

**BACK UP MATERIALS INCLUDED WITH
AGENDA REQUEST FOR
PROPOSED ORDINANCE NO. 21-5390**

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2. Section IV-1206. - Standards for review (Zoning Code); (Page7)
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ORDINANCE NO. 21-5390

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE ZONING CODE OF THE CITY OF SARASOTA; ARTICLE VII, REGULATIONS OF GENERAL APPLICABILITY; DIVISION 1, SIGNS; SECTION VII-109, SIGNS PROHIBITED IN ALL ZONING DISTRICTS, TO CREATE AN EXCEPTION TO THE PROHIBITION OF OFF SITE SIGNS FOR BANNERS SECURED TO FENCES ON THE CAMPUS OF A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE OR HIGH SCHOOL; AMENDING SECTION VII-106, EXEMPTIONS FROM A PERMIT REQUIREMENT TO PROVIDE THAT SUCH BANNERS SHALL NOT REQUIRE A SIGN PERMIT; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at its regular meeting of July 19, 2021, the City Commission considered an agenda item regarding signage on private school campuses in the City; and,

WHEREAS, testimony was provided to the City Commission on July 19, 2021 that while public schools in the City have been allowed to fasten banners to fences located on their school campus, private schools have not been allowed to do so; and,

WHEREAS, the City Commission was further advised that Parent Teacher Organizations at public schools sponsor programs whereby monetary donations are solicited and accepted from various business establishments or individuals who in exchange are allowed to put up a banner on the campus for a specified period of time; and,

WHEREAS, these so called "banner programs" at the public schools have resulted in a source of supplemental revenue which the schools are able to utilize for various academic enrichment and athletic programs to enhance the students' experience; and,

WHEREAS, pursuant to the Zoning Code, a "banner" is a type of sign or a sub-set of signs, such that every banner falls within the definition of a sign, but not all signs are banners; and,

WHEREAS, the City has historically enforced Section VII-109(l) against private schools to prohibit banners attached to fences on campus, but has allowed public schools

to install these banners based on the belief that state law pre-empted the City's zoning regulations in this regard; and,

WHEREAS, the City Attorney has advised that, although the state has pre-empted certain City zoning regulations which may not be applied to public schools that the list of pre-empted local regulations is not exhaustive and that there is no provision in the "State Requirements for Educational Facilities" section of the Florida Building Code that specifically pre-empts the application of Section VII-109(l) of the Zoning Code; and,

WHEREAS, based on the foregoing, the City Commission desires to achieve parity in the application of the sign code to public and private schools with regard to school "banner programs;" and,

WHEREAS, at its regular meeting of August 16, 2021, the City Commission adopted a motion (5-0) to authorize a zoning text amendment (under the abbreviated process) to create an exception to the prohibition against off site signs in order to allow elementary schools, middle schools and high schools, both public and private, to display banners on fences on their campuses; and,

WHEREAS, in response to such direction from the City Commission, Zoning Text Amendment no. 21-ZTA-03 is being processed; and,

WHEREAS, the City Commission finds that the proposed zoning text amendment, if adopted, would serve a valid public purpose of assisting both public and private elementary, middle and high schools in the City to provide enhanced learning and athletic opportunities for their students; and,

WHEREAS, the proposed zoning text amendment was considered by the City Planning Board at a public hearing held on October 13, 2021 and the Planning Board recommended approval to the City Commission by a 5-0 vote.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF SARASOTA, FLORIDA:

Section 1. The Zoning Code of the City of Sarasota; Article VII, Regulations of General Applicability; Division 1, Signs; Section VII-109, Signs prohibited in all zoning districts; is hereby amended to add new text: (New text is shown below by underline.)

Sec. VII-109 - Signs prohibited in all zoning districts.

- (a) *District regulations.* Signs which are not specifically permitted in a zone district or which are not otherwise specifically permitted under these land development regulations.

