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

Council Chambers – 16720 SE 271st Street, Suite 100, Covington

Monday, June 9, 2014 - 6:00 p.m.

***Please note meeting start time ***

GENERAL INFORMATION:

The study session is an informal meeting involving discussion between and among the City Council, Commission (if applicable) 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 Policy Amendments (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

For disability accommodations call 253-480-2400 at least 24 hours in advance. For TDD relay service call (800) 833-6384 and ask the operator to dial 253-480-2400.

SUBJECT: POLICY DIRECTION FOR POTENTIAL SIGN CODE AMENDMENTS

RECOMMENDED BY: Richard Hart, Community Development Director

ATTACHMENT(S):

PREPARED BY: Richard Hart, Community Development Director
Sara Springer, City Attorney
Salina Lyons, Principal Planner
Ann Mueller, Senior Planner
Brian Bykonen, Associate Planner/Code Enforcement Officer

EXPLANATION:

A. Background

Last year, city council directed city staff to study potential sign code amendments for temporary civic/non-profit banner signs for events. Due to other high priority work tasks last year staff was not able to address this topic until this year. City staff and the planning commission began review of this work task this past January as one of the top priority items of our 2014 work program. Staff has spent the first part of this year examining our 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.

Staff has evaluated the needs of various city departments and functions, such as parks and recreation and aquatics programs; multiple city-sponsored civic events such as Covington Days, the holiday tree lighting ceremony, and Hollydaze; the new city branding program managed by the city's Communications and Marketing Manager; and the Purple Lights Night program managed by the city's Human Services Analyst. Each of these departments and programs have different needs for temporary advertising, marketing, and notification signage.

Our research and internal discussions have raised a variety of important policy issues that require direction from city council before staff may begin to draft proposed amendments to the city's sign code. Inherent in these policy issues are questions regarding the city's general approach to signs, city aesthetics, safety, and the associated policy, legal, and administrative considerations for each. Accordingly, this discussion item will allow staff to share with the council the core policy issues we identified in our consideration of amending regulations for temporary event signs and to receive direction from the council regarding the desired policy direction for each issue. The direction received from council will then guide staff in our preparation of proposed amendments to the city's sign code to be deliberated by the planning commission and subsequently brought to the council for consideration and final adoption.

Given the complexity and nuances involved in the policy considerations regarding sign code regulations for temporary signs, staff has created the table below to guide the discussion. The content in the table is meant to merely be an outline of the issues to discuss, with broad regulation options and highly generalized policy, legal, and administrative considerations associated with each issue. Staff from all departments are prepared to contribute to the discussion, answer council inquiries, and elaborate on any issue as needed.

This is the second of several planned agenda item discussions on this matter, and the council may choose to place this matter on additional council agendas if needed.

B. Temporary Sign Regulation Policy Issues for Consideration

<p>A. Development of Regulations. Should all temporary signs within the city be subject to the same regulations, or should the city adopt different regulations for temporary commercial signs versus temporary noncommercial signs?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. No Differentiation. Adopt the same regulations for all temporary signs. 2. Different Regulations. Adopt different regulations for temporary commercial signs and temporary noncommercial signs. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ Generally, commercial signs are signs with communication that involves only the commercial interests of the speaker and the audience. ▪ Generally, noncommercial signs are signs that express an opinion on an issue or a candidate, or communicate only noncommercial interests of the speaker and audience. ▪ The classification of commercial or noncommercial speech is based on the content of the speech itself, not just the status of the speaker; however, the speaker can be considered to determine whether a message is commercial or noncommercial. <ul style="list-style-type: none"> ○ Courts have found that even though a city event may earn revenue, because the event was held by the city, the presumption is that the primary purpose and intent of the event is to serve a civic purpose for the community, therefore a sign for that event could be considered noncommercial speech. ○ Conversely, if a for-profit business was holding a blood drive or donation drive, for example, even though the speaker is a commercial business, a sign for those events could be considered noncommercial speech.

	<ul style="list-style-type: none"> ▪ Some general content-based regulations (e.g. a general distinction between commercial and noncommercial messages, which considers the speaker and/or content of the message) have been upheld by courts as a means to make a sign code workable; however, such content-based regulations must be based on a compelling state interest and face a strict scrutiny constitutional analysis (the highest form). ▪ Viewpoint-based regulations (e.g. a regulation that restricts messages on one side of a political issue differently from the other, etc.) have been universally struck down by the courts. ▪ Regulations cannot favor commercial signs over noncommercial signs.
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B. Additional Community / Civic Event Classification. Should temporary sign regulations be further segmented to provide for different regulations for community/civic events?

