

**AGENDA SUMMARY
TAVARES CITY COUNCIL
12/16/2020**

AGENDA TAB NO.: 4

SUBJECT TITLE: Ordinance 2020-12 - Land Development Regulations Amendment - Chapter 21 Temporary Signs on Vacant Property and Miscellaneous Sign Content (Community Development)

OBJECTIVE:

To amend the City's Land Development Regulations Chapter 21 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions.

SUMMARY:

A U.S. Supreme Court decision in *Reed v Town of Gilbert* ruled that regulating signs based on the message on the sign would be a restriction to free speech or conversely show favoritism to some category of speech. The court further determined that regulating signs based on the message would be unconstitutional and would invalidate the regulation or governing code.

The court did recognize that governmental type signs such as traffic signs in the street right-of-way fall into a separate category and are necessary for public safety and protection. The court also stated that sign design such as size, height, location, number allowed, etc. could be regulated provided no reference is made to the sign message.

Current City regulations prohibit temporary signs on vacant property, and at their August 5, 2020 meeting City Council directed staff to propose an amendment to the Land Development Regulations to allow temporary signs on vacant property, regardless of content, subject to the issuance of a permit and a time limit of 90 days.

Ordinance 2020-12 proposes changes to temporary sign regulations that temporary signs shall require a no fee permit, be permitted for a period of 90 days in a calendar year, shall be permitted on vacant and developed land, and shall be limited to two (2) signs per parcel of property. Ordinance 2020-12 also proposes to remove a provision pertaining to flag content in conformity with Supreme Court decisions.

At their November 19th meeting the Planning & Zoning Board voted unanimously to recommend approval of Ordinance 2020-12 with an amendment to Section 21-16 allowing temporary feather signs up to a maximum height of fourteen feet (14'). Ordinance 2020-12 has been modified per the Planning & Zoning Board's recommendation.

OPTIONS:

1. That City Council moves to approve Ordinance 2020-12 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions.

2. That City Council moves to deny Ordinance 2020-12.

STAFF RECOMMENDATION:

At their November 19th meeting the Planning & Zoning Board voted unanimously to recommend approval of Ordinance 2020-12.

Staff recommends that City Council moves to approve Ordinance 2020-12 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions.

FISCAL IMPACT:

N/A

LEGAL SUFFICIENCY:

This ordinance has been reviewed by the City Attorney and approved for legal sufficiency.

ATTACHMENTS AVAILABLE TO THE PUBLIC UPON REQUEST:

1. Ordinance 2020-12 Temporary Sign Regulations
2. 11-19-2020 PZ Board Minutes
3. Legal Advertisement

Attachments not provided are available to the public upon request to the City Clerk.

ORDINANCE 2020-12

AN ORDINANCE OF THE CITY OF TAVARES, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS BY AMENDING CHAPTER 21, SECTION 21-5 SIGNS EXEMPT FROM PERMITTING REQUIREMENTS, DELETING THE PERMIT EXEMPTION FOR TEMPORARY SIGNS; SECTION 21-16 TEMPORARY SIGNS, REQUIRING THAT TEMPORARY SIGNS BE PERMITTED FOR A MAXIMUM OF 90 DAYS IN A CALENDAR YEAR AND DELETING THE RESTRICTION ON VACANT PROPERTY AND LIMITING TWO (2) TEMPORARY SIGNS PER PARCEL OF PROPERTY; SECTION 21-17 MISCELLANEOUS SIGNS, DELETING THE PROVISIONS FOR FLAG CONTENT; SUBJECT TO THE RULES, REGULATIONS AND OBLIGATIONS ORDAINED BY THE CITY OF TAVARES COUNCIL; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 7, 2005, the City of Tavares adopted the Land Development Regulations, specifying therein standards and regulations governing development within the city; and

WHEREAS, the United States Supreme Court held in the case of *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), that a government may regulate signs, but such regulations must not depend on the communicative content of the signs; and

WHEREAS, the Tavares City Council desires to amend the City's Land Development Regulations, Chapter 21 entitled "Sign Regulations", to be consistent with the Supreme Court's ruling by deleting or amending regulations and definitions that are dependent on the communicative content of a sign; and

WHEREAS, the Tavares City Council desires to amend the City's Land Development Regulations, Chapter 21 entitled "Sign Regulations", to modify the requirements for temporary signs.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Tavares, Florida, that:

Section 1. Text Amendments.

