

MEMORANDUM

DATE: June 3, 2016

TO: Planning and Zoning Board

FROM: Alaina Ray, AICP
Director – Planning, Zoning and Building Department

SUBJECT: Sign Code Update

In June 2015, the United States Supreme Court issued a written opinion regarding *Clyde Reed, et al v. Town of Gilbert, Arizona*. This constitutional First Amendment challenge dealt with the provisions and enforcement of the Town of Gilbert's sign ordinance. The Supreme Court held that government regulation of signs is content based if a regulation applies based on the particular content, topic discussed, or idea or message expressed.

At the Town Commission's September 28, 2015 Special Meeting, the Town Attorney provided information to the Town Commission as to how the Supreme Court's decision impacts sign codes across the country, including the existing sign regulations for Longboat Key.

After due deliberations, the Town Commission instructed Staff to cease enforcement of any existing sign regulation that is currently based upon the content expressed on proposed signs. This direction did not include, nor does it preclude, the enforcement of existing sign regulations based on time, place, manner, and other provisions not deemed content related.

Based on the direction provided, Staff is no longer reviewing for, nor enforcing, content-related provisions of the existing sign regulations contained within Town Code Chapter 156: Sign Code. In other words, any provision that requires reading the wording and/or intent of the sign should not be considered in the review or enforcement of the Town's sign regulations.

The Town's current Sign Code contains some potential content based regulations, similar to the Town of Gilbert's regulations. Staff engaged a leading Sign Law expert, Dan Mandelker, to conduct a review and rewrite of the Town's existing Sign Code. Mr. Mandelker identified all content-based provisions and developing solutions to the issues, with the result being a new Sign Code.

Staff has attached the draft Sign Code for your initial review and comment. This is not intended to be a final draft and Staff still has significant work to do to address numerous issues throughout the document, as well as potential conflicts with other portions of the Code of Ordinances, but Staff is far enough along in the process that initial feedback and policy direction is needed from the Planning and Zoning Board.

Also included is a chart which highlights all sections of the current Sign Code that is in conflict with the recent Supreme Court decision. The current provisions that are problematic are highlighted in yellow in the chart.

The new draft Sign Code is significantly different from the current Sign Code, due to the elimination of all content-based provisions. Policy decisions that Planning and Zoning Board need to consider are highlighted in yellow in the draft Sign Code.

One major policy decision that needs consideration before moving forward are regulations for temporary signs. Due to the Reed decision, all temporary signs have to be treated the same. Examples of temporary signs are: real estate “for sale” signs, construction signs, event signs, yard signs supporting schools, and political signs. Planning and Zoning Board should consider the maximum size of temporary signs, while also taking into consideration that all signage will be this size. A table has also been included within the draft that lists current exempt, prohibited, and temporary non-exempt signs and indicates whether they are subject to regulation or whether they are constitutionally problematic for inclusion.

Staff will gather comments regarding the draft and will provide additional information at a future workshop. We will also conduct public presentations with businesses, the Chamber of Commerce, and other appropriate parties after the Planning and Zoning Board has reviewed the draft ordinance and provided comments.

The following table lists all current exempt, prohibited, and temporary non-exempt signs and indicates whether they are subject to regulation or whether they are constitutionally problematic for inclusion in the street graphic regulations:

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(A) Any sign which:		X		See 13 intro
(1) Bears or contains statements, words, or pictures of any obscene, pornographic or immoral character		X		Probably not. See 13(f).
(2) Employs motion picture projection		X		Probably not. See 13(g).
(3) Emits audible sound, vapor, smoke, odor, or gaseous matter		X		Probably not. See 13(g).
(4) Has unshielded illuminated devices that produce glare or are a hazard or nuisance to motorists, cyclists, pedestrians or occupants of adjacent properties, or endangers sea turtles in violation of chapter 100 of the Town Code of Ordinances, Sea Turtles		X		Probably not. See Sec. 9 Illumination.
(5) Causes radio, television or other communication interference		X		Probably not. See 13(g).
(6) Is erected or maintained so as to obstruct any fire fighting equipment, window, door, or opening used as a means of ingress or egress for fire escape purpose including any opening required for proper light and ventilation		X		Probably not. See 13(h)(2).
(7) Uses the words "stop", "look", "slow", "yield" or similar messages, except as may be necessary to provide traffic safety within a particular premises		X		Probably. Regulates content; See 13(a)
(8) Interferes with the view of or may be confused with emergency vehicle lighting, or interferes with vehicle or pedestrian traffic		X		Probably not. See 13(h)(1).

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(9) Does not comply with the intersection visibility standard and is not a government sign		X		Probably not.
(10) Is a permanent sign located on property that is residentially used or zoned, except for a residential development name sign, or unless otherwise permitted pursuant to this chapter		X		Probably. Regulates content.
(B) Abandoned signs		X		
(C) Off-site signs unless expressly permitted in this chapter		X		Probably. Equal Protection (EP).
(D) Handwritten signs;		X		Probably. Regulates content.
(E) Wind signs, snipe signs, balloons, banners, pennants, flags, or similar devices located so as to be visible from public or private roads or waterways, unless otherwise permitted pursuant to this chapter		X		Probably not (except for flags). See 13(j) and 14(g) and flag regulations.
(F) Mailbox signs other than letters and numbers which conform to applicable United States Postal Service criteria, not to exceed three inches in height		X		Probably. Regulates content.
(G) Containers attached to a mailbox or mailbox post advertising a business or product		X		Probably. Regulates content. See 13(b).
(H) Transportable signs, unless otherwise permitted pursuant to this chapter		X		Probably. EP. See 13(c); but cf. Alternative at the end of 13.
(I) Vehicle- or trailer-mounted signs in nonresidential districts shall be parked in the designated parking space that is located furthest from all rights-of-way, except for active loading and unloading during business hours		X		Probably unworkable in the prohibition section. See 14(c).
(J) Roof signs		X		Probably not. See 13(d) and (e).

