



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

Agenda

Planning Commission

Wednesday, May 1, 2019

7:00 PM

City Hall

The City Hall is accessible for persons with disabilities. Special equipment to assist the hearing impaired is also available. Please contact the City Executive Offices at 360.442.5004 48 hours in advance if you require special accommodations to attend the meeting.

1. ROLL CALL

2. MINUTES

19-000143 Minutes of the April 3, 2019 Planning Commission meeting

3. AUDIENCE PARTICIPATION OF CORRESPONDENCE

4. DECLARATION OF EX-PARTE COMMUNICATIONS AND APPEARANCE OF FAIRNESS

5. PUBLIC HEARINGS

19-000144 PC 2015-1 Update to Longview Comprehensive Plan
Public Hearing regarding proposed Future Land Use map changes for the 36th Ave neighborhood South of Ocean Beach Highway

RECOMMENDED ACTION:

Motion to direct staff to include the proposed future land use map changes to the 36th Ave neighborhood as presented (or as modified as a result of the public hearing) in the final draft of the Comprehensive Plan update.

Motion to direct staff to prepare the final draft of the comprehensive plan update to be presented at the June 5 Meeting of the Planning Commission for a recommendation to the City Council.

6. NON-PUBLIC HEARING ITEMS

19-000145 ELECTRONIC SIGNS IN RESIDENTIAL ZONES- City Council direction to bring a recommendation for code changes to permit electronic reader-board signs in residential zones for churches, schools and public safety uses.

RECOMMENDED ACTION:

Provide direction to staff regarding potential changes to sign regulations for residential zones to be presented at a future meeting for review.

- 7. PLANNER'S REPORT**
- 8. OTHER BUSINESS**
- 9. ADJOURNMENT**



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Minutes

Agenda

Planning Commission

Wednesday, April 3, 2019

7:00 PM

City Hall

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1. **ROLL CALL**

Chairman Collins called the regular meeting of the Planning Commission to order at 7 p.m.

Present: Member Craig Collins, Member Trey Davis, Member Ramona Leber, Member Christine Schott, Member Ray Van Tongeren

Absent: Member Shawn Marvin

Staff Present:

Jeff Cameron, Public Works Director; John Brickey, Community Development Director; Adam Trimble, Planner; Lisa Vertrees, Administrative Assistant

2. **MINUTES**

19-00089 PC Minutes of March 6, 2019

A motion was made by Member Ray Van Tongeren, seconded by Member Christine Schott, to Approve the regular meeting minutes of March 6, 2019, as amended to include the roll call of the Planning Commission. The motion carried by the following vote:

Ayes: None

Nays: None

3. **AUDIENCE PARTICIPATION OF CORRESPONDENCE**

None at this time.

4. **DECLARATION OF EX-PARTE COMMUNICATIONS AND APPEARANCE OF FAIRNESS**

The Declaration of Ex Parte Communication was read by Mr. Trimble.

5. **PUBLIC HEARINGS**

19-00090 PC 2019-1: Request for approval of a 'Type B' binding site plan for Robbins Nest RV Park at 2230 Robbins Street.

RECOMMENDED ACTION: Motion to accept the findings and recommended conditions of approval in the staff report and approve the Robbins Nest RV Park binding site plan with conditions.

Mr. Trimble reviewed the staff report.

Conformance with the LMC and conditions of approval must be met. It is a permitted use.

Mr. Collins opened the public hearing. The following citizens spoke:

Tim Wines

Ryan Neyer

Hearing no further speakers, Mr. Collins closed the public hearing.

A motion was made by Member Ramona Leber, seconded by Member Ray Van Tongeren, to accept the staff findings and recommended conditions of approval in the staff report and approve the Type B binding site plan for Robbins Nest RV park at 2230 Robbins St. The motion carried by the following vote:

Ayes: None

Nays: None

6. NON-PUBLIC HEARING ITEMS

19-00091 COMPREHENSIVE PLAN UPDATE: Discussion on Mixed-Use Commercial Residential Classification and future zoning district.

RECOMMENDED ACTION: Review proposed description of Mixed Use Residential/Commercial classification for adequacy and ability to achieve desired zoning regulations for the new mixed use residential/commercial zone.

Direct staff to prepare language to include in the comprehensive plan update for a mixed use residential/commercial classification and new goal to develop zoning regulations for a new zone.

Set a public hearing for the proposed future land use map changes for the 36th Ave neighborhood.

Mr. Trimble reviewed the staff memo and gave a visual presentation.

The Mixed Use Residential/Commercial zoning definition will provide flexibility in the land use. Planning Commission directed staff to develop lot size and flexibility incentive approaches.

A motion was made by Member Ray Van Tongeren, seconded by Member Ramona Leber, to schedule a public hearing on May 1, 2019 for the proposed future land use map changes for the 36th Ave Neighborhood.

Ayes: None

Nays: None

7. PLANNER'S REPORT

*City Council has requested the Planning Commission consider changing the zoning for use of electronic reader boards for churches and schools in residential areas. It is currently not allowed.
Planning Commission requested a list of the current electronic reader boards.*

8. OTHER BUSINESS

None at this time.

9. ADJOURNMENT

The next regular Planning Commission meeting is scheduled for May 1, 2019, 7 p.m.

With no further business to discuss, the meeting adjourned at 8:20 p.m.

Lisa Vertrees, Recorder



City of Longview

Agenda Summary

PC 2015-1 Update to Longview Comprehensive Plan

Public Hearing regarding proposed Future Land Use map changes for the 36th Ave neighborhood South of Ocean Beach Highway

RECOMMENDED ACTION:

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Motion to direct staff to prepare the final draft of the comprehensive plan update to be presented at the June 5 Meeting of the Planning Commission for a recommendation to the City Council.

RECOMMENDED ACTION:

Motion to direct staff to include the proposed future land use map changes to the 36th Ave neighborhood as presented (or as modified as a result of the public hearing) in the final draft of the Comprehensive Plan update.

Motion to direct staff to prepare the final draft of the comprehensive plan update to be presented at the June 5 Meeting of the Planning Commission for a recommendation to the City Council.

Attachments:

1. 190501 PC_Staff Rep_ Comp Plan Update
2. Exhibit A 36th Av Map changes public hearing



STAFF REPORT AND RECOMMENDATION TO THE PLANNING COMMISSION

PREPARED BY: Adam Trimble, Interim Planning Manager

HEARING DATE: May 1, 2019

APPLICATION NO.: PC 2015-1

RELATED CASES: None

APPLICANT: City of Longview

REQUEST: Proposed Comprehensive Plan Update

BACKGROUND AND PROPOSAL

The City's began the process to update the *City of Longview Comprehensive Plan 2006* in late 2015. Since then the Planning Commission has held numerous workshops on the update including one with the City Council on November 1, 2018. The City Council has received regular updates on the plan update process. The Cowlitz-Wahkiakum Council of Governments was retained to assist in the development of the update.

At the beginning of the process the Planning Commission recommended four emphasis areas be considered during the update. These were presented to the Council and they agreed with them and added a fifth emphasis area; the former West Longview Lagoons. The five emphasis areas are:

- 1st and 3rd Avenue (SR 411) corridor
- Barlow Point
- West Longview Lagoons
- 36th Avenue south of Ocean Beach Highway, and
- Highlands Neighborhood and Oregon Way

During the update process, public outreach was conducted. An open house was held on each of the emphasis areas. In addition, an open house was held on overall comprehensive plan update in September 2017. City staff also gave presentations to various organizations.

The comprehensive plan consists of three components: background text; goals, objectives and policies and a future land use map (FLUM). During the update process changes to the land use map has drawn the most interest. Consequently the below text begins with discussion on that component.

In February 2018 the Planning Commission considered staff recommendations regarding the emphasis areas and some other requests for Future Land Use Map (FLUM) amendments. The Planning Commission agreed with the staff recommendation as a starting point for the public hearing process. The recommendations for the emphasis areas and FLUM map amendments are given below. As a result of the public hearing process, the Planning Commission has changed from the initial recommendation for 36th Ave and now proposes FLUM map amendments for this area and retaining a mixed use residential/commercial classification in the updated comprehensive plan, which had initially removed it altogether.

36th Avenue south of Ocean Beach Highway

The current FLUM Classification for the area is Regional Commercial.

Initial Planning Commission recommendation:

Keep current classification

Revised Planning Commission recommendation:

Change the classification for the all or portions of the lots on the West side of 36th Ave Community Commercial (General Commercial) and all the lots on the East side of 36th Ave Mixed Use Residential/Commercial.

Exhibit A is the proposed FLUM map with recommended amendments incorporated.

SEPA DETERMINATION

A completed Environmental Checklist was filed with the City of Longview. The City issued a determination of non-significance (DNS). The DNS and Checklist was circulated for agency review and comment on January 15, 2019. The comment period closes on January 29, 2019 [Application No. E 2019-2]. A SEPA addendum will be completed if necessary prior to City Council decision on the draft comprehensive plan update.

As of this writing, no comments have been received. The SEPA documents are attached as Exhibit E.