That the City of Tavares Land Development Regulations be hereby amended as follows:

Section 21-5 Signs Exempt from Permitting Requirements

The following signs are exempt from the permit and/or permit fee requirements of this chapter, unless they have an electrical connection, in which event an electrical permit shall be required. All exempt signs must comply with the minimum requirements of these regulations related to zoning classification, setback, size limitation and construction. The square footage of sign area used for exempt signs in non-residential zoned districts shall apply to, and be counted as part of, the maximum sign area allowable for a particular parcel.

- (A) One (1) shingle sign having a face area of not more than two and one-half square feet (2 ½'), located over a show window or door of a business establishment.
- (B) Paper signs located on the interior show windows only of commercial establishments.
- ~~(C) Temporary signs as outlined in Section 21-16.~~
- (D) Governmental Signs
- (E) House identification, address numbers or bronzed or cut masonry nameplates attached to a building face that do not exceed two (2) square feet.
- (F) Signs incorporated onto machinery or equipment by a manufacturer or distributor, such as signs customarily affixed to vending machines, newspaper racks, telephone booths and gasoline pumps.
- (G) Signs carried by a person.
- (H) Repainting or otherwise changing the copy of a sign that does not alter any other portion of the sign or sign structure shall not require a permit.
- (K) Painted signs are exempt from permitting but subject to review for compliance with the maximum sign area calculations outlined in this chapter and compliance with Section 21-6.
- (L) Window signs are exempt from permitting provided that the sign covers less than forty (40) percent of the window. Window signs which exceed a coverage area of forty (40) percent are prohibited.
- (M) Murals are exempt from permitting. However, murals which can be seen from the public right-of-way must be approved by the City Council through a resolution.

Section 21-16 Temporary Signs

- (A) Temporary Signs ~~may only be displayed~~ shall be permitted for a maximum of ninety (90) days during a calendar year. ~~No fee shall be charged for Temporary Sign permits. Temporary Signs are exempt from the permitting requirements under Section 21-4.~~
A Temporary Sign shall:
 - (1) Not exceed six (6) feet in height, ~~except for feather signs as defined in Section 21-2 which may not exceed fourteen (14) feet in height.~~
 - (2) Not exceed thirty-two (32) square feet in ~~Sign Copy Area size;~~
 - (3) Not be an Electric Sign or Portable Sign;

- (4) Not obstruct the visibility of a permanent sign;
- (5) Not be illuminated; and
- ~~(6) Not be erected on vacant property, unless associated with a temporary vendor's permit.~~
- ~~(6) Shall be limited to two (2) signs per parcel of property.~~

Section 21-17 Miscellaneous Signs

- (A) Flags. Flags shall be permitted ~~to display insignias of governmental, charitable, religious, fraternal, corporate or other organizations.~~ subject to the following regulations:
 - (1) Number of Flags Permitted. Three (3) flags shall be permitted per parcel; however the display of flags within any multi-occupancy development shall be designed for the use of the entire development, rather than for use by any individual tenant for his/her tenant space.
 - (2) Maximum Size. Fifty (50) square feet.
 - (3) Maximum Height. The maximum height of any flagpole shall be thirty-five (35) feet. In the absence of a flag pole the maximum height of a flag affixed to a structure shall be thirty-five (35) feet.
 - ~~(4) Flags or insignias containing any phrase identifying property for real estate purposes must adhere to the following regulations:~~
 - ~~(a) The maximum height of such flags is eight (8) feet and the maximum area is fifteen (15) square feet.~~
 - ~~(b) The main entrance to a residential subdivision, planned residential development, multi-family development, sub-phase of planned residential development or individual single family, duplex, or villa model is allowed two (2) flags.~~

Section 2. Severability and Conflicts

The provisions of this ordinance are severable and it is the intention of the City Council of Tavares, Florida, to confer the whole or any part of the powers herein provided. If any court of competent jurisdiction shall hold any of the provisions of this ordinance unconstitutional, the decision of such court shall not impair any remaining provisions of this ordinance.

Section 3. Effective Date

This Ordinance shall take effect immediately upon its final adoption by the Tavares City Council.

PASSED AND ADOPTED this _____ day of _____, 2020 by the City Council of the City of Tavares,
Florida.

Amanda Boggus, Mayor
Tavares City Council

First Reading: _____

Second Reading; _____

ATTEST:

Susie Novak, City Clerk

Approved as to form:

Robert Q. Williams, City Attorney

**CITY OF TAVARES
PLANNING AND ZONING BOARD MEETING
TAVARES CIVIC CENTER
100 EAST CAROLINE STREET, TAVARES
NOVEMBER 19, 2020**

BOARD MEMBERS PRESENT

Gary Santoro, Chairman
Dian Joy, Board Member
Gary Koerner, Board Member
Deborah Murphy, Board Member
Bruce Peterman, Board Member
James Sweeza, Board Member
Dara Treadwell, Board Member

LAKE COUNTY SCHOOL BOARD

Helen LaValley - Absent

STAFF MEMBERS PRESENT

Lindsey Holt, City Attorney via Zoom
Mike Fitzgerald, Community Development Director
Antonio Fabre, Planning Coordinator
Jillian Roberts, Deputy City Clerk

CALL TO ORDER

Chairman Santoro called the meeting to order at 3:00 p.m. and asked those present to silence their cell phones. He led those present in the Pledge of Allegiance.

