

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: March 17, 2009

SUBJECT: A-Frame Sign LDC Amendment

APPLICANT: Administrative

NUMBER: LDC 09 -10

PROJECT PLANNER: Ric Goss, AICP, Planning Director

INTRODUCTION: This is an amendment to the following five sections of the Land Development Code to permit the use of A-Frame signs.

Item	Code Section	Name of Section
1	Section 1-22, Chapter 1, Article III	Definitions
2	Section 1-26, Chapter 1, Article IV	Application Processing Fees
3	Section 3-42, Chapter 3, Article IV	Prohibited Signs
4	Section 3-43, Chapter 3, Article IV	Nonconforming Signs
5	Section 3-45, Chapter 3, Article IV	New section H

BACKGROUND:

During the last several months, The City Commission, business owners and tenants, and staff have struggled with developing amendments to the Land Development Code which would permit the use of additional temporary signs. This subject came before the City Commission on two previous occasions – once in December, 2008 and again in January, 2009.

Until July 28, 2008, businesses were only allowed to utilize banners for “grand openings,” “sidewalk sales,” etc., for a period of 10 days, four times per year. In response to the City Commission concerns regarding the existing sign ordinance, amendments were made to permit more flexibility with regard to when and how often temporary signs can be displayed. The code amendment provided businesses the ability to conduct both outdoor activities and special events including the use of flags, banners and pennants, for 14 days, four times per year for each of the two types of events held. This equated to 112 days each year

that a business can use temporary signs to promote an event, provided a permit is obtained. However, this amendment has proven insufficient to several businesses regarding temporary signs. Consequently, after the January, 2009 meeting, the City Commission asked Main Street to review and recommend amendments to the sign code which would permit temporary signs. In February, 2009 Main Street presented to the City Commission their recommendations and staff was requested to prepare amendments implementing these recommendations.

ANALYSIS:

The amendments are designed to be citywide however the placement differs according to the placement of building and location of sidewalk. For buildings which have less than 2 feet of setback from a public sidewalk, an A-Frame sign may be placed within the rights-of-way. Where buildings have a setback from the public rights-of-way and sidewalk exists interior to the development, such signs may be placed upon the sidewalk. The sign must be placed closest to the business entry point and it must not block accessibility requirements for the physically challenged. For those businesses which have no sidewalks adjacent to the front of their business entry point, signs may be placed where they do not interfere with parking, the parking aisle, or within the buffers.

The definition has been crafted to include only A-Frame signs. Consequently, an A-Frame sign is defined as any upright, rigid supporting frame in the form of a triangle with steeply angled sides that meet at the top in the shape of the letter "A" which conveys a message. This A-Frame sign does not include human directional signs upon which a sandwich board sign is hung nor does it include signs which are attached to metal prongs similar to real estate signs.

A fee has been proposed of \$50.00 for the initial sign. The fee schedule has been written with the thought in mind that if this amendment is popular and is well utilized without many violations, the amendment may become permanent. Consequently, a renewal fee of \$15.00 is also included for the second year. This renewal fee can be paid through the Business Tax Receipt with a sticker included in the mail to the business. Each sign must have the sticker affixed to the sign for clear identification by the Neighborhood Improvement Division.

The section dealing with Prohibited Signs has been revised to indicate signs may be placed within the rights-of-way subject to certain conditions. It goes on further to state that an A-Frame sign is not considered a portable sign. The nonconforming sign section has been revised to make it clear that "sandwich board" signs are no longer considered nonconforming. Sandwich board signs and A-Frame signs are considered the same thing.