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(K) Signs on the side or rear of any nonresidential building or property directly facing and visible from either residentially zoned or residentially used property, unless otherwise permitted in this chapter		X		Probably not. See 13(k).
(L) Signs erected or displayed in a public right-of-way, except for government signs		X		Probably not. See 13(i).
(M) Human signs		X		Probably.
(N) Animated signs		X		Probably not. See 13(h).
(O) Search lights, flashing lights, strobe lights, animated or moving lights, border lighting, and beacon lights used for display purposes		X		Probably not. See Sec. 9.
(P) Reflective backgrounds, except on directional signs		X		Probably. Regulates content. See 13(a).
(Q) Neon tubing and neon style lights, except for signs that read "open" or "closed" and which are limited to a maximum size of two square feet		X		Probably. Regulates Content. See 13(l).
(R) Any accessory sign attached to a temporary or permanent sign or its sign structure. Real estate information boxes or tubes, multiple listing strips, broker identification strips, sold signs, and similar informational strips or riders are prohibited, except as provided for in this chapter		X		Probably. Regulates content. See 13(n).
(S) Signs on public property other than government signs, unless otherwise permitted pursuant to this chapter		X		Probably. EP. See 13(i).
(A) The following signs are exempted from having to obtain a sign permit but shall comply with all other provisions of this chapter	X			See 14 intro.
(1) On-site signs which do not exceed two square feet in area, which are:	X			Probably. See below.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(a) Identification signs	X			Regulates content.
(b) Directional signs; or	X			Regulates content.
(c) Signs indicating danger, no trespassing, or similar information, provided such signs shall be located in yards along the boundary or perimeter of the property. There shall be no more than one such sign located within or along each 100 lineal or curvilinear feet, or fraction thereof, of the property's boundary or perimeter	X			Regulates content.
(2) Off-site directional signs for emergency medical services, not to exceed four square feet	X			Probably. Regulates content. See 14(a).
(3) Government signs	X			Probably not. See 14(a).
(4) Chamber of Commerce signs, one placed at each the north and south entrances to the town on Gulf of Mexico Drive, and one sign, not to exceed six square feet, at the location of the Chamber of Commerce's main office	X			Probably. Regulates content. But see 14(a).
(5) Flags. Any United States of America national flag, foreign national flag, state flag, or not-for-profit organization flag is exempt. No more than three exempt flags shall be displayed at one time. The maximum size of a flag in a residential zoning district or residential use shall be 24 square feet and in a nonresidential district the maximum size shall be 40 square feet. The height of flags and flag poles shall be limited to the maximum building height allowed in the applicable zoning district. No flag pole shall be placed within ten feet of a property line, except for a waterfront yard property line	X			Probably. Regulates content. See 14(g).
(6) Private navigational aids in conformance with state regulations	X			Probably. Regulates content. See 14(a) and (b).

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(7) On-site religious symbols or identification emblems of religious orders at houses of worship	X			Probably. Regulates content.
(8) At locations other than houses of worship, on-site religious symbols or identification emblems of religious orders, not to exceed two square feet in area	X			Probably. Regulates content.
(9) Historical signs	X			Eliminated based on staff indication that none exist.
(10) Manatee protection signs and watercraft speed signs as specified in the Town Code, or in compliance with national and state regulations	X			Probably. Regulates content. See 14(b).
(11) Vehicle identification signs	X			Probably. Regulates content. See 14(c).
(12) Signs on machinery or equipment placed by the manufacturer or distributor which identify or advertise only the product or service dispensed by the machine or equipment. Such signs are customarily affixed to beverage machines, newspaper racks, telephone booths, gasoline pumps, ATMs, and similar machines or equipment	X			Probably. Regulates content. See 14(d).
(13) Seasonal, holiday or commemorative decorations containing no advertising, provided that such decorations are not displayed for a period of more than 45 days per occasion. Such signs shall not cause a nuisance or hazard to public health, safety or welfare	X			Probably. Regulates content.
(14) Political signs, subject to the following criteria	X			Probably. Regulation content based, therefore standards below also.
(a) Each sign shall not exceed five square feet in area	X			Standards universal, otherwise EP.
(b) A maximum of four sign structures are allowed per property. Each sign structure	X			Standards universal, otherwise EP.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
shall be limited to the display of one candidate or one issue without duplication of candidate or issue on another sign structure on the same property. However, a double-faced sign on a single sign structure may provide the same message on each face of the single sign structure;				
(c) The signs shall be prohibited within public and private rights-of-way	X			Standards universal, otherwise EP.
(d) Signs may be erected no more than 90 days prior to a publicly-held election. Political signs shall be removed within 72 hours after the day the election has closed or be subject to code enforcement action	X			Standards universal, otherwise EP.
(15) Window signs	X			Probably. Regulation content based, therefore standards below also.
(a) In addition to any other signs allowed, a commercial establishment may place a sign in a window to display the following information and under the following guidelines	X			Standards content-based.
(i) Advertise the name of the establishment	X			
(ii) Advertise special events at the place of business, which shall be removed within three days after the event occurs	X			
(iii) Signs shall not be placed on the exterior of a window	X			See Sec. 8(a)
(iv) No more than 20 percent of the gross glass area of the window shall be obstructed or covered, including but not limited to signs, photographs, merchandise, and/or decals	X			See Sec. 8(a)
(v) The permanent display of a physical address is exempt from the 20 percent coverage limitation	X			Probably. Regulates content. See Sec. 8(a)

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(vi) The display of information regarding real estate or water vessels that are for sale, lease, or rent on Longboat Key is entitled to an additional 20 percent coverage of the gross glass area of a window; and	X			Probably. Regulates content.
(vii) Window signs shall not be electronic, except for signs that read "open" or "closed" and which are limited to a maximum size of two square feet	X			Probably. Regulates content.
(b) Window signs are not permitted on residentially used or zoned property	X			Probably. EP.
(16) Informational decals and bumper stickers placed on vehicles	X			Probably. Regulates content.
(17) Balloons, pennants, and flags that:	X			Probably. Regulates content.
(a) Do not exceed two feet in diameter	X			Standard: See temporary street graphics.
(b) Are displayed for noncommercial purposes	X			Probably. Regulates content.
(c) Are associated with a party, commemorative, celebratory event, or permitted special event; and	X			Probably. Regulates content.
(d) Are displayed for less than 72 hours	X			Standard: See temporary street graphics.
(18) Portable sidewalk signs that are not visible from a right-of-way or adjoining property and shall not interfere with or create a dangerous condition for the movement of pedestrians or vehicles are exempt subject to the following conditions:	X			Staff asks: "Do portable graphics allow sandwich board signs?" Response: What does the Town wish to provide? Do you wish to allow these signs by right or by permit?

