



Waynesboro City Council Agenda Briefing

Meeting Date:	November 9, 2020	Staff/Council Member(s): Luke J. Juday, Planning Director
Agenda Item #	7	
Ordinance#	2020-	
Department:	Planning	
Subject:	A zoning text amendment to amend the sign ordinance in response to the Supreme Court decision in <i>Reed v. Town of Gilbert</i> , which clarified that content-based distinctions in sign ordinances are a violation of the first amendment if they do not meet standards of strict scrutiny.	
Attachments	<ol style="list-style-type: none"> 1. Planning Commission recommendation 2. Staff report 3. Draft ordinance amendment 	
Planning Commission Recommendation	Planning Commission recommends approval of the attached ordinance on a 6-0 vote with one amendment.	

Background:

The City of Waynesboro regulates the size and characteristics of signs in Section 98-5.6 of the City Code. Currently, the ordinance distinguishes between different types of signs, including “opening” and “closing” signs, yard sale signs, directional signs, political signs, and others.

In 2015, the Supreme Court ruled in *Reed v. Town of Gilbert* that a standard of strict scrutiny must be applied to content-based distinctions by sign ordinances to avoid being ruled a first amendment violation. For instance, if the law allows a “clearance sale” sign of a certain size on a certain type of property, then a similarly sized political sign must be allowed. If the law allows an American flag to be flown, it must allow any flag of that size to be flown as well. Many of the City’s sign categories are content-based and do not meet this standard.

This text amendment will ensure the sign ordinance remains enforceable and defensible. The Planning Commission also recommends extending the time limit on temporary signs to 60 days from 30 days to allow businesses to get the word out about reopenings, especially in light of the ongoing pandemic.

Planning Commission Recommendation:

Planning Commission recommends approval on a 6-0 vote.

City Manager’s Recommendation:

The City Manager recommends approving the request.

Suggested Motion(s):

Introduce the draft ordinance as provided in attachment, with the amendment recommended by Planning Commission.



**RESOLUTION AND RECOMMENDATION TO THE CITY COUNCIL
FROM THE WAYNESBORO PLANNING COMMISSION
REGULAR MEETING OF OCTOBER 20, 2020 PER
ZONING TEXT AMENDMENT 20-004**

WHEREAS, upon a zoning text amendment (20-004) application by the Planning Commission of Waynesboro to amend the City's sign ordinance, the Waynesboro Planning Commission finds that the change requested is consistent with good planning and zoning practice; is justified by the public necessity, convenience, and general welfare; and is in accord with the comprehensive plan of this City;

NOW, THEREFORE, BE IT RESOLVED by the Waynesboro Planning Commission, by a vote of 6-0, that a recommendation be forwarded to City Council that the request of the City Council of Waynesboro (ZTA 20-003) for a zoning text amendment be approved, in accordance with the application and staff report dated October 20, 2020.

Luke J. Juday
Clerk of Planning Commission



**CITY OF WAYNESBORO, VIRGINIA
STAFF REPORT
ZONING TEXT AMENDMENT
ZTA 20-004
October 20, 2020**

SUMMARY SHEET

<i>Applicant:</i>	Staff requests Planning Commission initiate this text amendment
<i>Affected Properties</i>	This change affects all properties throughout the City on which signs are permitted.
<i>Action Requested:</i>	Amend Chapter 98, Article 5.6 and Article 9.3, Zoning Ordinance of the City of Waynesboro
<i>Authorizing City Code Section(s):</i>	Section 7.3.2.B (Initiation of a Zoning Text Amendment)
<i>Attachments:</i>	<ol style="list-style-type: none">1. Current ordinance with redline changes2. Proposed ordinance (new version only)
<i>Summary Recommendations:</i>	City staff recommends Planning Commission initiate the attached text amendment.

1. Nature of Request

City staff are proposing a number of changes due to the City's legal counsel determining that Chapter 98 Article 5.6 is unconstitutional under the 2015 Supreme Court Case *Reed v. Town of Gilbert*. As it stands, the sign ordinance would not be enforceable if challenged. The changes to Article 5.6 prompted changes to Article 9.3, the enforcement procedures and remedies for sign violations.