Finally, the conditions upon which signs may be placed within the rights-of-way include the following:

1. Where less than a two (2) foot setback exist between a business and the existing public rights-of-way, an A-Frame sign may be placed upon a

- sidewalk within the public rights-of-way closest to the business entry point of the business.
2. Where a business has a setback from the public rights-of-way, such sign may be placed upon the interior sidewalk closest to the business entry point of the business. Where no sidewalk exists, such placement may occur in front of the business but it must remain outside of required parking, drive aisles, and buffers.
 3. A permit shall be required and such permit number shall be placed upon the sign for easy identification. Each year thereafter a renewal fee shall be required for such sign.
 4. Design materials shall be of wood, aluminum, heavy gauge plastic or metal and may include a chalk board but it shall be sturdy enough to withstand reasonable wind loading conditions without blowing over.
 5. A letter of authorization from the owner and or management entity shall be required for business tenants.
 6. The maximum allowable dimensions shall not exceed six square feet.
 7. Placement of signs on a sidewalk shall not be placed within four feet of a public sidewalk. Where business entry doors swing out over a continuous sidewalk which runs perpendicular to the path of egress, the walkway shall be at least five feet.
 8. Signs shall be removed from the sidewalk when the business is closed.
 9. When such sign extends past the property line, proof of liability insurance must be provided to the City, and an indemnity waiver agreement must be filed with the permitting agency indicating the entity that has jurisdiction of the rights-of-way is held harmless .

Since enforcement of the code lies with the Neighborhood Improvement Division, the process for enforcement is through the Special Master Process. Consequently, fines can only be given to property owners – not tenants. Therefore, business tenants will be required to provide a letter from the property owner or management agent that such sign is permitted.

FDOT does not generally permit signs within their rights-of-way. The placement of these signs is unique to the downtown and staff does not believe FDOT would have an issue if only permitted in the downtown area where buildings have very little if any setback from the rights-of-way (sidewalk) provided accessibility is not obstructed.

A copy of the draft ordinance is provided at the end of this staff report.

CONCLUSION:

There are certain criteria that must be evaluated before adoption of an amendment according to the Land Development Code (LDC), the Planning Board must consider the following criteria when making their recommendation.

- 1. The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

These type of signs have the potential of adversely affecting the public safety and quality of life as related to aesthetics. However, the definition and conditions have been refined sufficiently to ensure public safety on the sidewalk while ensuring that these type of signs are not lying about in areas such as buffers or on sidewalks where adequate setback exists to properly place such signs.

- 2. The proposed development is consistent with the Comprehensive Plan.**

A-Frame signs when placed directly in front of a business are used often in downtowns and other areas where the building setback to the public rights-of-way is minimal. A-Frame signs are not signs to be used to attract automobiles. A-Frame signs are typically used to attract people who are already on the sidewalk. The sign at 6 square feet is too small for vehicles proceeding at 35 MPH.

- 3. The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

The placement of these type of signs should not have any adverse impacts on environmental resources within the city.

- 4. The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties.**

The use of these signs has the potential of being a nuisance and creating negative visual impacts from the public rights-of-way. However, the conditions upon which placement of these signs are governed should prevent such signs from either being a nuisance or having negative visual impacts.

- 5. There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

Not applicable.

- 6. Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

Such signs are not permitted to encroach into the sidewalk where accessibility becomes an issue. Signs are not permitted within the parking, drive-thru aisles, or the buffers.

- 7. The proposed development is functional in the use of space and aesthetically acceptable.**

One type of sign with the conditions proposed

- 8. The proposed development provides for the safety of occupants and visitors.**

Signs must be pulled tightly against the entry point of the business and where no doors are located; signs must remain outside of the 4 foot path to ensure accessibility. In front of doors, the sidewalk path which must be clear is five foot. Recesses are private and therefore not subject to this requirement.

- 9. The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

Design materials must be either of wood, aluminum, heavy gauge plastic or metal and may include a chalk board but it shall be sturdy enough to withstand reasonable wind loading conditions without blowing over. The sign structure is standard and should provide for some consistency thereby not adversely impacting the aesthetics of the area in front of businesses.

- 10. The testimony provided at public hearings.** No testimony has been provided at public hearings regarding this issue. However, during discussion at City Commission meeting Main Street presented their findings at which time the City Commission directed staff to prepare an amendment reflecting Main Street's recommendation for citywide application rather than in the downtown area only.

RECOMMENDATION:

It is recommended that the Planning Board **APPROVE** LDC 09-10 Land Development Code amendments for A-Frame signs as depicted in the draft ordinance attached to this report.