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(a) Sidewalk signs shall be no higher than three feet and no larger than six square feet	X			Standard: See temporary street graphics.
(b) Sidewalk signs shall be located no further than ten feet from the business advertised; and	X			Standard: See temporary street graphics.
(c) Sidewalk signs shall be removed from the public way during nonbusiness hours	X			Standard: See temporary street graphics.
(A) <i>General conditions and permit requirements.</i> All nonexempt temporary signs shall require a sign permit prior to the placement of the sign. Temporary signs shall be permitted for a period of time not to exceed nine months			X	Probably not. See 8(c).
(B) <i>Types of permitted temporary signs</i>			X	Probably. Regulates content. See below.
(1) <i>Special event signs</i>			X	Probably. Regulates content.
(a) Signs announcing special events for civic purposes, including but not limited to, the Chamber of Commerce, homeowner or condominium owner associations, and events sponsored by other not-for-profit organizations, may be permitted subject to the following criteria			X	Probably. Regulates content.
(i) The sign may be displayed for the seven consecutive days before the special event, and shall be removed within 72 hours after the event			X	Probably. Regulates content.
(ii) The maximum size of special event announcement or directional signs shall not exceed four square feet, unless otherwise permitted pursuant to this chapter			X	Probably. Regulates content.
(iii) One off-site sign shall be permitted for each area designated by the town commission for the placement of			X	Probably. Regulates content.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
temporary special event signs sponsored by civic not-for-profit organizations for events located on Longboat Key. The number of areas designated shall not exceed three. The off-site sign structure shall not exceed 18 square feet in area with a maximum dimension of six feet in width and three feet in height				
(iv) One off-site sign shall be permitted for each area designated by the town commission for the placement of temporary special event signs sponsored by civic not-for-profit organizations for events located on Longboat Key. The number of areas designated shall not exceed three. The off-site sign structure shall not exceed 18 square feet in area with a maximum dimension of six feet in width and three feet in height			X	Probably. Regulates content.
(b) On-site signs announcing the grand opening of developments, construction sites, or changing ownership or management shall not be displayed more than seven consecutive days. Such signs shall be permitted once per owner or tenant for each property subject to the opening. The maximum size of the sign structure shall not exceed four square feet, unless otherwise permitted pursuant to this chapter			X	Probably. Regulates content.
(c) Temporary special event signs and directional signs for special events shall be allowed to be located a minimum of two feet inside the property line. In conjunction with a public forums permit, temporary special event signs and directional signs for special events shall be allowed to be placed in a median or right-of way at a minimum distance of one foot from the edge of pavement. The maximum size of the sign structure shall not exceed four square feet,			X	Probably. Regulates content.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
unless otherwise permitted pursuant to this chapter				
(d) Banners are allowed for special events that have received a public forums permit, subject to the following criteria			X	Probably. Regulates content.
(i) Banners may be displayed for the seven consecutive days before the special event, and will be removed within 72 hours after the event			X	Probably. Regulates content.
(ii) The size of a single banner is limited to 40 square feet			X	Probably. Prohibited sign. EP. Otherwise standards. See 8(c)(2).
(2) Real estate, for sale or lease signs. A real estate sign can be permitted only by the owner of the specific property for sale, rent or lease or the owner's authorized agent, subject to the following criteria			X	Probably. Regulates content.
(a) One nonilluminated sign shall be allowed along the road frontage of the advertised property			X	Probably. Regulates content.
(b) The maximum size of the sign shall be four square feet			X	Probably not. EP. See 8(c)(2) and (3).
(c) The sign shall be freestanding with a four-inch by four-inch support post with the top of the supporting arm a maximum of four feet from the ground			X	Probably not. EP. See 8(c)(2) and (3).
(d) The sign structure shall be painted white			X	Probably not. EP. See 8(c)(2) and (3).
(e) No more than one, six-inch high informational strip or rider, which shall count as part of the total sign area, shall be allowed on the top or bottom edge of each real estate sign and the rider shall not extend beyond the width or length of the side of the sign along which it is placed			X	Probably. Regulates content.
(f) The sign shall be removed within two business days after transfer of ownership, when the property is no longer for rent,			X	Probably. Regulates content.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
sale or lease, when the lease or rent period commences, or when the temporary sign permit expires, whichever occurs first				
(g) Vacant, nonresidential zoned property which has commercial occupancy space "for rent" or "for lease" may in addition to any other permitted signage be allowed to display in the window of the vacant unit one nonilluminated window sign not to exceed four square feet in size			X	Probably. Regulates content.
(3) <i>Open house signs</i>			X	Probably. Regulates content.
(a) On-site open house signs associated with the sale or rental of property are subject to the following criteria			X	Probably. Regulates content.
(i) The maximum size of the sign shall be four square feet			X	Probably not. Standards. See 8(b).
(ii) No other items may be attached to the sign			X	Probably not. Standards. See 13(n).
(iii) One open house sign may be placed on the lot, parcel, or tract that is advertised for sale, lease, or rent			X	Probably. Regulates content.
(iv) The sign shall not be displayed more than one hour prior to when the house is open for public viewing and shall be removed no later than one hour after the house is closed			X	Probably. Regulates content.
(b) Off-site open house signs are subject to the following additional criteria			X	Probably. Regulates content.
(i) An on-site open house sign permit shall entitle the applicant to a maximum of three off-site open house signs			X	Probably. Regulates content.
(ii) The signs shall be directional only			X	Probably. Regulates content.
(iii) No more than one sign shall be placed at any street connection with Gulf of Mexico Drive			X	Probably. EP.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
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(iv) No more than one sign shall be placed at any other street intersection leading to the advertised property			X	Probably. EP.
(v) No more than one sign shall be placed at a development entrance			X	Probably. Regulates content.
(vi) Signs shall be erected on a first-come, first-served basis			X	Probably. Regulates content. EP.
(4) <i>Future project signs.</i> Freestanding future project signs for residential construction requiring site plan approval, and all other zoning districts are subject to the following requirements			X	Probably. Regulates content.
(a) The sign may be erected on the project site only after approval of a site plan for the project and shall be removed after a certificate of occupancy or completion has been issued, or once a permanent sign has been erected, whichever occurs first			X	Probably. Regulates content.
(b) One sign is allowed per site			X	Probably not. Standards. See 8(c)(3).
(c) Signs and sign structures shall not exceed eight feet in height from finished grade			X	Probably. EP.
(d) The maximum size for the sign and its structure is determined by the lineal feet of frontage on the principal right-of-way on which the building is located in accordance with the following schedule			X	Probably. Regulates content. But standards applicable to all non-exempt permitted street graphics acceptable.
(5) <i>Yard, garage and household sale signs</i>			X	Probably. Regulates content.
(a) On-site yard, garage, and household sale signs shall be subject to the following criteria			X	Probably. Regulates content.
(i) No more than two permits for an address may be issued within a consecutive 12-month period			X	Probably. Regulates content. EP. But see 8(c)(1).

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
(ii) The maximum size of the sign shall be four square feet			X	Probably not. See 8(c)(2).
(iii) No balloons, streamers, flags, or similar attention attracting items may be attached to the sign			X	Probably not. See 13(n).
(iv) A maximum of one sign may be placed on the lot, parcel or tract where the sale is held			X	Probably. Regulates content.
(v) The sign shall not be displayed more than one hour prior to the commencement of the sale and shall be removed no later than one hour after the conclusion of the sale			X	Probably. Regulates content.
(b) Off-site yard, garage, and household sale signs are subject to the criteria in subsection (5)(a) above, with the following exceptions			X	Probably. Regulates content.
(i) The granting of an on-site yard, garage, or household sale sign permit shall entitle the applicant to a maximum of three off-site yard, garage, or household sale signs			X	Probably. Regulates content.
(ii) No more than one off-site sign shall be placed at one connecting street to Gulf of Mexico Drive, and no more than one sign shall be placed at other street intersections leading to the advertised property			X	Probably. Regulates content. EP.
(iii) Off-site yard, garage, and household sale signs shall be erected on a first come, first-served basis			X	Probably. Regulates content.
(iv) Off-site signs shall be directional only			X	Probably. Regulates content.
(6) <i>Construction signs.</i> Construction signs are allowed if exterior construction is being performed under an active building permit. The sign identifying the owner, developer, architect, and/or contractor shall be erected on the site of the exterior construction and are subject to the following criteria. No construction signs will			X	Probably. Regulates content.

