city commission and scheduled on a city commission agenda within thirty (30) days of the completion of department review or such date thereafter as soon as the same may be scheduled.~~ Message center signs, when located within a right-of-way, shall be subject to the following review process:
        - i. Approval of a site plan level II permit as described in Section 47-24.2 and approval by the City Commission.
        - ii. Approval of the Message center sign shall be subject to an executed revocable license agreement between the applicant and the City.
4. Criteria. An applicant must show that the request for approval of a message center sign meets the following criteria and the reviewing body shall consider the application based on such criteria:
  - a. The proposed sign meets the standards provided in this Section 47-22, subject to modification in accordance with the following:
  - b. As applicable to the display portion of the sign:
    - i. The duration of the message change interval is controlled so that the interval is not obtrusive.

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- ii. No message shall appear to be written on or erased from the display piecemeal unless required by the technology in which case the maximum time limit shall be set for the complete message change so that passing motorists cannot read the message during the change.
- iii. The driver is given sufficient time to read the complete message and can be reassured that he has seen the entire display.
- iv. The brightness and contrast does not cause a motorist disabling or discomforting glare or lead to the inability of the driver to read nearby official signs or negatively impact night vision.
- v. The size of the lettering spacing and typeface message is conveyed to the motorist quickly, clearly and unambiguously given the constraints imposed by vehicle speed and vibration, changing lighting and weather conditions.

Signs that display not more than four (4) lines of text with letters at one (1) time, with all letters at least six (6) inches high, shall be deemed to have met the criteria in subsections i. through v. above.

- c. Design features are added that minimize contrast between the message center sign, the building on the development site, the natural environment surrounding the development site and adjacent development. Additional landscaping, modification of location, height and size, color and shape and other elements of the sign, and the display including the lettering, are all examples of what may be varied in a development order approving a message center sign.
  - d. Section 47-25.3.A.e. Neighborhood compatibility and preservation shall apply.
5. Effective date of approval. The approval of a message center sign shall

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take effect on the date a resolution is adopted by the city commission approving such sign with whatever conditions necessary to ensure that the requirements of this subsection J. have been met.

SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 4. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this the 3<sup>rd</sup> day of May 2016.

PASSED SECOND READING this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Mayor  
JOHN P. "JACK" SEILER

ATTEST:

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City Clerk  
JEFFREY A. MODARELLI

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