

ORDINANCE NO. 3292

AN ORDINANCE APPROVING A TEXT AMENDMENT TO ARTICLE 27 SECTIONS 27-401, 27-606, SECTION 27-701 OF THE ZONING REGULATIONS OF THE CITY OF ABILENE, KANSAS, RELATING TO ELECTRONIC MESSAGE CENTERS BY CONDITIONAL USE AND SIGN REQUIREMENTS FOR THE "P-PUBLIC DISTRICT" AND PUBLIC PROPERTY.

WHEREAS, the Planning Commission conducted a public hearing on March 8, 2016, and no comments were received from the public in opposition to the proposed text amendment;

WHEREAS, the Planning Commission recommended the Governing Body approve a Text Amendment to Article 27 of the Zoning Regulations allowing electronic message signs in the "P, Public Use District" upon making certain findings of fact as provided to the Governing Body in a Staff Report dated March 10, 2016 and attached hereto as **Exhibit A**.

BE IT ORDAINED by the Governing Body of the City of Abilene, Kansas:

SECTION ONE. Section 27-401 of the Zoning Regulations for the City of Abilene, Kansas is hereby amended as follows:

Section 27-401.

- a. **Sign Height:** Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign. No sign may exceed the maximum height permitted for buildings in the zoning district in which the sign is located. Except that interstate advertising signs (on-premise) may be sixty-five (65) feet above the interstate roadbed and associated bridges and ramps, with a maximum height of eighty-five (85) feet. Where the interstate roadbed is below the grade elevation of adjoining property, the maximum sign height shall be sixty-five (65) feet. This height may be increased provided a sign survey indicates a need for visibility at ½ mile, which will allow a safe exit from the inside lane of the interstate highway, with a maximum height of 110 feet.
- b. **Illuminated Sign:** A sign designed to give forth artificial light or designed to reflect light derived from any source, shall comply with the following:
 1. Illuminated sign shall be designed so as to reflect or direct light away from any residential dwelling district.
 2. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
- c. **Flashing or Moving Signs:** Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation, any revolving, rotating, moving, animated, signs with moving lights or signs which create the illusion of movement shall not be permitted except Christmas or other holiday lights during a period four (4) weeks preceding such holiday. Such signs shall comply with the following:

A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals and any ancillary messages (such as community events).

Electronic Message Centers shall be permitted in Public, Commercial and Industrial Districts only upon issuance of a conditional use permit in accordance with Article 26. In considering a conditional use permit application the Planning Commission and Governing Body may impose requirements related to size, maximum illumination (including incorporating automatic dimmer controls), transition and hours of operation, or other conditions as deemed necessary and appropriate by the Planning Commission and Governing Body.

SECTION TWO. Section 27-606 of the Zoning Regulations for the City of Abilene, Kansas is hereby amended as follows:

27-606. Public District; Requirements. Signs in the Public District shall comply with the area limitations set forth in Table 27-2 above for Commercial Districts, and also be subject to and comply with the following regulations:

- a. Wall signs: Two per building.
- b. Identification signs: One per street frontage.
- c. Directional signs: The number shall be unlimited, provided no single directional sign shall exceed thirty (30) square feet in area.
- d. The number of directional and identification signs internal to the site shall be unlimited, provided a sign plan is submitted to and approved by the Zoning Administrator.
- e. Electronic message center: One per zoning lot, by conditional use pursuant to Section 27-401(c), which may display non-commercial messages or on-site or off-site advertising.

SECTION THREE. Section 27-701 of the Zoning Regulations for the City of Abilene, Kansas is hereby amended as follows:

27-701. It shall be a violation of these regulations to erect, install, place or maintain the following signs in any zoning district:

- a. Any signs or advertising structures which are not specifically permitted under these zoning regulations.
- b. Any sign or advertising structure which constitutes a traffic hazard or a detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or which obstructs the vision of drivers, or signs that obstruct or detract from the visibility of traffic control devices or emergency vehicles. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination constitutes a hazard to traffic prohibited. Exterior neon lighting, illuminated banding or other types of lighting that creates a glow is prohibited unless it is approved by the Planning Commission.
- c. Any sign or advertising structure (other than those erected by a governmental agency or required to be erected by a governmental agency for a public purpose) erected, installed or placed on the right-of-way of any street, road of public way, or signs overhanging or infringing upon the right-of-way of any street, road or public way, except as specifically permitted by these regulations.
- d. Any sign or advertising structure erected on City property or other governmental property other than signs erected by that governmental entity.

- e. Any sign or advertising structure which is erected, installed or maintained that obstructs any fire escape, required exit, window or door opening intended as a means of ingress or egress.
- f. Any sign or advertising structure which is erected, installed or maintained upon the rear of a building, however, with the exception of allowing a tenant to identify the business name and/or address on a rear exit door with no greater than six (6) inch non-illuminated letters painted, printed, stenciled, or attached to the face of the rear door. The rear of a building is that side of a building opposite from the principal or main entrance to a building.
- g. "A" Frame sign, except as permitted by Section 27-605.
- h. Abandoned signs.
- i. Off-site advertising and off site development signs, except to the extent specifically authorized by this Article.
- j. Snipe signs, except warning signs posed by public utility companies.
- k. Temporary signs, except as permitted by Section 27-4.
- l. Vehicular signs. Signs on vehicles which are improperly tagged, or inoperable as defined by Abilene City Code. A company or corporation name or logo painted on a motor vehicle or semi-trailer normally in motion, or parked during use, shall not be considered a vehicular sign.
- m. Directly illuminated signs, except to the extent specifically authorized in this Article.