- (b) *Obscenities.* Signs which are obscene, indecent or immoral.
- (c) *Signs in rights of way.* Signs, other than those erected by a governmental agency, erected on the right of way of any street, road or public way, or signs overhanging or infringing upon the right of way of any street, road or public right of way.
- (d) *Signs on public property.* Signs erected on public property, other than signs erected by a public authority for public purposes.
- (e) *Reserved.*
- (f) *Revolving signs, whirling signs, or animated signs.*
- (g) *Wind signs.*
- (h) *Signs on utility poles or trees, shrubs or plants.*
- (i) *Signs in setback areas.* Except as outlined in Section VII-103(11) of these regulations.
- (j) *Roof signs.*
- (k) *Buildings which constitute signs.* No building may be constructed in any zoning district which is designed to represent or to depict an article, a product or an item of food which is for sale or which is available on the premises upon which the building is located. This prohibition shall include, but shall not be limited to, depictions of animals or fowl from which the food products are derived.
- (l) *Off site signs.*

For purposes of this section, the word "sign" shall mean any object, device, display or structure, such as but not necessarily limited to a board, poster or placard which is used to advertise, impart information, give directions or convey a message. Notwithstanding the prohibitions contained in this ~~section~~ article, banners on city light poles in public rights of way may be authorized and installed pursuant to Ordinance 15-5125. Notwithstanding the prohibition against off site signs contained in this article, banners may be secured to fencing on a public or private elementary school, middle school or high school campus.

Section 2. The Zoning Code of the City of Sarasota, Article VII, Regulations of General Applicability; Division 1, Signs; Section VII-106, Exemptions from a Permit is hereby amended to add new text. (New text is shown by underline.)

Sec. VII-106 Exemptions from a Permit Requirement

- (a) The following activities and signs shall not require a permit, provided that the sign complies with the limitations of this division. An otherwise exempt sign which exceeds the limitations set forth in this section shall require a permit and be governed by the applicable sections of this division.

(18) *Banners fastened to fences on the campus of a public or private elementary, middle or high school.*

- (b) Setback of exempt signs. The signs enumerated in subsection VII-106(a) which do not require a permit may be located in required front setbacks no closer than five feet from the property line and meet the sight triangle restrictions cited in Section VII-1202 of this Code.
- (c) Impact of exempt signs on calculations under other sections of this division. The fact area of exempt signs shall not be included in determining compliance with the maximum allowable sign area provisions of this division. Exempt signs are allowed in addition to signs for which permits area required.

Section 3. It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

Section 4. Ordinances in conflict are hereby repealed, but only to the extent of such conflict.

Section 5. This Ordinance shall take effect immediately upon second reading.

PASSED on first reading by title only, after posting on the bulletin board at City Hall for at least three (3) days prior to first reading, as authorized by Article IV, Section 2, Charter of the City of Sarasota, Florida this ____ day of _____, 2021.

PASSED on second reading and finally adopted this ____ day of _____, 2021.

CITY OF SARASOTA, FLORIDA

Hagen Brody, Mayor

ATTEST:

Shayla Griggs
City Auditor and Clerk

- _____ Mayor Hagen Brody
- _____ Vice Mayor Erik Arroyo
- _____ Commissioner Jen Ahearn-Koch
- _____ Commissioner Liz Alpert
- _____ Commissioner Kyle Scott Battie

Sec. IV-1206. - Standards for review.

In reviewing an application for a text amendment, the planning board and city commission shall consider whether the proposed amendment:

- (1) Is consistent with and furthers the goals, objectives and action strategies of the comprehensive plan;
- (2) Furthers the purposes of these regulations and other city ordinances, regulations and actions designed to implement the Sarasota City Plan; and
- (3) Would be in the public interest and serve a valid public purpose.

(Ord. No. 02-4357, 4-29-02; Ord. No. 05-4607, § 11, 3-24-05)

6:53:27 P.M.

Vice Mayor Arroyo spoke against the motion and stated that the City has special standing in the case; that there was a settlement of \$215 million for two counties.