ORDINANCE NO. 2009-

AN ORDINANCE OF THE CITY OF ORMOND BEACH, FLORIDA AMENDING THE FOLLOWING CHAPTERS OF THE *LAND DEVELOPMENT CODE*: CHAPTER 1 ARTICLE III, SECTION 1-22, DEFINITION OF TERMS AND WORDS, BY ADDING THE TERM "A-FRAME SIGN"; CHAPTER 1, ARTICLE IV , SECTION 1-26 BY ADDING A FEE FOR A-FRAME SIGNS; AND CHAPTER 3, ARTICLE IV, SECTION 3-42 CLARIFYING WHERE AN A-FRAME SIGN CAN BE PLACED AND WHAT AN A-FRAME SIGN IS NOT DEFINED AS; SECTION 3-43 DELETING THE REFERENCE TO "SANDWICH BOARD" SIGNS AS A NONCONFORMING SIGN; AND ADDING SECTION 3-45 H ENTITLED "A-FRAME SIGN AND CONDITIONS THEREOF; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; SETTING FORTH A SUNSET DATE, AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, it is necessary from time to time to amend the city's *Land Development Code* ("LDC") in order to address changing economic, social or technical conditions, and

WHEREAS, the local planning agency, being the Planning Board of the City of Ormond Beach, has reviewed the requested amendments and has made recommendations thereon to the City Commission, and

WHEREAS, all applicable notice requirements of Section 166.041(3)(a), *Florida Statutes*, have been complied with, and

WHEREAS, the City Commission finds the requested amendments to be consistent with the provisions of the *Charter* and the *Comprehensive Plan* of the City of Ormond Beach, and in the overall best interest of the public health, safety and welfare, now therefore,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. Section 1-22, Definition of Terms and Words, of Chapter 1, General Administration, of Article III, Definitions and Acronyms of the *LDC* is hereby amended to read as follows:

Section 1-22 Definitions of Terms and Words

.....

Sign, A-Frame - Any upright, rigid supporting frame in the form of a triangle with steeply angled sides that meet at the top in the shape of the letter “A” which conveys a message. For purposes of this definition, sandwich board signs are included in this definition. When carried by a human being, these signs are considered a type of human directional signs.

SECTION TWO. Section 1-26, Application Processing Fees, of Chapter 1, General Administration, of Article IV, Schedule of Development Review and Impact Fees of the *LDC* is hereby amended to read as follows:

Section 1-26: Application Processing Fees

J. Signage

1. An Annual Real Estate Sign Permit shall be required of any person (excluding the owner providing that said owner occupies the dwelling), corporation, or agency before that person is authorized to display one or more real estate signs within the City.	\$15.
2. Annual Sign Permit Renewal, Wall Signage 5-25 square feet	\$10.
3. Annual Sign Permit Renewal, Wall Signage exceeding 25 square feet	\$15.
4. Annual Sign Permit Renewal, Site (pole & monument) Signage	\$20.
5. Temporary Banners	\$20.

6. <u>A-Frame Signs (Initial)</u>	<u>\$50</u>
<u>Renewal for each year thereafter</u>	<u>\$15</u>

SECTION THREE. Section 3-42, Prohibited Signs, of Chapter 3, Performance Standards, of Article IV, Performance Standards of the LDC is hereby amended to read as follows

Section 3-42: Prohibited Signs

It shall be a violation of this Ordinance to erect or maintain the following signs:

- A. Signs not specifically allowed by this Article.
- B. Signs on or over any public property or public right-of-way except as is specifically permitted in these regulations. A-Frame signs may be placed on the sidewalk within the rights-of-way subject to Section 3-45 F. otherwise ~~S~~signs may be erected on public property only by an authorized representative of a public agency or a quasi-public agency, provided such sign is approved by the City Commission prior to its erection. Signs on State Road rights-of-way shall fully comply with Chapter 14-51, Florida Administrative Code.
- C. Advertising signs on benches, trash receptacles, phone booths, bus shelters and similar structures, when visible from the public right-of-way, except as allowed under Section 3-4.3.J.
- D. Portable signs (excludes A-Frame signs)
- E. Billboards
- F. Off-site signs
- G. Revolving signs
- H. Flashing signs other than time and temperature signs which do not exceed twenty-five (25) square feet of total area.
- I. Snipe signs

