



Date: February 19, 2016

To: Mayor and City Council
Laura Smith, City Administrator

From: Danielle Murray, Interim Community Development Director
Nilo Fanska, Neighborhood Services Officer
James Gorham, Neighborhood Services Officer
Glen Cole, Management Assistant

RE: **Sign Inventory Report**

Background

Mission regulates signs through our Sign Code Ordinances included in Chapter 430 of the Municipal Code. The Sign Code defines the various types of signs allowed and explains requirements for their installation including:

- 1) where they may be installed,
- 2) limitations on size and number,
- 3) how long they may be in place, and
- 4) whether a sign permit is required prior to their installation.

Signs are a form of speech and expression and, as such, are protected by the First Amendment to the Constitution. Various court cases across the country have affirmed a City's power to regulate signs only in a content-neutral fashion. Generally, that means cities may make rules about the **"time, place and manner"** of signs as long as those rules don't make any distinction based on what the sign says. The First Amendment does not protect false claims or otherwise unlawful activity.

As a component of the zoning code, state statute requires that changes to the sign code originate in the Planning Commission and receive a public hearing before the Commission. The City's sign code is developed in consultation with legal counsel and the Planning Commission, and eventually adopted by the City Council.

In Mission, sign permits are not required for every sign type. When required, permit applications are reviewed and issued by the City Planner. Historically, sign code enforcement has been conducted on a complaint driven basis. Occasional sweeps to address seasonal sign issues (elections, tax preparation, post storm event repairs, etc.) have also been conducted. The role of Neighborhood Services staff has been expanded to include more building and zoning issues, which will increase our capacity to provide regular, proactive sign code enforcement.

Last summer, Staff began work to inventory the existing signs in Mission with the goal of gathering information and highlighting potential areas of concern. This memo provides an overview of the information gathered during the inventory process. It is intended to assist in evaluating the strengths and weaknesses of our existing sign code in order to design a program



of regulations and enforcement that:

- is fair and predictable for all of our residents and merchants;
- legally sound, and;
- can be sustained with available staff resources; and
- creates an outcome which is desirable to the community.

Staff anticipates the results will generate several topics for further discussion and possible code changes.

Inventory Summary

In addition to the inventory results, a handout which provides an overview of the basic structure and sign type definitions contained in the current sign code is attached. In general, a sign is considered to be any framed, bracketed, free-formed, painted or engraved surface which is fabricated to create words, numerals, figures, devices, designs, trademarks or logos, which is mounted on or affixed to a building or the ground and which is sufficiently visible to persons not located on the lot where such device is located to attract the attention of such persons or to communicate information to them.

The sign inventory documented **817 signs** throughout Mission. The four most common sign types were: wall signs (315), window signs (199), temporary signs (91), and monument signs (87). Full descriptions of each sign type are presented in the attached handout, as well as when specifically discussed in the following pages. In commercially zoned areas, the typical business has only **two or three signs**.

Number of Signs by Zoning District	Signs	
	#	%
Residential Districts (<i>R-x, RP-x, DND</i>)	52	6%
Light Commercial Districts (<i>C-1, CP-1</i>)	32	4%
Downtown Districts (<i>MS1, MS2</i>)	444	54%
Office Districts (<i>C-O, CP-O</i>)	55	7%
Heavy Commercial / Industrial Districts (<i>All other districts</i>)	234	29%
TOTAL	817 signs	

Pole Signs

There are currently **24** pole signs within the City. The installation and replacement of pole signs has been prohibited since September 2003. Existing pole signs are regulated as non-conforming uses and investment is limited to maintenance only, with the intent being the eventual elimination of all pole signs.

POLE SIGN

A sign which is supported by one (1) or more poles, uprights or braces in the ground so that the bottom edge of the sign face is more than ten (10) feet above the ground.

Since 2009, nine (9) existing pole signs have been removed throughout the City. This was accomplished through a combination of voluntary compliance with zoning code enforcement notices, City abatement, or normal business practices. Pole sign regulations were last amended in 2009 to allow existing pole signs in the vicinity of Johnson Drive and Metcalf Avenue under certain conditions. There are four signs that continue to meet these conditions (Village Inn, Pride Cleaners, Johnny's BBQ, and Popeye's).

At the Community Development Committee's December meeting, the Committee communicated a preference to continue the prohibition on pole signs and to explore implementation of ordinance changes that would establish a deadline for property owners to actively remove all pole signs within the City. Staff will be looking for additional discussion surrounding how to move the pole sign code revisions forward.

Decision Points (Time, Place, Manner)

- Does the City Council still desire to implement these changes in the near future, or include them in a larger discussion of sign code revisions?
- Should the City require by ordinance that pole signs be removed by a certain date (an amortization policy)? If so, how long should businesses have to remove these signs?



Temporary Signs

The results of the sign inventory show **91** temporary commercial signs were in place throughout Mission during the sign inventory, with about one-quarter (23) of those being used for purposes related to real estate and project development (purposes treated differently under our sign code).

