

Subject: First Reading of an Ordinance Amending Multiple Sections of Chapters 150 and 153 of the West St. Paul City Code Regarding Regulations for Signs and Murals

Meeting Date: Monday, May 22, 2023	
Submitted/Presented by/Department: Melissa Houtsma - Community Development	
Action Type	
<input type="checkbox"/> Consent Item	<input type="checkbox"/> Discussion/Direction
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Informational Only
<input checked="" type="checkbox"/> Action/Motion	<input type="checkbox"/> Report
<input checked="" type="checkbox"/> Resolution/Ordinance	<input type="checkbox"/> Other:
Action	
Approve the first reading of the proposed ordinance amendments to various sections of city code chapters 150 and 153 and consideration of the proposed revisions as noted in the Planning Commission’s items and recommendations.	
Background	
For the past few years, City staff has been working with the City Council and legal counsel to update the city’s sign code, partially in response to the direction of the City Council to relax certain aspects of the code as well as updating various components, but also in response to recent U.S. Supreme Court rulings, specifically around the first amendment. For a brief summary of the proposed changes, please see the attached Planning Commission report.	
<u>Planning Commission Review</u>	
The Planning Commission met in regular session to review the application and held a public hearing on the item. A few residents came forward to speak on the item and were generally in support of the item, but mentioned some additional options and concerns which then were further addressed and discussed by the commission and are included below.	
The Planning Commission discussed the following items:	
<ul style="list-style-type: none"> • City Attorney Whitmore reviewed an emailed letter from resident Andrew Olson (<i>letter included in attachments</i>) and offered the legal interpretation and precedent around those items and comments. • Exceptions/allowances offered through state statute (211B.045) for additional signage during the state/federal election times, and the option of expanding that to local elections (such as school board). <ul style="list-style-type: none"> ○ Attorney Whitmore detailed potential difficulty around setting a timeframe for more local elections, as there most often is not a primary election. The becomes difficult 	

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due to the fact that a primary is the consistently established starting point for the allowable timeframe for the exception in the state statute language. Despite not consistently offering a distinct event that marks the beginning of an election period, draft language has been incorporated into the attached ordinance for review and consideration.

- Development of the 10 sq. ft. allowance for the temporary signs in residential districts, in how that recommendation was formed and the commonality of that in other cities. As well as the maximum height of 36 inches, particularly when thinking of signs displayed when a house is “For Sale”, these are consistently 36 inches above grade.
 - Staff explained the history behind moving from strictly allowing only one temporary sign to offering more flexibility with a maximum square footage instead, in that while it may be more time consuming for staff to measure square footage versus number of signs if a complaint is made it is important to offer that added flexibility in permissible free speech.
 - Staff also mentioned that there really is no consistency on what language cities use for this specific regulation, it can vary greatly based existing characteristics and geography of neighborhoods within each city and what they view as most appropriate.
- Parameters around defining “Temporary Signs” and the possibility of a definitive timeframe rather than more generalized definition.
 - Staff explained that temporary signs in commercial and industrial districts, through the sign permitting process, have a specific, limited amount of time that they are allowed to be displayed. However, the temporary signs in residential districts do not require a permit and the definition for those is more on the materials of the sign (153.431, “constructed of cloth, canvas, light fabric, cardboard, wall board or other similar materials”). This method is very commonly seen in other cities.
- Limited ability for residents of multi-family (*apartment*) buildings to each display their own signs. While they pay for their unit and space they live in, their name is not listed on the books as the property owner and likely wouldn’t have legal authority to display their personal signage on the property outside of their own unit.
 - Staff mentioned that sign requirements can’t be based on the use of a property, in an effort to balance this legal component with the wide range of properties and their respective uses staff recommended language for properties larger than one acre.