2. Background

The town of Gilbert, Arizona adopted a sign ordinance in 2005 which identified various categories of signs based on the type of information they conveyed, subjecting each category to different restrictions. It restricted the size, number, duration, and location of certain types of signs. For example, it imposed stricter limitations on signs advertising religious services than signs displaying political or ideological messages.

A local church placed temporary directional signs around town to inform the public about its services. After being cited for violating the sign ordinance, the church filed a lawsuit arguing the town's sign regulations violated its freedom of speech under the First Amendment. The town argued that its sign code was not unconstitutional because it neither endorsed nor suppressed any particular viewpoints or ideas. The case eventually made it to the Supreme Court.

The Court's decision clarified that for the purposes of the First Amendment, government regulation of speech is considered "content-based" when it targets speech because of ideas or messages that are expressed. The town of Gilbert had offered two justifications for its law: aesthetics and traffic safety. The provisions could not survive First Amendment strict scrutiny because the town of Gilbert could not claim that placing strict limits on temporary directional signs was necessary to beautify the town while at the same time allowing unlimited numbers of other types of signs that created the same problem. In other words, restrictions were applied differently depending on the message of the sign, making them content-based restrictions. Despite the town of Gilbert's argument that restrictions did not single out a specific nonprofit or a church, but instead restricted all, the Court stated that the First Amendment prohibits censorship of all speech on a whole topic. Ultimately, the *Reed v. Town of Gilbert* Supreme Court case determined that government regulation of speech is "content-based" if a law applies to particular speech because of the topic discussed or the idea or message expressed.

Approval Criteria

In evaluating any proposed zoning text amendment, Section 7.3.8 of the Zoning Ordinance requires the Planning Commission and the City Council to consider the following six criteria (provided in *italic* below).

- A. Whether such amendment is consistent with good zoning practice;*
- B. Public necessity, convenience, and general welfare to the extent such factors are pertinent to the subject matter of the amendment;*
- C. The extent to which the proposed text amendment is consistent with the Comprehensive Plan and the remainder of this Chapter, including, specifically, the purpose and intent statements of Section 1.5;*
- D. The extent to which the proposed text amendment represents a new idea not considered in the existing ordinance, or represents a revision necessitated by changing circumstances over time;*
- E. Whether or not the proposed text amendment corrects an error in the chapter; and*
- F. Whether or not the proposed text amendment revises the chapter to comply with State or Federal statutes or case law.*

3. Analysis

The City of Waynesboro's current ordinance includes several "content-based" restrictions that are unconstitutional under the *Reed v. Town of Gilbert* ruling. Signs can be regulated by size, placement, and quantity but not by content. The language proposed in this text amendment has been altered to ensure that regulations are no longer content-based.

For example, the previous ordinance stated under "Signs Allowed in All Districts Without a Sign Permit" that construction signs "identifying architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date" should not exceed an area of 32 square feet and would be removed prior to the issuance of a certificate

of compliance. The updated ordinance changes the language to say construction signs are limited to “one sign on any property with an active building permit.” These edits ensure that restrictions are applied evenly and aren’t determined by who the sign is for. The updated ordinance has been reviewed by the City’s attorneys.

4. Recommendations

The City staff recommends approval of the ordinance as attached.

Cc: D. James Shaw II, Deputy City Manager
Laura Martin, Zoning Administrator
Tony Smith, Infrastructure Engineer
George Fitzgerald, Deputy Fire Marshal

ORDINANCE NUMBER 2020-



**AN ORDINANCE AMENDING CHAPTER 98, ARTICLE V, SIGNS, SECTION 5.6,
ARTICLE VII, DEVELOPMENT REVIEW, SECTION 7.10.4, AND
ARTICLE IX, ENFORCEMENT AND PENALTIES, SECTIONS 9.1.1, 9.1.2, 9.2.1, AND 9.2.2
OF THE CITY CODE OF THE CITY OF WAYNESBORO, VIRGINIA**