STAFF DISCUSSION

The draft 2018 Comprehensive Plan is not a major update. The PAB is remaining the same size. With the revised recommendation on 36th Ave, the only recommendations regarding FLUM classifications is to create a new classification in the future for the Highlands Neighborhood and retain the mixed use residential/commercial classification and develop a zoning code for a mixed use zone. For the emphasis areas the classification for the Barlow Point area is recommended to change and now the 36th Ave emphasis area is recommended to change. The Planning Commission, after listening to public comments and considering whether the future of retail markets is really likely to result in a ‘big-box’ retail development at the 36th Ave neighborhood, concluded it was not likely. With that conclusion, the direction is to change the classification of the area to allow commercial development in the future in the form of either standalone commercial developments and/or in the form of planned developments comprising a minimum size of 2 plus acres, which contain a mixture of commercial and residential uses integrated together. The changes to the classification are intended to respond to the characteristic of the site. With a reasonably high traffic counts on Ocean Beach Highway, the site is suited for commercial uses and sits adjacent to an existing regional commercial development, a Walmart, which already draws shoppers to the vicinity. Community Commercial is proposed adjacent to this use to potentially take advantage of the proximity if a development could share a parking lot access with the larger regional commercial draw. The neighborhood also has streets and infrastructure that are not up to current urban standards. The properties on the East side of 36th Ave are proposed to be classified mixed use residential/commercial and have zoning regulations that require larger scale developments that result in full scale improvements of the streets and utilities and potentially the completion of Olive Way which is a dedicated but unimproved right of way.

The City of Longview is not fully subject to the Washington State Growth Management Act (GMA). Communities not fully planning under GMA are still required to prepare a comprehensive plan for the orderly physical development of the jurisdiction. At a minimum, a land use element and a circulation element must be prepared (RCW 35A.63.061). The proposed comprehensive plan update meets and greatly exceeds those requirements.

STAFF FINDINGS

1. Extensive public outreach was conducted during the Comprehensive Plan update process. The Planning Commission held numerous workshops in the process of reviewing and updating the 2006 comprehensive plan. The City Council also held workshops and were informed and consulted on the update.
2. Washington State Environmental Policy Act (SEPA) review for the Comprehensive Plan update was conducted and a DNS was issued on January 15, 2019.
3. The City of Longview is not fully subject to the Growth Management Act. Per RCW 35A.63.061, Longview is required to prepare a comprehensive plan for the orderly physical development of the city. The comprehensive plan must have a land use element and a circulation element. The proposed comprehensive plan meets the requirement in that it has the two required elements and exceeds the requirement in that it has six other elements.

RECOMMENDATION

City staff recommends that the Planning Commission direct staff to include the proposed future land use map changes to the 36th Ave neighborhood as presented (or as modified as a result of comments at the public hearing) in the final draft of the Comprehensive Plan update and;

Motion to direct staff to prepare the final draft of the comprehensive plan update to be presented at the June 5 Meeting of the Planning Commission for a recommendation to the City Council.

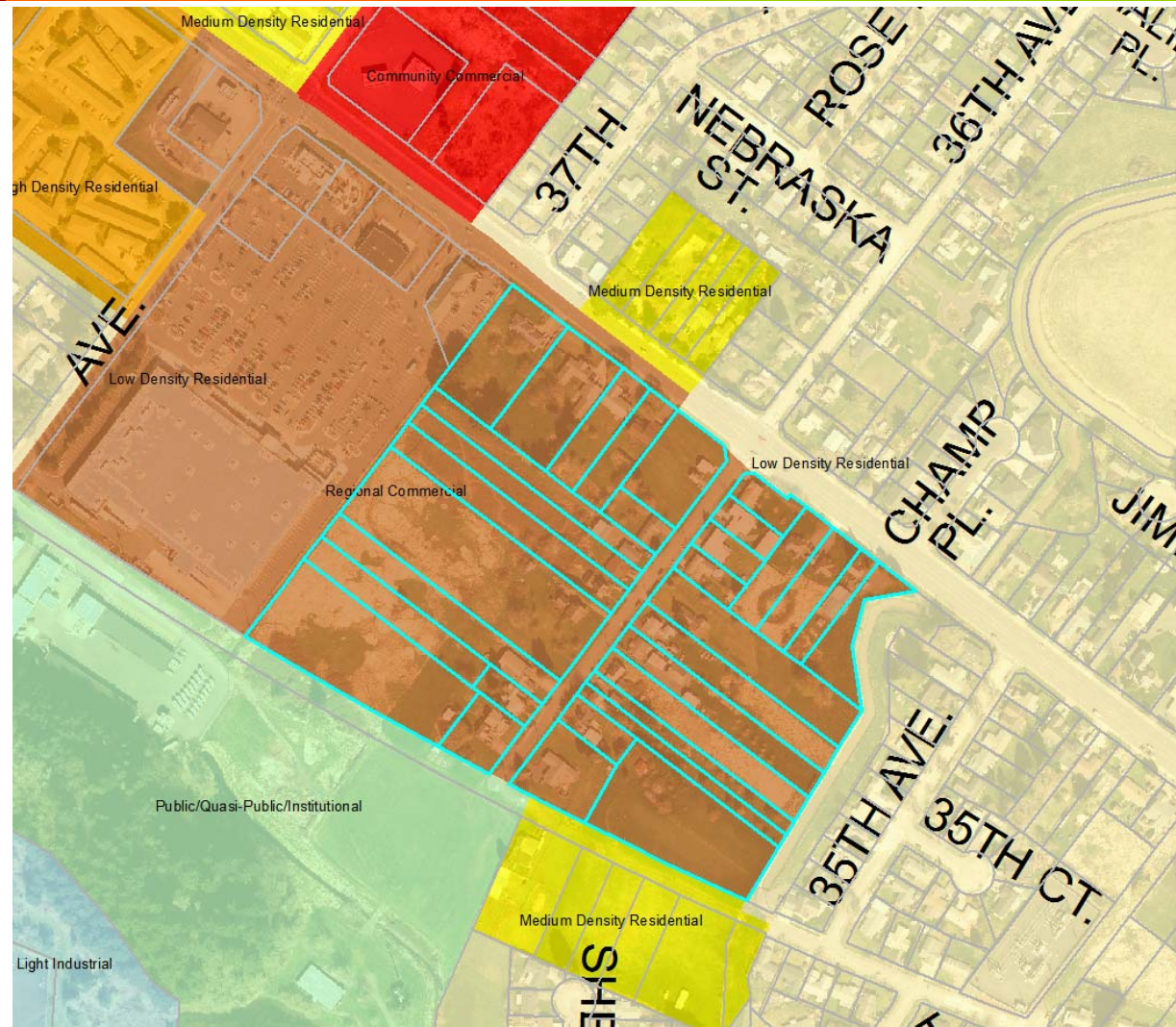
EXHIBITS

A. Proposed Future Land Use Map (FLUM)

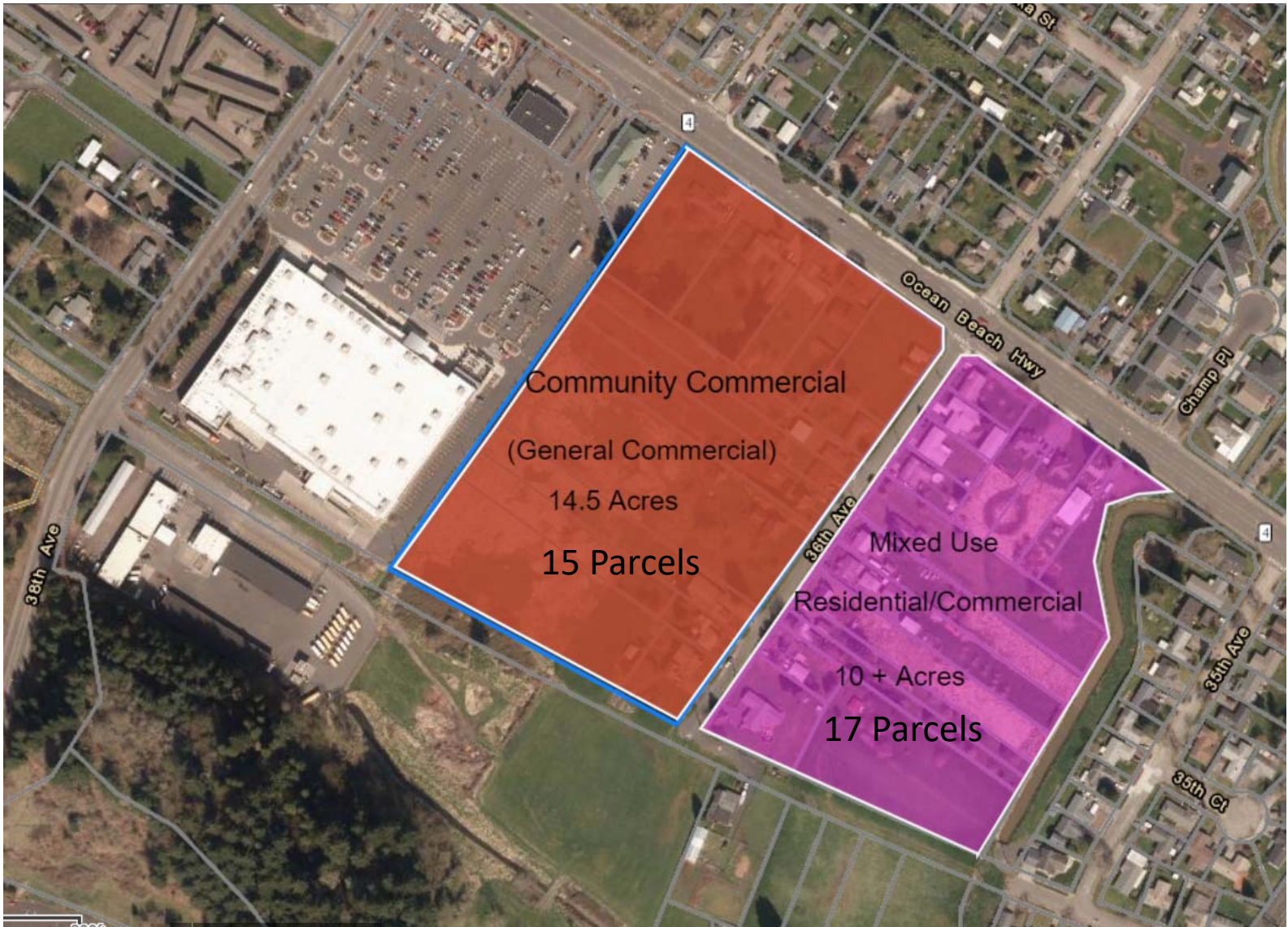
Note: The text of the draft Comprehensive Plan was given to Planning Commission members previously.