6:54:15 P.M.

City Attorney Fournier stated that his understanding is the amount to be received is not a certainty now, because this has not been finalized, but the more jurisdictions who participate would increase the amount, and requested the outside Counsels to correct him should his understanding be wrong, and Attorney Rice stated that he was not able to hear everything mentioned, and requested the Commission to keep in mind that the State is going to have approximately 50% of the value which they are going to be spending as well, and the City will have influence through the joint working group as to how that money is spent throughout the State of Florida.

6:55:51 P.M.

In response to a question from the Mayor to Attorney Rice asking if the amount the City is settling for not yet solidified, Attorney Rice stated that the \$21 and five billion are solidified and final for the State of Florida.

6:57:01 P.M.

Commissioner Ahearn-Koch requested the City Attorney provide input on the Vice Mayor's comments, and City Attorney Fournier stated that this is a nationwide litigation and was an opportunity which the Commission decided to join because everyone else was joining.

6:58:21 P.M.

Commissioner Battie spoke to the motion and stated that he leans heavily on the recommendations and thoughts of the City Attorney and the City's outside Counsel to litigate the matter.

7:02:31 P.M.

Mayor Brody called for a vote on the motion to adopt proposed Resolution No. 21R-3009, which carried by a 4-1 vote, with Vice Mayor Arroyo voting no.

7:02:54 P.M.

- 2) **DISCUSSION RE: CONSIDERATION OF ALLOWING PRIVATE SCHOOLS AND CHARTER SCHOOLS THE ABILITY TO PLACE SIGNAGE ON SCHOOL PROPERTY BY RIGHT, SIMILAR TO PUBLIC SCHOOLS (AGENDA ITEM X-2)**

7:03:34 P.M.

Vice Mayor Arroyo stated that the City has a Zoning Code which regulates Private/Public Schools; however, Public Schools are exempt; that the Zoning Code specifically prohibits commercial or non-commercial messages, and the belief is this presents a First Amendment concern as the result of regulating speech based on content; that the hope is for the Commission to adopt an Amendment to the Zoning Code which will mimic what Public Schools are already doing to afford uniformity as opposed to Private/Charter Schools being treated differently.

City Auditor and Clerk left and returned to her seat at 7:03 P.M.

7:05:21 P.M.

Citizens' Input received from individuals at City Hall in the Chambers.

7:10:06 P.M.

In response to a request and question from Commissioner Ahearn-Koch to the City Attorney to provide input and if the City is in violation, City Attorney Fournier stated that he has a different view upon reviewing the Florida State Statute on the matter; however, the Commission can certainly approve the Vice Mayor's request, if the goal is to treat Private/Public Schools equally; that the belief is the way Staff view this is they have decided they cannot enforce any of the provisions in the Zoning Code as related to Public Schools, yet they can enforce for Private/Public Schools.

7:13:18 P.M.

In response to a question from Commissioner Ahearn-Koch to the City Attorney asking if the recommendation would be to continue the item, City Attorney Fournier stated that a recommendation would be for the Commission to give direction as to whether or not that is what the Commission wants and have Staff to come back before the Commission with a report.

7:15:41 P.M.

In response to a question from Commissioner Alpert to the Vice Mayor asking if his intent is to allow for banners on the Private/Charter Schools fences, Vice Mayor Arroyo stated that is correct.

7:18:19 P.M.

In response to a question from Commissioner Alpert asking if the City would be opening a Pandora's Box which would afford every business/entity in the City to say "Well, you allowed it for the schools, so it is discriminatory then if you do not allow it for us", and City Attorney Fourier stated that is what the City does not want to do.

7:20:12 P.M.

In response to a request for clarity from Commissioner Battie asking if the topic is about signs which are displayed on school fences at the football field, i.e., Cardinal Mooney Catholic High School cannot display signs, but Sarasota High School can display signs, City Attorney Fournier stated exactly.

7:22:46 P.M.