WHEREAS, pursuant to Section 15.2-2286 (A) (7), Code of Virginia, by Resolution dated October 20, 2020, the Planning Commission for the City of Waynesboro initiated amendments to the Zoning Ordinance, specifically to: 1) Section 5, Signs, to conform to recent Virginia Supreme Court rulings regarding content-based signage and extend the time limit on temporary signs to 60 days from 30 days to allow businesses to get the word out about re-openings, especially in light of the ongoing pandemic, 2) Section 7.10.4 to update Zoning Administrator's Actions; and 3) Section 9 to update enforcement and penalties.

WHEREAS, pursuant to Section 15.2-2285, Code of Virginia, the Planning Commission of the City of Waynesboro held a properly advertised public hearing and approved the amendments by motion on October 20, 2020.

WHEREAS, the City Council for the City of Waynesboro desires to amend the City's Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAYNESBORO, VIRGINIA THAT:

1. Chapter 98, Article V, Site Development Standards, Section 5.6, Signs, of the City Code is amended and readopted as follows:

ARTICLE 5 - SITE DEVELOPMENT STANDARDS

Sec. 98-5.6. - Signs.

Sec. 98-5.6.1. - Purpose.

The sign regulations of this Chapter are intended to protect the health, safety, and general welfare by establishing standards for the design, construction, location, illumination, and maintenance of all signs and sign structures. Such regulations are necessary and desirable for the following reasons:

- A. To protect the public safety by ensuring that traffic signs and devices are easily visible and free from obstruction or other distraction caused by signs;

- B. To ensure that signs are designed, constructed, installed and maintained in a way that protects life, health, property and the public welfare, especially during periods of high winds;
- C. To support the desired character of Waynesboro, as expressed in adopted City plans and to promote an attractive visual environment;
- D. To control the size, placement, and use of signs and other attention-gathering paraphernalia in order to preserve the right of citizens to enjoy Waynesboro's natural scenic beauty; and
- E. To address the ongoing technological advancements in the sign industry that continue to result in new sign types.

This Chapter shall be interpreted in a manner consistent with the First Amendment of the United States Constitution. If any provision of this Chapter is found to be invalid, such finding shall not affect the validity of other provisions of this Chapter which can be given effect without the invalid provision.

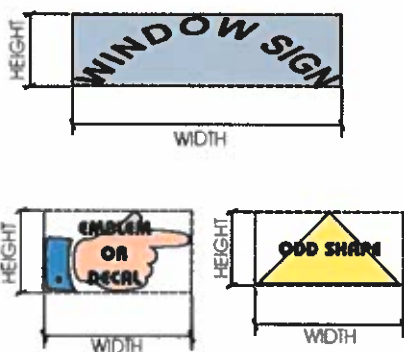
Sec. 98-5.6.2. - Permit required.

Except as otherwise expressly provided in Sec. 98-5.6.4 and Sec. 98-5.6.6, below, all persons erecting, changing, installing or otherwise placing signs must first obtain a sign permit in accordance with the procedures of Sec. 98-7.10. The Zoning Administrator shall refuse to issue sign permit(s) to any applicant who refuses to pay costs assessed for the removal of signs not in compliance with the requirements of this section.

Sec. 98-5.6.3. - Measurement.

A. *Area.* Except where specifically addressed, the area of all signs shall be computed as follows:

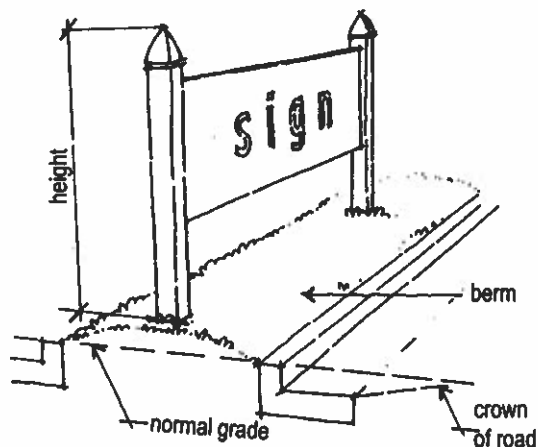
1. The area of a wall sign which consists of individual letters that are erected directly onto a wall is measured by finding the area of the minimum imaginary or actual rectangle or square which fully encloses all sign words, copy or message.
2. The area of a sign with three or more sides shall be computed as the sum of the area of each side designed either to attract attention or communicate information.