Staff Report Date: April 25, 2019

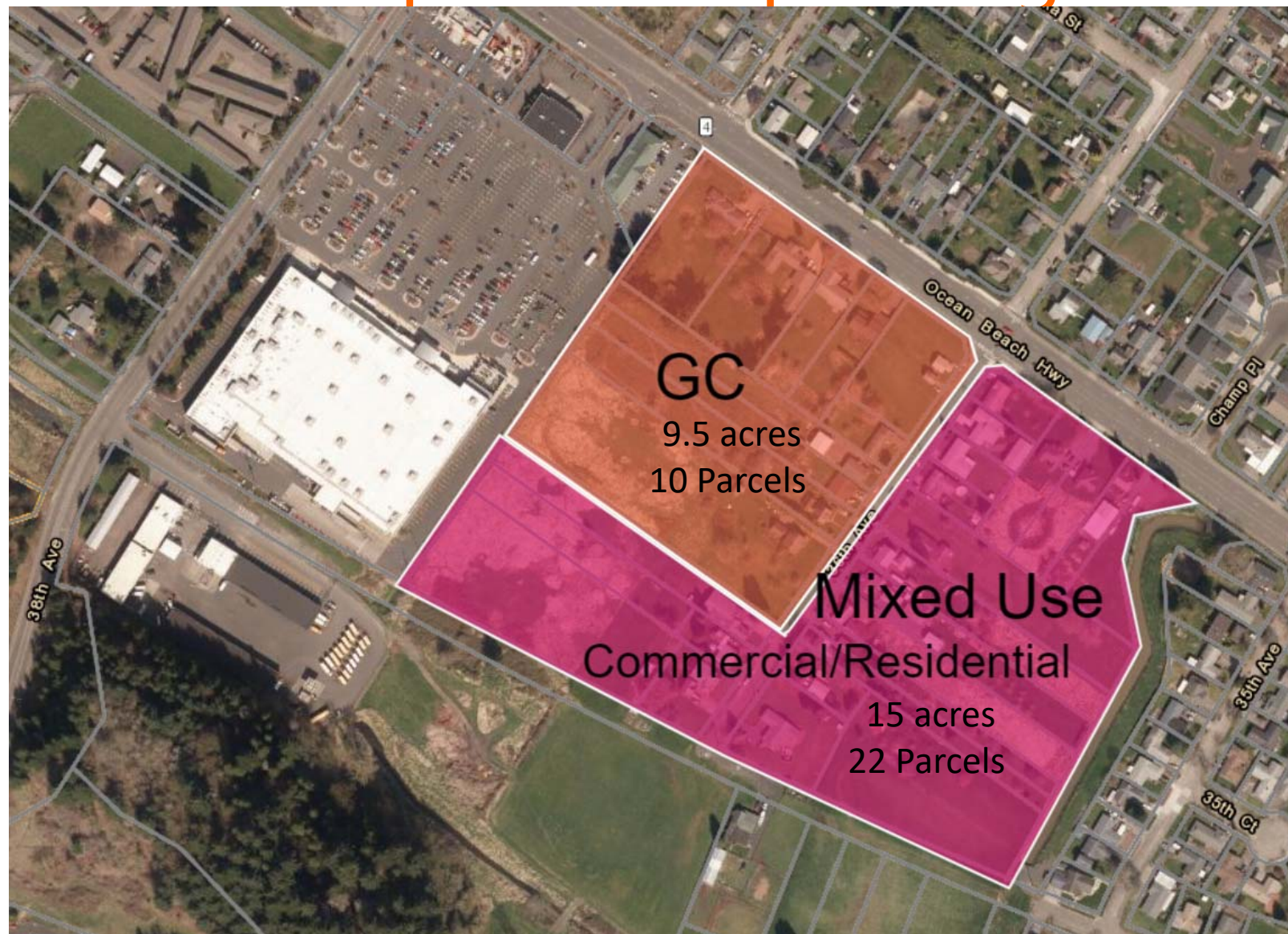
Options for the 36th Ave Regional Commercial Classification



36th Ave Proposed Map Changes



36th Ave Proposed Map Changes



What is Mixed Use Commercial/Residential

Land use Chapter page 22-23 Draft Comprehensive Plan update

Mixed Use

This classification is intended for areas that will promote an urban-style development with a mix of uses that commonly include commercial, office, and residential, with a strong emphasis on pedestrian connections. Strip commercial and residential development should not be allowed; instead, development should be focused into nodes or clusters. Mixed Use development may include permitted activities mixed within the same building or within separate buildings on the same site or on nearby sites. This classification should provide flexible development standards, which will ensure design compatibility between the site and the development, as well as between the development and the surrounding area. Three Mixed Use Designations (Residential/Commercial, Commercial/Industrial, and Office/Commercial) are described below.

Residential/Commercial

This designation is intended to encourage an integration of residential, village style commercial, waterfront commercial, and office uses under a planned development process, which encourages creativity in site planning by allowing flexibility in lot and building arrangements and a mix of uses. “Village-style commercial” is intended to mean locally oriented retail, restaurants, and services that are placed in a node rather than in a strip, and that are designed in a pedestrian friendly, human scale character. Large-scale developments containing only single uses are discouraged within this classification.

Objectives and Policies on mixed-use development

- Policy ED-A.1.1 Adopt land use plans and zoning classifications that are supportive of responsible economic development, accommodating a range of industrial, commercial and mixed-use opportunities reflective of community need and responsive to market demand.
- Objective ED-A.7 Work to improve codes to encourage and support the development of a variety of housing types throughout the City.
 - Policy ED-A.7.1 Promote residential and mixed-use development to attract workers from nearby metro areas.
 - Policy ED-A.7.5 Encourage mixed-use development with live-work, retail, supporting services, and employment, either on-site or in close proximity to residential uses through the Neighborhood Commercial zone, Regional and Community Commercial nodes along major corridors.
 - Policy ED-C.1.4 Apply landscaping, access, and signage regulations to commercial and mixed-use developments in the City to ensure noticeable, attractive visual appeal. Consider perimeter and parking lot landscaping, consolidated access points and linked parking areas, and sign sizes based on pedestrian as well as auto orientation.



City of Longview

Agenda Summary

ELECTRONIC SIGNS IN RESIDENTIAL ZONES- City Council direction to bring a recommendation for code changes to permit electronic reader-board signs in residential zones for churches, schools and public safety uses.

RECOMMENDED ACTION:

Provide direction to staff regarding potential changes to sign regulations for residential zones to be presented at a future meeting for review.

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Provide direction to staff regarding potential changes to sign regulations for residential zones to be presented at a future meeting for review.

Key considerations:

Special Property Use Permit requirement or permitted use

Off-premises advertising- not allowed or allowed for non-commercial purposes

Nighttime display- dimmer function or no illumination at night

Size and quantity restrictions- use existing code or limit to one per use

Attachments:

1. Council directive for electronic signs in residential zones
2. Article on sign regulations and law- Sign of the Times
3. Example Sign Regulations for electronic signs in Residential zones
4. Sign industry answers for EMC questions
5. Sign industry recommendation on elec sign brightness



City of Longview Agenda Summary Sheet

1525 Broadway
Longview, WA 98632
www.mylongview.com

Introduced by: Kenneth R. Botero

Date: March 15, 2019

Supported by: Scott Vydra

For Agenda of: March 28, 2019

SUBJECT TITLE: SPECIAL USE PERMIT ALLOWED IN R-1 ZONES

SUMMARY STATEMENT: It has been noted that with today's technology that several of our churches, located in R-1 Districts, would like to have the opportunity to install electric video reader boards promoting their church activities. Two noted facilities, located on Kessler and Washington Way (the Community Church), and 26th and Nichols (St. Rose Church and School), presently have reader boards that are outdated. Several facilities located in R-1 Districts would like to provide the community with updated technology.

This could possibly be instituted as a special use permit in the R-1 Districts with stipulation that the signs could not be more than a specific size, duration of on and off time, and would be located on the properties but not within 500 feet of a residential property,

RECOMMENDED ACTION: City council amend the R-1 Zone code to allow a special use permit program in the R-1 Districts for non-profit organization, including church facilities, with proper regulations for signage including distance from private residence, signage size and hours of permitted visibility. This would allow the community to be updated to today's technology. (Something like the sign at City Hall.)

