

AGENDA ITEM #: _____

DATE: May 17, 2017

COAC #: _____

**CITY OF GOODYEAR
PLANNING AND ZONING COMMISSION ACTION REPORT**

SUBJECT: Text Amendment to City of Goodyear Sign Ordinance	STAFF PRESENTER: Steve Careccia, Planner III CASE NUMBER: 15-220-00002 OTHER PRESENTER: Ellen Van Riper, Esq., Legal Consultant
---	--

PROPOSED ACTION:

1. Conduct a public hearing to consider amending Article 7 (Sign Regulations) and Article 9 (Special Districts) of the Zoning Ordinance:
 - a. Open the public hearing
 - b. Staff presentation
 - c. Receive public comment
 - d. Close public hearing
2. Recommend that City Council amend Article 7 (Sign Regulations) of the Zoning Ordinance, as amended, by deleting Article 7 in its entirety and replacing with new Article 7 (Sign Regulations) and amend Article 9 (Special Districts) of the Zoning Ordinance, as amended, by adding new Article 9-2 (McDowell Road Business and Entertainment District) as set forth in draft Ordinance No. 17-1350 attached hereto.

BACKGROUND AND PREVIOUS ACTIONS:

The City of Goodyear Zoning Ordinance was adopted on May 24, 1999 and has had several revisions, including revisions to Article 7 (Sign Regulations). Updating the Zoning Ordinance allows the City to meet the changing needs of businesses and residents and to be consistent with evolving case law and regulation.

A worksession to discuss signs with the City Council was held on March 2, 2015. At that worksession, staff discussed proposed amendments to the Zoning Ordinance, including several revisions to the sign code. The Council provided staff with direction to proceed with several Sign Ordinance amendments, including amendments to address electronic message displays and future development signs.

The Supreme Court of the United States issued its *Reed* decision on June 18, 2015. Since that time, municipalities across the Country have been reviewing the Court's decision and discussing the effects it could have on the regulation of signs. While much remains unknown given the current lack of direction from the Courts, a clear takeaway from the decision is that sign regulation needs to be content neutral. A content-neutral regulation does not require the reading of a sign to

determine if a regulation applies. However, if that sign needs to be read in order to determine compliance, then that regulation is content-based.

Sign Ordinance provisions that regulate sign content could be deemed unconstitutional unless they achieved a compelling governmental interest through the least restrictive means possible. This is due to the Courts applying their highest standard of review (strict scrutiny) to sign regulations considered content-based.

The *Reed* decision clarified that ‘time, place and manner’ regulations remain constitutionally permitted. As such, municipalities may still regulate the time of display, location, size and building material for signs so long as such regulations are content neutral, narrowly tailored, serve a significant governmental interest and provide feasible alternatives for display of the message.

A joint worksession with the Planning and Zoning Commission and City Council was held on October 19, 2015. Staff provided an overview of the *Reed* decision and presented several policy questions to the Commission and Council. Follow-up worksessions with the Planning and Zoning Commission and City Council were held on October 19, 2016, and April 24, 2017, respectively. At the worksession, staff provided an overview of the current draft and received direction from the Commission and Council.

STAFF ANALYSIS:

Staff and the City’s legal consultant have been working on the sign code in response to the *Reed* decision and prior Council direction. With the creation of this draft, a priority has been to review the sign code for regulations that could be considered content-based or be seen as favoring one form of speech over another. Several of the proposed revisions have been implemented to address these concerns. Staff has also reviewed the sign code for areas where the City could allow businesses and citizens additional opportunities for signage.

At the October 19, 2016, worksession, the Commission discussed the *Reed* case and its ramifications on sign regulations. The Commission asked staff to ensure that any proposed electronic sign regulations were drafted to protect residential neighborhoods from glare. Proposed Section 9-2 (McDowell Road Business and Entertainment District) does contain regulations that require electronic message displays to dim at sunset and to shut off between the hours of 11 PM and sunrise when such displays are within 150 feet of a single family dwelling.

At the April 24th worksession, the Council discussed several items related to signage, including sign maintenance, kiosk signs, for sale signs, and flying banners. Regarding sign maintenance, the Council wanted to ensure that signs were maintained in good order and appearance. In reviewing the draft sign ordinance, Article 7-6-A-1 will establish criteria to ensure signs are maintained in good order. It will also provide the authority for the City to pursue enforcement action should a sign become a hazard or create visual blight. Regarding the Kiosk Sign program, staff responded that the design and colors of the City’s kiosk signs were being updated. Council asked if the “For Sale” signs typically used by Realtors would require permits, and staff responded that such signs would not require permitting. Regarding flying banners, Council discussed the use and effectiveness of these signs, and directed staff to look further into the issue and see what could be

done to allow such signs within the City. After the worksession, staff did research the issue. Nine cities within the Valley were surveyed, and staff found that four of the nine cities permitted flying banners. Otherwise, such signs were prohibited. Staff continues to recommend that flying banners remain prohibited within the City, given the tendency for these signs to quickly wear and tear and because such signs have a tendency to proliferate. However, should Council favor such signs being allowed, then staff would recommend flying banners be allowed via the Grand Opening and Special Promotions temporary sign regulations. Staff would also further recommend that flying banners be allowed on a trial basis, with regulations that would sunset upon one year of the adoption date of the sign ordinance. This way, staff can further evaluate the use of flying banners within the City.

Public Participation

Staff conducted meetings with several of the City's small businesses on January 19, January 26 and February 1, 2017. Attendees had questions and comments on the proposed draft, and were generally supportive of the changes. A summary of the outreach meetings is attached to this staff report. Staff also sent out a request for comments to the wider development community on February 15, 2017. Comments were received from the West Maricopa Association of Realtors. In summary, the Association stated that signs should be treated as free speech and therefore the regulation of signage through a sign ordinance was inappropriate. Staff responded that the proposed draft was intended to create additional signage opportunities for business and citizens and was drafted to ensure signage was regulated in a constitutional manner.

Notice of the public hearings before the Commission and Council included a legal ad placed in the Arizona Republic.

FISCAL ANALYSIS:

The proposed text amendment to the Zoning Ordinance will not have a direct fiscal impact on the general fund.

RECOMMENDATION:

Staff recommends replacing the current Article 7 (Sign Regulations) with the new Article 7 (Sign Regulations) and revising Article 9 (Special Districts) with the addition of new Article 9-2 (McDowell Road Business and Entertainment District).

ATTACHMENTS:

1. Draft Ordinance No. 17-1350
 - a. Exhibit A – Proposed Article 7 (Sign Regulations)
 - b. Exhibit B – Proposed Article 9-2 (McDowell Road Business and Entertainment District)
2. Existing Article 7 (Sign Regulations)
3. Summary and Q&A from Business Outreach Meetings