

## City Council – Action Request Form

**Date:** September 14, 2021

**To:** Mayor, Mayor Pro Tempore, and Members of the City Council

**From:** Aaron King, Interim Assistant City Manager  
Chris Murphy, Interim Director of Planning and Development Services

**Council Action Requested:**

Request for Public Hearing on an ordinance amendment to the *Unified Development Ordinances (UDO)* to modify the change rate of electronic message board signs; to add brightness limits to the regulation of electronic message board signs; and to extend the amortization period to bring nonconforming on-premises freestanding signs into compliance with present sign ordinance regulations by two (2) years to June 30, 2024 (UDO-CC14).

**Strategic Focus Area:** Livable Neighborhoods

**Strategic Objective:** No

**Strategic Plan Action Item:** No

**Key Work Item:** Yes



**Summary of Information:**

At the February 2021 Community Development, Housing, and General Government (CD/H/GG) Committee meeting, staff presented information related to Council concerns regarding 1) the number of freestanding signs which have been brought into compliance with the amortization requirements of the 2007 sign ordinance; and 2) the current change rate of electronic message board signs. Staff gave a follow-up presentation at the April CD/H/GG meeting summarizing previous notification efforts to owners of noncompliant signs, and peer cities' electronic message board regulations. Staff was asked to prepare a UDO amendment proposing a 2-year extension of the amortization period to June 30, 2024; a 1-minute change rate for electronic message signs; and brightness standards for electronic signs.

The Planning Board held a public hearing on the ordinance amendment on August 12, 2021 and recommended approval with an 8-1 vote. The Board also recommended a 2-minute change rate for electronic message board signs. Staff will be available to present UDO-CC14 at the September 2021 CD/H/GG Committee meeting.

**Committee Action:**

<b>Committee</b> _____	<b>Action</b> _____
<b>For</b> _____	<b>Against</b> _____
<b>Remarks:</b> _____	

## UDO-CC14

### AN ORDINANCE AMENDING CHAPTER 6 AND CHAPTER 11 OF THE *UNIFIED DEVELOPMENT ORDINANCES* (UDO) TO MODIFY THE CHANGE RATE OF ELECTRONIC MESSAGE BOARD SIGNS; TO ADD BRIGHTNESS LIMITS TO THE REGULATION OF ELECTRONIC MESSAGE BOARD SIGNS; AND TO EXTEND THE AMORTIZATION PERIOD BY TWO (2) YEARS TO BRING NONCONFORMING ON-PREMISES SIGNS INTO COMPLIANCE

Be it ordained by the Winston-Salem City Council that the Unified Development Ordinances are amended as follows:

**Section 1.** Chapter 6, Section 6.5, Subsection 6.5.1 of the UDO is amended as follows:

## 6 DEVELOPMENT STANDARDS

### 6.5 SIGNAGE

#### 6.5.1 WINSTON-SALEM SIGN REGULATIONS (W)

##### ***F. SIGNS ALLOWED WITH A ZONING PERMIT***

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*The following signs are allowed with a zoning permit in any zoning district where the specified uses are permitted:*

##### **2. ELECTRONIC MESSAGE BOARD SIGN**

- a. Electronic message board signs shall be allowed in all nonresidential zoning districts except that, within the Winston Overlay (WO) District, electronic message board signs shall only be allowed on the premises of stadiums, coliseums, or exhibition buildings in accordance with the provisions of **Section 6.5.1H.6.c, Stadium, Coliseum, or Exhibition Building**.*
- b. A development may have either attached or freestanding electronic message signage, but not both, unless otherwise provided for in this Ordinance.*
- c. The following conditions shall apply to electronic message board signs:*
  - i. CALCULATION OF AREA**  
*An electronic message board sign which is included within a larger sign shall be included in the calculation of the total permitted sign area.*
  - ii. CHANGES PER DAY**
    - 1. ~~For fifteen (15) years following the effective date of this Ordinance, An~~ **An** ~~electronic message board sign for which a permit has been lawfully issued prior to July 1, 2007~~ **(1)** ~~may display a message that scrolls and~~ **(2)** ~~shall have a maximum change rate of once every eight (8) seconds for a period of seventeen (17) years until June 30, 2024.~~ **;** ~~at the end of said fifteen (15) year period~~ **Beginning July 1, 2024,** ~~such signs shall not display a~~*

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underscore are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

message that scrolls and shall have a maximum change rate of once every two (2) ~~minutes~~ ~~hours~~.

