



## AGENDA ITEM SUMMARY SHEET CITY COUNCIL REGULAR

**MEETING DATE:** March 1, 2021

**WARD:** ALL

**AGENDA ITEM NO.** 5.1

**QUASI-JUDICIAL:** No

### PUBLIC HEARINGS

**MOTION:** Approve Ordinance No. 3909 Sign Code, amendments to the following chapters of the Land Development Code (LDC) Chapter 126 - Signs - Articles I-III In General, Administration, Regulations, Chapter 98 - Administration; Article 3 Procedures - Chapter 118 - Land Use Regulations, Article 5 Planned Districts - Chapter 134 - Traffic Circulation and Parking - Article 2 Traffic Circulation; and Chapter 142 - Definitions - Article 2, Defined Terms.

**MANAGEMENT RECOMMENDATION:**  
Approve.

**FUNDING SOURCE:**

N/A

**FISCAL IMPACT (\$):**

N/A

**One-Time Cost:**

Yes

**Budget Year:**

2020-2021

**Budgeted Item:**

N/A

**Person Initiating Request:** Steven Belden, AICP, Community Development Director

**Department:** Community Development - Admin

### BACKGROUND INFORMATION:

The proposed Land Development Code (LDC) amendment, undertaken with the assistance of Waldrop Engineering, is a rewrite of the commercial and non-commercial sign regulations in the City of Fort Myers. LDC Chapter 126, Signs, has not been fully reviewed and amended since 1990. Since that time, Amendments to specific sections have taken place, but not a comprehensive review. These amendments reflect the efforts to rewrite Chapter 126 and meet the following objectives: legally defensible in light of Reed vs. Gilbert; simplify, modernize and reorganize the content; clarify language; improve administration and enforcement; protect health, safety and welfare and property values; preserve community appearance and character; and allow property owners creativity and flexibility.

Reed vs. Gilbert is a case decided by the Supreme Court in 2015 which specified that sign regulations must be content neutral, i.e., "if you have to read the sign to name it" the ordinance may violate free speech. The amendments herein seek to address improving the legal standing of the sign ordinance, minimizing the risk of future litigation. The existing ordinance is deficient in several areas that the amendments address, which include but are not limited to: revising the purpose, intent and applicability of the ordinance; adding severability and substitution statements; and pulling in the definitions pertaining to signs from Chapter 142; revising the definitions for accuracy; and creating new sign categories and sign type references.

While drafting these amendments, City staff and Waldrop Engineering sought out feedback and met with a stakeholders group including developers, businesses, private sector planners, and sign contractors to discuss the proposed changes. Several suggested changes were incorporated into the final product.

Structurally the existing ordinance has been reorganized to reflect a philosophical shift to first, serve the applicant, and second, improve administration. Serving the applicant is addressed in many forms:

1. The administration, enforcement and processes the staff use were moved to Article III, the last section in the Chapter, so the brief legal standing and regulations that pertain to development are forefront.
2. All regulations have been consolidated and edited into one section, Article II.
3. The sign categories have been simplified into 4 categories: freestanding, building, portable and temporary.
4. Sign types that were identified in ways that could only be determined by reading the content, such as pawn shop signs, sold and moved signs, and similar, have been redefined and categorized to be regulated in a content neutral manner.
5. Sign types have been consolidated and simplified.
6. Regulations have been revised and reorganized into a General Regulations section that applies to all signs and regulations specific to signs in Zoning Districts.

Administration of the chapter has been moved to the back of the ordinance, Article III, while processes have been streamlined, corrected, and modernized and references to other land development codes have been corrected. Review of all Land Development Code sections that are either referenced or pertain to Chapter 126 have also been revised which include Chapter 142, Definitions; Section 93.8.5; Section 134.2.21; and Section 118.5.3.

Highlights of note are:

1. Regulations that involve the number of signs and the maximum sign area have been largely unchanged.
2. Prohibited signs and conditions have been fully reviewed and revised to address modern needs, clean up old, outdated references, and simplify administration and enforcement.
3. Signs exempt from permits have been fully reviewed and revised to address modern needs, cleanup old, outdated references, and simplify administration and enforcement. Political signs section has been updated to allow greater freedoms in number and size of signs.
4. Nonconforming signs are addressed in a new code section expanding the previous definition that was in the code. The key changes involve circumstances for compliance with the current code and references to Section 98.4.5 regarding nonconforming structures.
5. New lighting standards section has been added better addressing uses such as electronic message centers and measurable and enforceable lighting measurement techniques. Key changes to electronic message centers involve restrictions to stagnate images only with interval specifications.
6. Billboard regulations, now referred to as Outdoor Advertising Signs consistent with Florida Statutes, have been largely left unchanged except for modernizing code for lighting and LCD style billboards and further restricting the ability to apply for variances.
7. Off-premise signs section has been added to allow unique properties the opportunity to have a sign on an adjacent piece of property. This does not include billboards.

The proposed LDC amendments are consistent with the City of Fort Myers' Comprehensive Plan and are intended to provide a more predictable and clear set of processes and procedures for pursuing development in the City.

**PLANNING BOARD RECOMMENDATION:** During a public hearing January 6, 2020 the Planning Board unanimously recommended approval of the proposed Sign Code amendments (5-0 with one abstention) finding the request consistent with the Comprehensive Plan and the Land Development Code.

**ATTACHMENTS:**

[Ord No. 3909 Chapter 126\\_Sign Code and Ancillary Chapters \(2021-01-28\).pdf](#)

[AD PTA 3-1-21 ORD 3909 SIGNS CH 126 docx.pdf](#)