Number of Temporary Signs by Zoning District	Signs	
	#	%
Residential Districts (R-x, RP-x, DND)	10	11%
Light Commercial Districts (C-1, CP-1)	40	44%
Downtown Districts (MS1, MS2)	7	8%
Office Districts (C-O, CP-O)	4	4%
Heavy Commercial / Industrial Districts (All other districts)	30	33%
TOTAL	91 signs	



Temporary signs can be used for any purpose under our code, but often are used to fulfill one of the following needs:

- Political signs
- Contractor projects
- Special events
- Garage sales
- Sales and promotions



The current sign code does not require a sign permit for temporary signs, allows an unlimited number of signs but restricts the overall square footages, and limits any one sign's duration to 60 days before the sign must be removed for at least 60 days. Signs which advertise property for sale are limited in duration to the period of time for which the property is on the market for sale.

While these are reasonable restrictions, they are very difficult to enforce. Staff would have to proactively monitor properties for the appearance of temporary signs, document them when seen, and spend time comparing current signs to historical signs or documenting that a sign has been in place for longer than 60 days. Proving that someone is using more than the gross allowable square footage would require staff to locate and measure each individual sign. The typical policy solution to these type of concerns is to require permits - but that may be seen as too burdensome for these signs.



Beyond issues with these restrictions, temporary signs are being used throughout the City in ways that were not intended when the code was authored. It would be difficult for enforcement alone to resolve concerns about temporary signage within the current code.

For example, in the City's business districts, many of the signs inventoried were used purely to identify or draw attention to a business - rather than to recognize a sale or some other special or temporary event. While our code should not make any distinctions between these uses, these needs would be more appropriately satisfied by permanent signage. However, temporary signs often come at a lower cost to produce, provide greater flexibility to the business, and allow for more sign space than would otherwise be allowed to an individual business.



Similarly, the sign code allows signs advertising a property for sale or lease to remain until that property is leased or sold. However, in the case of larger multi-family developments, there is virtually always *some* level of vacancy that triggers this exception in our code. Furthermore, due to new case law (discussed below), we may no longer be able to legally these exceptions.

Decision Points (Time, Place, Manner)

- Should the City require a permit for temporary signs?
- How long should signs be allowed to stay out? Should the City impose any other form of time restriction, i.e. limiting temporary signs to certain events each year?
- Is the quality of these signs an issue that the code should address?
- Should we change how we count or limit signs? Should we focus on the number of signs per tenant or per parcel, rather than the aggregate size?



Window Signs

Our current sign code only allows window signs in the Downtown District - generally, Johnson Drive from Lamar Avenue to Nall Avenue. Such signs are intended to communicate with pedestrians walking through the district, at a slower speed than vehicle traffic. Accordingly, they are limited in size to 10% of the window glass of the facade. The current code also specifies that they should be affixed to the glass in a permanent manner rather than as copy that is changed frequently. A sign permit is required for a window sign. Window displays and lettering that identifies a business, address, or hours of operation are exempt from the sign code.

However, a large number of properties have window signs without permits and are technically out of conformance with the current code. For many businesses, permanent or rotating window signage is a common business practice. Many surrounding/peer communities either limit window signs to a certain area percentage (often 50%) or exclude them from sign regulation entirely.

Decision Points (Time, Place, Manner)

- Should we allow and provide specific criteria for these signs?
- Where should these signs be allowed? Should the Downtown District be treated differently than other areas of the City?
- Should the code prescribe any “quality” requirements for these signs, such as that they must be printed on durable materials?





New / Emerging Sign Practices to Regulate

Mission currently does not have a significant number of vehicular signs or people hired to act as sign holders in the public right of way. In the past, mobile, dedicated sign trucks have circulated town on public streets and parked in underused or vacant parking lots visible to major thoroughfares. While regulating these types of advertising are difficult, many communities and people view them as a nuisance.

Decision Points (Time, Place, Manner)

- Should the city be proactive in enacting regulations to prohibit these signs?

Other Legal Concerns

Last summer, the U.S. Supreme Court issued a decision in *Reed v. Town of Gilbert* that rules unconstitutional many of the categories our code uses to regulate signs. An article published by the International City and County Management Association argues that cities are no longer allowed to provide special privilege to political signs and real estate signs, among others. Presumably, the same standard will apply to other similar distinctions made by our code - such as by allowing additional signs for ATM machines, garage sales, development project identification, and so on. These concerns are not unique to the City of Mission; indeed, they affect most cities in the United States. However, we would be one of the first cities in the Kansas City area to revise their sign code after the *Reed* decision.

Additionally, the Kansas Legislature recently prevented cities from regulating the placement or number of *political* signs posted for the period of time surrounding an election. The position of the League of Kansas Municipalities is that this law is unconstitutional under *Reed* as a content-based discrimination in speech; however, this has not yet been tested before a court.

If the City is considering significant sign code revisions, it is advisable and likely necessary to use the consultation with our city attorney to address these conflicts with case law and state law.



Next Steps

If the Council wishes to investigate or pursue changes to the sign code in response to this report, staff recommends proceeding as follows:

- Council discusses desired changes or areas of interest at worksession(s), provides specific instruction to Staff;
- Staff and attorneys draft proposed changes in response;
- Planning Commission working group / subcommittee and staff perform outreach and engagement with businesses, documenting any additional changes or modifications arising through the process;
- Planning Commission holds formal public hearing, considers specific changes, and recommends adoption by Council;
- City Council adopts changes by ordinance;
- Staff implements changes immediately for new permits, begins enforcement of applicable sections of new code after an agreed upon grace period, and notifies business community periodically of applicable restrictions.

The amount of time required to complete this process could vary significantly, but changes would likely come before the City Council for action sometime in the third quarter of 2016.