

**ZONING COMMITTEE
RECOMMENDATION
July 25, 2007**

Rezoning Petition No. 2007-109

- Petitioner:** Charlotte-Mecklenburg Planning Commission
- Request:** Text Amendment to 1) allow electronic changeable face outdoor advertising signs with limitations, 2) to simplify the requirements for outdoor advertising signs by placing the regulations in a table format that is more user-friendly, and 3) to add a purpose statement.
- Action:** The Zoning Committee voted unanimously to recommend a **DEFERRAL** of this text amendment to the September 26, 2007 Zoning Committee meeting.
- Vote:** Yeas: Howard, Johnson, Lipton, Loflin, and Randolph
Nays: None
Absent: Rosenburgh (absent from vote), Sheild

Summary of Petition

This text amendment would add new regulations to allow electronic changeable face outdoor advertising signs (digital, LED, and tri-vision outdoor advertising signs). As part of this text amendment, new definitions have been added for “electronic changeable face”, “tri-vision”, and “static” outdoor advertising signs:

Outdoor advertising sign, electronic changeable face: A sign, display, or device, or portion thereof, which electronically changes the fixed display screen composed of a series of lights, including light emitting diodes (LED’s), fiber optics, or other similar technology where the message change sequence is accomplished immediately. Electronic changeable face outdoor advertising signs include computer programmable, microprocessor controlled electronic or digital displays that display electronic, static images, static graphics, or static pictures, with or without textual information, and tri-vision outdoor advertising signs. Electronic changeable face outdoor advertising signs do not include animated or scrolling images, graphics, video active images (similar to television images), projected images or messages onto buildings or other objects, or static outdoor advertising signs.

Outdoor Advertising Sign, Static

A type of outdoor advertising sign, generally, but not limited to, a rigidly assembled sign, display, or devise, that is free-standing and affixed to the ground, the primary purpose of which is to display advertising messages or information that can be changed manually in the field. Such signs commonly referred to as “billboards” are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

Outdoor Advertising Sign, Tri-vision

A type of electronic changeable face outdoor advertising sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time of up to three images.

This text amendment replaces entire Section 13.111 in order to differentiate the different regulations that would apply to electronic changeable face outdoor advertising signs, and the more traditional, or “static” vinyl outdoor advertising signs, and other existing billboards. It also adds a purpose statement outlining reasonable regulations for outdoor advertising signs. The regulations are designed to:

- Reduce visual clutter
- Protect the view of the skyline
- Reduce distractions for motorists
- Reduce conflicts with traffic control signs.

In addition, the regulations are designed to accomplish the following:

- Present and perpetuate uncluttered and natural views for the enjoyment and environmental enrichment of the citizens of Charlotte, as well as visitors
- Promote economic prosperity, civic pride, quality of life, and general welfare of citizens
- Enhance the aesthetic values of the City and its economic vitality
- Protect property values
- Promote good urban design
- Promote safety of motorists.

Following is a brief summary of the conditions and regulations that will be applicable to electronic changeable face outdoor advertising signs:

- Permits or new or converted outdoor advertising signs are required, with additional support information to be prepared by a registered surveyor, and submitted with the application.
- The regulations shall also apply to all outdoor advertising signs, even those with North Carolina Department of Transportation Permits.
- Permitted in I-1 and I-2, and located within 150’ of the right-of-way of Class I Roads.
- Limited to 380 square feet; no more than 2 sides per structure
- Unipole construction
- No moving, rotating, fluttering, blinking or flashing elements are permitted. No animation, video, audio, pyrotechnic or bluecasting components are permitted.
- Messages shall remain fixed, in a static position for a minimum of 8 seconds.
- The change sequence shall be accomplished within an interval of 2 seconds.
- Only off-premise advertising is permitted.
- Illumination devices shall be effectively shielded, and contain an automatic sensor to adjust the illumination intensity or brilliance to be dimmer at night.
- A minimum 400’ spacing is required between the electronic changeable face billboard and any residential district or institutional uses.
- A minimum spacing of 2,000’ is required between electronic changeable face billboards.
- A minimum spacing of 1,000’ is required between an electronic changeable face billboard and a static (traditional) billboard.
- No two electronic changeable face billboards within 300’ of any street right-of-way on the same side of the street shall be spaced less than 2000’ apart, regardless of the street from which they are viewed.