APPROVAL OF MINUTES

Chairman Santoro asked if there are any additions or corrections for September 17, 2020 Planning and Zoning Board Meeting minutes. There were none.

MOTION

Deborah Murphy Treadwell moved to approve the minutes of the September 17, 2020 Planning and Zoning Board Meeting, seconded by James Sweeza. The motion carried unanimously 6-0.

SWEARING IN BY CITY ATTORNEY AND DISCLOSURE OF EX PARTE COMMUNICATIONS

Attorney Holt swore those in who wished to provide testimony for the quasi-judicial matters before the Board.

Attorney Holt asked each Board Member for disclosure of communications with contacts. There were none.

PUBLIC HEARING

1) Recommendation on Ordinance 2020-12 – Land Development Regulations Amendment – Chapter 21 – Temporary Signs on Vacant Property & Miscellaneous Sign Content

Mr. Fitzgerald provided the following staff report;

The U.S. Supreme Court decision in Reed V Town of Gilbert ruled that regulating signs based on the message on the sign would be a restriction to free speech or conversely show favoritism to some category of speech. The court further determined that regulating signs based on the message would be unconstitutional and would invalidate the regulation or governing code.

The court did recognize that governmental type signs such as traffic signs in the street right-of-way's fall into a separate category and are necessary for public safety and protection. The court also stated that sign design such as size, height, location, number allowed, etc. could be regulated provided no reference is made to the sign message.

At their August 5, 2020 meeting, City Council directed staff to propose an amendment to the Land Development Regulations to allow temporary signs on vacant property, regardless of content, subject to the issuance of a permit and a time limit of 90 days.

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STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Board moves to recommend approval of Ordinance 2020-12 amending Temporary Sign Regulations and Miscellaneous Sign content in conformity with Supreme Court decisions.

Chairman Santoro asked if the board or audience had any questions.

Ms. Joy noted asked how the signs would be mandated. Mr. Fitzgerald stated they would go through the permitting system and noted Code Enforcement would monitor temporary signs.

Ms. Treadwell asked for clarification. Mr. Fitzgerald gave clarification on which signs are meant for temporary use.

Mr. Sweeza asked how the public would be made aware of the change. Mr. Fitzgerald stated that Ordinance 2020-12 will go to City Council for two readings and possible be a newsletter item to notify Tavares citizens.

Chairman Santoro noted his concern regarding struck out portion and his concern for maximum height of flags intended for businesses. Mr. Fitzgerald stated council decided to allow signs on vacant property and stated a flag or feather sign would have to follow the guidelines for permitting and code enforcement.

Attorney Holt noted complaints have been made to Code Enforcement regarding signs and having them permitted would assist Code Enforcement.

Attorney Holt stated a City can choose what cases to prosecute and code enforce on. The City will not have issue to enforce this Ordinance. People will be informed and will be required to get a permit. This will assist the city for the time frame of having the signs erected regardless of content.

Chairman Santoro noted his preference for a height limit change to in the Ordinance.

Mr. Fitzgerald stated to change the Ordinance he suggested the following language for 21-16- A #1 "except in the case of feather signs which may not exceed 14 feet in height" and would require a permit.

Mr. Fitzgerald confirmed with Attorney Holt to exclude Section 21-17-A #4 will be left out in its entirety and section 21-16 A #1 verbiage to be added "not to exceed 6 feet in height, except for cases of feather signs shall not exceed 14 feet in height" Attorney Holt confirmed.

MOTION

James Sweeza moved to recommend approval of Ordinance 2020-12. Seconded by Dara Treadwell. The motion carried unanimously 6-0.

OTHER BUSINESS

Mr. Fitzgerald welcomed Bruce Peterman to the Board.

PUBLIC COMMENT

November 19, 2020
Planning & Zoning Board Meeting

None.

ADJOURNMENT

Dian Joy moved to approve to adjourn the meeting at 3:43 PM, seconded by James Sweeza. The motion carried unanimously 6-0.

Respectfully submitted,

Jillian Roberts,
Deputy City Clerk