



Town of Surfside Commission Communication

Agenda #: 4A6
Agenda Date: February 13, 2018
Subject: Temporary Signs
From: Sarah Sinatra Gould, AICP, Town Planner

Background: Section 166.0425, *Florida Statutes* provides that municipal sign ordinances shall not conflict with any applicable state or federal laws. The opinion of Reed v. Town of Gilbert, Ariz., 135 S. Ct. 2218 (2015) by the United States Supreme Court struck down an ordinance in the Town of Gilbert, Arizona as unconstitutional based on distinctions it made between temporary signs. Surfside Town Administration has determined that revisions to the Surfside sign code are advisable to update the code to be in compliance with Reed vs. Town of Gilbert, Ariz.

Analysis: Currently, the code divides temporary signs into different categories based on content (ex. real estate signs, political signs and construction signs). Due to the recent federal ruling on temporary signs, the Town must modify the code to treat the content all of these signs the same. Under today's code, one property could have a political sign, real estate sign and construction sign. The proposed requirements will continue allowing three temporary signs without dictating content. The proposed size for temporary signs three square feet, which is consistent with the existing size of both real estate and political signs.

Budget Impact: None

Growth Impact: None

Staff Impact: None

Staff Recommendation: The Planning and Zoning Board sitting as the Local Planning Agency recommended approval of the ordinance. Staff recommends approving the ordinance on second reading.

Sarah Sinatra Gould, AICP, Town Planner

Guillermo Olmedillo, Town Manager

ORDINANCE NO. 18 - _____

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE VI “SIGNS” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; SPECIFICALLY AMENDING SECTION 90-69 “DEFINITIONS”; SPECIFICALLY AMENDING SECTION 90-74 “TEMPORARY SIGNS”; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) revised and replaced its sign code in its entirety by Ordinance No. 14-1624; and

WHEREAS, Section 166.0425, *Florida Statutes* provides that municipal sign ordinances shall not conflict with any applicable state or federal laws; and

WHEREAS, the issued opinion of Reed v. Town of Gilbert, Ariz., 135 S. Ct. 2218 (2015) by the United States Supreme Court struck down an ordinance in the Town of Gilbert, Arizona as unconstitutional based on distinctions it made between temporary signs; and

WHEREAS, the Town has determined that revisions to the Town sign code are advisable to update the code to be in compliance with the recent United States Supreme Court decision of Reed vs. Town of Gilbert; and

WHEREAS, the Town Commission held its first public hearing on these regulations on April 13, 2017; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a duly noticed hearing on April 27, 2017 and February 6, 2018; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on February 13, 2018; and

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals is true and correct and the recitals are incorporated herein by this reference.

Section 2. Code Amendment. The Code of Ordinances of the Town of Surfside, Section Sec. 90-69 is hereby amended as follows:

Sec. 90-69. - Definitions.

~~Construction sign: A temporary sign identifying those engaged in construction or remodeling on a building site, including the developer, contractor, subcontractor, architect, engineer or artisans involved in the project.~~

~~Political sign: Any sign which indicates the name, cause or affiliation of anyone seeking public office or which references a ballot issue~~

~~Temporary sign: A sign which is allowed for a limited amount of time such as a special event banner sign, construction sign, political sign or real estate sign or which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently.~~

Section 3. Code Amendment. The Code of Ordinances of the Town of Surfside, Section Sec. 90-74 is hereby amended as follows:

Sec. 90-74. - Temporary signs.

* * *

~~(b) Political sign.~~

(1a) ~~SD-B40 district.~~ Three ~~One~~ professionally lettered political temporary signs, excluding banners, shall be permitted per building frontage. The maximum sign area shall be three square feet per sign. The sign shall be mounted flat against the building wall or a minimum of 12 inches from a window, and shall not project above the eave line of the building.

(2b) ~~All other zoning districts.~~ Three ~~One~~ professionally lettered temporary ~~political~~ signs shall be permitted per street frontage. The sign shall be wall mounted flat against the building wall or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign area shall be three square feet per sign. Sign face shall be constructed of metal, plastic, wood, pressed wood or cardboard. The maximum sign height for in-ground signs including support frame shall not exceed 42 inches from the ground to the top of the sign. Such sign shall be located outside of any sight visibility triangle. No portion of the sign shall extend across the property line.