- No electronic changeable face billboard within 300' of any street right-of-way on the same side of the street shall be spaced less than 1000' apart from any static billboard, regardless of the street from which they are viewed.
- A minimum of 20' is required between any electronic changeable face billboard and any existing building.
- Any non-conforming billboard located within 1,000' of a proposed electronic changeable face outdoor advertising sign, whether it has a North Carolina permit or not, must become conforming prior to the issuance of a sign permit. To become conforming, the billboard must become conforming with respect to:
 - Sign face area
 - Number of sides
 - Height
 - Support structure type
 - Removed if within 300' of residential or institutional uses.
- A minimum spacing of 500' is required from any part of the principal use being advertised.
- Electronic changeable face signs shall be conforming in all ways.
- Vegetation cutting in the public rights-of-way for the purpose of clearing views for signs shall be prohibited unless approved by the City Arborist. Cutting of trees required by the Tree Ordinance that are located in the setback is also prohibited.
- No electronic changeable face outdoor advertising sign shall be located within an historic district, or within 400' of an historic district boundary.
- Electronic changeable face billboards shall contain a default design that will freeze the sign in one position if a malfunction occurs.

In addition, this text amendment places the existing regulations for what are termed “static” outdoor advertising signs in a table format. The regulations for static billboards have been supplemented with the following new additions:

- Information has been added on how spacing and separation distances are measured.
- Clarifies that a billboard structure can have 1 sign face per side, totaling no more than 760 square feet.
- Limitations have been added to prohibit moving, rotating, fluttering, blinking, flashing components and to prohibit video, audio, pyrotechnic components, and bluecasting technology.
- Clarifies city policy that the message on static billboards shall not change more than once within a 24-hour time period.
- Clarifies that illumination devices shall be effectively shielded so as not to cause glare.
- Vegetation cutting in the public rights-of-way for the purpose of clearing views for signs shall be prohibited unless approved by the City Arborist. Cutting of trees required by the Tree Ordinance that are located in the setback is also prohibited.
- No electronic changeable face outdoor advertising sign shall be located directly across the street from an historic district, or within an historic district.
- Permits for all new static outdoor advertising signs require support information to be prepared by a registered surveyor and submitted with the permit application.

And last, this text amendment places the regulations for existing outdoor advertising signs in a table format. The regulations for existing outdoor advertising signs have been supplemented with the following modifications:

- Information has been added on how spacing and separation distances are measured.
- Clarifies that a billboard structure can have 1 sign face per side, totaling no more than 760 square feet.

- Limitations have been added to prohibit dimming, flashing, fading, or scrolling messages. No moving, rotating, fluttering, blinking, flashing elements are permitted. No animation, changeable copy, videoboard, or audio components are permitted.
- Clarifies city policy that the message on static billboards shall not change more than once within a 24-hour time period.
- Clarifies that illumination devices shall be effectively shielded so as not to cause glare.
- Vegetation cutting in the public rights-of-way for the purpose of clearing views for signs shall be prohibited unless approved by the City Arborist. Cutting of trees required by the Tree Ordinance that are located in the setback is also prohibited.

Zoning Committee Discussion/Rationale

Debra Campbell stated that since there were concerns about the stakeholder process raised at the public hearing, she wanted to assure the Zoning Committee that the process was not flawed, and mention the fact that the industry representatives did not comprise a majority of the stakeholders. She asked Sandra Montgomery to explain the process to the Committee and address the enforcement issues raised by City Council.

Ms. Montgomery noted that in 2005, Adams Outdoor Advertising and Lamar Advertising met with planning staff to discuss possible text amendments to allow electronic (LED/digital/tri-vision) changeable copy on outdoor advertising signs, among other requests. In response, staff formed a stakeholder group of 33 individuals, of which 14 were associated with the outdoor advertising industry in one way or another. The charge of the stakeholder group was to explore the possibility of change that would benefit residents, add value to the community, and reduce billboard clutter. The final goal of the stakeholder process was to reach a consensus on whether the City should modify the Zoning Ordinance to allow this new technology or not. Consensus was difficult, when stakeholders were highly opinionated on whether they liked billboards, or did not.

By the fifth meeting, a majority of the stakeholders were in favor of permitting LED/digital/tri-vision (electronic changeable copy) billboards. Staff was in agreement, and while the charge of the stakeholder group was to make a recommendation on whether to draft a text amendment or not, staff expanded the role of the stakeholder group to comment on the draft text amendment.

Throughout the review of the draft, Adams and Lamar made many concessions on the development standards, in order to gain the support of all the stakeholders, but there remained a few who were still not in support. Staff informed the stakeholder group that they could submit written minority opinions to Council and the Zoning Committee on any remaining concerns they still had with the draft text amendment. A few stakeholders took advantage of this opportunity.