2. All electronic message board signs for which a permit has been lawfully issued ~~on or after the July 1, 2007 effective date of this Ordinance~~ shall have a maximum change rate of once every two (2) ~~minutes~~ ~~hours~~ and shall not display a message that scrolls.
3. Changes shall be complete and shall not contain any scrolling, flashing, or similar transitional effects between static messages.

**iii. BRIGHTNESS**

1. Maximum brightness levels for electronic message board signs shall not exceed 5,000 nits during daylight hours and shall not exceed 500 nits between sunset and sunrise, as measured from the sign face. For purposes of enforcement of this section, the terms "sunset" and "sunrise" shall be determined by and based on the times for those events published daily by the National Oceanographic and Aeronautics Association of the U.S. Department of Commerce.
2. All electronic message board signs shall have a light sensing device that will adjust the brightness in real-time as ambient light conditions change, so that the sign does not exceed the maximum brightness levels allowed by this section.
3. Prior to issuance of a sign permit, the applicant shall provide written certification from the sign contractor that the light intensity of the electronic message board sign has been pre-set not to exceed 5,000 nits.
4. Prior to the final sign inspection, the sign contractor shall provide written certification that the sign meets all requirements of this section.

**iv. ~~iii.~~ ATTACHED SIGNS**

Attached electronic message signs shall have a maximum area of twenty-four (24) square feet, unless otherwise provided for in this Ordinance.

**v. ~~iv.~~ AREA BONUS**

Electronic message board signs six (6) feet in height and lower containing electronic messages shall be allowed a ten percent (10%) increase in maximum sign area.

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**K. AMORTIZATION OF NONCONFORMING ON-PREMISES SIGNS**

**1. ON-PREMISES FREESTANDING SIGNS**

**a. SCHEDULE**

- i. On-premises freestanding signs made nonconforming by the provisions of this Ordinance shall be removed or brought into compliance ~~by June 30, 2024.~~ ~~within seventeen (17) fifteen (15) years from July 1, 2007.~~
- ii. Nonconforming freestanding signs required to be moved as a result of governmental action beyond the control of the sign owner may be reinstalled.

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underscore are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

- iii. *Additionally, nonconforming freestanding signs destroyed or damaged may be reinstalled or rebuilt to their original documented specifications as provided by the sign owner.*
- iv. *In all other situations, any change to the height, area, or structure of a nonconforming sign requiring a sign permit shall require the sign to conform to the standards of this Ordinance.*
- v. *Replacing the removable face of a cabinet-type sign shall not require conformance with the standards of this Ordinance. These provisions shall be applicable for the duration of the amortization period.*

**b. SIGN AREA**

*An unmodified on-premises freestanding sign existing prior to July 1, 2007 shall be considered conforming by this Ordinance unless it exceeds the area requirements of its respective zoning district by more than twenty-five percent (25%).*

**c. SIGN HEIGHT**

- i. *An unmodified on-premises freestanding sign existing prior to July 1, 2007 shall be considered conforming by this Ordinance unless it exceeds the height requirements of its respective zoning district by more than two (2) feet.*
- ii. *Architectural embellishments shall not be included when calculating height for signs subject to the amortization provisions of this Ordinance.*

**2. ON-PREMISES ATTACHED SIGNS**

- a. *Any establishment with on-premises attached signs made nonconforming by the provisions of this Ordinance shall be allowed to retain the existing sign(s) and sign structure(s).*
- b. *Panel change-outs will be permitted in existing nonconforming attached sign structures.*
- c. *Existing sign(s) and sign structure(s) being replaced must conform to the provisions of **Section 6.5.II, On-Premises Attached Signs.***

