



**CITY OF COVINGTON
SPECIAL MEETING AGENDA
CITY COUNCIL STUDY SESSION**

**Council Chambers – 16720 SE 271st Street, Suite 100, Covington
www.covingtonwa.gov**

Tuesday, April 12, 2016 – 6:00 p.m.

GENERAL INFORMATION:

The study session is an informal meeting involving discussion between and among the City Council, Commissioners, and city staff regarding policy issues. Study sessions may involve presentations, feedback, brainstorming, etc., regarding further work to be done by the staff on key policy matters.

CALL CITY COUNCIL STUDY SESSION TO ORDER

ROLL CALL

APPROVAL OF AGENDA

ITEM(S) FOR DISCUSSION

1. Sign Code Policies Continued (Hart)

PUBLIC COMMENT Speakers will state their name, address, and organization. Comments are directed to the City Council, not the audience or staff. Comments are not intended for conversation or debate and are limited to no more than four minutes per speaker. Speakers may request additional time on a future agenda as time allows.*

ADJOURN

Americans with Disabilities Act – reasonable accommodations provided upon request a minimum of 24 hours in advance (253-480-2400).

****Note* A Regular Council meeting will follow at approximately 7:00 p.m.***

Agenda Item 1

Covington City Council Study Session

Date: April 12, 2016

SUBJECT: CONTINUED POLICY DISCUSSION REGARDING SIGN CODE
AMENDMENTS

RECOMMENDED BY: Richard Hart, Community Development Director

ATTACHMENT(S):

1. March 22, 2016 City Council Study Session Blue Sheet, Attachment 1) Goals, Purpose, and Policy Objectives for Sign Code, and Attachment 2) Matrix of Specific Sign Standards by Land Use Type

PREPARED BY: Sara Springer, City Attorney

ALTERNATIVES: NA

FISCAL IMPACT: NA

CITY COUNCIL ACTION: ___ Ordinance ___ Resolution ___ Motion X Other

**PARTICIPATE IN INTERACTIVE DISCUSSION LED BY STAFF AND PROVIDE
FURTHER DIRECTION ON DEVELOPING DRAFT REGULATIONS AND A PUBLIC
ENGAGEMENT PROCESS**

REVIEWED BY: Community Development Director, City Attorney, and City Manager

ATTACHMENT 1 Agenda Item 1

Covington City Council Study Session
Date: March 22, 2016

SUBJECT: POLICY DISCUSSION REGARDING SIGN CODE AMENDMENTS

RECOMMENDED BY: Richard Hart, Community Development Director

ATTACHMENT(S): 1. Goals, Purpose, and Policy Objectives for Sign Code
2. Matrix of Specific Sign Standards by Land Use Type

PREPARED BY: Sara Springer, City Attorney
Richard Hart, Community Development Director
Brian Bykonen, Associate Planner/Code Enforcement Officer

EXPLANATION:

1. BACKGROUND

In 2013, the city council directed staff to study potential sign code amendments for temporary civic/non-profit banner signs for events. Staff spent the first part of 2014 examining the city's sign code, discussing with other city staff their needs as they related to temporary signs for city-sponsored events and programs, and reviewing current case law and best practices regarding sign regulations. The city council held a study session regarding temporary sign policies in June of 2014.

During this same time, staff noted that the prevailing case in the Ninth Circuit Court of Appeals regarding the regulation of signs, *Reed v. Town of Gilbert*, was on petition for review before the United States Supreme Court ("USSC" or "the Court"). Accordingly, staff recommended tabling any discussion or consideration of changes to the city's sign code until the *Reed* case was resolved by the USSC. The Court ultimately granted review of the case and issued their decision on June 18, 2015. As anticipated, the Court's decision in *Reed* has dramatically changed the landscape for drafting constitutionally defensible sign regulations. The legal, planning, and development communities all agree that the Court's decision in *Reed* affects every local government in the country that regulates signs and has made many, if not all, current sign codes, either in full or in part, unconstitutional.