3. The area of any other sign is measured by finding the area of the minimum imaginary or actual rectangle or square which fully encloses all extremities of one side of the sign, exclusive of its supports.

B. *Sign Height Measurement.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: existing grade prior to construction; or newly established

grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the site, whichever is lower.



Sec. 98-5.6.4. - Maximum number.

Any licensed business or nonresidential use may have no more than two permitted signs per major street frontage, plus additional sign for each additional street frontage unless otherwise specified. Only one street frontage per licensed business or nonresidential use shall be designated as major street frontage. Signs listed in Sec. 98-5.6.5 shall not be counted in calculating the maximum number of allowed signs per Sec. 98-5.6.6.A.

Sec. 98-5.6.5. - Signs allowed without a permit.

The following signs shall be allowed in all districts and are not counted toward the applicable limits on the number or area of signs allowed. No sign permit shall be required. No signs allowed under this subsection may be illuminated.

Signs Allowed in All Districts Without a Sign Permit	
Construction Signs	
<p>One sign on any property with an active building permit.</p> <p>Standards Such sign shall not exceed an area of 32 square feet.</p>	
Flags	

Flags.

Standards [Reserved]



Signs on VLR and NRHP Property

One sign on property included on either the Virginia Landmarks Register or the National Register of Historic Places.

Standards

- (a) Such signs or markers shall be made of cast metal, cut masonry, painted wood or metal or other similar weatherproof material.
- (b) Such signs shall not be more than 15 square feet in area.
- (c) Signs attached to buildings shall not exceed six square feet in area.



Minor Signs

Up to three signs meeting the standards listed below on any one lot. Minor signs may include temporary signs.

Standards

- (a) Minor signs in residential districts or Planned Unit Developments shall not exceed 6 square feet of area per sign or 4 feet in height.
- (b) Minor signs in nonresidential districts shall not exceed 12 square feet per sign.



Public Art

Street graphics and other forms of art such as, but not limited to, murals and sculptures.

Standards

[Reserved]



Real Estate Signs

One sign on any property for sale, rent or lease.

Standards

Such signs shall not exceed six square feet in area and four feet in height.



Governmental Signs

Any sign erected by the City of Waynesboro or any public officer in the performance of their official duties, including traffic, municipal, legal notice, directional or informational signs; railroad crossing signs, danger, safety, temporary or emergency signs.



Sec. 98-5.6.6. - Signs requiring permits.

A. *Maximum Aggregate Sign Area.* Unless otherwise specified, the maximum allowable aggregate sign area per licensed business or nonresidential use in the respective districts, shall be as follows:

Maximum Aggregate Sign Area (SF)										
RS-12	RS-7	RS-5	R-MX	R-MF	R-O	L-B	H-B	C-B	L-I	H-I
1	1	6	6	6	6	32	120	32	120	120

B. *Exceptions.* The maximum aggregate sign area standards of subsection A, above, shall not apply to the following types of signs requiring permits, which are described in subsection C, below:

1. Wall signs in nonresidential districts; and
2. Subdivision or housing signs.

C. *Sign Types and Standards.* Upon issuance of a sign permit in accordance with Sec. 98-7.10, the following signs shall be allowed subject to the following requirements.

Signs Requiring Permits

Changeable Copy Sign

Any sign that allows the copy to change. These signs may be lighted or unlighted, with detachable precut letters and figures, or the message may be electronic.