In response to a question from Mayor Brody to the City Attorney asking why he keeps using the term "off-site signage", City Attorney Fournier stated that is the correct term; that the belief is this is the provision being enforced in the Zoning Code to preclude Private/Charter Schools from having signs because they are considered to be "off-site signage."

7:28:11 P.M.

Vice Mayor Arroyo thanked the City Attorney for his analysis and for taking the time to research and reiterating that this is a Commission policy decision.

7:29:29 P.M.

A motion was made by Vice Mayor Arroyo, seconded by Commissioner Battie to direct Staff to review the City's Zoning Code, provide Amendments, and suggestions to the Commission for

review to avoid discrimination between Public and Private/Charter Schools in the City, which carried by a 5-0 vote.

7:30:44 P.M.

3) **DISCUSSION RE: INVESTIGATION OF MAYOR HAGEN BRODY FOR COMMISSION DISCUSSION (AGENDA ITEM X-3)**

7:30:56 P.M.

Commissioner Ahearn-Koch read a prepared statement into the record and stated that it was neither an easy, nor spontaneous decision to add an investigation of an Elected Official on the Agenda; however, on behalf of the wide swath of respected constituents, the item was added, and the hope is for Commission support to pass the following motions:

- Motion 1: Bring back the reading of the Code of Public Conduct at the beginning of each City Commission Meeting.
- Motion 2: Direct the Human Resources Department to research and recommend a set of values, expectations, and principles holding the City Commissioners accountable for professional conduct at City Hall and sets out a procedure, process, and consequences should violations occur.
- Motion 3: Direct Staff to research hiring an outside, third-party firm to investigate the reported pattern of behavior of unsafe, destructive, bullying, and/or hostile work environment created by Mayor Brody, including City Charter violations. This investigation is to be conducted by a firm with no ties to the City of Sarasota, Florida, the current Commissioners, City of Sarasota business and would be conducted along the same parameters as was done most recently.
- Motion 4: Temporarily elevate the Vice Mayor to the role of Interim Mayor during the investigation period.

City Auditor and Clerk Griggs left and returned to her seat at 7:44 P.M.

7:41:20 P.M.

City Auditor and Clerk Griggs stated that one person will be speaking via Zoom.

7:41:35 P.M.

Citizens' Input received from individuals at City Hall in the Chambers.

7:46:49 P.M.

Rob Grant, City resident residing in Arlington Park Neighborhood, displayed a Sarasota Herald-Tribune Newspaper article dated June 28, 2021, entitled "Manatee Commissioner Vanessa Baugh won't face criminal charges for vaccine VIP list" along with printed material entitled "Corruption" on the Chambers monitors, indicating there is supposed to be a check and balance system in place to uncover the truth and protect the integrity of government when there is reasonable evidence that a public official might have violated a law, or misused their authority.

7:49:15 P.M.

Citizens' Input continued from individuals at City Hall in the Chambers.

City Auditor and Clerk Griggs left and returned to her seat at 7:52 P.M.

8:38:39 P.M.

Mayor Brody called for a vote on the motion to move forward with receipt of considering offers for the Sale and Development of the City-owned Fillmore Drive parking lot on St. Armands Key for only 90 days, which carried by a 4-1 vote, with Commissioner Ahearn-Koch voting no.

The Commission recessed at 8:39 P.M. and reconvened at 8:57 P.M.

8:57:49 P.M.

Mayor Brody sought and received Commission consensus to postponed under New Business, Agenda Item X, Item No. 2, Discussion Re: 2021 Legislative Update & City of Sarasota's 2022 Appropriation and Legislative Priorities to one of the September 2021, Regular Sarasota City Commission Meetings.

8:58:25 P.M.

- 2) **DISCUSSION RE: CONSIDERATION OF ALLOWING PRIVATE SCHOOLS AND CHARTER SCHOOLS THE ABILITY TO PLACE SIGNAGE ON SCHOOL PROPERTY BY RIGHT, SIMILAR TO PUBLIC SCHOOLS (AGENDA ITEM IX-2)**

8:58:47 P.M.