COUNCIL STRATEGIC INITIATIVE ADDRESSED: Enhance and preserve neighborhoods and address quality of place issues.

Expenditure Required:

Amount Budgeted:

Appropriation Required:

Sign of the Times

The Supreme Court weighed in on signs last summer, but for planners those regulations are always on the docket.

By Bridget Mintz Testa

Imagine a town or a city without signs. Visitors would have no way of knowing where they were. In even a moderate-sized town, much less a bustling city, no one could find their way to a destination. Businesses and organizations couldn't advertise their locations, products, or services.

Without signs, towns and cities would be mute. Signs are necessary to commerce, wayfinding, culture, the arts — all aspects of modern life.

Yet signs can cause problems, too. They can be too bright, too big, too distracting. That's where sign ordinances come in: They aim to regulate signs in ways that are acceptable to both sign owners and viewers.

Gilbert, Arizona, learned that local efforts to create workable sign ordinances don't always succeed. But they often do, as shown by examples from Columbus, Ohio, and Tucson, Arizona.



This innocuous-looking sign took the town of Gilbert and Good News Community Church all the way to the Supreme Court. Courtesy Bruce

Elefson.

Temporary sign, permanent consequences

In 2007, when Gilbert, Arizona — home to 240,000 people — first defended itself against a lawsuit pertaining to a temporary sign, it's safe to assume that nobody involved ever dreamed that the case would make it all the way to the U.S. Supreme Court. But after Gilbert won several times in lower courts, it finally lost the case last June in the country's highest court.

The Court ruled that the town's sign ordinance regulating temporary directional signs was based on content. And that, the justices ruled unanimously, is a clear violation of freedom of speech. (See "Sign Regulation Just Got More Complicated," October 2015: <http://tinyurl.com/ztwdydr> (<http://tinyurl.com/ztwdydr>).

Clyde Reed, pastor of the Good News Presbyterian Church (usually referred to as Good News Community Church), brought the lawsuit. The church had no permanent facility, so members met in various town locations. Gilbert's sign ordinance allowed temporary directional signs for nonprofit events, such as the church's meetings, to be posted 12 hours prior to a meeting. They had to be removed an hour or two after the event. Such temporary signs could not be placed in a road right-of-way, and the size limit was six square feet.

However, according to Michael Hamblin, attorney for the town, political signs, governed by both a state law and an identical town ordinance, could be up to 32 square feet in size. They could remain in a road right-of-way for 60 days prior to an election and up to 15 days postelection. Home owners associations could also erect signs on weekends on nearby farmland to provide directions to new developments.

After receiving citations for posting signs a day ahead of services, Reed sued the town. The basis of the suit was that the sign ordinance was a content-based regulation and thus violated the First Amendment's guarantee of freedom of speech, according to Sigrid Asmundson, a lawyer in Best, Best & Krieger's Municipal Law practice group in Sacramento.

"Signs are subject to 'strict scrutiny' — the highest kind of scrutiny," she says. "Under strict scrutiny, a sign ordinance must further a compelling government interest and must be narrowly tailored to that interest."

The town argued that its compelling government interests for the ordinance were preserving the town's aesthetics and ensuring traffic safety. The Supreme Court dismissed these arguments. Hamblin is now reviewing and amending Gilbert's entire sign code. Once Hamblin completes his work, the amended code will go to the planning commission and then the town council for approval.

"This was a case of benign regulation — the town was trying to describe a sign category, and it's difficult to do that without mentioning the sign's content because they describe events," says Daniel R. Mandelker, Stamper Professor of Law at the Washington University School of Law in St. Louis. Despite such benign intent, "the gist of the [Supreme Court] ruling is that signs that regulate content are not acceptable," he says.

The ruling puts "almost every sign ordinance in the country under threat today," Mandelker adds. "The ruling makes it difficult to make distinctions between different types of signs, such as political and message types. Sign regulations have always made distinctions between on-premise and off-premise types, commercial and noncommercial types. Now even these distinctions could be attacked by the sign industry. Many ordinances define signs by what they say, as with real estate and construction signs. [A company] can challenge billboard provisions and then as part of the suit, challenge other parts of the ordinance. It could get part of the ordinance thrown out and then possibly all of the ordinance."

In short, Mandelker says: "Expect litigation about signs."



The iconic diving girl sign on the old Pueblo Hotel in Tucson has been restored and retrofitted to include the name of the law firm that now owns the building. Photo by Jonathan Mabry.

Cursing brightness

In Columbus, Ohio, people were complaining about off-premise, brightly-lit signs with changing copy, also known as electronic message centers. "The signs created distractions because of their brightness and the speed of the change of messages," says Lisa Russell, a planner who works on zoning code development for the city. "Most of the complaints involved on-premise signs facing streets," she says. Russell cited an auto dealership EMC facing an intersection as an example of the type of sign they were dealing with. "The image flashed, the copy changed and scrolled, and it was very bright," she says. "Other signs were visible from the freeways, and freeway drivers complained."

In 2009 and 2010, off-premise signs like billboards had dwell times for messages, but on-premise signs didn't. In 2011, the department of building and zoning began holding meetings with staff and representatives of the sign industry to discuss changes to the city's graphics code. "City officials had asked that the issue be addressed," Russell says.

Initially, the plan was to work through the entire graphics code. The code was so long, and the list of recommended changes was so extensive, that "we decided to limit the changes to automatic changeable copy," Russell says. Even so,

the meeting group "didn't want to write a code that couldn't be enforced," she adds. "So before finalizing the code and the method, we knew we should test it ourselves."

The stakeholder group included a community group representative who was also an architect who focused on lighting, a member of the International Sign Association, a sign manufacturer, and others with technical lighting knowledge. "The sign industry stakeholders did fieldwork with us," Russell says. "They showed the planners and code enforcement how to measure brightness."

Two methods were examined: lumens and foot-candles. The foot-candle method was chosen "because it better corresponded to human vision, was preferred by industry, was more accurate and was more affordable," she says.

It was also much more feasible, for a couple of reasons. The lumen method required the measurement device to be at eye level in front of a sign — difficult to do in the case of an actual complaint lodged about a sign surrounded by an eight-foot chain-link fence. The foot-candle method didn't require that.

The foot-candle method also allowed sign brightness to be compared to ambient light as if the sign illumination was off, even when it was on. This was achieved by blocking the sign when ambient light measurements were taken. And once the measurements were taken, sign owners could easily adjust a sign's brightness.

Even after the sign industry stakeholders showed the planners and code enforcement how to measure brightness with the foot-candle method, the building and zoning department wanted to make sure they could perform the measurements without help. "We went out by ourselves without the sign industry rep to make sure we could do it ourselves," Russell says.

Why go to so much trouble when the sign owner could just be asked to turn the sign off? "Complaints are anonymous," she says. "Following a complaint, if the test shows the sign is not too bright, then the case is simply closed. If the sign is too bright, then the sign owner is notified."

The foot-candle measuring device was purchased for

approximately \$150, versus a cost of roughly \$2,000 for a lumen meter.

And after 18 months of code development work, Columbus changed its code to include the foot-candle measuring technique. The new brightness and automatic copy limits include an eight-second hold time on images, a brightness limit of 0.3 foot-candles above ambient light for static images, instantaneous transitions from one static display to another, and automatic dimming technology that keeps the brightness within the 0.3 foot-candle limit.

"Complaints have gone down," Russell says. "Code enforcement has used the measuring technique twice since the ordinance was approved on July 29, 2014."



The chubby chef on the sign above Caruso's, a family-owned restaurant in Tucson since 1938, shines again thanks to the city's ordinance allowing

restoration of historic neon signs. A grant from the Fourth Avenue Merchants Association helped pay for repairs.

Neon city

Back in the 1950s, the diving girl neon sign alerted weary travelers in downtown Tucson to the Pueblo Hotel and its welcoming rooms, apartments, "refrigerated air," and swimming pool. By the 2000s, the diving girl, clad in a green two-piece bathing suit with white polka dots, was in bad shape. The diving girl was just one of many neon signs, icons of mid-century Tucson, that welcomed tourists.

The 21st century owner of the old Pueblo Hotel, the Piccarreta Davis law firm, spent a half million dollars renovating the building. The firm also wanted to adaptively reuse the diving girl sign for its historic significance and aesthetics.

But the diving girl broke too many rules to get an adaptive reuse permit, according to "Tucson's Historic Landmark Sign Ordinance," a 2012 article in APA's Urban Design and Historic Preservation newsletter written by James Carpentier, AICP, manager of state and local government affairs with the International Sign Association. He wrote that she was located in a right-of-way; exceeded the maximum height of 12 feet; failed to meet the required setback; was a pole sign in a pedestrian area where such signs were forbidden; and couldn't become a ground sign because they weren't allowed either. If the sign was taken down for repairs, it could not be put back up. "Denying the permit helped to set about a process that led to a lengthy discussion about the iconic images of the city's past, and whether they were worth preserving," Carpentier wrote. That process led the city to develop a Historic Landmark Sign Code designed to preserve such irreplaceable old signs.