Standards

- (a) Changeable copy signs may be included as a part of a permitted monument sign in any nonresidential district.
- (b) The information displayed on a changeable copy sign shall remain static for a minimum period of four seconds at a time.
- (c) No signs that are not permanently affixed to the ground may be considered eligible for consideration as changeable copy signs.
- (d) Electronic signs are prohibited in residential districts, except as an accessory to publicly owned government facilities. Electronic signs situated on or adjacent to residential areas shall be turned off between the hours of 10:00 p.m. and 6:00 a.m.



Freestanding Sign

A sign supported by uprights or braces in or upon the ground surface, properly anchored for safety and not attached to any building. This sign type includes:

Monument Sign

A sign supported by a solid base or platform to which such sign is affixed forming a sign structure of low profile in nature. The height of a monument sign includes the base.

Pole Sign

A sign, high profile in nature, erected on a vertical framework of one or more uprights, supported by the ground.

Standards

- (a) No part of any freestanding sign shall exceed 25 feet in height; monument signs shall not exceed eight feet in height.
- (b) Individual freestanding signs shall not exceed 60 square feet.
- (c) A defined landscaped area at the base of the sign. The required landscaped area shall be parallel to the face of the sign. The required landscaped area shall be at least 50 square feet in area. The required landscaped area shall contain materials such as, but not limited to, vegetative ground covers, perennials, shrubs, and ornamental trees covering at least 50 percent of the defined landscaped area at maturity. Paving and artificial plant materials shall not be included in fulfilling this requirement.



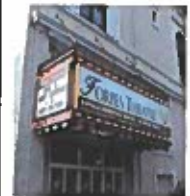
Marquee Sign

Signs/message areas on a permanent roof-like structure projecting over an entrance of a building (marquee).

Standards

Marquee signs shall be allowed in the H-B and C-B districts, subject to the following standards:

- (a) Marquees shall be permitted as additional wall signs only at theaters and may have changeable copy on each of two faces.
- (b) The marquee shall maintain a vertical clearance over a sidewalk of at least seven feet, six inches.
- (c) The message area may extend the full length of the marquee, to a maximum of 300 square feet.
- (d) The sign may extend above the top of the marquee provided the vertical dimension of the structure including both marquee and sign shall not exceed five feet.
- (e) If such signs are illuminated, the illumination shall be by internal lighting only. Exposed light sources shall not be used.
- (f) Only one marquee sign shall be allowed per establishment



Portable Sign

Signs not permanently attached to the ground or other permanent structure, or a signs designed to be transported, including, but not limited to, signs designed to be transported by wheels; balloons used as signs; umbrellas used as signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Standards

- (a) Such sign shall not exceed 32 square feet.
- (b) Only one sign per separately identifiable place of business or use shall be displayed at any given time on such premises.
- (c) Where there is more than one business or use on a lot or parcel, each business or use may display such a sign, provided all portable signs are at least 200 feet apart and no sign shall be displayed for more than 30 consecutive days during a six-month calendar period.
- (d) The sign permit shall specify the beginning and end dates of the permitted display. Only one such permit shall be issued to each separately identifiable business or use during each six-month calendar period.
- (e) Each business or use eligible for a sign permit for a portable sign shall be granted no more than two such permits per calendar year.
- (f) If the Zoning Administrator finds that any portable sign is unsafe and hazardous to the public, such sign shall be removed without notice at the expense of the permittee, lessee, operator or owner of the property or business upon which it is located. Any



portable sign not removed within five days after expiration of the permit shall be removed at the expense of the permittee, lessee, operator or owner of the property or business upon which it is located.

Projecting Sign

A display sign which is attached directly to the building wall, and which extends more than 15 inches (381 mm) from the face of the wall.

Standards

- (a) No part of any projecting sign shall be higher than 25 feet from grade at principal entrance or street grade.
- (b) Projecting signs shall not project more than 36 inches from the surface of the structure and shall not be allowed above the cornice line.



Sandwich Sign

Movable A-frame signs located on sidewalks in pedestrian-oriented commercial areas within nonresidential districts.