City Attorney Fournier provided a brief overview about allowing Private and Charter Schools the ability to place signage on school property by right, similar to public schools, and stated that a proposed motion for Commission consideration is to authorize a Zoning Text Amendment (ZTA) under the abbreviated process to create an exception to the prohibition against off-site signs in order to allow elementary, middle, and high schools that are Public, Private and Charter, the ability to display banners/signage on their campus fences.

City Auditor and Clerk Griggs left the Chambers at 8:58 P.M. and returned at 9:01 P.M.

9:09:49 P.M.

Citizens' Input received from an individual at City Hall in the Chambers.

9:10:57 P.M.

A motion was made by Vice Mayor Arroyo, seconded by Commissioner Ahearn-Koch to direct the City Manager to direct the Director of the Development Services Department to authorize a Zoning Text Amendment (ZTA) under the abbreviated process to create an exception to the prohibition against off-site signs in order to allow elementary, middle, and high schools that are Public, Private and Charter, the ability to display banners/signage on their campus fences, which carried by a 5-0 vote.

9:11:46 P.M.

- 3) **DISCUSSION RE: COVID-19 (CORONAVIRUS) UPDATE (AGENDA ITEM IX-3)**

9:12:18 P.M.

Deputy City Manager Patrick "Pat" Robinson, City Manager's Office, came before the Commission and provided the Commission with an update on Coronavirus (COVID-19) and City Manager Brown provided an update on the process and protocols related to City buildings, Staff and the availability of numerous COVID-19 testing sites.



**NOTICE OF PUBLIC HEARING
APPLICATION NO. 21-ZTA-03**

Notice is hereby given that the **CITY COMMISSION** of the City of Sarasota, Florida will meet on **Monday, November 15, 2021, at 9:00 a.m.** in the Commission Chambers, City Hall, 1565 First Street, Sarasota, Florida. **Starting at 9:00 a.m. or as soon thereafter as possible, the Commission will open the scheduled Public Hearings in the order they appear on the agenda.** The following Ordinance will be considered at the above scheduled meeting:

ORDINANCE 21-5390

AN ORDINANCE OF THE CITY OF SARASOTA, FLORIDA AMENDING THE ZONING CODE OF THE CITY OF SARASOTA; ARTICLE VII, REGULATIONS OF GENERAL APPLICABILITY; DIVISION 1, SIGNS; SECTION VII-109, SIGNS PROHIBITED IN ALL ZONING DISTRICTS, TO CREATE AN EXCEPTION TO THE PROHIBITION OF OFF SITE SIGNS FOR BANNERS SECURED TO FENCES ON THE CAMPUS OF A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE OR HIGH SCHOOL; AMENDING SECTION VII-106, EXEMPTIONS FROM A PERMIT REQUIREMENT TO PROVIDE THAT SUCH BANNERS SHALL NOT REQUIRE A SIGN PERMIT; PROVIDING FOR SEVERABILITY OF THE PARTS HEREOF; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR READING BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

Said application is on file in the **Planning Department** and the **Office of the City Auditor and Clerk** at City Hall. If you wish to obtain a copy, please call (941) 263-6222 between 8:00 a.m. to 5:00 p.m. Monday through Friday.

Interested persons are welcome to attend and may register to speak in respect to the above-proposed ordinance.

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990 and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in such public hearing should contact the Office of the City Auditor and Clerk at (941) 263-6222 at least two (2) business days prior to the date of the public hearing as to the nature of the aid and/or service desired. Reasonable auxiliary aids and services will be made available to qualified disabled individuals to the extent that no undue financial or administrative burden results. For the benefit of individuals utilizing hearing aids with a T-coil, the City Commission Chambers and SRQ Media Studio are outfitted with a Hearing Induction Loop for enhanced hearing assistance.

CITY OF SARASOTA

By: Shayla Griggs
City Auditor and Clerk

Legal Date: October 29, 2021