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- Allowance for temporary signs in residential districts to be placed higher than the standard 36 inches if located on a fence, this gives an added benefit or option for individuals with a fence that not all individuals may have.
 - Additional discussion was had around only one side of a sign face is visible when located on a fence, while both sides/faces of the sign are visible if it is free-standing. Questioning if this creates confusion on the calculation of total square footage of signage.
- Explanation around what constitutes a mural versus a sign, which is largely based around the method and manner it being displayed. As well as the requirements around using specific paint and paint types, as well as the possibility of various other materials.
 - Staff detailed that a common, long-term and re-occurring goal or standard is to require items or materials that are “maintenance free” which in-turn results in increased longevity.
- Restricting design and colors for structures in residential districts to be in harmony with the existing color palate of the surrounding area, (proposed for subsection (C)(5) in sections 153.053, 153.068, and 153.083) and how this likely would limit the possible colors to draw from if painting a mural.
 - Staff explained that the reasoning behind the compatibility and harmony of color language was to preserve the visual character of the neighborhood and to avoid items that may otherwise drastically alter the aesthetic of an area or potentially create visual distractions that could potentially create traffic and/or safety issues.
- One item that staff did request input or discussion on, but ultimately did not make its way into the natural discussion was reduced amount of murals (not 25% building coverage) in residential districts.
- Process and clarity around what and how something is determined to be protected versus unprotected obscene or pornographic speech.
 - Staff explained the general process of determining this, which is uniquely difficult and requires a case-by-case analysis as well as a close review of the most recent legal cases and the ruling decision. Definitions of what is considered “obscene” can be subjective even the language written at the state level, which is why the recommended language allows for review by multiple parties within the city.
- Expansion on permissible materials to create murals, such that they are comparable to the listed paints in the fact that they are maintenance free per a specific industry standard.

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- Nuances around the potential for incidental commercial speech in murals which were being recommended with the intention that it serves non-commercial speech.
 - Staff explained that there are not fully clear parameters around what is or is not “commercial speech”, but when items do come through the administrative process it will review and likely err on the side of caution.

Ultimately, the commission voted 7-0 to recommend approval of ordinance amendment as drafted with the consideration of the nine listed items to be further reviewed or considered by the City Council.

Planning Commission Recommendations/Items for Review

1. Allowance/Addition of local elections, such as school district elections, to be included in the exemption period offered during the state/federal election times (*revision made to draft ordinance*).
 - a. This item was recommended/approved by the commission with a 7-0 vote.
2. Amend section 150.110 (C) to include “in business and industrial districts” at the end of the sentence, to match section 150.110 (D) (*revision made to draft ordinance*).
 - a. This item was recommended/approved by the commission with a 7-0 vote.
3. Amend section 153.002 (C) to read “industrial areas” rather than “manufacturing areas” (*revision made to draft ordinance*).
 - a. This item was recommended/approved by the commission with a 7-0 vote.
4. Increase the maximum allowable height for temporary, free-standing signs in residential districts from 36 inches above grade to 60 inches (5 ft.).
 - a. This item was recommended/approved by the commission with a 5-2 vote.
5. Request that the City Council consider some sort of method or language to grant each premises (apartment unit) within a multi-family home their own signage.
 - a. This item was recommended/approved by the commission with a 4-3 vote.
6. Recommend the language detailing permissible paints for murals read with the intent of to be one of the following types of paints (as it is currently written) while also offering some alternative options by adding language like, “or some other comparable maintenance free material as approved/recommended per a specific industry standard”.
 - a. This item was recommended/approved by the commission with a 7-0 vote.

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7. Reduce the amount of allowable signage allowed on fences by establishing a maximum square footage of 3 sq. ft. This number would still be counted toward the maximum allowable 10 sq. ft.

a. This item was recommended/approved by the commission with a 6-1 vote.

The following items were discussed and a vote was taken, but ultimately were not passed/recommended by the majority of the commission.

1. Removal of the language in section 150.110(B)(2), specifically as it creates an allowance for additional permanent signage in residential districts for properties that are over one acre in size.

a. This item was not approved/motion failed by the commission with a 3-4 vote.

2. Removal of the language in subdivision (C)(5) in sections 153.053, 153.068, and 153.083. Specifically, the language requires the harmony of design and colors for structures in the residential districts (colors are limited to those in the surrounding area).

a. This item was not approved/motion failed by the commission with a 3-4 vote.

Attachments

Planning Commission Materials
Letter from Resident
Draft Ordinance (redline)

Previous Relevant Actions

N/A

Alternatives

If City Council is not satisfied with the proposal as written, please advise city staff of the desired changes and/or recommendations.

Financial

Budgeted: Yes

No Financial Impact

Fund: N/A

Department: N/A

Account: N/A

Amount: N/A