Standards

- (a) The sidewalk in the area near the sandwich sign shall be wide enough to allow for at least 36 inches of width for unrestricted pedestrian movement with the sidewalk signs in place.
- (b) Each sandwich sign shall not exceed two- and one-half feet in width and four feet in height. The sign itself shall be moveable, shall not be permanently attached in any way to the sidewalk, and shall not be chained or attached in any way to street furniture, other signs, street trees, other landscaping, or other fixtures or appurtenances on or in the sidewalk.
- (c) Each sidewalk sign allowed under this section, shall be removed each day by the close of business, and shall be replaced or removed when the appearance or condition of the sign deteriorates.
- (d) No sandwich sign shall be located further than 15 feet from the door of the establishment advertised.



Subdivision or Housing Signs

A sign at the entrance of a residential subdivision or housing development.

Standards

(a) Such sign shall not exceed 32 square feet in area or six feet in height.



Suspended Sign

A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Standards

Suspended signs shall be permitted in all zoning districts, subject to the following regulations:

- (a) The sign shall be no closer than two feet, measured in horizontal distance, from the curb line of any street.
- (b) The sign shall maintain a vertical clearance over a sidewalk of at least seven feet, six inches.
- (c) The sign area shall not exceed four square feet.
- (d) Only one sign shall be allowed per establishment or per exterior wall per establishment.



Temporary Sign

A sign constructed of cloth, fabric, or other lightweight temporary material with or without a structural frame intended for a limited period of display.

Standards

Temporary signs shall be allowed in every district, subject to the following requirements:

- (a) The sign shall not be displayed for more than 60 consecutive days.
- (b) The sign area shall not exceed 32 square feet.
- (c) Only 1 sign shall be allowed per business.
- (d) Each business may be issued 2 sign permits for a temporary sign within a 12-month period. Each 12-month period shall begin with the issuance of the first permit and shall expire 12 months from that date.



Wall Sign

A sign which is painted on or attached directly to a fence or on the surface of masonry, concrete, frame or other approved building walls, and which extends not more than 15 inches (381 mm) from the face of the fence or wall.

Standards

- (a) Wall signs for buildings housing a single tenant, or housing more than one tenant where each tenant has its own outside entrance, shall not exceed fifteen percent of the area of the wall in question and in no case exceeding a total of 400 square feet.
- (b) Wall signs for a building whose setback exceeds 250 feet may not exceed a total of 440 square feet.



Window Sign

Any sign, pictures, symbol, or combination thereof, placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Standards

[Reserved]



Sec. 98-5.6.7. - Illumination.

- A. Signs may be illuminated from within or from an external source, but such illumination shall be in a manner which avoids glare or reflection which in any way interferes with pedestrian, vehicular or bicycle traffic safety.
- B. Internally illuminated signs shall be required to have an opaque background and translucent copy.
- C. In the case of indirect lighting, the beam width shall not be wider than that reasonably needed to light the sign and aimed to minimize glare and light trespass.
- D. Signs shall not be illuminated by a string of lights placed around the sign.
- E. Within 200 feet of off-site residential zones or uses, only internally illuminated signs that allow only the sign characters and logos to emit light or signs that are illuminated by means of a light that shines on the face of the sign shall be allowed. For the purposes of this subsection, property directly across a public right-of-way, other than a controlled access highway, shall be considered to be adjacent property.
- F. Flags may be illuminated by spot lights.

Sec. 98-5.6.8. – Conditional use permits.

Upon proper application, and after following the process described in Sec. 98-7.6, *et seq.*, the City Council may grant a conditional use permit authorizing a sign which would otherwise be prohibited. The permit may contain such conditions as the City Council deems proper. Nevertheless, the City Council

anticipates that conditional use permits authorized by this section will be appropriate only in unusual circumstances.

Sec. 98-5.6.9. - Design, construction and maintenance.

- A. All signs shall comply with applicable provisions of the Building Code.
- B. Signs shall be constructed of permanent materials and permanently affixed to the ground or building, except for temporary signs.
- C. Signs shall be maintained in good condition at all times and shall be kept free of cracked or peeling paint, holes, missing or damaged sign panels or supports, and weeds, grass or vegetation that obscures the view of the sign message.