DESCRIPTION	CURRENT SIGN CLASSIFICATION			Problem? Draft ref.:
	Exempt	Prohibited	Temporary non-exempt	
be permitted for interior renovations or other interior construction				
(a) Signs for residential construction on buildings of less than ten units, or on individual dwelling units within a multifamily building			X	Probably. Regulates content.
(i) The sign may be erected on the construction site only after issuance of a building permit for the structure being erected and shall be removed after all certificates of occupancy are issued or final inspection is completed, whichever if applicable			X	Probably. Regulates content.
(ii) One sign is allowed per site			X	Probably not. Standards. See 8(c)(3).
(iii) The maximum size of sign shall be eight square feet			X	Probably not. Standards. See 8(c)(2).
(iv) The sign shall be freestanding with a four-inch by four-inch support post. The top edge of supporting arm shall be a maximum of four feet off the ground. All supports shall be painted white			X	Probably not. Standards. But, EP: standard must apply to all non-exempt temporary street graphics.
(v) The sign shall not be illuminated			X	Probably not. Standards. See 8(c)(1).
(b) Signs for residential construction of buildings of ten or more units, and signs for construction in commercial and all other zoning districts shall comply with the following size standards			X	Probably. Regulates content.
(i) Signs and sign structures shall not exceed eight feet in height from finished grade			X	Probably not. Standards. But, EP: Standard must apply to all non-exempt temporary street graphics.

	CURRENT SIGN CLASSIFICATION			
DESCRIPTION	Exempt	Prohibited	Temporary non-exempt	Problem? Draft ref.:
(ii) The maximum size for the sign and its structure is determined by the lineal feet of frontage on the principal right-of-way on which the building is located in accordance with the following schedule			X	Probably not. Standards. See 8(c)(3).

SECTION 1. INTENT AND PURPOSE

(a) The intent and purpose of this chapter of the code is to establish the legal framework for a comprehensive and balanced system of **street graphics** to:

- (1) Provide functional flexibility, encourage variety, and create an incentive to relate street graphics to basic principles of good design.
- (2) Assure that public benefits derived from expenditures of public funds for the improvement and beautification of rights-of-way and other public structures and spaces are protected by exercising reasonable controls over the character and design of street graphic structures.
- (3) Provide an improved visual environment and protect prominent **view sheds** within the community.
- (4) Promote the free flow of vehicular traffic and protect pedestrians and motorists from injury and property damage caused by—or that may be fully or partially attributable to—cluttered, distracting, or illegible street graphics.
- (5) Promote the use of street graphics that are aesthetically pleasing, of appropriate scale, and integrated with surrounding buildings and landscape, in order to meet the community's expressed desire for quality development.

(b) This system will preserve the right of free speech and expression, provide convenient and pleasant communication between people and their environment, and avoid the visual clutter that is potentially harmful to vehicular traffic and pedestrian safety, property values, business opportunities, and community appearance. In furtherance of this intent and purpose, this chapter authorizes the use of

street graphics that are:

- (1) compatible with their surroundings,
- (2) appropriate to the activity that displays them,
- (3) expressive of the identity of individual activities and the community as a whole,
- (4) legible in the circumstances in which they are seen,
- (5) unlikely to distract the public to a dangerous degree, and
- (6) able to preserve the right of free speech and expression.

SECTION 2. NONCOMMERCIAL STREET GRAPHICS AND MESSAGES

Any street graphic authorized by this chapter may contain a **noncommercial message**.

SECTION 3. DEFINITIONS.

Above-roof graphic: A street graphic displayed above the peak or parapet of a building.

Activity: An economic unit designated in the classification system given in the **Standard Industrial Classification (SIC) Manual as published by the U.S. Department of Commerce** on the adoption date this ordinance.

Activity: **An individual tenant, business, or other establishment.**

Animation or animated: (*See also **changeable copy and movement***) The movement or the optical illusion of movement of any part of the street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street graphic.

Architectural detail: (*See also **signable area, wall graphics***) Any projection, relief, cornice, column, change of building material, window, or door opening on any building.

Architectural, historic, or scenic area: An area that contains unique architectural,

historic, or scenic characteristics that require special regulations to ensure that street graphics displayed within the area enhance its visual character and are compatible with it.

Awning: A cloth, plastic, or other nonstructural covering that is permanently attached to a building or other structure, or that can be raised or retracted to a position against the building or other structure when not in use.

Banner: A street graphic on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

Bare-bulb illumination: A light source that consists of light bulbs with a [20]-watt maximum wattage for each bulb.

Building: A structure having a roof supported by columns or walls.

Canopy: (*See awning*)

Canopy: A structure other than an awning made of cloth, metal, or other material with frames affixed to a building and carried by a frame that is supported by the ground.

Changeable copy: Copy that changes at intervals [of more than once every six (6) seconds].

Dynamic element: Any characteristic of a street graphic that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the street graphic face or its components, whether the apparent movement or change is in the street graphic, the street graphic structure itself, or any other component of the street graphic. This definition includes a display that incorporates a technology or method allowing the street graphic display to change the image without having to replace the street graphic display or its components physically or mechanically. This definition also includes any rotating, revolving, moving, flashing, blinking, or animated graphic or

illumination, and any graphic that incorporates rotating panels, LED lights manipulated through digital input, “digital ink” or any other method or technology that allows the street graphic display to present a series of images or displays.

External illumination: Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

Façade: The side of a building below the eaves.

Façade, blank: The side of a building below the eaves that is blank and does not have windows or architectural detail.

Government Graphic: A street graphic placed on public property by an agency of federal, state, or local government.

Graphic: A street graphic or special street graphic, as defined by this chapter.

Ground graphic: A street graphic affixed upon or in the ground and not attached to any part of a building. Ground graphics may be supported by one or more uprights, posts, or bases and include monument graphics and pole graphics.

Height: The vertical distance measured from grade at the edge of the adjacent right-of-way to the highest point of the street graphic. (The height of any monument sign base or other structure erected to support or adorn the sign is measured as part of the sign height.)

Illumination or illuminated: A source of any artificial or reflected light, either directly from a source of light incorporated in the street graphic, or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street graphic.

Indirect illumination: A light source not seen directly.

Indirect illumination: A source of external illumination, located away from the sign,

that lights the sign, but which is itself not visible to persons viewing the sign from any right-of-way, walkway, or adjacent property.

Internal illumination: A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface.

Intersection visibility standard:

Marquee: A permanent structure other than a roof attached to, supported by, and projecting from a building and providing protection from the elements.

Monument graphic: A ground graphic permanently affixed to the ground at its base, supported entirely by a decorative base structure of brick, wood, metal or other material, and not mounted on a pole or supported by a building.

Movement: Physical movement or revolution up or down, around, or sideways that completes a cycle of change.

Multi-use building: A building consisting of [four (4)] or more separate commercial uses.

Multitenant or multibuilding complex: A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

Neon tube illumination: A source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes.

Nit: A photometric unit of measurement referring to luminance. One nit is equal to one (1) candela per square meter (cd/m²).

Non-commercial message:

Nonconforming street graphic: A street graphic that was lawfully constructed or installed prior to the adoption or amendment of this ordinance and was in compliance with all of the provisions of the ordinances then in effect, but that does not presently comply with this ordinance.

Occupant: A use located in a multi-use building or shopping center.

Peak: The highest point on a roof or the highest point on another architectural element that blocks the rear view of a street graphic.

Pole graphic: A ground graphic permanently supported in a fixed location by a structure of poles, uprights, or braces from the ground and not supported by a building or a base structure.

Portable graphic: A street graphic not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building.

Premise: The lot, lots, plots, portions, or parcels of land considered as a unit for a single use or development, whether owned or leased, and not a shopping center or multi-use building.