The process began in 2009, with a call for a committee to come up with code to allow signs like the diving girl to be preserved. "The committee was made up of property owners, preservationists, and property managers," says Glenn Moyer, AICP, Tucson's sign code administrator. "The preservationists were interested in more than just signs, and the property owners and managers saw an opportunity to get better use

out of their properties."

The community's perception of these large old signs in states of disrepair had evolved from "eyesores" to "historic treasures" that contributed to the unique visual character of the city," says Jonathan Mabry, the city's historic preservation officer. But many of them were "dead signs," advertising businesses that were no longer there, and the sign code did not allow current businesses to put their names on them. Mabry pointed out to the committee that, if these signs are considered to have historic value and viewed through the lens of national historic preservation standards for how buildings can be updated, minor alterations should be allowed to adapt them to advertise current businesses.

A subcommittee was also formed to develop a new historic sign code. "After 24 public meetings with the ad hoc subcommittee and others," the city council unanimously approved the Historic Landmark Sign code in June 2011, wrote Carpentier.

The code states that its explicit purpose is, in part, "to provide for the preservation of the City of Tucson's unique character, history, and identity, as reflected in its historic and iconic signs, and to restore the sense of place that existed within the central business district and in areas of the City with concentrations of surviving historic signs."

If the signs meet all the guidelines and requirements in the code, "then approval is an administrative process," Moyer says.

The code includes an incentive to preserve historic landmark signs. "The first HLS on a premise does not count toward the maximum total sign area," Moyer says. "A business can have a larger sign, with more neon, than otherwise allowed under the sign code and outdoor lighting code. Even if a sign doesn't have neon, it can still be approved if it will contribute to Tucson's unique character and historical identity." Historic landmark signs are permitted in every type of district in Tucson. "These signs are not in historic districts," he adds. "They're free-standing historic landmarks" in and of themselves.

And what of the diving girl? "Some forensic sanding was done

to determine the nature of the swimsuit," Moyer says. "It's a two-piece green bathing suit with white polka dots. The sign was restored to a 1950s appearance, and the ordinance permits it to be updated to something current to the tenants using the property," meaning that the Piccarretta Davis law firm could add their name to the sign. Mabry says that two elements of the sign code change — not counting designated historic signs against the total sign allowance, and allowing minor changes to advertise current businesses — have been the most effective incentives to encourage owners to go through the designation process and restore them to their former glories.

The diving girl, along with the other historic landmark signs in Tucson, produces "a fairly limited impact," Moyer says, "but it's very visual." And proving the value of the Historic Landmark Sign ordinance, tourists are now coming back to Tucson just to see all that 1950s neon.

Bridget Mintz Testa is a Houston-based freelance writer specializing in planning, technology, and power and energy.

RESOURCES

APA filed an amicus brief in *Reed v. Town of Gilbert*. Read it and other information at [www.planning.org/amicus\(/amicus/\)](http://www.planning.org/amicus(/amicus/)).

"Tucson's Historic Sign Ordinance," by James Carpentier, AICP: <http://tinyurl.com/zhah3pb> (<http://tinyurl.com/zhah3pb>)

"Bending the Rules," by Robin Donovan: <http://tinyurl.com/jzowl4f> (<http://tinyurl.com/jzowl4f>)

"U.S. Supreme Court Affirms That Content-Based Sign Codes Violate The First Amendment," by Sigrid K. Asmundson and William J. Priest: <http://tinyurl.com/zeq8bj5> (<http://tinyurl.com/zeq8bj5>)

"Vintage Tucson Neon Art Walk" study, Tucson Historic Preservation Foundation: <http://tinyurl.com/zn7n6f9> (<http://tinyurl.com/zn7n6f9>)

Changeable electronic message displays make it easier to rotate among a series of related messages, such as this one

pondering questions of modern art. From *Street Graphics and the Law*, Fourth Edition (PAS 580, 2015) by Daniel R. Mandelker, John M. Baker, and Richard Crawford. Available at <http://tinyurl.com/h4xw5nk> (<http://tinyurl.com/h4xw5nk>).

Sign Regulations for electronic signs in Residential zones -two examples:

City of Olympia WA <https://www.codepublishing.com/WA/Olympia/?OlympiaNT.html>

3. Electronic Message and Public Service Signs, where allowed:
 - a. Illumination Limits
 - i. Signs with an electronic message shall have a brightness level that is comparable with internally illuminated signs.
 - ii. Signs with an electronic message shall incorporate photocell/light sensors, with automatic dimming technology that appropriately adjusts to ambient light conditions.
 - b. Hold Time. The digital message or static image shall remain on the display for a minimum of:
 - i. Public Service Signs at academic schools: Five (5) minutes.
 - ii. Electronic Development Identification Signs: Three (3) minutes.
 - c. Transition Method. A transition between messages shall be executed with a minimum fade in and out time of one second.
 - d. Maintenance: Any permitted electronic sign that malfunctions, fails, or ceases to operate in its usual or normal programmed manner shall be repaired or disconnected within five days by the owner or operator of the sign.

C. Permanent Signs in Residential Sign Zone – Nonresidential Uses. It is customary and common to have nonresidential uses in residential areas, such as schools, places of worship, daycare centers, public facilities such as fire stations or substations, and other similar uses. These uses are generally allowed by conditional use permit and are an important part of our community. These uses have signage needs that are different and distinct from residential uses. Signs may be permitted, as follows:

1. Lighting. All signs, with the exception of the Public Service portion of signage, are encouraged to use indirect lighting for signage. Lighting shall be directed to the sign face and away from residential properties. The electronic portion of any public service sign for academic uses must be turned off between the hours of 9:00 p.m. and 6:00 a.m.

City of Vancouver WA-

<https://vancouver.municipal.codes/VMC/20.960.040>

I. Electronic Message Center signs [in low density residential zones]. Allowed subject to the following standards:

1. Allowed in association with nonresidential uses only which meet the following criteria:
 - a. The site has frontage on a major or minor arterial; or
 - b. The site has frontage on a collector arterial and is at least 2 acres in size
2. Number of signs: 1 per use
3. Type: Fascia or monument-style sign only

4. Maximum size: 16 square feet (50% of allowed area of fascia or monument sign); such sign shall not be in addition to allowable area of fascia or monument sign
5. Maximum height: 8 feet measured from grade if monument sign; fascia signs shall not extend above the parapet or eave line
6. Location: The EMC sign shall either face or be located adjacent to the arterial street
7. Hours of operation: The EMC sign shall be completely turned off between the hours of 9:00 pm and 7:00 am, seven days a week
8. Additional performance standards of VMC [20.960.060](#), I, 2-9 shall apply to EMC signs in residential districts
9. Signs with an electronic message center which meet all of the above standards may also provide internal illumination to the remainder of the sign.

Longview Sign Code:

<https://www.codepublishing.com/WA/Longview/#!/Longview19/Longview1922.html#19.22.040>

19.22.040 Signs in residential zones.

In addition to the standards set forth in Chapter [16.13](#) LMC, the following regulations also govern the use of signs in the R-1, R-2, R-3, R-4 and TNR zones:

- (1) Except as provided in Chapter [16.13](#) LMC, all signs shall relate to business or activities conducted on the premises on which the signs are situated.
- (2) Signs that pertain to a home occupation activity shall adhere to the standards set forth in LMC [19.22.030](#).
- (3) All signs approved under this section shall be nonflashing and, if illuminated by artificial light, such lighting shall be oriented to prevent light trespass onto adjacent residences and properties and shall be oriented towards the ground. Electronic readerboards are not permitted.
- (4) Street, park, recreational, trail, public utility, and similar signs that are erected by the city of Longview are hereby exempted from the regulations of this section.
- (5) Churches and schools may have up to two signs unlimited in size attached to the principal building for identification purposes. Churches, schools, parks and public playgrounds, existing or hereafter erected or created, may also have signs separate from any building or structure on the premises used for any such purpose so long as the signs do not exceed a total of 30 square feet in area and so long as no portion thereof, including any foundation, base or frame, is closer than 10 feet to any lot line at street intersections; provided, however, signs for school campuses shall be permitted which contain a total of not to exceed 80 square feet in area, not including foundation, base or frame, and not closer than 10 feet to any lot line.

FINDING COMMON GROUND:

ANSWERS TO COMMON
QUESTIONS ABOUT
ELECTRONIC MESSAGE
CENTERS (EMCs)



FINDING COMMON GROUND:

ANSWERS TO COMMON QUESTIONS INVOLVING ON-PREMISE ELECTRONIC MESSAGE CENTERS

Is your community trying to determine how to treat on-premise electronic message center signs (EMCs)? Are you trying to strike a balance between the desire for businesses to use EMCs and community aesthetics? Do you have concerns about the safety of EMCs? Are you confused or frustrated about how to properly regulate these types of signs?

If you have answered in the affirmative to any of these questions, you are not alone. Planners, community officials, small businesses and sign companies have struggled with these questions for several years. As the trade association for the on-premise sign industry, ISA has worked with hundreds of communities across the country on EMC issues, lending our expertise in helping to develop reasonable and beneficial code language governing this modern and innovative sign technology.

Just to clarify, EMCs are not digital billboards, which advertise a good or service that is located away from where the sign is located. Rather, EMCs are digital signs that are located on the premises of the business, and that advertise goods and services that are provided at the location.