Sec. 98-5.6.10. - Prohibited signs.

The following signs are prohibited within the City of Waynesboro:

- A. Any sign other than a governmental sign affixed to, hung, placed or painted on any fence, cliff, tree, public utility pole, radio or television or similar tower.



- B. Off premises advertising on public and private property, except for sandwich board signs as allowed by Sec. 98-5.6.6.
- C. Roof sign or signs erected, constructed, and maintained above the roof of the building.
- D. Signs within or across a public right-of-way.
- E. Any sign attached to, rather than printed on, an awning which is not a marquee.



- F. Any flashing or moving sign.
- G. Any sign which imitates an official traffic sign or signal, or conflicts with traffic safety needs due to its location, coloring, movement, shape or illumination.

Sec. 98-5.6.11. - Other prohibitions.

- A. No sign shall be located in such a manner as to obstruct free or clear vision, or cause hazards for vehicular, bicycle or pedestrian traffic by reason of location, shape, illumination, color, or height. In addition, no sign shall be erected, replaced or relocated so as to:

1. Prevent free ingress or egress from a required door, window or fire escape; or
 2. Obstruct the light or ventilation required by the provisions of this Chapter or other City ordinances from any window.
- B. No sign of any kind shall be attached to a standpipe or fire escape.
- C. Signs may not overhang or project in a public right-of-way except for signs on buildings abutting the public right-of-way and located in such proximity as to render compliance with this section impossible.

Sec. 98-5.6.12. - Common signage plans.

A common signage plan is a plan for all signs associated with a complex, consisting of several buildings, businesses or uses in a single development. The signage plan shall include all signs within the complex, including out parcels.

- A. *Applicability.* The requirements of a common signage plan shall apply to all buildings, businesses or uses within a related complex (as evidenced by a concept plan or site plan) even if the properties are subdivided.
- B. *Permit Required.* Common signage plans shall be subject to the permit requirements of Sec. 98-7.10, Sign Permit.
- C. *Required Plan Elements.* The common signage plan shall consist of five elements, in addition to other restrictions imposed by the applicant:
1. *Location.* Identify sign locations on buildings or property.
 2. *Materials and Illumination.* Describe the type of sign and sign materials, including construction materials and proposed lighting, if any.
 3. *Size.* Itemize sign size at identified locations. The allocation of sign area for multi-tenant structures may favor one tenant or series of tenants over another, provided the property owner identifies the available sign area per tenant.
 4. *Letter Style.* Describe the dominant letter style and letter height to be used on the sign(s).
 - (a) The Zoning Administrator may allow modifications to the lettering style to accommodate State and Federal registered trademarks (logos).
 - (b) In allowing the modifications, the Zoning Administrator may limit the logo size.
 5. *Colors.* List the colors to be used on each sign.
 - (a) A maximum of three colors plus either black or white are allowed in a single common plan, provided that Federal and State registered trademarks may be employed in addition to the specified colors.
 - (b) Any neon lighting for building signage shall be matched to an approved color specified on the signage plan in order to be included as a part of the color scheme.
 6. *Free-Standing Sign.*
 - (a) *Sign Area.* A maximum of one free-standing sign shall be permitted for the complex per street frontage. Such sign shall not exceed 100 square feet.

- (b) *Number of Signs.* Individual shops and businesses within complexes may not have free-standing signs.

7. *Wall Signs.*

- (a) *Sign Area.* Wall signs allowed for individually licensed shops and businesses in a complex shall not exceed the lesser of 15 percent of the area of the wall in question or 400 square feet. Wall signs for a building whose setback exceeds 250 feet may not exceed the lesser of 25 percent of the area of the wall in question or 440 square feet.
- (b) *Number of Signs.* Individual shops and businesses in complexes may have wall signs and sandwich signs only.

2. Chapter 98, Article VII, Development Review, Section 7.10.4, Action by Zoning Administrator, of the City Code is amended and readopted as follows:

Sec. 98-7.10.4. - Action by zoning administrator.