Projecting graphic: A street graphic attached to and projecting from the wall of a building and not in the same plane as the wall.

Roof graphic: A street graphic attached to the roof or uppermost edge of a parapet wall of a building, and which is wholly or partially supported by the building.

Shopping center: A commercial development under unified control consisting of [four] or more separate commercial establishments sharing a common building, or that are in separate buildings that share a common entranceway or parking area.

Signable area [or Display area]: A two-dimensional area that describes the largest square, rectangle, or parallelogram on the façade of a building or structure that is free of architectural details.

Size: The total display area of the street graphic structure, not including its supporting poles or structures. If a street graphic structure has two (2) display areas that are parallel, not more than two feet apart, and supported by the same poles or structures, the measured size of the street graphic is one-half the total area of the two display areas.

Special street graphic: A street graphic, other than a ground, projecting, or wall graphic that is regulated by Section 8 of this code.

Street graphic: Any structure that has a visual display visible from a public right-of-way and designed to communicate to the public.

Structure: Anything built, constructed, or manufactured that requires a permanent or temporary location. This term includes a building. [Revise to accord with NFIP definition of structure].

Temporary ground graphic: A ground graphic displayed for a limited period of time.

Temporary window graphic: A window graphic displayed for a limited period of time.

Town center: The central business district designated by the zoning ordinance.

Viewshed: A geographic area visible from a location or point, including all surrounding points that are in line-of-sight with that location.

Wall graphic: A street graphic attached to or painted on an exterior wall of a building or dependent upon a building for support, with the exposed face of the graphic located in

a place substantially parallel to the exterior building wall to which the graphic is attached or which supports the graphic, and in the same plane as the wall.

Window graphic: A street graphic applied, painted or affixed to or in the window of a building. A window graphic may be temporary or permanent.

SECTION 4. GENERALLY.

- (a) **Permit required.** Any person seeking to display a street graphic regulated by this ordinance is required to apply for and obtain a specific street graphic permit prior to lawful placement of the street graphic structure and street graphic.
- (b) **Street graphics allowed.** One (1) wall graphic, awning graphic, of a projecting graphic is allowed to be permitted for each on premise activity or tenant on a property. If only one (1) on premise activity or tenant exists on a property, one (1) wall graphic or one (1) ground graphic may be permitted, but not both.
- (c) If a projecting graphic or awning graphic is proposed to be placed parallel to the building, a wall graphic for that activity or tenant is prohibited. However, if an projecting graphic is proposed to be placed perpendicularly to the building, then one (1) wall graphic or awning graphic may also be permitted.

SECTION 5. GROUND GRAPHICS.

- (a) **Where permitted.** A premises may display one (1) on premises ground graphic on each right-of-way on which it has frontage in the following zoning districts: [list the zoning districts in which a ground graphic may be displayed]
- (b) **Size, setback, and height regulations.**

- (1) Ground graphics must comply with the following size, setback, and height regulations: [Specify these regulations in text or tabular form by zoning district]
- (2) The maximum height of the lowest display area must not exceed two (2) feet above the base.

Lineal Feet of Frontage [156.08(B)(1)]	Maximum Size of Sign Face and Structure
0—99 Feet	16 Square Feet
99+ Feet	42 Square Feet
Property type [156.08(B)(3)]	Maximum Height of the Sign Structure
Single tenant properties	8 Feet
Multi-tenant, residential or tourism development	12 Feet
Property type [156.08(B)(9)]	Maximum Size of Address Numbers
Business, service, or establishment	6 Inches by 6 Inches
Single-family residential	4 Inches by 4 Inches

(c) **Gulf of Mexico Drive planned unit developments.** Premises located in a planned unit development that fronts Gulf of Mexico Drive that do not have specific frontage along Gulf of Mexico Drive may request, through the outline development plan process [the public hearing process] the placement of ground graphics on the site of a Gulf of Mexico Drive-fronting premise in the same planned unit for both premises. These ground graphics are not within the definition of off-premise graphics. [156.08(B)(10)]

(d) Shopping Centers. A shopping center may display one ground graphic at each exit and entrance. Occupants within a shopping center must not display ground graphics.

(e) Multi-Use Buildings. A multi-use building may have one (1) ground graphic facing each street or highway on which the building has frontage if no ground graphics are displayed by the occupants of the multi-use building. The maximum size restriction for such ground graphic may be increased by up to [50] percent if [three (3)] or more occupants share the same ground graphic.

(f) Landscaping. All ground graphics must provide a landscaped area located around the base of the ground graphic equal to 2.5 square feet for each square foot of ground graphic display area. The landscaped area must contain living landscape material consisting of native shrubs, perennial ground cover plants, or a combination of both, placed throughout the required landscape area with a plant spacing not exceeding three feet on center. Where appropriate, deciduous or evergreen trees may be planted in a manner that frames or accents the ground graphics structure. [158.08(B)(6)].

SECTION 6. WALL GRAPHICS.

(a) Where permitted. In the following zoning districts, a premises, and each occupant of a shopping center or multi-use building, may display wall or roof graphics, or a combination of both, on walls or roofs adjacent to each street or highway on which it has frontage: [List the commercial zoning districts in which these street graphics can be displayed]

(b) Signable area designation. A premises displaying wall or roof graphics I allowed one signable area on each facade of the building that has frontage on a street or highway.

See the definition of “signable area” for wall and roof graphics.

- (c) **Sign structure or graphic display area allowed.** The aggregate area of the wall and roof graphics a premises displays must not exceed the following maximum wall graphic display area: [These percentages can be stated in text or tabular form for each commercial zoning district]

Linear Feet of Frontage [156.08(C)(4)]	Maximum Wall Graphic Display Area
0-99 Feet	16 Square Feet
99+ Feet	32 Square Feet

- (d) **How displayed.** The sign structure or graphic display area may be displayed as one or divided among two or more wall or roof graphics.
- (e) **Additional limitations.** Wall graphics may be painted on or attached to or pinned away from the wall, but must not project from the wall by more than [12 inches] and must not interrupt architectural details. Roof graphics must not be more than [20] feet from the ground. [156.08(C)(2)].

SECTION 7. PROJECTING GRAPHICS

- (a) **Where permitted.** A premises, and each occupant of a shopping center or multi-use building, that does not display a ground graphic may display one projecting graphic on each street or highway frontage in the following zoning districts: [list the commercial zoning districts in which a projecting graphic may be displayed]
- (b) **Size of projecting graphics.** Projecting graphics must comply with the following size regulations: [Specify size regulations in text or tabular form for each commercial zoning district.]

	Maximum Size of Sign Face and Structure
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(c) **Signable area.** Any signable area selected for graphic display as a projecting graphic must not exceed and must be subtracted from the signable area allocated to wall and roof graphics permitted for each premises and each occupancy under Section 5.

(d) **Additional limitations.** The following additional limitations apply to projecting graphics:

(1) Projecting graphics must clear sidewalks by at least [eight (8)] feet and may project no more than [four (4)] feet from a building or [one-third] the width of the sidewalk, whichever is less.

(2) Projecting graphics must be pinned away from the wall at least [six (6)] inches and must project from the wall at an angle of [90] degrees.

(3) [Angular projection from the corner of a building is prohibited.]