<p style="text-align: center;">Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. No separate regulations for temporary community/civic event signs. 2. Separate regulations for temporary community/civic event signs. 	<p style="text-align: center;">Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ Community or civic event signs would be considered a sub-set of noncommercial signs and would be restricted to only those events held by the city or other organization sponsoring a community event wherein the primary purpose is not proposing a commercial transaction (i.e. would have to qualify as noncommercial). <ul style="list-style-type: none"> ○ All other temporary noncommercial signs that would not qualify as a civic event (e.g. general signs for religious institutions, schools, fraternal organizations, personal opinion, etc.) would be subject to the general temporary sign regulations. ○ In practice, then, if civic events are carved out separately, then each temporary sign type (and all other time/place/manner regulations) could be different civic events (e.g. street pole banner signs could potentially be allowed for civic events, but not for all other noncommercial signs, etc.).
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	<ul style="list-style-type: none"> ▪ Regulating signs based on the location of the content of the sign is a content-based regulation that must meet a strict scrutiny analysis.
<p>C. Types of Temporary Signs. What general types of temporary signs should the city allow?</p>	
<p>Potential Regulatory Options</p> <p>Select all types of temporary signs that should be allowed:</p> <ol style="list-style-type: none"> 1. Banners 2. Street pole banners 3. Portable signs (A-frames, sandwich boards, etc. – a sign not permanently affixed to a structure and is designed for and capable of being relocated) 4. Staked signs 5. Inflatables 6. Feather flags 7. Other 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed. ▪ City departments frequently use and desire to continue to use all forms of temporary signs. ▪ Additional time/place/manner restrictions may be placed on each specific sign type and are addressed in subsequent questions herein (e.g. size, materials, location, duration, etc.)
<p>D. Premises and Off-Premises Signs. Should the city allow temporary signs off-premises, or only allow on premises?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Allow Off-Premises for All Temporary Signs. 2. Allow Off-Premises for Only Temporary Non-commercial Signs. 3. Do Not Allow Any Off-Premises Temporary Signs. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ City departments desire to continue to be able to place temporary event signs off premises.
<p>E. Quantity and Size of Temporary Signs. Should the city restrict the size and quantity of temporary signs?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Restrict Overall Square Feet, 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to

<p>Single Sign Size, and Sign Quantity.</p> <p>2. Restrict Overall Square Feet and Single Sign Size Only. No maximum number of signs per property/street frontage, etc.</p> <p>3. Restrict Single Sign Size and Quantity Only. No overall maximum square footage limit of sign facing per property, etc.</p> <p>4. Restrict Overall Square Feet and Quantity Only. No restriction on maximum dimension for a single sign.</p> <p>5. Restrict Overall Square Feet Only. No restriction on single sign dimensions or number of signs allowed per property/street frontage, etc.</p>	<p>regulate the content of the sign, but rather only the time, place, or manner in which the sign is permitted to be displayed.</p> <ul style="list-style-type: none"> ▪ Restrictions per property (rather than across the city as a whole) are preferred by staff to make compliance and enforcement easier. ▪ City departments and other businesses and organizations alike would prefer generous size allowances for banners, specifically, to ensure that all content is legible from reasonable distances (i.e. if the maximum banner size is too small, banner text could be forced to be too small to read from the ROW).
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F. Sign Locations - ROW. Should temporary signs be allowed to be placed in the city’s right-of-way (ROW)?

<p>Potential Regulatory Options</p>	<p>Legal, Policy, and Administrative Considerations</p>
<p>1. Do Not Allow in ROW. Do not allow any temporary signs to be placed in the city’s ROW.</p> <p>2. Allow in ROW in Certain Zones and/or Overlay Areas. Identify certain zones and/or overlay areas of the city (e.g. downtown, commercial, or high-traffic areas) where temporary signs may be allowed in the ROW.</p> <p>3. Allow in All ROW. Allow temporary signs in all of the city’s ROW.</p>	<ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed. ▪ State and county regulations regulate signs on state and county roads, respectively (i.e. 272nd is regulated by WSDOT) ▪ City-owned ROW is deemed a “public forum” different from other city-owned property ▪ Even if allowed in the ROW, sign placement would be subject to vehicular and pedestrian safety considerations. ▪ A majority of the city’s departments would prefer to place temporary signs within the city’s ROW (which

	would be in addition to signs permitted to be placed on other city-property not the ROW, such as parks, the Aquatics Center, and City Hall). As the city is generally part of the noncommercial speaker group, if temporary city signs are allowed within the ROW, then best practice would be to permit all other non-commercial speakers to place signs within the ROW in the same manner.
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G. Sign Locations – Fences. Should temporary signs be allowed to be placed on fences on private property?

Potential Regulatory Options	Legal, Policy, and Administrative Considerations
<ol style="list-style-type: none"> 1. Do Not Allow on Fences. 2. Allow on Fences only on Premises. 3. Allow on Fences only in Certain Zones and/or Overlay Areas. 4. Allow on all Fences. Allow temporary signs on all private fences, whether off-premises (i.e. subject matter does not relate to that property) or not. 	<ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed. ▪ Even if allowed on fences, sign placement would be subject to vehicular and pedestrian safety considerations. ▪ A majority of the city’s departments would prefer to be able to place signs on fences—especially fences at city parks as a potential revenue generating tool (allowing commercial banners, as well as noncommercial banners with sponsorship placement). ▪ As the city is part of the non-commercial speaker group, if temporary city signs are allowed on fences, then best practice would be to permit all other relevant speakers to place signs on fences in a similar manner.