(Left) Electronic message center (EMC) / on-premise sign advertising a product that is located at the place of business

(Right) Digital billboard / off-premise sign advertising a business away from where the sign is located



There is often confusion regarding on and off-premise digital signs. However, EMCs and digital billboards have very distinct capabilities and purposes, each targets a specific audience and each has traditionally been treated under separate legal and regulatory regimes. For the purposes of this publication, we are focusing solely and exclusively on EMCs.

We have compiled this guide in order to help all stakeholders make informed decisions about EMCs, addressing common concerns and providing the perspective necessary for the development of effective sign regulations. We hope that the information in this publication can assist each community in finding common ground in the quest for appropriate EMC regulation.

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EMCs AND AESTHETICS

ISSUE

Some communities are concerned with the impact of EMCs on the visual environment. Most concerns regarding aesthetics can be resolved with effective regulation. Proper brightness standards and regulated content presentation standards can resolve the majority of aesthetic concerns. When properly regulated and utilized, EMCs can actually enhance community aesthetics.

The manually-changeable reader board, an ancestor to EMC technology, is common in most communities. Mis-matched letters, bland fonts, and other design limitations make a reader board to electronic message center conversion an improvement in aesthetics. A properly regulated EMC is considered by some to be more attractive than a traditional reader board.

Another example of sometimes aesthetically-displeasing signs is multi-tenant panel signs that can be found in many retail multi-tenant shopping centers. Frequently these signs are packed with a long list of tenants, which are functionally invisible to the motoring public. Such lack of visibility affects the viability of the retail center, and unviable businesses can eventually become an eyesore. Allowing an EMC in a retail shopping center can give tenants the visibility they need, replace functionally invisible signs with an effective sign without increasing over all square footage, and thus improve the aesthetic appearance of the shopping center.

Lack of visibility and the ability to change advertising messages often results in some business owners using alternate methods to get the message out. Ironically, prohibitions or severe restrictions on EMCs can result in the very thing such sign codes are intended to avoid; namely, visual clutter by excessive signage. By allowing properly regulated EMCs to operate in a community, you can avoid these aesthetically objectionable behaviors from occurring. If a business owner is able to use an EMC, the need for excessive banners and other forms of visual clutter are eliminated.

Associating these signs with Las Vegas is a common concern voiced in the debate over EMCs and aesthetics. A closer look at the size, height, spacing and content delivery methods on signs on the Las Vegas strip reveals that this comparison is inaccurate. Signs on the Las Vegas strip have few or no set back requirements, spacing limitations, or height restrictions. It is not uncommon for signs on the Las Vegas strip to exceed two hundred feet in height, and most of the larger signs exceed several thousand square feet in total sign area. Most communities do not even come close to allowing signs such as these. Unless your community allows signs of this magnitude, it is highly unlikely that your community will resemble anything like Las Vegas.

RECOMMENDATIONS

The key to addressing aesthetic concerns regarding EMCs is to ensure that the message brightness, duration, and transition method are properly regulated and enforced in conformity to community aesthetic values. EMCs in and of themselves are not aesthetically displeasing.



Before • •



After • •

The traditional multitenant sign at the top is forced to use unimaginative fonts and colors in order to fit in all the businesses; the same multitenant sign on the bottom has added an EMC which advertises each tenant every ten seconds, making the sign less cluttered and more attractive.

EMCs AND CODE ENFORCEMENT

ISSUE

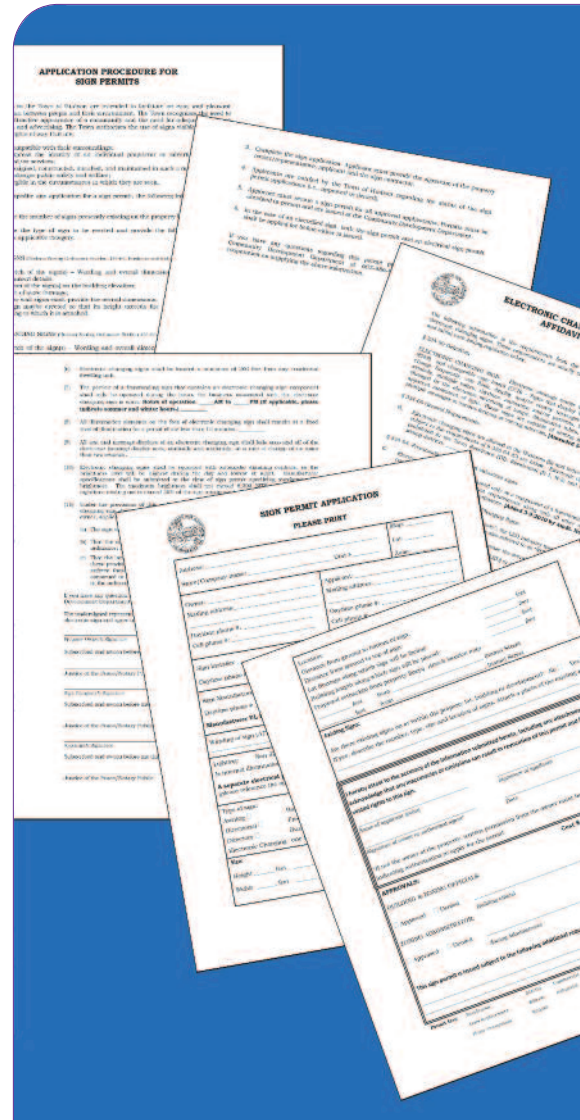
Local sign codes often have provisions regarding the regulation of EMCs. Sign companies help their customers learn what regulations govern their EMCs when the product is sold. Once the EMC is permitted, it is up to the sign owner to make sure that they program their sign so that it is in compliance with the local sign code. EMC manufacturers can only build signs that are capable of compliance.

In some rare instances, out of fear that some extra-judicial programming will take place after an EMC is permitted and operational, some local regulators have attempted to take the position that such signs are prohibited altogether.

RECOMMENDATIONS

The sign industry encourages strict compliance with sign codes and should always educate customers on how to properly operate EMCs. However, occasionally EMCs are programmed beyond the limitations of local regulation by their owners. Acknowledging the difficulty of city code enforcement, one way of encouraging proper and legal use of these signs by their owners is to have the owner sign an affidavit at the same time the sign is permitted in which the owner agrees to abide by the local regulations or else be cited and pay a fine.

There is no legal basis to deny a static-display electronic sign, as it is legally indistinguishable from any other illuminated sign. Car usage is not prohibited merely because cars are designed so that they can exceed the speed limit; tickets are issued to the driver if they *do* exceed the speed limit. Likewise, if a sign owner *actually* violates the zoning or sign code, the remedy is to cite them for the violation, not to presume that they will do so and refuse to issue permits at the outset.



Cities can require EMC users to promise that they will program and use their signs in compliance with the local sign code, including imposing penalties for knowingly violating the ordinance.



*This EMC user can only use
amber-colored text messages,
which can be bland and
limit the creativity of their
business's message.*

EMCs AND COLOR RESTRICTIONS

ISSUE

Some jurisdictions have established restrictions on the types of content displayed on EMCs. Among the restrictions are limits to the number of colors displayed or a prohibition on full-color images. Many of these limitations are based on a belief that multiple colors or “photo-quality” images are more intrusive or distracting to motorists. We believe that restrictions on the appearance of EMC displays fail to advance any compelling governmental interest and represent an impermissible content-based regulation.

COLOR-BASED LIMITS

Color restrictions can take the form of limiting the total number of colors displayed (“one color only” or “no more than 3 colors”) or specifying the colors allowed (“amber only” or “no red lights”). As a practical issue, most EMCs are comprised of RGB pixels capable of displaying full color images. In order to display most colors, the image actually consists of a mixture of individual LEDs displaying red, green, or blue in varying amounts. Even if the display appears to be a single color (“white”), when viewed at a close distance the EMC can be seen to generating multiple colors of light that blend together as the viewing distance increases. Restrictions on the number of colors are problematic to enforce as questions of color shading and the “black” appearance of unlit LEDs complicate the ability to precisely determine the number of colors being displayed.

Additionally, many EMCs are designed to display information in a format similar to conventional signs. A filling station commonly displays the prices of gasoline, diesel fuel, ethanol and kerosene using different colored numerals. If a manual changeable copy panel can display a message using multiple colors, an EMC should be afforded the ability to display the identical message.

RECOMMENDATIONS

Any attempt to regulate EMCs based on the appearance of the display may run afoul of judicial scrutiny of content-based regulations. Other federal protections on the display of registered trademarks also may affect controls on the display of logos (for example, the Federal Lanham Trademark Act.)

Any EMC should be allowed to display text information, graphics, or images identical to a permanent display on a non-EMC sign. EMC-specific regulations should avoid restrictions on the information displayed and be limited to appropriate controls on sign brightness, size, and message change.

EMCs AND DEFINITIONAL PROBLEMS & SOLUTIONS

ISSUE

When it comes to drafting and enforcing signs codes, it is important for the language and definitions have clear, reasonable, workable and easily understandable meanings. This is especially true when it comes to definitions in the part of the sign code that covers EMCs. This language can often be technologically incorrect, difficult to implement, and unworkable in practice, resulting in sign codes that don't benefit regulators, sign users or the community.