SECTION 8. AWNING GRAPHICS

(a) **Where permitted.** A premises, and each occupant of a shopping center or multi-use building, may display an awning on each street or highway frontage in the following zoning districts: [list the zoning districts in which awning street graphics may be displayed]

(b) **Signable area.** A street graphic may be displayed on one (1) signable area selected for display on an awning. It must not exceed [40] percent of the area of the [principal face of the awning] and must not exceed and must be subtracted from the area selected for wall graphics permitted for each premises and each occupancy under [Section 5].

(c) **Height and width.** Awnings must clear sidewalks by at least [eight] feet and may

extend to within one foot of the vertical plane formed by the curb or the right-of-way line.

SECTION 9. SPECIAL STREET GRAPHICS.

(a) Window street graphics.

- (1) A premises, or an occupant of a shopping center or mixed-use building, may display permanent window graphics not to exceed 20 percent of the window area of the facade of the building and temporary window graphics, not to exceed an additional 20 percent of the window area of the facade of the building, for no more than 14 days during any 12 consecutive calendar months.
- (2) Window street graphics must not be placed on the exterior of a window.
- (3) Illuminated window signs are limited to two (2) square feet maximum.

(b) Multiple-driveway street graphics. A premise with multiple driveways, or an occupant of a mixed-use building on a premise with multiple driveways, may display one multiple-driveway graphic at each entrance or exit. A multiple-driveway graphic may not be more than two square feet on two-lane streets or highways and on any highway with a posted travel speed less than 35 miles per hour, and not more than four square feet on multi-lane roads and on any highway with a posted travel speed greater than 35 miles per hour.

(c) Temporary ground graphics.

- (1) Non-illuminated temporary street graphics may be permitted for not more than nine (9) months
- (2) Temporary ground graphics must not exceed five (5) square feet.
- (3) No more than one (1) temporary ground graphic will be permitted to be located on

each 100 linear or curvilinear feet, or fraction thereof, of the premise's right-of way boundaries.

SECTION 10. ILLUMINATION AND DYNAMIC ELEMENTS.

(a) Dynamic elements. Dynamic elements on street graphics are allowed subject to the following conditions in this section. Dynamic elements are allowed only on monument graphics.

- (1) Only one contiguous dynamic element is allowed on a street graphic display.
- (2) A dynamic element must not change or move more often than once every [20 minutes].
- (3) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
- (4) Dynamic elements must be designed and equipped to freeze the element's display in one position if a malfunction occurs.

(b) Illumination, prohibited. A street graphic must not have exposed neon tube, animated, flashing, or changeable illumination.

(c) Illumination requirements. All permanent street graphics may be non-illuminated, illuminated by internal, internal indirect (halo), or by external indirect illumination. Street graphics that are externally illuminated must be illuminated only with steady, stationary, and shielded light sources directed solely onto the street graphic. Notwithstanding other provisions within this chapter, all lighting must comply with Chapter 100, Sea Turtles.

- (1) **Brightness:** No street graphic may be brighter than is necessary for clear and adequate visibility, and no street graphic may be of such intensity or brilliance as

to impair the vision of a motor vehicle operator with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle, and no street graphic may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

(2) **Ambient conditions adjustment:** All street graphics installed after [insert the effective date of this ordinance] that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions.

(3) **Malfunctions in dynamic elements or illumination:** Dynamic elements and illumination elements must also be equipped with a means to discontinue the element immediately if it malfunctions. The owner of a street graphic with a dynamic element or illumination element must immediately stop the element's operation when notified by the town that it is not complying with the standards of this code, except to bring the street graphic into conformance, or after conformance is confirmed by the town.

(d) **Glare.** Any lighting fixture on a street graphic that is located within 10 feet of a property line of a residential zoning district or an existing residential use, or within 10 feet of a public right-of-way, [except as permitted by this ordinance,] must be:

- (1) aimed away from the property line, residential use, residential zoning district, or public right-of-way;
- (2) classified as an IES Type III or Type IV lighting fixture; and
- (3) shielded on the side closest to the property line, residential use, residential zoning district, or public right-of-way.

SECTION 11. AREAS OF SPECIAL CHARACTER.

(a) Designation. This ordinance cannot adequately regulate all street graphics in an area as diverse as the Town. The Town Commission, by ordinance and after required notices and hearings, may therefore designate a contiguous area as an Area of Special Character if it contains unique features that require special regulations so that street graphics will enhance its character. Areas of Special Character may include, but are not limited to:

- (1) Architecturally significant, historic, and scenic areas
- (2) Commercial strips and shopping centers
- (3) Town centers and urban plazas

(b) Zoning map. The director will maintain and revise a zoning map of the Town that indicates the boundaries of all designated Areas of Special Character.

(c) Special regulations. The Town may adopt special regulations for street graphics in Areas of Special Character consistent with the character of the Area of Special Character.

(d) Effect of special regulations. Special regulations for Areas of Special Character supersede, and may be either more or less restrictive than, the regulations for street graphics contained in this ordinance.

(e) Graphics Plans for Areas of Special Character. The Planning and Zoning Board may approve a street graphics plan for an Area of Special Character. The street graphics plan shall contain visual representations of the lettering, illumination, color, area and height of street graphics and may also indicate the areas and buildings where they may be placed and located. The street graphics plan may also contain

special regulations authorizing the display of street graphics in the Area of Special Character. The special regulations may incorporate by reference the visual representation of street graphics in the street graphics plan.

The Planning and Zoning Board may approve a street graphics plan if the street graphics illustrated in the plan and authorized by any special regulations included in the plan are consistent with the purposes of this ordinance and the character of the Area of Special Character. An approved street graphics plan shall supersede and may be either more or less restrictive than the regulations contained in this ordinance.

- (f) Programs for Street Graphics.** The [name approval body] may approve a Program for Graphics in an Area of Special Character as authorized by Section 1.11.

SECTION 12. PROGRAMS FOR GRAPHICS.

- (a) Intent and purpose.** A Program for Graphics is a written and visual statement that provides for the creative design of street graphics, and that integrates this design with the design of the building on which the street graphics will be displayed, with surrounding buildings, and with the surrounding area.

- (b) When allowed.** The owners of one or more adjacent premises, or one or more occupants of a shopping center or multi-use building, [not located in an Area of Special Character,] may submit a Program for Graphics to the [name board or commission] that need not comply with some or all of the requirements of this ordinance. The Program for Graphics shall contain a visual representation of the [lettering, illumination, color,] size, height, placement, and location of the street graphics proposed for display.

- (c) Standards for approval.** The [name board or commission] may approve a Program for Graphics if the street graphics visually represented in the Program are:

- (1) consistent with the purposes of this ordinance; and
- (2) compatible with the theme, visual quality, and overall character of the surrounding area or an Area of Special Character, if the street graphics included in the Program for Graphics are located in such an area; and
- (3) appropriately related in size, shape, materials, [lettering, color, illumination], and character to the function and architectural character of the building or premises on which they will be displayed, and are compatible with existing adjacent activities.

(c) Display of street graphics. A premises or occupancy for which a Program for Graphics has been approved by the [name board or commission] may only display street graphics that comply with the approved program, which shall supersede and replace the regulations for street graphics in this ordinance.

