



**CITY OF WAYNESBORO, VIRGINIA
STAFF REPORT
ZONING TEXT AMENDMENT
ZTA 20-004
February 16, 2021**

SUMMARY SHEET

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| <i>Applicant:</i> | Staff requests Planning Commission initiate this text amendment |
| <i>Affected Properties</i> | This change affects any property having a zoning violation. |
| <i>Action Requested:</i> | Amend Chapter 98, Article 9, 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. Edited ordinance3. Proposed ordinance |
| <i>Summary Recommendations:</i> | City staff recommends Planning Commission initiate the attached text amendment. |

1. Nature of Request

Article 9 gives the Zoning Administrator authority to enforce provisions within Chapter 98. Previously, edits were made to bring sign regulations in accord with the *Reed v. Town of Gilbert* Supreme Court ruling. There are sections in Article 9 detailing enforcement measures and penalties for violating Signs and Floodplain regulations which need to be corrected in conjunction with the previous changes made to the sign regulations. The edit eliminates unconstitutional regulations, removes specifics regulations, and instead generalizes zoning enforcement and penalties to Chapter 98 in its entirety. The edits also set specific amounts for civil penalties.

2. Background

In December, City Council approved an ordinance to edit Chapter 98 Article 5.6. The City's legal counsel determined that it was unconstitutional under the 2015 Supreme Court Case *Reed v. Town of Gilbert*. The changes to Article 5.6 prompted changes to Article 9, the enforcement procedures and penalties for sign violations.

One significant change being made is that currently Article 9 separates out enforcement procedures for signage and floodplain, which is unnecessary and thus corrected in the edit.

Another significant change is our current ordinance authorizes civil penalties for zoning violations but there are not specific amounts set in place. The civil penalty could be anywhere from \$25 up to \$250. The edits make the civil penalties a specific amount (\$200 for the first violation and \$500 for each subsequent violation). This eliminates ambiguity regarding the penalties.

The last change is any reference of “Notice of Civil Citation” is replaced with “Notice of Violation” to be consistent with other sections of City Code.

3. 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.*

4. Analysis

The changes to Article 9 ensure that it is constitutional according to the previous changes made to Article 5. The City’s legal counsel reviewed and suggested the edits.

5. 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