At the public hearing on the text amendment, City Council asked staff to find out more about the Notices of Violation (NOV's) that were issued against several billboard companies. Ms. Montgomery reported that Adams and Lamar do have some non-conforming digital and tri-vision billboards in Charlotte. They are considered non-conforming because the message changes more than once in 24 hours, according to the Interim Zoning Administrator. Planning and Neighborhood Development agreed to issue NOV's. Two NOV's were issued; one was resolved when the image was frozen to change only once in 24 hours, and the other violation was appealed to the Board of Adjustment. A hearing on this case has not yet been scheduled.

Ms. Montgomery then reviewed the major highlights of the text amendment and compared the development standards for static and digital/LED/tri-vision boards.

She concluded with stating that this text amendment is consistent with adopted policies, and is reasonable, and in the public interest, and summarized how this text amendment will benefit the City:

- Provides more attractive outdoor advertising signs
- Can reduce the number of non-conforming billboards
- Can reduce the size of large non-conforming billboards by up to 44%
- Provides increased spacing between electronic changeable face outdoor advertising signs
- Includes an automatic sensor mechanism that adjusts the intensity of the light throughout day/night
- Perpetuates uncluttered and natural views for enjoyment and environmental enrichment
- Enhances the aesthetic values of the City
- Promotes safety of motorists
- Protects property values
- Promotes economic prosperity, civic pride, and quality of life.

A motion was made by Commissioner Randolph and seconded by Commissioner Loflin, to recommend APPROVAL of this text amendment. The following discussion took place.

One commissioner asked about the process used for Notices of Violations. Ms. Montgomery responded that NOV's are issued by Neighborhood Development and mailed to a violator. The violator is given a specified time to correct the violation. If the violation continues or is not corrected, Neighborhood Development can initiate citations. The initial citation for each violation is \$50.00 and if a second citation is issued, it can be up to \$200.00 per day, and then up to \$500.00 per day, for each day of violation thereafter.

Another commissioner asked if staff had surveyed other communities to see if they allowed electronic changeable face outdoor advertising signs. Ms. Montgomery responded that staff had surveyed 33 cities, Charlotte's size or larger, and that eight (8) permitted electronic changeable face billboards. However, some communities allow them, as a policy interpretation, lumping them with regular billboards, and not distinguishing the different types.

One commissioner asked if staff had researched any communities in Florida, or Charleston and Columbia, as suggested by a City Council member. Ms. Montgomery responded that the survey did not include any cities in Florida. Staff did contact the City of Charleston, however, Charleston does not permit billboards. Staff then contacted the City of North Charleston and spoke to the Planning Director. North Charleston does permit electronic billboards, and currently has 6-7 such billboards. The City only had two complaints received regarding the new technology billboards and they both concerned about the rate of change (every 6-7 seconds). There have been no other complaints.

In Columbia, South Carolina, there are 6 electronic changeable face outdoor advertising signs. The Deputy Zoning Administrator indicated that provisions to allow such billboards were added in 2006. He stated that although the billboards include an automatic light sensor, they are "too bright" at night. During the day, they are hard to distinguish from traditional type billboards.

Ms. Montgomery was asked about the 8 second minimum proposed in this text amendment. She noted that the State currently permits electronic changeable face billboards with a minimum dwell time of 8 seconds. Staff determined that if the State was satisfied with 8 seconds, and could find no studies to the contrary, then the staff is comfortable with a rate of change of 8 seconds minimum.

One commissioner asked about the North Carolina legislation that sets new laws regarding amortization of billboards and how it would affect Charlotte. Ms. Montgomery responded that the language passed by the State will not apply to Charlotte, because there is an exemption for communities that already have an amortization policy in place their ordinances.

Another commissioner was concerned about the brightness of the electronic billboards at night and stated that they were hesitant to permit them without more control of the light pollution. The commissioner asked staff to request Adams and Lamar provide examples from other communities of lumination restrictions, other than the automatic sensor dimmer. How far will the halo of electronic billboards reach? What other regulations can be incorporated into the text amendment to ensure there will be no adverse affects on adjacent development? How can the City enforce its existing standards?

A discussion ensued on whether a deferral of this text amendment would be appropriate.

Ms. Montgomery stated that the text amendment is consistent with adopted plans and policies, and is reasonable, and in the public interest, and that staff is supportive of the amendment.

Statement of Consistency

Upon a motion made by Commissioner Johnson and seconded by Commissioner Randolph, the Zoning Committee unanimously found this text amendment to be consistent with adopted plans and policies, and to be reasonable, and in the public interest.

Vote

Upon a substitute motion made by Commissioner Lipton and seconded by Commissioner Johnson, the Zoning Committee unanimously voted to defer the text amendment to the September 26, 2007 Zoning Committee meeting.

Staff Opinion

Staff agrees with the recommendation of the Zoning Committee.