Upon submission of a completed application, the Zoning Administrator or a designated assistant shall promptly process the application and either approve the application, reject the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this Chapter, the building code, and other applicable laws, regulations, and ordinances shall be approved. If an application is rejected, the Zoning Administrator or a designated assistant shall provide a list of the reasons for the rejection in writing.

3. Chapter 98, Article IX, Enforcement and Penalties, Sections 9.1.1, 9.1.2, 9.2.1, and 9.2.2, of the City Code are amended and readopted as follows:

ARTICLE 9. - ENFORCEMENT AND PENALTIES

Sec. 98-9.1. - General.

Sec. 98-9.1.1. - Responsibility for enforcement.

The Zoning Administrator shall have the authority and the duty to ensure that all buildings and structures and the uses of all land comply with the provisions of this Chapter. The Zoning Administrator shall have all necessary authority on behalf of the City Council to administer and enforce this Chapter.

Sec. 98-9.1.2. - Compliance required.

- A. Any building or structure erected contrary to any of the provisions of this Chapter and any use of any building or land which is conducted, operated or maintained contrary to the provisions of this Chapter shall be a violation of this Chapter and the same is hereby declared to be unlawful.
- B. Any person, firm or corporation, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this Chapter, or permits any such violation, or who fails to comply with any of the requirements hereof, or who erects any building or structure or uses any

building, structure or land in violation of the provisions of this Chapter or the provisions of any approval granted under this Chapter shall be subject to the enforcement provisions of this article.

Sec. 98-9.2. - Enforcement procedure and penalties.

Sec. 98-9.2.1. - General.

A. Except as provided below in Subsection B, violations of this Chapter shall carry civil penalties assessed as follows:

1. Schedule of penalties.

- a. The civil penalty shall be \$200 for the first Notice of Violation.
- b. The civil penalty shall be \$500 for each subsequent Notice of Violation.
- c. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.

2. Procedure.

- a. Upon becoming aware of a violation of this Chapter, the Zoning Administrator may charge the person committing or permitting such violation through the issuance of a Notice of Violation.
- b. The Notice of Violation shall be sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment records.
- c. Any person charged for such violation may waive trial, admit liability, and pay the penalty to the Department of Finance prior to the date set for trial in court. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in general district court in the same manner and with the same right of appeal as provided by law.
- e. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

3. General.

- a. The existence of a civil penalty shall not preclude action by the Zoning Administrator or the City Council from seeking declaratory, injunctive or other relief as provided by Virginia law.
 - b. The civil penalties provided by this subsection shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- B. Violations of this Chapter related to (1) activities related to land development activities or (2) the posting of signs on public property or public rights-of-way, shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000, and any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100 nor more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.

The City reserves the right to remove unauthorized signs located within City rights-of-way without notice and without liability for the replacement cost of such signs.

Sec. 98-9.2.2 - Additional remedies.

In addition to the remedies provided in this article, the City Council or Zoning Administrator may bring legal action to ensure compliance with this Chapter, including injunction, mandamus, abatement or any other appropriate action or proceeding authorized by law, to prevent, enjoin, abate, or remove any unlawful building, structure or use.

4. All other provisions of Chapter 98 shall continue without alteration in full force and effect.
5. This Ordinance shall take effect immediately upon adoption by the City Council.

CERTIFICATE

The undersigned Mayor and Clerk of the City Council of City of Waynesboro, Virginia hereby certify that the foregoing constitutes a true and correct copy of an ordinance entitled An Ordinance Amending Chapter 98, Article V, Signs, Section 5.6, Article VII, Development Review, Section, 7.10.4, and Article IX, Enforcement and Penalties, Sections 9.1.1, 9.1.2, 9.2.1, and 9.2.2 of the City Code of the City of Waynesboro, Virginia, adopted by the City Council at a meeting held on November __, 2020.

Introduced: November __, 2020

Adopted: November __, 2020

Effective: November __, 2020

[SEAL]

ATTEST: _____
Clerk, City Council
City of Waynesboro, Virginia

Mayor, City Council
City of Waynesboro, Virginia