Terms that need consistent clarification in regard to EMC regulatory language can be as basic as the definition of a changeable message sign. There are two kinds of such signs, manually-changed and electronically-changed. Most manually-changed signs involve a background surface with horizontal channels, into which plastic letters and numbers are inserted into the channels on the sign face. The message must be changed by having an employee or technician remove the existing plastic letters and replacing them with the new message.

On the other hand, for the most part EMCs use light emitting display technologies such as LEDs. These kinds of changeable message signs are operated via computer at a remote location and can change messages as fast as they can be programmed. For the purposes of this document, we are focusing on the definitional issues that arise when it comes to EMCs

RECOMMENDATIONS

EMC regulatory language should cover certain technical capabilities of such signs such as:

ANIMATION — the usage of multiple frames running at a fast enough speed that the human eye perceives the content to be in continuous movement.

DISSOLVE — a mode of message transition on an EMC accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

FADE — a mode of message transition on an EMC accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

FLASHING — an intermittent or flashing light source where the identical EMC message is constantly repeated at extremely fast intervals.

FRAME — a complete, static display screen on an EMC.

FRAME EFFECT — a visual effect on an EMC applied to a single frame to attract the attention of viewers.

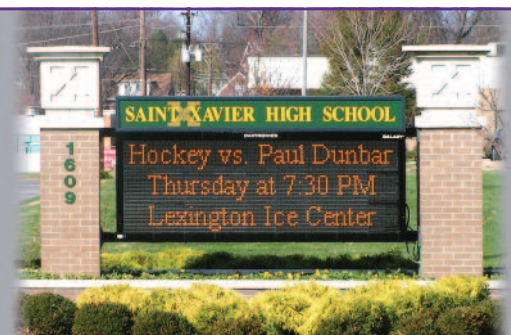
SCROLL — a mode of message transition on an EMC where the message appears to move vertically across the display surface.

STATIC MESSAGE — messages that contain static messages only, and do not have movement, or the appearance or optical illusion of movement during the static display period, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement.

TRANSITION — a visual effect used on an EMC to change from one message to another.

TRAVEL — a mode of message transition on an EMC where the message appears to move horizontally across the display surface.





The school sign on the top has been allotted a very small area for its EMC as compared to the school sign on the bottom. The school sign on the bottom is therefore able to present more information in a more legible fashion on the screen in comparison.



EMCs use light emitting diodes, or LEDs, which are one of the more energy-efficient forms of lighting available today.

EMCs AND DIGITAL AREA SIZE LIMITATIONS

ISSUE

Some jurisdictions have adopted restrictive square footage area restrictions for EMCs. For example, restrictive allowable square footage for EMCs would be to only allow 25% of the maximum square footage for a sign. We believe that if square footage restrictions for electronic message centers are too restrictive this may lead to limiting the type of message that a business can display. A smaller EMC may only lend itself to effectively displaying text, restricting the business to utilize images. Since EMC's are considered such an effective method for a business to advertise, this will also have a potential negative economic impact on a business.

ECONOMIC CONSIDERATIONS

EMCs have proven to be a very cost effective method of advertising, especially when compared to radio, television, and print media. A typical small business does not have the recognition of a national chain. Therefore, affordable and effective advertising that is provided by an EMC can be an important factor of a successful business.

RECOMMENDATIONS

In support of the business community and particularly small business, no square footage area restrictions or minimal restrictions of the allowable square footage, are recommended for EMCs. This will afford a business the flexibility to display images or text providing, full marketing advantage afforded by electronic message centers. By allowing the business community greater flexibility in the allowable square footage of EMC's can also lead to overall support and economic enhancement of the community. An additional advantage of allowing minimal restrictions on the allowable area for EMC's will enable enhanced messaging for community or civic events.

EMCs AND ENERGY CONSUMPTION

ISSUE

Some jurisdictions are concerned about the amount of energy consumption by electronic signs, including EMCs. Modern EMCs use light-emitting diode or "LED" lighting technology to produce changeable messages. LED lighting is one of the most energy efficient forms of lighting, according to the U.S. Department of Energy.

RECOMMENDATIONS

Gains in LED efficiency over the past few years have been dramatic. Many EMC manufacturers have reported efficiency gains of almost 80% over a five-year period, and it appears that the trend towards more efficiency will continue. EMCs are on the cutting edge of the most energy efficient sign technologies.

When compared to other forms of advertising such as print media, radio, or television, and EMC is a more environmentally responsible form of advertising. The energy, paper, and equipment used in other forms of advertising far outweigh the energy consumption and overall environmental impact of an EMC.

EMCs AND THE HIGHWAY BEAUTIFICATION ACT

ISSUE

The Highway Beautification Act (23 USC 131) of 1965 calls for control of outdoor advertising or billboards within 660 feet of the nation's Interstate Highway System and the existing federal-aid primary highway system.

Since its passage, the Highway Beautification Act has been consistently interpreted as exempting on-premise signs under its jurisdiction. However, in recent years a few state and federal officials have mistakenly sought to regulate on-premise signs using the Act as justification.

RECOMMENDATIONS

The Highway Beautification Act cannot be used as justification for government officials to regulate on-premise signs. The HBA does not apply to all signs within 660 feet of a primary aid highway or interstate system. 23 USC 131(c)(2) and 23 USC 131(c)(3) of the Act provide exceptions for on-premise signs, including for on-premise EMCs. It was never the legislative intent of the drafters of the Highway Beautification Act or its subsequent amendments to place on-premise signs under any federal control.



President Lyndon Johnson and his wife "Lady Bird" at the signing of the 1965 Highway Beautification Act, which regulates outdoor advertising (billboards), not on-premise signs



Electronic message centers have often been the target of moratoriums by local officials. However, prohibiting these types of signs (or other types, such as pole signs or window signs) can often hurt existing businesses in the community and could discourage the development of new businesses.

EMCs AND MORATORIUMS

ISSUE

Moratoriums are not necessary to change a sign ordinance unless it can be proven that specific kinds of signs imminently threaten public health and safety. Communities should be able to research options and revise their sign codes without resorting to moratoriums.

Many communities enact temporary moratoriums on certain kinds of signs while they consider how to regulate these specific signs. During this period of time, permits are not issued for the specific types of signs. In some cases, a temporary moratorium leads to a permanent ban on the kinds of signs in question.

RECOMMENDATIONS

ISA believes that sign moratoriums make for poor public policy for several reasons, including the following:

- (1) moratoriums can have the affect of favoring businesses which have the targeted signs already in existence;
- (2) government signs are often not included under moratoriums;
- (3) moratoriums often take place during important economic opportunities (i.e. Christmas, summer tourism season etc) for local businesses; and
- (4) moratoriums could discourage development of new businesses.

Most importantly, sign moratoriums can usually be avoided by effectively involving and communicating with the appropriate community stakeholders.

If a community elects to enact or extend a sign moratorium, it should be used as a last resort, and only then in furtherance of an imminent health or safety concern. A sign moratorium should be limited to the shortest possible duration.

EMCs AND NIGHT-TIME BRIGHTNESS

ISSUE

EMCs that are too bright at night can be offensive and ineffective. EMC brightness at night is an issue where sign users, the sign industry, and community leaders have a common goal: ensuring that EMCs are appropriately legible. The messages that these signs convey can be rendered unattractive and perhaps even unreadable if they are programmed too bright when it is dark outside.

That's why many sign companies recommend to their customers that in order for these signs to be most effective, their brightness be set at such a level to be visible, readable and conspicuous.

RECOMMENDATIONS

In 2008, the International Sign Association (ISA) retained Dr. Ian Lewin of Lighting Sciences to help the industry develop scientifically-researched, understandable recommendations for EMC brightness. Dr. Lewin is a past chair of the Illuminating Engineering Society of North America (IES), and is greatly respected within the lighting field. His work for ISA was conducted with the input of experts within the sign industry.

As a result of this research, the recommended night-time brightness level for EMCs is 0.3 foot candles above ambient light conditions when measured at an appropriate distance. This is a lighting level that works in theory and in practice. Dozens of jurisdictions across the country have adopted these standards, either in whole or in part.

Included with this research and recommendations are model statutory language and six short steps to help guide the process. You can find these EMC Night-time Brightness Recommendations at www.signs.org/brightness.





This shopping center's electronic message center (EMC) is communicating a message not about any goods or services sold on the property, but about a non-commercial community-oriented event that is happening at a place other than at the location of the sign. It is perfectly acceptable for an on-premise EMC to broadcast such a non-commercial message; however, if the same sign were to communicate a commercial message about a store in the next town or advertise for a product that was not sold at that particular location, it would be in danger of losing its permitted status as an on-premise sign and could instead be classified as an off-premise sign. This new classification would usually entail undergoing a new permitting process, additional fees and other arduous procedures.

EMCs AND OFF-PREMISE MESSAGES

ISSUE

An on-premise sign is a communication device whose message and design relate to a business, an event, goods, profession or service being conducted, sold, or offered at the same location as where the sign is erected. An off-premise sign is any sign that is not appurtenant to the use of the property, a product sold, or the sale or lease of the property on which it is displayed and that does not identify the place of business as purveyor of the merchandise, services, etc. advertised upon the sign.

When an on-premise EMC is programmed to include among its several messages one that advertises a business, an event, goods, profession or service being conducted, sold, or offered at a different location from where the sign is erected, it may be viewed by some government officials as being an off-premise sign, and need to be permitted and regulated as such. This can have adverse impacts on both the individual sign users as well as other future sign users who will need approval from zoning or permitting authorities.