(3c) Signs shall be not be erected more than 90 days prior to the ~~subject election date or ballot vote event or occurrence~~ and shall be removed no later than seven days after the event or occurrence ~~subject election date or ballot vote~~.

(4d) Signs shall not be lighted or illuminated in any manner.

(5e) It shall be unlawful for any person to paste, glue, print, paint, affix, or attach by any means whatsoever to the surface of any public street, right-of-way, easement, sidewalk, curb, or to any property of any governmental body or public utility, any ~~political~~

~~temporary sign, poster, placard, or sticker designed or intended to advocate or oppose any ballot issue or the nomination or election of any candidate.~~

~~(e) Construction sign. Signs (f) Signs placed on construction sites.~~

~~(1) One professionally lettered construction sign shall be permitted per construction site or development subject to the issuance of a building permit for the project. Such sign shall be removed immediately if the building permit for the project expires and construction has not commenced, and/or the permit is not renewed.~~

~~(2) Sign content is limited to the following:~~

~~a. Project name.~~

~~b. Parties involved in construction and financing.~~

~~c. Contact information such as phone number, email address or website.~~

~~d. Unit prices not to exceed ten percent of the total sign area. Numbers shall not exceed six inches in height.~~

~~(3) Maximum sign area is 16 square feet.~~

~~(4) Such sign may be freestanding affixed to posts, a flat wall sign, or to a construction fence. Freestanding signs shall be a minimum of ten feet from the property line and shall be a maximum of five feet in height from the ground to the top of the sign. Wall signs shall not extend above the floor of the second story, parapet wall, or eave line of the building.~~

~~(5) Rigid weatherproof board is required.~~

~~(6) Such sign must be removed within 72 hours of the issuance of a certificate of occupancy.~~

~~(d-g) Temporary window sign.~~

~~(1) Temporary window signs of any nature may be attached to glass window or doors, or mounted within 12 inches of a glass window or door.~~

~~(2) One temporary sign shall be permitted per window.~~

~~(3) Sign may not be displayed more than 60 calendar days.~~

~~(4) The total area for temporary signs shall not exceed 20 percent of the glass window they are facing unless otherwise provided in this subsection.~~

~~(5) Temporary signs pertaining to a going out of business sale or everything must go clearance event shall be permitted to be displayed within a window for a period not to exceed 90 calendar days.~~

~~(6) A temporary sign not exceeding one square foot may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall not be more than one such sign per window or door. Sign shall not be maintained for more than 14 calendar days.~~

~~(7) Signs not in excess of six square inches, listing merchandise price, may be attached to items displayed in display windows.~~

~~(8) Temporary signs which are removed and redisplayed within 30 calendar days of removal shall be deemed in violation of this subsection listing price not exceeding six square inches shall be exempt from this requirement.~~

~~(e h) Special event Temporary banner sign.~~

- (1) One professionally lettered temporary banner per building frontage or window in SD-B40 district ~~advertising a grand opening associated with a commercial building or business enterprise is permitted.~~
- (2) ~~Permitted content shall be limited to "Grand Opening," "Coming Soon," "Now Open" or "Under New Management" and the date and time of the event where applicable.~~
- (32) No banner shall exceed 32 square feet or five percent of the building façade that faces a public street, whichever is less.
- (4) ~~Banners may only be displayed within 60 calendar days from the date an occupational license is issued.~~
- (53) No banner shall be displayed for more than 30 consecutive calendar days within a six month period.
- (64) Banner shall not include changeable copy.
- (75) Banner shall be made of durable materials such as canvas or vinyl. Non-durable material such as butcher-type paper is not permitted.
- (86) Banner shall be securely attached to a supporting structure such as a street frontage wall and capable of withstanding continuous wind without deflections or rotations that would cause deformation or damage.
- (97) No banner shall be attached to a roof structure or above the eave line of the building.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective upon final adoption on second reading.

PASSED on first reading this 13th day of April, 2017.

PASSED and **ADOPTED** on second reading this 13th day of February, 2018.

On Final Reading Moved by: _____

On Final Reading Second by: _____

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky _____
Commissioner Michael Karukin _____
Commissioner Tina Paul _____
Vice Mayor Barry Cohen _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

Weiss Serota Helfman Cole & Bierman, P.L.,
Town Attorney