Under the Court's majority decision in *Reed*, sign regulations that are content-based on their face—by category, subject matter, speaker, viewpoint, or the like—face strict scrutiny by the court. To survive strict scrutiny a regulation must be narrowly tailored to advance a *compelling* government interest. As the Court has frequently opined, regulations seldom survive a strict scrutiny analysis.

The Court's analysis does not end there. Even if facially neutral, a sign regulation must survive an intermediate scrutiny analysis—a narrowly tailored regulation to advance a *substantial*

government interest. The Court will look at the government’s justification and intent for the regulation. If the underlying motive is ultimately content-based the regulation may be found unconstitutional (*e.g.* if a city prohibits a certain type of structural sign, and there is only one type of business, organization, or person that uses that type of structural sign, the city would bear the burden of demonstrating how the regulation is not intended to target only that category and/or speaker).

What is clear from *Reed* is that cities *must* develop sign regulations and a legislative record that robustly support the objectives of the regulations and how they specifically support and/or advance the objectives. The town in *Reed* had no stated objective for its sign regulations other than standard objectives of traffic safety and aesthetics, and had no legislative record to demonstrate how their sign regulations advanced those generalized objectives—as the Court stated, the reasoning for the sign regulations at issue didn’t even pass a laugh test.

Accordingly, the standard objectives of traffic safety and aesthetics will no longer pass muster on their own. A city must develop specific purposes for *why* they are seeking to adopt certain regulations, and then also create a legislative record to demonstrate *how* those regulations actually address and advance the city’s stated objectives. Sign regulations that do not support a compelling or substantial government interest and regulations that are over-broad, under-inclusive, or are not narrowly tailored to support and advance the objectives of the regulation may not pass judicial scrutiny. In short, local governments must draft a sign code that has the right “answer” (*i.e.* content neutral on its face), as well as create a legislative record that “shows their work” (*i.e.* demonstrates the regulations as content-neutral in intent and narrowly tailored).

2. OUTCOME OF FIRST STUDY SESSION

As noted above, given the Court’s ruling in *Reed*, the foundation of a legally defensible sign code must include specific objectives and a substantial purpose. The purpose and objectives then guide the development of the sign standards and specifications and the administration and enforcement of the code.

At the council’s study session on signs in October 2015, city staff led the council through a series of brainstorming exercises to identify core objectives to guide the drafting and administration of the city’s new sign code. Council reached consensus on the following policy objectives as a foundation of the city’s new sign code:

- Economic Well-Being
- Aesthetics
- Community and Family
- Environmental Protection
- Public Infrastructure

City staff has combined the above policy objectives with the city’s vision and planning goals within its recently Updated Comprehensive Plan to develop a proposed outline for the purposes and objectives statement that will guide the drafting and administration of the city’s new sign code. (Attachment 1)

3. CURRENT STUDY SESSION

City staff's objectives for this study session are to:

- Obtain general council consensus and approval for staff to use the proposed purposes and objectives outline (Attachment 1) as the foundation from which staff may develop the city's new sign code.
- Obtain council consensus on key policy recommendations to guide staff's drafting of specific sign standards and regulations that support the purposes and objectives of the new sign code. Staff will walk the council through the attached table of proposed policy decisions for the new sign regulations based on land use type. (Attachment 2); and
- Obtain council consensus regarding a public engagement process for the public to informally review and comment on a draft of the proposed new sign code regulations.

To help city staff to facilitate an efficient and productive study session, staff asks that council review the attachments referenced above in advance of this study session and be prepared to provide comments and direction to staff on each.

4. NEXT STEPS

4.1. Drafting New Proposed Sign Code. Upon obtaining council approval on the guiding purposes and objectives of the city's new sign code and council consensus regarding the major policy decisions on which to base the new sign standards and regulations (either at this study session, or after a subsequent study session at the April 12th meeting, if needed), staff will embark on drafting the proposed new sign code.