SECTION FOUR. Effective Date. This Ordinance shall become effective and in full force from and after its passage, adoption and publication in the official City newspaper.

PASSED AND ADOPTED by the Governing Body of the City of Abilene, Kansas this 28th day of March, 2016.



CITY OF ABILENE, KANSAS

By: *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor

ATTEST:

Penny Soukup, CMC
Penny Soukup, CMC
City Clerk

EXHIBIT A

Staff Report

**Proposed Text Amendment
Article 27 of the Zoning Regulations**

March 28, 2016

STAFF REPORT

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Proposed Text Amendment to Section 27 of the Signage Regulations
DATE: March 10, 2016

BACKGROUND

The Planning Commission has requested a text amendment to Section 27 of the Zoning Regulations be prepared by staff to allow electronic message centers, as defined by Section 27-2 of said Regulations, as a conditional use in the "P, Public Use District." Presently, Section 27-401(c) states as follows with respect to electronic message centers:

"Electronic message centers shall be permitted in Commercial and Industrial Districts only upon issuance of a conditional use permit in accordance with Article 26. In considering a conditional use permit application, the Planning Commission and Governing Body may impose requirements related to size, maximum illumination (including incorporating automatic dimmer controls), transition and hours of operation, or other conditions as deemed necessary and appropriate by the Planning Commission and Governing Body."

PROPOSAL

Staff is proposing language be amended in Section 27-401, Section 27-606, and Section 27-701 of the Zoning Regulations, so as to allow one electronic message center per lot as a conditional use in the "P, Public Use District." Such sign would be authorized to display on-site and off-site advertising. The proposed language may be found as an attachment to this memorandum as **Exhibit A**.

COMPREHENSIVE PLAN

When considering changes to the Zoning Regulations, it is prudent to review the Comprehensive Plan to determine if the proposed changes align with the community's long-term development plan. The Comprehensive Plan does not provide much direction with respect to signage, and particularly electronic message centers. Some guidance, however, may be found in Key Issue 3 which defines a "lack of coordinated marketing efforts to promote economic and cultural activities." This topic is further articulated in Goal B with "market Abilene to Abilenians." It stands to reason that electronic message centers would address both of these statements and increase the available opportunities for promoting Abilene, its businesses, attractions, and events.

FACTORS TO BE CONSIDERED

Per Section 26-104(b) of the Zoning Regulations, "when a proposed amendment would result in a change in the text of the regulations, but would not result in a change of zoning classification of any specific property, the recommendation of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and its reasons for recommending approval or denial."

1. Nature and effect of such proposed amendment. The proposed text amendment would allow electronic message centers as a conditional use in Commercial, Industrial, and Public Districts. Electronic message centers may be used for on-site and off-site advertising, subject to the Zoning Regulations.

Allowing such signs in Public Districts means that electronic message centers could potentially be located in community parks, on or near community facilities such as libraries, schools, hospitals, and other government-owned facilities. An existing example of this provision is the electronic message center located on the north side of the Abilene Middle School adjacent to NW 14th Street. This sign

was grandfathered from previous regulations and is used to advertise community information about the school such as time and temperature and school events.

A recent ruling by the United States Supreme Court in *Reed v. Town of Gilbert* also means that the City will not be able to regulate the content of electronic message centers. According to the City Attorney, public entities who request and are approved for an electronic message center will be able to regulate content through a lease agreement.

2. Reasons for recommending approval or denial.

The Planning Commission recommended approval of the proposed text amendment based on the analysis provided in the staff report for the request.

STAFF RECOMMENDATION

Staff recommends approval of the proposed text amendment on the basis that electronic message centers are presently allowed as a conditional use in Commercial and Industrial Districts, and that the proposal would extend such use as a conditional use to the Public District. The conditional use permit process would allow the Planning Commission, Governing Body, and the public to provide input into the decision to allow such signage in a Public District as well as to require location appropriate regulations to minimize any off-site impacts. Finally, the recommendation seems to align with the Comprehensive Plan that identifies the need for additional marketing efforts to promote Abilene.

PUBLIC HEARING

The Planning Commission conducting the Public Hearing on this item during its regular meeting on March 8, 2016. There were no comments received from the public concerning the proposed text amendment.

PLANNING COMMISSION RECOMMENDATION

Following the public hearing, the Planning Commission unanimously recommended approval of the proposed ordinance that would allow electronic message centers in the "P, Public Use District" as a conditional use as attached to this memorandum as **Exhibit A**.

GOVERNING BODY ACTION

Per Section 26-104(c) of the Zoning Regulations, the governing body has the following options with respect to this item:

1. Approve the Planning Commission's recommended ordinance without change.
2. Override the Planning Commission's recommendation by a two-thirds majority vote.
3. Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. Upon return of a recommendation from the Planning Commission, the Governing Body may take whatever action it deems necessary.