



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#24-0224

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Thomas J. Ansbro, City Attorney

DATE: February 20, 2024

TITLE: First Reading -- Ordinance Amending Article I entitled "In General", Section 25-24 entitled "Temporary Signs", of the Code of Ordinances of the City of Fort Lauderdale, Florida - **(Commission Districts 1, 2, 3 and 4)**

Recommendation

It is recommended that the City Commission adopt the attached proposed Ordinance amending Section 25-24 entitled "Temporary signs" of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Background

On March 6, 2018, the City Commission adopted Ordinance No. C-18-05, to conform the City's sign regulation to the holdings of the United States Supreme Court in the *Reed vs. Town of Gilbert* case in which the Court required similar sign regulations to be content neutral. The case at the time left some confusion in the legal community as to its effect on the Court's precedents and doctrines regarding sign regulations. In 2022, the Court had an opportunity to clarify its position in its ruling in the *City of Austin, Texas v. Reagan National Advertising of Austin, LLC*, by upholding sign regulations as facially content neutral when it uses the sign's content for the basis of classification for the purpose of distinguishing between on/off-premises signs.

The *City of Austin, Texas* case clarifies the distinction between content-neutral and content-based regulations. The Court found that regulations that do not single out any topic or subject matter for differential treatment is content-neutral even if it uses the message of the sign to determine the sign's relative location; however, regulations that require examination of its message in attempt to regulate viewpoint, subject matter, and that use function or purpose of the sign as a proxy for regulation of viewpoint or subject matter are deemed to be content-based regulations. The proposed amendment removes language that may be interpreted as content-based to clarify that Section 25-24, Code of Ordinance, is a reasonable content-neutral regulation of temporary signs directed towards public safety and protecting the beauty and aesthetics of the City.

The amendment proposes the changes to the following words, terms, and phrases:

- Temporary builder sign

Existing Language: “Temporary builder sign: A sign used solely for the purpose of information which is displayed temporarily on a property during a period of time in which active city-permitted construction or improvements are being made on the property where the sign is placed. Such signs are used solely for the purpose of information concerning the active construction or improvements. “ - Section 25-24(b), Code of Ordinance

Proposed Language: Temporary builder sign: A sign used solely for the purpose of information which is displayed temporarily on a property during a period of time in which active city-permitted construction or improvements are being made on the property where the sign is placed. Such signs are used solely for the purpose of information concerning activity affecting the real property where the sign is placed, which activity typically is the active construction or improvements on the property.

Explanation of Amendment: This amendment adds language that clarifies that the definition requires the use of the content of the sign for determining whether the subject matter of the sign is located on the same property as where the sign is displayed for the purposes of an on-premise versus off-premise distinction and for the classification of signs based on the period of time during which the sign is displayed for the purpose of distinguishing between a sign of a temporary or permanent nature.

- Temporary election-related event sign

Existing Language: “Temporary election-related event sign: A sign relating to any election is scheduled to be held. This includes, but is not limited to, signs advertising candidates, referendums or any campaign information.” -- Section 25-24(b), Code of Ordinance

Proposed Language: Temporary election-related event sign: A sign displayed temporarily in advance of any political election scheduled to be held. Such signs are typically associated with the dissemination of information concerning a scheduled election including, but is not limited to, signs advertising candidates, referendums, or any campaign information.

Explanation of Amendment: This amendment adds language that clarifies that the definition requires the use of the content of the sign for the classification of signs based on the period of time during which the sign is displayed for the purpose of distinguishing between a sign of a temporary or permanent nature.

Existing Language: “A temporary election-related sign may be displayed for sixty (60) days prior to an election-related event. All temporary election-related signs shall be removed from property within thirty (30) days after the election to which the signs are directed.” -- Section 25-24(b)3.a., Code of Ordinance

Proposed Language: A temporary election-related sign may be displayed for sixty (60) days prior to an election as defined in The Florida Election Code, Chapters 97-106, Florida Statutes (2023). All temporary election-related signs shall be removed from property within thirty (30) days after the election to which the signs are directed.

Explanation of Amendment: This amendment replaces the phrase “election-related event” with the word “election” to remove ambiguity.

The number of temporary signs tends to increase substantially during the periods of time preceding a political election. It is therefore reasonable to place a reasonable time, place, and matter regulation on temporary signs displayed during the 60 days preceding an election and the 30 days after the election to further the governmental interest in protecting the health, safety, and welfare of the public through ensuring traffic safety and protecting the beauty and aesthetics of the City.

- Temporary off-premise directional signs:

Existing Language: Temporary off-premise directional signs: A sign used solely for the purposes of directing traffic and to provide information of an event, location, or area. -- Section 25-24(b), Code of Ordinance

Proposed Language: Temporary off-premises directional signs: A sign displayed temporarily used solely for the purposes of directing traffic and to provide information of an event, location, or area.

Explanation of Amendment: This amendment corrects a scrivener’s error.

- “Temporary real estate sign:

Existing Language: “Temporary real estate sign: A sign used for the purpose of temporarily displaying information during the period of time in which the property is being offered for sale, rent or lease.” -- Section 25-24(b), Code of Ordinance

Proposed Language: Temporary real estate sign: A sign used for the purpose of temporarily displaying information during the period of time in which the property is being offered for sale, rent or lease. Such signs are used solely for the purpose of information concerning activity affecting the real property where the sign is placed, which activity is typically associated with the offering of the property for sale, rent or lease.

Explanation of Amendment: This amendment adds language that clarifies that the definition requires the use of the content of the sign for determining whether the subject matter of the sign is located on the same property as where the sign is displayed for the purposes of an on-premise versus off-premise distinction and for the classification of signs based on the period of time during which the sign is displayed for the purpose of distinguishing between a sign of a temporary or permanent nature.

Business Impact Estimate

This ordinance is required for compliance with federal law and is therefore not subject to the requirements of Section 166.041(4), Florida Statutes.

Resource Impact

There is no fiscal impact associated with this action.

Attachment

Exhibit 1 - Proposed Ordinance

Prepared by: D'Wayne M. Spence, Deputy City Attorney

Charter Officer: Thomas J. Ansbro, City Attorney