4.2. Review and Comment. Upon completion of drafting the proposed new sign code, city staff recommends completing a public engagement process to solicit comments on the proposed code from community stakeholders (e.g. citizens, developers, realtors, community organizations, etc.). Staff recommends for this public engagement process to occur prior to the planning commission's review of the proposed new sign code.

Upon completion of the public engagement process and synthesizing and incorporating the comments received, staff will present a final version of the proposed new sign code to the planning commission for their review. The planning commission will hold a public hearing and ultimately pass on their recommendation to the council for the council's final review and adoption.

Prior to bringing the proposed new sign code before the council for review and final adoption, city staff will submit the proposed new code to the state Department of Commerce for their required 60-day review and complete a SEPA non-project review.

4.3. Enforcement of City’s Current Sign Code in the Interim. As previously asked by council members, until the city’s new sign code is finally adopted by the council, city staff will continue to enforce all provisions of the city’s current sign code deemed legally enforceable. If required, the community development director may also make interim policy decisions in the form of a director’s decision that may guide the administration and enforcement of sign standards until the new permanent sign code is in effect.

ALTERNATIVES: NA

FISCAL IMPACT: NA

CITY COUNCIL ACTION: ___ Ordinance ___ Resolution ___ Motion X Other

PARTICIPATE IN INTERACTIVE DISCUSSION LED BY STAFF AND PROVIDE FURTHER DIRECTION ON DEVELOPING DRAFT REGULATIONS AND A PUBLIC ENGAGEMENT PROCESS

REVIEWED BY: Community Development Director, City Attorney, and City Manager

ATTACHMENT 1

PROPOSED OUTLINE OF PURPOSES AND POLICY OBJECTIVES FOR NEW COVINGTON SIGN CODE

Proposed General Purpose: The overall goal, objective, and purpose of the Covington sign code is to balance both public and private business needs with the specific objectives of creating a community with an unmatched quality of life, achieved through an emphasis on supporting the city's economic well-being, community and families, environment, and public infrastructure.

Proposed General Objectives: Sign standards and regulations that promote public safety and aesthetics support the above general purpose and enhance the quality of life of those that live and work in Covington in the following ways:

1. Safety

- a. Reduce potential hazards to motorists and pedestrians / protect pedestrian and motor vehicle safety.
- b. Prevent confusion of signs with traffic regulations and improve vehicular and pedestrian safety by reducing signage or advertising distractions and obstructions that contribute to limited safety and site visibility.
- c. Promote the public health, safety and general welfare of the citizens of Covington by regulating the placement, removal, installation, maintenance, size, number, time periods, and location of signs.

2. Aesthetics/Economic Well-Being

- a. Uphold the aesthetic character of the city.
- b. Recognize that the aesthetic value of the total environment affects the economic well-being and economic values of the community, and that unrestricted proliferation of all types of signs will detract from the economic value of the community.
- c. Encourage signs which, by their good design, are integrated with and harmonious to the buildings and sites which they occupy.
- d. Preserve and improve the appearance of the City as a pedestrian-friendly community in which to live, work, shop, learn, and play.
- e. Recognize the visual communication needs of all sectors of the community for identification and advertising purposes in a safe, clear, and distinctive manner.
- f. Support and enhance the economic well-being of all business within the city through sufficient means to identify their premises, products, and services.
- g. Promote a positive visual image of the City and protect property values by encouraging signs that are appropriate and consistent with surrounding buildings and landscape in both scale and design.
- h. Ensure signs are appropriate to the size of the subject property and the amount of street frontage adjacent to the subject property, and appropriate in relationship to the size of the building.
- i. Discourage excessive numbers of signs.
- j. Protect public and private investment in buildings and open space.