H. Sign Locations – Over-Street Banners. Should temporary banners be allowed to be hung across streets?

Potential Regulatory Options	Legal, Policy, and Administrative Considerations
<ol style="list-style-type: none"> 1. Do Not Allow Banners Over Streets. 2. Allow Over Streets in Overlay Areas. 3. Allow Over All Streets. 	<ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed.

<p>I. Additional Street Pole Banner Sign Restrictions. Should the use of street pole banner signs be restricted differently from other temporary signs (i.e. restricted to only geographic identification markers, civic events, and/or noncommercial organizations)?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Restrict to Geographic Identification Only. 2. Restrict to Geographic and Civic Events Only. 3. No Restrictions. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ If differing regulations are adopted for geographic, civic event, and or noncommercial signs, such differentiation would be content-based regulations that must be justified and supported by a significant interest of the city (i.e. safety, aesthetics, etc.). ▪ A majority of the city’s departments would prefer to be able to place street-pole banner signs throughout the city that are either geographical identifiers or for specific civic events.
<p>J. Duration of Display. Should temporary signs be allowed to be posted at any time for an overall maximum duration, or should they be allowed to be posted for a specified period of time before and after the specified event/use/intent of the sign?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Restrict Before and After. Limit the time a sign may be posted before the intent of the sign and require the sign to be removed a certain number of days after the purpose of the sign has expired. (Exception: Political signs may not be restricted before an election, but may be subject to a removal period after an election.) 2. Restrict After Only. Do no restriction how far in advance a temporary sign may be posted, however, require the sign to be removed a certain number of days after the purpose of the sign has expired. 3. No Restrictions. No specific restrictions on the posting of temporary signs other than the overall limitation on number of days 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed. ▪ Given the number of events and programs advertised by all of the city’s departments in totality, city departments would prefer code provisions that allowed for a generous period of time for the display of temporary signs.

<p>each calendar year that a temporary sign may be displayed.</p>	
<p>K. Portable Signs. Should the city allow portable signs year-round?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Do Not Allow Portable Signs. 2. Allow All Portable Signs. 3. Allow Only A-Frame Portable Signs. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ This is an allowed restriction that does not attempt to regulate the content of the sign, but rather the time, place, or manner in which the sign is permitted to be displayed.
<p>L. Sign Permits. Should the city require permits for temporary signs?</p>	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Require Permits for All Signs. Require a temporary sign permit for any and all temporary signs within the city. 2. Require Only for Certain Classifications. Require a temporary sign permit only for signs within certain classifications (i.e. signs that require the city to install, signs that require some sort of administration by city staff, etc.) 3. Require Only for Certain Types. Require a temporary sign permit only for certain sign types. Select the types of temporary signs that should require a permit: <ul style="list-style-type: none"> ▪ Banners ▪ Street light pole banners ▪ A-frame signs ▪ Staked signs ▪ Inflatables ▪ Feather flags ▪ Other? 4. Do Not Require Permits For Any Temporary Signs. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ Requiring permits could potentially make enforcement more difficult. ▪ The application and issuance of temporary sign permit applications places an additional administrative burden on staff.

M. Sign Permit Fees: If a sign permit is required, what fees, if any, should be collected?	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Fees for all permits. Collect a fee for all sign permits. 2. Fees for only certain Classifications. Collect a fee only for certain classifications of sign permits for cost recovery (i.e. signs that require installation by the city, signs that require administration or other monitoring by staff, etc.). 3. No Application Fees. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ Fees can't be expected to cover the costs of enforcement. Enforcement can still occur without permits or fees, and citations can be issued for non-compliance, as the standards will be codified in the CMC. ▪ If a permit is required but no fee is collected, staff time will be spent processing an application without any possible cost recovery.
N. Sponsorship on Civic Event Signs. Should the city allow a certain percentage of non-commercial sign facing to be used for commercial sponsorship?	
<p>Potential Regulatory Options</p> <ol style="list-style-type: none"> 1. Allow Sponsorship only on Community / Civic Event Signs. 2. Do Not Allow Sponsorship. 	<p>Legal, Policy, and Administrative Considerations</p> <ul style="list-style-type: none"> ▪ As a possible additional revenue stream (or, at a minimum, a cost recovery measure), city departments desire the ability to place the logos of financial sponsors of the event, etc. ▪ Purple Light Nights signs need to be able to recognize sponsors/donors.

ALTERNATIVES: Discussed above.

FISCAL IMPACT: Staff time administer and manage any fees and handle code enforcement of violations.

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

PROVIDE DIRECTION TO STAFF AND CONTINUE DISCUSSION AT A FUTURE STUDY SESSION

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