**3. TEMPORARY, NONPERMANENT ON-PREMISES SIGNS**

*Any temporary, nonpermanent sign, including overhead streamers and all banners not conforming with the provisions of Section 70 of the City Code of Winston-Salem, made nonconforming by the provisions of this Ordinance shall be brought in conformance or be removed within six (6) months of July 1, 2007.*

**Section 2.** Chapter 11, Section 11.2 of the UDO is amended as follows:

**11 MEASUREMENT & DEFINITIONS**

**11.2 DEFINITIONS**

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underline are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

**TABLE 11.2.2: DEFINITIONS**

<i>NIT</i>	<i>A unit of measurement of the intensity of visible light, where one nit is equal to one candela per square meter (cd/m<sup>2</sup>).</i>
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**Section 3.** This ordinance shall be effective upon adoption.

NOTE: Items to be removed are indicated with a ~~strike through~~; items to be added are shown as **highlighted**. Items with a single underscore are applicable to Forsyth County only, and *italicized* items are applicable to Winston-Salem only.

## STAFF REPORT

**DOCKET:** UDO-CC14  
**STAFF:** [Steve Smotherman](#)

### **REQUEST**

An ordinance amendment proposed by Planning and Development Services staff modifying Chapter 6 and Chapter 11 of the *Unified Development Ordinances* pertaining to the change rate of electronic message board signs; adding brightness standards to the regulation of electronic message board signs; and extending the amortization period by two (2) years for nonconforming on-premises signs.

### **BACKGROUND**

In the early 2000s, the Winston-Salem City Council included a new sign ordinance as part of its 2002 Strategic Plan. *Legacy*, the comprehensive plan in effect at that time, recommended changing sign regulations to enhance the appearance of corridors through the reduction of sign clutter. In 2007, the current sign ordinance was adopted after a lengthy outreach and drafting process, followed by serious discussion among business leaders, community members, the City-County Planning Board, and the City Council. The two topics generating the most discussion during the adoption process were the change rate for signs with electronic messages and amortization of nonconforming on-premises freestanding signs.

#### Electronic Message Signs

Following lengthy discussions in 2007 by the Planning Board and City Council, an electronic message sign change rate of once every two (2) hours was ultimately established. The sign ordinance also prohibits scrolling, flashing, or similar movement of electronic messages to prevent distractions while driving. Electronic messages may be incorporated into on-premises freestanding or attached signs in any nonresidential zoning district. In recent years, some business owners have expressed concerns regarding the restrictive nature of the 2-hour change rate for electronic message signs.

Since 2007, most community complaints arising from electronic messages have related to the brightness of such signs, rather than their rate of change. An extremely bright sign can be distracting and disorienting to drivers, especially at night, from institutional land uses such as churches or schools located in or near residential neighborhoods. The sign ordinance does not currently regulate the brightness of electronic message signs.

#### Amortization

Amortization refers to the period during which an existing on-premises freestanding sign made noncompliant by the 2007 sign ordinance may exist before being brought into compliance. Due to the financial expense of bringing such signs into compliance, the amortization provision in the ordinance provided fifteen (15) years – ending June 30, 2022 – for business owners to make any necessary changes to meet the new regulations. All signs receiving permits since 2007 had to comply with the revised regulations during the permitting process. The amortization provision applies to *on-premises freestanding signs only* and does not apply to any other type of sign.

In 2017 – five years out from the amortization date – Planning and Development Services staff conducted a field survey of existing on-premises freestanding signs in Winston-Salem to determine the number of signs that complied with the area and height provisions of the 2007 sign ordinance. The number of compliant/noncompliant signs, broken down by ward, is shown below:

Ward	Compliant	Noncompliant	Total
East	208	48 (19%)	256
Northeast	309	100 (24%)	409
North	272	58 (18%)	330
Northwest	268	93 (26%)	361
West	128	35 (21%)	163
Southwest	447	218 (33%)	665
South	241	108 (31%)	349
Southeast	236	73 (24%)	309
<b>TOTAL</b>	<b>2,109</b>	<b>733 (26%)</b>	<b>2,842</b>

Of the more than 2,800 on-premises freestanding signs surveyed in Winston-Salem, 733 (26 percent) were determined to be noncompliant. Staff mailed letters to the property owners where noncompliant signs were located, notifying them of the upcoming amortization date. Since those letters were sent, 16 additional signs have become compliant.