**POLICY RECOMMENDATIONS FOR TEMPORARY SIGN REGULATIONS
RESIDENTIAL**

	SINGLE-FAMILY	MULTI-FAMILY
<p>1. QUANTITY OF SIGNS (The total number of temporary signs allowed on a single property)</p>	<p>No restriction on total number of temporary signs per parcel, <i>except</i> for the following limitations:</p> <ul style="list-style-type: none"> • Temporary signs may not cover more than a certain percentage of the façade of a building (excluding windows). • The number of temporary signs allowed in the parking strip abutting or adjacent to a parcel will be limited. 	<p>No restriction on total number of temporary signs per parcel, <i>except</i> for the following limitations:</p> <ul style="list-style-type: none"> • Temporary signs may not cover more than a certain percentage of the façade of a building (excluding windows). • The number of temporary signs allowed in the parking strip abutting or adjacent to a parcel will be limited.
<p>2. DURATION OF DISPLAY (The length of time each allowed sign may be displayed)</p>	<p>No restrictions other than those included below</p>	<p>No restrictions other than those included below</p>
<p>3. LOCATION OF SIGNS (Where temporary signs are allowed to be placed, or not, on a property)</p>	<p>Not allowed to:</p> <ul style="list-style-type: none"> • Be placed on fences • Project above the roofline • Be located within required interior setbacks • Obstruct sight triangle • Obstruct ROW 	<p>Not allowed to:</p> <ul style="list-style-type: none"> • Be placed on fences • Project above the roofline • Be located within required interior setbacks • Obstruct sight triangle • Obstruct ROW
<p>4. SIGN TYPES (The type of physical construction / form of temporary sign, e.g. an A-frame sign, or a stake sign, etc.)</p>	<p>No restriction on the types of temporary signs allowed <i>except</i> for the following:</p> <ul style="list-style-type: none"> • No banana flags/feather flags • No electronic message signs 	<p>No restriction on the types of temporary signs allowed <i>except</i> for the following:</p> <ul style="list-style-type: none"> • No banana flags/feather flags • No electronic message signs

<p>5. SIZE OF INDIVIDUAL SIGNS (Total square footage of sign face allowed for each sign)</p>	<ul style="list-style-type: none"> • Temporary signs affixed to the ground may not exceed 6ft. in height (this mirror the allowable fence height) • The face of any single temporary sign may not be greater than a certain amount of total square feet. 	<ul style="list-style-type: none"> • Temporary signs affixed to the ground may not exceed 6ft. in height (this mirror the allowable fence height) • The face of any single temporary sign may not be greater than a certain amount of total square feet.
<p>6. MATERIALS/ FEATURES (The materials a sign is made of— e.g. wood, cardboard, metal, vinyl--and features of an individual sign—e.g. sound, neon light, etc.)</p>	<p>No Restrictions on the materials and features allowed, <i>except</i> for the following:</p> <ul style="list-style-type: none"> • No beacons, spotlights, or searchlights are allowed • Any illumination may not move or flash between the hours of 11pm and 7am • Illumination may not exceed a certain detected/empirical amount at the property line pursuant to industry standard measurement of light emission 	<p>No Restrictions on the materials and features allowed, <i>except</i> for the following:</p> <ul style="list-style-type: none"> • No beacons, spotlights, or searchlights are allowed • Any illumination may not move or flash between the hours of 11pm and 7am • Illumination may not exceed a certain detected/empirical amount at the property line pursuant to industry standard measurement of light emission
<p>7. ADDITIONAL CONDITIONS (Additional regulations to include in the code that apply to all temporary signs in the given property use category)</p>	<ul style="list-style-type: none"> • No permit required for temporary signs on residential properties • Temporary signs on residential property or in the ROW adjacent thereto must: <ul style="list-style-type: none"> • Have property owner approval • Be of only non-commercial messages • Must be maintained • Subject to nuisance and sound regulations 	<ul style="list-style-type: none"> • No permit required for temporary signs on residential properties • Temporary signs on residential property or in the ROW adjacent thereto must: <ul style="list-style-type: none"> • Have property owner approval • Be of only non-commercial messages • Must be maintained • Subject to nuisance and sound regulations

