



Board Summary Report

Date: June 5, 2018

To: Board of County Commissioners

Through: Jan Yeckes, Planning Division Manager

From: Kathleen Hammer, Planner II

Subject: Arapahoe County Land Development Code – Sign Code Amendment (LDC18-002)

Request and Recommendation

This County-initiated application to amend the Land Development Code is to update the existing Chapter 12 (Specific Regulations) with new verbiage in order to comply with the Supreme Court's decision in the Reed v. Town of Gilbert.

Background

The Supreme Court's decision in the Reed v. Town of Gilbert case determined that sign regulations cannot regulate and/or restrict signage based on the content of the sign. The proposed language eliminates sign restrictions (area, height, location etc.) based on the type of information displayed on a sign and relies on the land use and/or additional zoning regulations to regulate signage within unincorporated Arapahoe County. This code update does not propose any significant changes to dimensional standards such as setbacks, height, or size limitations; some standards were clarified, such as flagpole height requirements.

One example of a content-based sign regulation in our existing code is the "for sale" sign. These are the 2' x 3' signs somebody might place in their yard when a house is for sale. The code proposes to replace the "for sale" sign with a generic temporary sign of no more than six square feet in area; if the new code is adopted, the message on the sign wouldn't be limited to advertising that the house is "for sale."

A Study Session was held at the Planning Commission's May 1, 2018 meeting. The Planning Commission discussed the proposed language and clarified that significant changes to dimensional standards are not planned with this amendment. Staff indicated the Sign Regulations will be amended or updated at a later time when staff has the ability to analyze the entirety of the Sign Regulations.

A public hearing was held at the Planning Commission's June 5, 2018 meeting. The Planning Commission clarified with staff that no significant changes to the dimensional standards are proposed as part of this amendment. Staff confirmed that the proposed changes are to address recent case law and not intended to change dimensional standards related to any zoning district.

No members of the public attended the hearing. The Planning Commission voted unanimously to recommend approval to the BOCC.

Links to Align Arapahoe

If the proposed sign code amendment is adopted, it would promote fiscal responsibility by reducing the risk of legal challenges to the Arapahoe County sign code.

Discussion

The revisions proposed are consistent with the purpose and direction of the Comprehensive Plan in that these revisions provide additional language to guide development within the County, specifically meeting Strategy GM 1.5(b), which provides direction to review and amend the County's Development Regulations to ensure standards sufficiently align with the intent of the Development Framework. These modifications to amend Chapters 12 of the Land Development Code with new verbiage is consistent with this guidance.

Referrals were sent to 67 contacts. The County received 15 responses; 11 of these responses included no comments/concerns or voiced support for the changes proposed (referral comments attached). Tri County Health Department (TCHD) requested the County consider regulations on tobacco-related signage. IREA recommended the City include "Signs may not be installed within utility easements and must maintain 15-foot clearance from existing overhead power lines." The proposal was referred to sign industry contacts such as the Outdoor Advertising Association of America and Lamar Outdoor Advertising. No comments or concerns were received from those groups. Four East Arapahoe County Advisory Planning Commission members responded. Three were generally supportive and one objected to removing regulations on sign content, expressing concern that this would allow inappropriate content on signage.

Recommendation

Planning Commission: On June 5, 2018, the Planning Commission voted 7-0 to recommend approval with staff-recommended conditions.

Staff: Based on the findings of the staff report, staff recommended approval of the Land Development Code Amendment.

Alternatives

The Board of County Commissioners has 3 alternatives:

1. Approve the application with changes.
2. Continue to a date certain for more information.
3. Deny the application.

Fiscal Impact

This request may have positive fiscal impact, ensuring compliance with the Supreme Court's decision.

Concurrence

The Planning and Engineering Services Divisions have reviewed the application, and the Arapahoe County Public Works Department is recommending approval of this case as the use proposed is

consistent with the Supreme Court's decision in the Reed v. Town of Gilbert. The Planning Commission agreed with this recommendation and forwarded a recommendation for approval.

Reviewed By:

Kat Hammer, Planner II

Jason Reynolds, Current Planning Program Manager

Jan Yeckes, Planning Division Manager

Dave Schmit, Director of Public Works and Development

Todd Weaver, Finance Department

Bob Hill, Senior Assistant County Attorney

LDC18-0025 DRAFT MOTIONS: Staff has prepared the following motions to assist the Board.