SECTION 13. STREET GRAPHICS PROHIBITED.

The following street graphics are prohibited:

- (a)** Graphics which by color, location, or design, including reflective materials, resemble or conflict with traffic control displays or signals.
- (b)** Street graphics attached to light poles or standards, or to any part of a mail box structure or container attached to a mailbox.
- (c)** Portable street graphics.
- (d)** Roof street graphics.
- (e)** Above-roof graphics.
- (f)** Street graphics displaying an obscene, pornographic, or immoral message.

- (g) Street graphics emitting or projecting moving graphics, animations, audible sound, vapor, smoke, odor, gaseous matter, radio, television, or other electronic communication interference.
- (h) Street graphics that interfere with or obstruct:
 - (1) the visibility of emergency vehicle lighting, vehicular, or pedestrian mobility, or
 - (2) any fire safety equipment, window, door, or other fenestration or opening in a structure used as a means of ingress or egress for fires safety, or required for light and ventilation.
- (i) Street graphics displayed off-premises, including on public property or within public rights-of-way.
- (j) Wind, snipe, balloons, banners, pennants, flags, or similar street graphic devices.
- (k) Street graphics on the side or rear of any nonresidential building or property directly facing and visible from property used or zoned for residential purposes.
- (l) Neon tubing and neon-style street graphics over two (2) square feet in area.
- (m) Advertising-for-hire street graphic displays available to message sponsors and advertisers for a rental fee or other consideration.
- (n) Unpermitted street graphics or containers attached to any street graphic or structure.
- (o) Any street graphic that is not permitted is prohibited.

SECTION 14. STREET GRAPHICS EXEMPT.

The following street graphics are exempt from the regulations contained in this ordinance:

- (a) Government street graphics and street graphics required by law.
- (b) Navigational graphics in conformance with government regulations.
- (c) Graphics on vehicles.

(d) Any street graphic integrated into or on an ATM, coin-operated machine, gasoline pump, telephone booth, vending machine, or similar equipment or machine.

(e) A street graphic that cannot be viewed from a public way that is:

- (1) No higher than three (3) feet, and
- (2) No larger than six (6) square feet, and
- (3) No further than ten (10) feet from the activity, and
- (4) Removed when the activity is closed.

(f) A street graphic carried by a person.

(g) Non-commercial flags, limited to:

- (1) Three (3) per premise at any given time;
- (2) 24 square feet each in residential zoning districts and 48 square feet each in non-residential zoning districts;
- (3) The maximum building height for the zoning district;
- (4) If mounted on a flagpole, the flagpole must be no closer than ten (10) feet from the premise property line.

SECTION 15. VARIANCES (OPTIONAL).

(a) **Variance authorized.** The Zoning Board of adjustment may grant variances from the regulations contained in this ordinance:

- (1) To permit a setback for a street graphic that is up to [25] percent less than the required setback, and
- (2) To permit the area or height of a street graphic to be increased by up to [25] percent more than the maximum height or area allowed.

(b) Approval standards. The **Zoning Board of adjustment** may grant a variance authorized by this section if it finds the street graphic variance requested is required [warranted] by special or unique hardship because of:

- (1) exceptional narrowness, shallowness, or shape of the premises; or
- (2) exceptional topographic conditions or physical features uniquely affecting the premises.

A showing that the display of a street graphic would be more profitable or the street graphic would be more valuable is not a special or unique hardship required by this section.

Additional requirements. The **Zoning Board of adjustment** will grant a variance only if it also finds that the variance is consistent with the comprehensive plan and there are no other reasonable alternatives for displaying a street graphic permitted by this ordinance if the variance is not granted. The **Zoning Board of adjustment** will not grant a variance solely because the display of a street graphic would be more profitable if the variance were granted.

SECTION 16. NONCONFORMING STREET GRAPHICS.

(a) Change and modification. A nonconforming street graphic or street graphic structure must be brought into conformity with this ordinance if it is altered, reconstructed, replaced, or relocated. A change in copy is not an alteration or replacement for purposes of this subsection.

(b) Maintenance. Nonconforming street graphics must be maintained in working condition. Required maintenance includes replacing or repairing of worn or damaged parts of a street graphic or street graphic structure to assure its continued working condition, and is not a change or modification prohibited by subsection (a), above.

(c) **Removal.** Removal of a nonconforming street graphic, or replacement of a nonconforming street graphic with a conforming street graphic is required when:

(1) A nonconforming street graphic, or a substantial part of a nonconforming street graphic, is blown down, destroyed, or for any reason or by any means taken down, altered, or removed. As used in this subsection, “substantial” means 50 percent or more of the entire street graphic structure; or

(2) The condition of the nonconforming street graphic or nonconforming street graphic structure has deteriorated without maintenance required by this section; or the nonconforming street graphic structure or building it is mounted on is destroyed or damaged by a fire, flood, windstorm, or similar extraordinary event; and the cost of restoration of the street graphic to its condition immediately prior to such deterioration or event exceeds 50 percent of the cost of reconstruction of the street graphic; or

(3) The use of the nonconforming street graphic, or the property on which it is located, has ceased, become vacant, or more. An intent to abandon is not required as the basis for removal under this subsection.

(c) **De minimus differences.** For purposes of this ordinance, a street graphic conforms to the size, height, and setback regulations of this ordinance if its size, height, and setback do not exceed the size, height, and setback regulations in this ordinance by more than [10] percent.

(d) **Multiple graphics.** If a premise has more street graphics than this ordinance allows, any street graphic in excess of that amount is nonconforming.

(e) **Certificate of nonconformity.** The owner of a nonconforming street graphic or

street graphic structure must register with the director the street graphics and structures it designates as nonconforming. Upon the director's confirmation that the street graphic **or structure** is entitled to the protections of this section, the director will issue a Certificate of Nonconformity for the nonconforming street graphic.

- (f) **Street graphic permit.** Any permit issued for a street graphic under this code will require that any nonconforming street graphic displayed on the premises for which the permit is issued must be modified or removed to conform to the provisions of this code.
- (g) **Development permit.** Any **[specify]** permit that authorizes the development of a premises, any building addition, an increase in gross floor area of 25 percent or more, or any exterior structural remodeling of a building facade on which a nonconforming street graphic is located, will require all nonconforming street graphics on the premises for which the permit is issued to be brought into conformance with the provisions of this code.
- (h) **Separation.** A street graphic that is nonconforming solely because it violates a requirement for the spacing of ground graphics will not be required to eliminate that nonconformity if compliance with the spacing regulation on the premises is not possible.
- (i) **Amortization.** *[Alternative# 1]* **Amortization period.** A nonconforming street graphic must be removed, modified, or altered to comply with this ordinance no later than **[three (3)]** years from the date that the street graphic becomes nonconforming. *[Alternative 2]* **Amortization period.** The Town Commission may adopt an amortization period for a nonconforming street graphic. The amortization

period will begin upon publication of an ordinance establishing the length of the amortization period. In establishing an amortization period, the Town Commission will consider each of the following factors:

- (1) The length of the amortization period in relation to the investment in the nonconforming street graphic;
- (2) Whether the public gain from amortization outweighs the loss suffered by the person displaying the nonconforming street graphic;
- (3) Whether the loss the person displaying the nonconforming street graphic will suffer will be substantial. In determining whether a loss is substantial, the Town Commission will consider the owner's initial capital investment, the extent to which that investment had been realized, the life expectancy of the investment, the existence or nonexistence of lease obligations, and whether there was a contingency clause permitting the termination of a lease;
- (4) The extent to which the nonconforming street graphic has been depreciated for purposes of reporting income under the federal income tax law;
- (5) The length of time the nonconforming street graphic has been displayed; and
- (6) The cost of removal and relocation.