POLICY RECOMMENDATIONS FOR TEMPORARY SIGN REGULATIONS
NON-RESIDENTIAL

	COMMERCIAL (Includes Health Services & Industrial)	CULTURAL & RECREATION (Private Businesses/Organizations)	INSTITUTIONAL (Schools & Government Properties)
<p>8. QUANTITY OF SIGNS (The total number of temporary signs allowed on a single property)</p>	<ul style="list-style-type: none"> • Three (3) temporary signs to be allowed (each with different allowances/ restrictions): <ul style="list-style-type: none"> • Sign X: 1 per business on property • Sign Y: 1 per business on property • Sign Z: 1 per building façade on property • Window Signs: No more than 50% coverage (same as current code) 	<ul style="list-style-type: none"> • Three (3) temporary signs to be allowed (each with different allowances/ restrictions): <ul style="list-style-type: none"> • Sign X: 1 per business on property • Sign Y: 1 per business on property • Sign Z: 1 per building façade on property • Window Signs: No more than 50% coverage (same as current code) 	<ul style="list-style-type: none"> • Three (3) temporary signs to be allowed (each with different allowances/ restrictions): <ul style="list-style-type: none"> • Sign X: 1 per property • Sign Y: Number of allowed signs limited by length of street frontage • Sign Z: 1 per building façade on property • Window Signs: No more than 50% coverage (same as current code)
<p>9. DURATION OF DISPLAY (The length of time each allowed sign may be displayed)</p>	<ul style="list-style-type: none"> • Sign X: 365 days per year, but only from sunrise to sunset • Sign Y: No more than 60 days in a calendar year per sign • Sign Z: No more than 60 days in a calendar year per sign • Window Signs: No restrictions 	<ul style="list-style-type: none"> • Sign X: 365 days per year, but only from sunrise to sunset • Sign Y: No more than 60 days in a calendar year per sign • Sign Z: No more than 60 days in a calendar year per sign • Window Signs: No restrictions 	<ul style="list-style-type: none"> • Sign X: 365 days per year, but only from sunrise to sunset • Sign Y: No more than 60 days in a calendar year per sign • Sign Z: No more than 60 days in a calendar year per sign • Window Signs: No restrictions
<p>10. LOCATION OF SIGNS</p>	<ul style="list-style-type: none"> • Sign X: Must be placed on premises and not within a certain 	<ul style="list-style-type: none"> • Sign X: Must be placed on premises and not within a certain distance of 	<ul style="list-style-type: none"> • Sign X: Must be placed on premises and not within a certain

<p>(Where temporary signs are allowed to be placed, or not, on a property)</p>	<p>distance of another temporary sign</p> <ul style="list-style-type: none"> • Sign Y: Must be placed on premises and not within a certain distance of another temporary sign • Sign Z: Allowed on building façade only • For all temporary signs, NOT allowed to: <ul style="list-style-type: none"> • Be placed in ROW • Be placed on fences • Project above the roofline • Be located within required interior setbacks • Obstruct sight triangle • Obstruct ROW 	<p>another temporary sign</p> <ul style="list-style-type: none"> • Sign Y: Must be placed on premises and not within a certain distance of another temporary sign • Sign Z: Allowed on building façade only • For all temporary signs, NOT allowed to: <ul style="list-style-type: none"> • Be placed in ROW • Be placed on fences • Project above the roofline • Be located within required interior setbacks • Obstruct sight triangle • Obstruct ROW 	<p>distance of another temporary sign</p> <ul style="list-style-type: none"> • Sign Y: Must be placed on premises and not within a certain distance of another temporary sign • Sign Z: Allowed on building façade only • For all temporary signs, NOT allowed to: <ul style="list-style-type: none"> • Be placed in ROW • Be placed on fences • Project above the roofline • Be located within required interior setbacks • Obstruct sight triangle • Obstruct ROW
<p>11. SIGN TYPES (The type of physical construction / form of temporary sign, e.g. an A-frame sign, or a stake sign, etc.)</p>	<ul style="list-style-type: none"> • Sign X: Portable A-frame/sandwich board sign only • Sign Y: Staked sign only • Sign Z: Banner sign only • For all temporary signs: <ul style="list-style-type: none"> • No banana flags/feather flags • No balloons • No inflatable signs • No electronic message signs 	<ul style="list-style-type: none"> • Sign X: Portable A-frame/sandwich board sign only • Sign Y: Staked sign only • Sign Z: Banner sign only • For all temporary signs: <ul style="list-style-type: none"> • No banana flags/feather flags • No balloons • No inflatable signs • No electronic message signs 	<ul style="list-style-type: none"> • Sign X: Portable A-frame/sandwich board sign only • Sign Y: Staked sign only • Sign Z: Banner sign only • For all temporary signs: <ul style="list-style-type: none"> • No banana flags/feather flags • No balloons • No inflatable signs • No electronic message signs