DRAFT MOTIONS:

APPROVE WITH CONDITIONS: *This action would be consistent with the Planning Commission and staff recommendation.* In the case of LDC18-002 Arapahoe County Land Development Code – Sign Code Amendment, the County Commissioners have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant’s presentation and any public comment as presented at the public hearing. I hereby move to **APPROVE** this application based on the findings in the staff report, **subject to the following condition:**

1. Staff will make corrections and revisions to the proposed language as directed by the County Attorney prior to incorporating the approved amendment into the Land Development Code for publication.

Alternative Motions – The following motions are provided as alternatives to the recommended motion for Conditional Approval:

DENY: *This action would not be consistent with the Planning Commission or staff recommendation.* In the case of LDC18-002 Arapahoe County Land Development Code – Sign Code Amendment, the County Commissioners have reviewed the staff report, including all exhibits and attachments, and have listened to the applicant’s presentation and any public comment as presented at the public hearing. I hereby move to **DENY** this application based on the findings:

a.

CONTINUE TO DATE CERTAIN: In the case of LDC18-002 Arapahoe County Land Development Code – Sign Code Amendment, I move to continue the hearing to [*date*], 9:30 a.m., at this same location, to obtain additional information and to further consider the information presented.

AMENDMENTS TO ZONING REGULATIONS

RESOLUTION NO. [Reso #] It was moved by Commissioner [Moved] and duly seconded by Commissioner [Seconded] to adopt the following Resolution:

Whereas, Sections 30-28-113, -116 and -133, C.R.S., provided that the Board of County Commissioners has the power to adopt and amend the Zoning Regulations and Subdivision Regulations after notice to the Planning Commission and published notice of the Board's intention to consider amendments, all as set forth in Sections 30-28-116 and -133, C.R.S.; and

Whereas, staff recommendations for amendments to the Arapahoe County Zoning Regulations, a component of the Land Development Code, were forwarded to the County Planning Commission for review and comment, along with the changes recommended in the periodic review process; and

Whereas, the Planning Commission held a public meeting on June 5, 2018 and reviewed the recommended changes to the Zoning Regulations, and voted to recommend that the changes be made to the Zoning Regulations, with certain amendments; and

Whereas, the Board reviewed a Notice of Public Hearing that appeared in The I-70 Scout and The Villager, a newspaper of general circulation in the County, attesting to the publication of the Notice of Public Hearing on the 5th, of June, 2018; and

Whereas, on June 19, 2018 at 9:30 a.m., the Board of County Commissioners held a Public Hearing concerning proposed amendments to the Zoning Regulations; and

Whereas, evidence was received showing that the notice, publication and referral procedures required by law for amending the zoning resolution were followed; and

Whereas, no objection was raised by the public or the Planning Commission relating to the adequacy of the notice, publication or referral procedures followed; and

Whereas, at the public hearing County Planning and Legal staff presented and explained the proposed changes, and were questioned about the particulars by the members of the Board of County Commissioners; and

Whereas, the record for this action contains extensive documentation of the factual basis for the proposed regulations; and

Whereas, following the summary presentation by County staff, the Chairman asked members of the public for comments about the proposed changes; and

Whereas, following the opportunity for public comment, the Board of County Commissioners made the following findings:

- A. The Board of County Commissioners finds and determines that the statutory jurisdictional requirements have been met and that the Board has jurisdiction to consider and act upon the proposed amendments to the Zoning Regulations.
1. That adequate opportunity for public input and comment has been provided.
 2. That the Board has jurisdiction to hear, consider and act upon the proposed changes to the Zoning Regulations.
 3. The proposed revisions are consistent with the purpose and direction of the Arapahoe County Comprehensive Plan.
 4. The Sign Regulations in the currently adopted Land Development Code include content-based restriction. The recent *Reed v. Town of Gilbert* Supreme Court decision does not permit content-based restrictions for signage. Adopting a content-neutral sign code would align Arapahoe County regulations with case law and reduce litigation risks.
- B. The Board of County Commissioners hereby concludes that changing conditions clearly require the following amendments to the Zoning Regulations, that the changes will not adversely effect the community's interest in reasonable stability in the zoning regulations and subdivision regulations, and that the changes are in the public interest and for the public good:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Arapahoe County, Colorado to adopt the revisions to the Zoning Regulations, in the Land Development Code, as presented in the staff report, with the following modifications, as follows:

[Text to be inserted after decision]

1. Staff will make corrections and revisions to the proposed language as directed by the County Attorney prior to incorporating the approved amendment into the Land Development Code for publication.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Arapahoe County, Colorado that the above action shall be effective **immediately** and shall be included in the next printing of the Land Development Code.

The vote was:

Commissioner Baker, ___; Commissioner Conti, ___; Commissioner Holen, ___; Commissioner Jackson, ___; Commissioner Sharpe, ___.

The Chair declared the motion carried and so ordered.