RECOMMENDATIONS

ISA believes that the messages that should be displayed on signs permitted under on-premise sign regulations should be messages relating to a business, an event, goods, profession or service being conducted, sold, or offered at the same location as where the sign is erected. ISA also believes that on-premise signs should be permitted to display noncommercial messages and public service announcements without risk of losing their on-premise status or exemption from outdoor advertising restrictions.

EMCs AND TEXT-ONLY RESTRICTIONS

ISSUE

Some jurisdictions have established restrictions on the types of content displayed on EMCs. Among the restrictions are prohibitions on high-quality images. Many of these limitations are based on a belief that “photo-quality” images are more intrusive or distracting to motorists. We believe that restrictions on the appearance of EMC displays fail to advance any compelling governmental interest and represent an impermissible content-based regulation.

ALPHANUMERIC LIMITS

Alphanumeric controls are designed to limit displays to the 62 Latin letters and Arabic numbers. Photographic images, graphics, and other characters are prohibited. While alphanumeric text allows messages to be expressed, the limited displays are not necessarily as effective as images can be. As noted in the APA’s *Street Graphics and the Law*, (pictographic) images are encouraged as they are more easily comprehended than text. Additionally, images allow businesses to express the products offered at their location using registered trademarks and logos, which are much more readily identified than words expressing the same message.

RECOMMENDATIONS

Any attempt to regulate EMCs based on the appearance of the display may run afoul of judicial scrutiny of content-based regulations. Other federal protections on the display of registered trademarks also may affect controls on the display of logos.

Any EMC should be allowed to display text information, graphics, or images identical to a permanent display on a non-EMC sign. EMC-specific regulations should avoid restrictions on the information displayed and be limited to appropriate controls on sign brightness, size, and message change.



The Burger King EMC photo at the top can only use text, while the Burger King EMC photo on the bottom can also show pictures, logos, and other images.

EMCs AND TRAFFIC SAFETY

ISSUE

Many jurisdictions that consider regulations on EMCs fear that allowing this technology to be used in signage will lead to an increase in traffic accidents. These fears are unfounded. The LED technology inherent in electronic message centers have been studied for over 30 years and have never been found to be hazardous to traffic safety. Studies from reputable organizations such as Virginia Tech Transportation Institute, Tantal Associates and even the Federal Highway Administration have found that digital signs are appropriate along the nation's roadways.

The Federal Government has accepted the use of this technology in signage along the roadways. Over forty State Governments have specifically adopted regulations allowing for its usage. In fact, digital signs are found throughout the United States.

RECOMMENDATIONS

There are two basic types of safety studies in the United States: Statistical and Human Factors. Neither type of study has ever shown that digital signs cause an increase in accidents or are a hazard to the traveling public.

Statistical studies look at multiple locations and attempt to determine whether the introduction of a stimulus (in this instance an EMC) caused an increase in accidents. The study begins by looking at traffic data at specific locations, for a number of years before the digital sign is erected. This data provides a baseline by which to judge whether there was an increase in accidents. The researcher then analyzes the same data that is present for these locations after the digital sign is erected. No statistical study has ever shown that digital signs cause an increase in accidents. In fact, a 2012 study by Texas A&M University researched over 120 locations of EMCs in four states, and found that there is "no statistically significant impact between the installation of on-premise digital signs and an increase in crashes."

Human Factors studies look at the way in which a stimulus affects a driver. Such studies have been done on any number of stimuli: eating and drinking, changing the radio-A/C dials, texting, etc. This type of study looks at how a driver may become distracted by a stimuli and how such distraction could increase the likelihood of an accident. No such study has ever found that digital signs are so distracting as to be the cause of an accident.



Pictured is an official District of Columbia Department of Transportation digital sign, with a two-second time interval, informing motorists during rush-hour on a high-traffic area about their distracted driving law. That our nation's capital uses this type of signage technology to educate drivers demonstrates that digital technology enhances safe traffic conditions.



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SIGN RESEARCH FOUNDATION EXECUTIVE SUMMARY

NIGHT-TIME BRIGHTNESS LEVEL RECOMMENDATIONS FOR ON-PREMISE ELECTRONIC MESSAGE CENTERS



Brighter doesn't necessarily mean better. When electronic message centers (EMCs) are unreasonably bright, neither the business nor the community is well served.

"Night-time Brightness Level Recommendations for On-Premise Electronic Message Centers," expanded and re-released in August 2016 by the International Sign Association, explores scientifically researched, easily understandable recommendations for EMC brightness. The report was based on research performed by noted lighting expert Dr. Ian Lewin, past president of the Illuminating Engineering Society (IES).

The most recent version of the report includes the recommended lighting level and model code language, more detailed information on measuring brightness levels with and without operational control, and several case studies.

Proper EMC brightness offers numerous advantages: It conserves energy; it increases the life expectancy of the electronic display components; it prevents glare and it ensures legibility of the display.

It's important to note that EMCs and digital billboards are not synonymous. Each has its own capabilities, purposes, intended audiences and regulations. This document refers only to on-premise EMCs that advertise goods and services available at that particular location. In addition, EMCs use a different lighting technology than most traditionally internally illuminated signs. As such, the recommendations in the report do not apply to other signs such as channel letter and exposed neon.

KEY TAKEAWAYS

This report identifies three key takeaways from "Night-Time Brightness Level Recommendations for On-Premise Electronic Message Centers:"

FOR NIGHT-TIME VIEWING, IT IS RECOMMENDED THAT EMC'S NOT EXCEED 0.3 FOOT-CANDLES OVER AMBIENT LIGHTING CONDITIONS WHEN MEASURED AT THE RECOMMENDED DISTANCE, BASED ON THE EMC SIZE.

- EMCs are designed for legibility during daylight, but brightness settings tend to be inappropriate for night-time viewing.
- EMCs may be dimmed manually, through programmed schedules or through photocell technology for night-time viewing.
- Dr. Lewin recommends the development of brightness criteria based on the Illuminating Engineering Society's standards pertaining to light trespass, which involves determining how much light can trespass into adjacent areas without being offensive.

NUMEROUS COMMUNITIES HAVE ADOPTED THE NEW RECOMMENDATIONS WITH GREAT SUCCESS.

- Columbus, Ohio, was receiving complaints about digital sign brightness. City planners explored brightness limits for on-premise and off-premise digital signs, as well as testing methods. Research included an ISA demonstration that showed the impact of different testing methods; one required getting up on a lift and shining a nit gun on the sign, while the other allowed testers to remain on the ground. The new code, based on measurement of foot-candles, has significantly reduced administrative burden.
- Kitsap County, Washington, a transition county between the more rural part of the state and the city of Seattle, crafted regulations that brought stability and made it easy for businesses to convert existing static monument signs into electronic signs. But, they were not written in a way that would allow billboards to convert. ISA provided industry expertise and resources, including the recommended brightness levels.
- Sparks, Nevada, had outdated, less-than-explicit regulations for EMCs; they were also in lumens, which local officials had trouble measuring. As the community continued its rapid growth, the code went under revision, and measurement by both nits and foot-candles was explored. Choosing foot-candles resulted in the use of a simple light meter to measure brightness rather than guesswork.

NIGHT-TIME BRIGHTNESS CAN BE MEASURED WITH OR WITHOUT OPERATIONAL CONTROL.

- With operational control, the steps include obtaining an illuminance meter; determining square footage; determining the measurement distance; preparing the display for testing; measuring EMC brightness with the illuminance meter; and ensuring that the display can adjust to different ambient conditions. As the display alternates between a solid white message and an “off” message, the tester should note the range of values on the illuminance meter. A reading of less than 0.3 foot-candles is compliant.
- If EMC brightness must be evaluated without access to the sign controls—or if the measurement must be taken after business hours—the process is different. Here, the tester measures the difference in brightness between the sign in operation and when completely blocked from the illuminance meter. The steps include obtaining an illuminance meter; determining square footage; determining the measurement distance; positioning testers with a piece of painted cardboard cut to proper size; using the illuminance meter; and determining the brightness level. If any reading exceeds the maximum brightness level, the sign is non-compliant.

FOOT-CANDLES VS. NITS

More than 250 localities and many state departments of transportation have adopted the foot-candle measurement for EMCs rather than nits. Here’s why:

FOOTCANDLES	NITS
MEASURES ILLUMINANCE	MEASURES LUMINANCE
ACCOUNTS FOR AMBIENT LIGHT CONDITIONS	MEASURES ONLY THE AMOUNT OF BRIGHTNESS EMITTED
LUX METER MEASURING DEVICE: ~\$100	LUMINANCE SPECTROMETER (NIT GUN): ~\$1,000
“TWILIGHT” MEASUREMENT POSSIBLE	DOES NOT ALLOW ADJUSTMENT BASED ON AMBIENT LIGHT
MEASURES LIGHT IMPACT AND APPEARANCE	DOES NOT MEASURE APPEARANCE
WORKS WITH ROADWAY LIGHTING STANDARDS	DIFFICULT TO MEASURE ACCURATELY
EASIER TO CHECK AND ENFORCE	DIFFICULT TO ENFORCE

Read the full report **Night-time Brightness Level Recommendations for On-Premise Electronic Message Centers** (updated 2016) at: www.signs.org/EMCs

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