- J. Wind signs
- K. Animated signs
- L. Signs which are painted to any part of a building
- M. Exposed electric discharge tubing, such as exposed neon tubing, shall not be permitted on the exterior of a building except as may be necessary for public safety reasons, or as window signage in accordance with LDC §3-47.F.
- N. Arrangements of lights in rows, strings, patterns or designs that outline or are attached to any portion of a building or structure, including windows are prohibited. This prohibition does not apply to lights which are an integral part of an approved sign or those required for public safety.
- O. Electric backlit awnings containing any graphic symbol or lettering used for signage. Decorative awnings not containing any signage, logos or other form of graphic illustration may be backlit.
- P. Balloons or other inflatable items in commercial businesses unless authorized by the City for a special event.
- Q. Signs or banners announcing community or special events shall not be located within the public right-of-way unless approved by the Site Plan Review Committee.

SECTION FOUR. Section 3-43, Nonconforming Signs, of Chapter 3, Performance Standards, of Article IV of the *LDC* is hereby amended to read as follows.

Section 3-43: Nonconforming Signs

For the purpose of this Section, signs which have been constructed in conformance with the standards of the City of Ormond Beach Zoning Ordinance, in effect at the time of building permit issuance or which were authorized and constructed in legal conformance with Volusia County sign regulations at the time of permit issuance, shall be deemed nonconforming under this Code. Nothing in this section shall be deemed to designate off premises signs as a nonconforming sign.

- A. **Signs Subject to Immediate Removal.** The Chief Building Official is authorized to give written notice requiring the removal of the signs hereinafter specified within

thirty (30) days of receipt of such notice. Upon failure to comply with such notice, the Chief Building Official is authorized to remove such sign and any expense incident thereto shall be paid by the persons owning and occupying the building or structure to which such sign is attached.

1. **Snipe Signs.** All snipe signs, including pennants, flags other than as permitted by LDC §3-40.E, wind operated devices, ~~and sandwich signs.~~

SECTION FIVE. Section 3-45, Temporary Signs, of Chapter 3, Performance Standards, of Article IV, A-Frame Signs of the LDC is hereby added to read as follows.

Section 3 – 45: Temporary Signs

H. A-Frame Signs: Commercial businesses may have one (1) such sign subject to the following conditions:

1. Where less than a two (2) foot setback exist between a business and the existing public rights-of-way, an A-Frame sign may be placed upon a sidewalk within the public rights-of-way closest to the business entry point of the business.
2. Where a business has a setback from the public rights-of-way, such sign may be placed upon the interior sidewalk closest to the business entry point of the business. Where no sidewalk exists, such placement may occur in front of the business but it must remain outside of required parking, drive aisles, and buffers.
3. A permit shall be required and such permit number shall be placed upon the sign for easy identification. Each year thereafter a renewal fee shall be required for such sign.
4. Design materials shall be of wood, aluminum, heavy gauge plastic or metal and may include a chalk board but it shall be sturdy enough to withstand reasonable wind loading conditions without blowing over.
5. A letter of authorization from the owner and or management entity shall be required for business tenants.
6. The maximum allowable dimensions shall not exceed six square feet.
7. Placement of signs on a sidewalk shall not be placed within four feet of a public sidewalk. Where business entry doors swing out over a continuous sidewalk which runs perpendicular to the path of egress, the walkway shall be at least five feet.
8. Signs shall be removed from the sidewalk when the business is closed.
9. When such sign extends past the property line, proof of liability insurance must be provided to the City, and an indemnity waiver agreement must be filed with

the permitting agency indicating the entity that has jurisdiction of the rights-of-way is held harmless.

SECTION SIX. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION SEVEN. In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

SECTION EIGHT. This Ordinance shall take effect immediately upon its adoption.

SECTION NINE. This Ordinance shall sunset and revert back to the LDC provisions which were enforced immediately before the adoption date of this ordinance on _____, 2009.

PASSED UPON at the first reading of the City Commission, this ___th day of _____, 2009.

PASSED UPON at the second and final reading of the City Commission, this ___th day of _____, 2009.

FRED COSTELLO
Mayor

ATTEST:

VERONICA PATTERSON
City Clerk