<p>12. SIZE OF INDIVIDUAL SIGNS (Total square footage of sign face allowed for each sign)</p>	<ul style="list-style-type: none"> • Sign X: Limited to certain number of square feet per sign face • Sign Y: Limited to certain number of square feet per sign face • Sign Z: Limited to certain number of square feet per sign face 	<ul style="list-style-type: none"> • Sign X: Limited to certain number of square feet per sign face • Sign Y: Limited to certain number of square feet per sign face • Sign Z: Limited to certain number of square feet per sign face 	<ul style="list-style-type: none"> • Sign X: Limited to certain number of square feet per sign face • Sign Y: Limited to certain number of square feet per sign face • Sign Z: Limited to certain number of square feet per sign face
<p>13. MATERIALS/ FEATURES (The materials a sign is made of—e.g. wood, cardboard, metal, vinyl—and features of an individual sign—e.g. sound, neon light, etc.)</p>	<p>No Restrictions on the materials and features allowed, except for the following:</p> <ul style="list-style-type: none"> • No beacons, spotlights, or searchlights • No movement (either mechanical or by wind) • No neon light • Any illumination may not move or flash between the hours of 11pm and 7am • No sound 	<p>No Restrictions on the materials and features allowed, except for the following:</p> <ul style="list-style-type: none"> • No beacons, spotlights, or searchlights • No movement (either mechanical or by wind) • No neon light • Any illumination may not move or flash between the hours of 11pm and 7am • No sound 	<p>No Restrictions on the materials and features allowed, except for the following:</p> <ul style="list-style-type: none"> • No beacons, spotlights, or searchlights • No movement (either mechanical or by wind) • No neon light • Any illumination may not move or flash between the hours of 11pm and 7am • No sound
<p>14. ADDITIONAL CONDITIONS (Additional regulations to include in the code that apply to all temporary signs in the given property use category)</p>	<ul style="list-style-type: none"> • Permit required for Signs X, Y, & Z • No permit required for window signs • All temporary signs: <ul style="list-style-type: none"> • Must have property owner approval 	<ul style="list-style-type: none"> • Permit required for Signs X, Y, & Z • No permit required for window signs • All temporary signs: <ul style="list-style-type: none"> • Must have property owner approval 	<ul style="list-style-type: none"> • Permit required for Signs X, Y, & Z • No permit required for window signs • All temporary signs: <ul style="list-style-type: none"> • Must have property owner approval

	<ul style="list-style-type: none"> • Must be properly maintained • Subject to nuisance and sound regulations <ul style="list-style-type: none"> • <i>Any commercial temporary sign may be substituted with a non-commercial message</i> 	<ul style="list-style-type: none"> • Must be properly maintained • Subject to nuisance and sound regulations <ul style="list-style-type: none"> • <i>Any commercial temporary sign may be substituted with a non-commercial message</i> 	<ul style="list-style-type: none"> • Must be properly maintained • Subject to nuisance and sound regulations <ul style="list-style-type: none"> • <i>Any commercial temporary sign may be substituted with a non-commercial message</i>
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ADDITIONAL RECOMMENDATIONS:

- Any issued Special Event permit by the city may allow for a certain number of additional temporary signs for the location of the special event during the duration of the special event.
- Government signs qualifying as government speech are excluded from the above (e.g. speed limit signs, street signs, etc.).