Staff’s initial intent was to update this inventory and send another mailing in 2020 (two years before the amortization date), with a final notification to be sent in 2021, one year before amortization ended. However, the COVID-19 pandemic has placed unusual stress on local businesses, which have been unable to operate at normal capacities or normal hours because of executive orders from the governor. These operational challenges compound the already significant cost of replacing existing signs. As such, numerous business owners have reached out to staff inquiring about options for relief.

Staff presented this information to the Community Development, Housing, and General Government (CD/H/GG) Committee of City Council at its February and March 2021 meetings, along with a comparison of electronic message sign regulations of North Carolina peer cities (see table below).

#### Electronic Message Sign Regulations—North Carolina Peer Cities

NC Peer City	Change Rate	Brightness Standards	Notable Provisions
<b>Asheville</b>	<ul style="list-style-type: none"> <li>Once every 4 hours (outside CBD)</li> <li>Once every 8 seconds (inside CBD)</li> </ul>	<ul style="list-style-type: none"> <li>5,000 nits (day)</li> <li>500 nits (night)</li> <li>Must be installed with dimmer control responsive to ambient light conditions</li> </ul>	<ul style="list-style-type: none"> <li>Only 50% of sign face can contain electronic message</li> <li>No electronic messages within 100 feet of residential zoning</li> <li>Only static messages allowed (no flashing, screening, animation, etc.)</li> </ul>
<b>Charlotte</b>	<ul style="list-style-type: none"> <li>Once every 8 seconds</li> </ul>	<ul style="list-style-type: none"> <li>7,500 nits (day)</li> <li>500 nits (night)</li> <li>Must be installed with dimmer control responsive to ambient light conditions</li> </ul>	<ul style="list-style-type: none"> <li>Only 50% of sign face can contain electronic message</li> <li>Only static messages allowed (no flashing, screening, animation, etc.)</li> </ul>

<b>Durham</b>	<ul style="list-style-type: none"> <li>• Only 8 changes per day</li> </ul>	<ul style="list-style-type: none"> <li>• No interference with traffic safety</li> </ul>	<ul style="list-style-type: none"> <li>• Only 50% of sign face can contain electronic message</li> <li>• Only static messages allowed (no flashing, screening, animation, etc.)</li> <li>• Only allowed in nonresidential zoning and for churches</li> </ul>
<b>Raleigh</b>	<ul style="list-style-type: none"> <li>• Only 4 changes per day</li> </ul>	<ul style="list-style-type: none"> <li>• No more than 0.5 foot-candle at property line shared with residential property</li> <li>• No more than 2 foot-candles at street right-of-way</li> <li>• No more than 10 foot-candles 10 feet from sign</li> </ul>	<ul style="list-style-type: none"> <li>• Only 50% of sign face can contain electronic message</li> </ul>
<b>Greensboro</b>	<p>Varies by zoning or use:</p> <ul style="list-style-type: none"> <li>• Once every 3 seconds for central business, industrial, and airport overlay zoning</li> <li>• Once every 1 minute for mixed-use and churches</li> <li>• Once every 6 hours for residential</li> </ul>	<ul style="list-style-type: none"> <li>• No more than 1 foot-candle above ambient lighting conditions measured from property line or street right-of-way</li> </ul>	<ul style="list-style-type: none"> <li>• Only 50% of sign face can contain electronic message outside central business area</li> <li>• Only 75% of sign face can contain electronic message inside central business area</li> </ul>
<b>High Point</b>	<ul style="list-style-type: none"> <li>• Once every 8 seconds</li> </ul>	<ul style="list-style-type: none"> <li>• 5,000 nits (day)</li> <li>• 500 nits (night)</li> <li>• Must be installed with dimmer control responsive to ambient light conditions</li> </ul>	<ul style="list-style-type: none"> <li>• Additional standards may apply based on zoning</li> </ul>
<b>Winston-Salem</b>	<ul style="list-style-type: none"> <li>• Once every 2 hours</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic messages can comprise part or all of sign</li> <li>• Only 1 electronic message sign type (attached or freestanding) allowed per site</li> <li>• Size limit for attached signs</li> <li>• Area bonus for freestanding signs less than 6 feet in height</li> </ul>