SECTION 17. PERMITS

- (a) Permit required.** No person shall erect or display a street graphic unless the [title of official] has issued a permit for the street graphic or this section exempts the street graphic from the permit requirement. Unless exempted by this code, the display of a street graphic structure requires a permit approving the time, place, and manner of the specific street graphic display.

(b) Application. A person proposing to display a street graphic must file an application for a permit with the director. The application must contain the following information:

- (1) The names, addresses, and telephone numbers of the
 - a. sign contractor for the street graphic,
 - b. owner of the premises where the street graphic is to be displayed, and
 - c. occupant of the premises where the street graphic is to be displayed.
- (2) The date on which the street graphic is to be displayed.
- (3) The zoning district and the Area of Special Character, if any, in which it is located.
- (4) Any approved variance.
- (5) A drawing to scale that shows:
 - a. all existing street graphics displayed on the premises;
 - b. the location, height, and size of any proposed street graphics;
 - c. the items of information proposed to be displayed and
 - d. the percentage of the area covered by the proposed street graphics; and
 - e. specifications for the construction or display of the street graphic and for its illumination and mechanical movement, if any.

(c) Program for Graphics. This information is not required if a Program for Graphics has been approved for the premises **or occupancy** on which the street graphic will be displayed if a legible copy of the approved Program for Graphics is attached to the application.

(d) Review and time limits. Receiving a completed permit application and payment of the permit application fee, the director will promptly review the application. The director will grant or deny the permit application within twenty (20) calendar days from

the date the director received the completed application and application permit fee.

(e) Approval or denial. The director will approve a permit for the street graphic if it complies with:

- (1) the building, electrical or other adopted codes of the Town,
- (2) the regulations for street graphics contained in this code and any approved variance from these regulations,
- (3) any special regulations adopted for an Area of Special Character, and
- (4) any Program for Graphics that has been approved under this code.

If the director does not approve a permit for the street graphic, the director will state the reasons for the denial in writing and mail a certified copy of the reasons for denial to the address of the owner stated on the application.

(f) Appeals. Any applicant who is denied a permit for the display of a street graphic may file a written appeal to the Board of Adjustments within ten (10) days after receipt of the written copy of the denial by certified mail.

(g) Fees. Fees for street graphics permit applications are established from time to time in a fee schedule by town commission ordinance/resolution.

(h) Exemptions. The following street graphics are exempt from the permit requirement:

- (1) A street graphic specifically exempted from the provisions of this code.
- (2) A temporary window graphic.
- (3) A street graphic that is a permanent architectural detail of a building.

SECTION 18. COMPLIANCE WITH CHAPTER 100, SEA TURTLES

(a) Compliance. Where conflicts exist between provisions in this chapter and the provisions of Chapter 100, the provisions in Chapter 100 shall prevail.

TOWN OF LONGBOAT KEY



SIGN CODE UPDATE

Planning & Zoning Board

June 21, 2016



BACKGROUND AND HISTORY

- June 18, 2015: Supreme Court issued written opinion on *Clyde Reed, et al v. Town of Gilbert, AZ*
 - Constitutional First Amendment challenge to Town of Gilbert’s sign regulations for varying requirements regarding temporary signs
 - Content based laws are presumptively unconstitutional and can only be justified by a local government if they are narrowly tailored to serve a compelling governmental interest.
 - Supreme Court held that government regulation of speech is content based if a law applies to a particular speech because of the topic discussed or idea or message expressed



BACKGROUND AND HISTORY

- Additional criteria is content neutral:
 - rules regulating sign size;
 - rules regulating the locations of signs (i.e., location in which signs may be placed in setbacks, zoning restrictions, etc.);
 - rules distinguishing between lighted and unlighted signs;
 - rules relating to signs with fixed messages and electronic signs with changing messages;
 - rules on the placement of signs on “public and private property” and “commercial and residential property;
 - rules regarding on premise and off premise signs;
 - rules restricting the total number of signs per roadway mile; and
 - rules imposing time restrictions on signs advertising a one time event.



BACKGROUND AND HISTORY

- At their September 28, 2015 Special Meeting, the Town Commission considered information related to the Supreme Court written opinion regarding Clyde Reed, et al v. Town of Gilbert, Arizona.
- Town Commission instructed Staff to cease enforcement of any existing sign regulation that is currently based upon the content expressed on proposed signs.
 - Direction did not include, nor does it preclude, the enforcement of existing sign regulations based on time, place, manner, and other provisions not deemed content related.



LONGBOAT KEY'S SIGN CODE

- The current code contains some potential content based regulations similar to the Town of Gilbert's regulations
 - Examples of content based signs:
 - Temporary Signs
 - Political Signs
- Town's Code needs to be revised and re-examined to bring these sections of the Code in line with the Reed decision.



ENFORCEMENT OF CODE

- Per Town Commission's director, Staff is no longer reviewing for, nor enforcing, content-related provisions of the existing sign regulations contained within Town Code Chapter 156: Sign Code.
- Suspension of regulation and enforcement of the following:
 - Open House Signs
 - Special Event Banners
 - Political Signs
 - Temporary Directional Signs
 - Any other sign where it is necessary to read the content of the sign to determine the appropriate regulations



SIGN CODE REWRITE

- Staff engaged leading Sign Law expert, Dan Mandelker to conduct a review and rewrite of the Town’s existing Sign Code.
 - Dan Mandelker, Stamper Professor of Law, Washington University
 - Authored over twenty books, such as: Street Graphics and the Law (with J. Baker and R. Crawford) (4th ed. 2015)
 - Served as a major consultant with over fifty jurisdictions: Denver, CO; Melbourne, FL; New Orleans, LA
 - Has testified before subcommittees of the House and Senate Judiciary Committees on legislation establishing ripeness rules for land use litigation
 - Has litigation experience as expert witness and consultant for various jurisdictions



SIGN CODE REWRITE

- Updated Sign Code looks significantly different than current Sign Code
 - Signs are referred to as Street Graphics (the nationally accepted term)
 - Elimination of content related provisions
 - Improved Statement of Purpose (previously “Purpose and objectives”)
 - Revised language to meet current lighting technology (must also meet Turtle Lighting Code⁸)



MAJOR POLICY DECISIONS

- Temporary Signs
 - All temporary signs must be treated the same
 - Real estate signs
 - Construction signs
 - Yard signs
 - Political signs
 - Special Event signs
 - Size, duration of display



MAJOR POLICY DECISIONS

- Portable Graphics
- Sandwich Boards
- Human Signs
- Vehicle Signs



MAJOR POLICY DECISIONS

- Banner signs on Town property
- Do we continue to allow?
- If we allow for one, we must allow for all