**ANALYSIS**

After evaluating the information provided by staff, the CD/H/GG Committee instructed staff to prepare a text amendment that:

- increased the maximum change rate of electronic message board signs from once every two (2) hours to once a minute,
- added brightness limits to electronic message board signs, and
- extended the amortization period for nonconforming on-premises freestanding signs by two years (June 30, 2024).

Planning staff prepared the text amendment as instructed, with brightness regulations based on the standards required by the cities of Asheville, Charlotte, and High Point. These cities have maximum day and night brightness limits measured in nits – an international standard for quantifying light intensity – with one nit equivalent to one candela per square meter.



Enforcement of the proposed regulations should be simplified by requiring that electronic message board signs be pre-set not to exceed 5,000 nits during the day and 500 nits between sunset and sunrise, and that the sign contains a light sensing device that will adjust sign brightness in real time as ambient light conditions change. Sign contractors will be required to certify in writing that all regulations will be met as part of the sign permit application, with a second certification that the sign does meet all standards required at the time of final on-site inspection.

Staff presented the code amendment for review by the Planning Board at its July work session. The Board recommended that the maximum change rate for electronic message board signs be reduced from once per minute to once per two (2) minutes. Planning staff concurs with this maximum change rate reduction, which proposes the same rate originally recommended by the Planning Board in the original 2007 sign ordinance.

Staff believes the aforementioned changes will improve the effectiveness of our sign regulations while being sensitive to the needs of local business owners.

**RECOMMENDATION: APPROVAL**

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**CITY-COUNTY PLANNING BOARD  
PUBLIC HEARING  
MINUTES FOR UDO-CC14  
AUGUST 12, 2021**

Steve Smotherman presented the staff report.

**PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

George referenced the 733 freestanding signs that were noncompliant and asked what they were noncompliant for. Steve stated that it was for area and/or height, which was covered in the ordinance change from 2007. George then asked how many signs were noncompliant for the electronic message portion. Chris Murphy stated that there was a list when the sign ordinance was adopted in 2007, and at that time, the number of electronic message board signs was between 25 and 30. Permits have been issued since then that have been subject to the imposed change rate. The 733 are not included in that number.

George asked what is hindering people from changing their sign size. Chris Murphy discussed the two components of changes in more detail. George asked how hard it would be for those with electronic message signs to change their rate of change and brightness by June 2022. Chris Murphy indicated that that would be based on the particulars of each sign.

Melynda asked what prompted this proposed amendment. Steve stated that some business owners had reached out to City Council members, particularly about the amortization period and the rate of change on electronic message boards, and the brightness issues came from multiple sources. Melynda expressed concern that the end of the amortization period could be further extended. According to the chart Steve presented, peer cities mentioned “only static messages,” and Walter Farabee asked if the change rate being proposed had the same application regarding flashing signs. Chris Murphy indicated that the ordinance already has standards regarding how the message is transitioned.

George indicated that he felt that this issue resurfacing is disingenuous in terms of the promises made in light of negotiations that occurred 14 years ago. He expressed his nonsupport of the text amendment.

MOTION: Clarence Lambe recommended approval of the text amendment.

SECOND: Jason Grubbs

VOTE:

FOR: Melynda Dunigan, Walter Farabee, Jason Grubbs, Clarence Lambe, Chris Leak,  
Mo McRae, Brenda Smith, Jack Steelman

AGAINST: George Bryan

EXCUSED: None

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Aaron King

Director of Planning and Development Services