

# FAIRMONT CITY COUNCIL WORK SESSION

February 26, 2023, 4:30 p.m.

City Hall Council Chambers, 100 Downtown Plaza

**Topic: Sign Code Regulations and Enforcement**

## AGENDA

1. Discussion of Sign Code Regulations and Enforcement

### **Note from Planner & Zoning Official Peter Bode:**

Staff have scheduled a Work Session to update Council on an item of concern and to allow for preliminary Council discussion and guidance.

Signs are a common feature of development in cities. Oftentimes signs are used for business advertisement, which is most common in commercial and industrial zones. Regulations around signs typically cover whether they are allowed in a certain zone, how many there can be, how large they can be, and their location. During election season it is traditional for non-commercial signs to be placed in a residence's front yard to display political or social messages. In fact, M.N. Statute protects these non-commercial yard signs during election seasons.

City staff received a complaint related to non-commercial signs placed in residential neighborhoods outside of election season. These signs were described by the complainant as offensive due to size, number, content thus negatively affecting the character of the neighborhood. Following the complaint, City staff took the following steps:

- Staff reviewed City Code to determine whether these signs were allowable by the Sign Ordinance. Apart from small residential nameplate signs, non-commercial signs are not allowable in residential zones except during a defined election season described below.
- Staff surveyed neighborhoods throughout town to understand the general extent of signs displayed within residential neighborhoods. Several residential properties now host signs which are not allowable by Fairmont's Sign Ordinance and are not protected by State Statute protecting non-commercial signs during an election season.
- Staff asked the City Attorney for an opinion on if Fairmont's Sign Ordinance is enforceable in residential neighborhoods. The Ordinance can be enforced as it is related to the number of signs allowable, the size of signs allowable, and the location of signs.

The City may not enforce sign regulations by considering the content or speech contained on the sign.

Generally, signs are only allowable in business and industrial zones. In residential zones, only small nameplate signs indicating a household's name is allowable. Anything larger than a nameplate sign is typically prohibited by the sign code in order to preserve the residential character of neighborhoods. This ensures that the residential neighborhoods in which we live are not saturated with business advertisements.

The First Amendment of the U.S. Constitution protects free speech. In effect, this means the City can regulate the number of signs, the size of signs, and the location of signs. The City cannot regulate or take actions against a sign based on its content or speech. Additionally, M.N. Statute protects non-commercial signs 46 days before a primary election until 10 days after the following general election during election years. Any Sign Ordinance enforcement for these signs must cease starting on June 28, 2024 and running through November 15, 2024.

Staff is asking for general City Council direction on the priority of this issue and how it would like staff to proceed. Because of the potential for significant conflict and controversy, staff would like full support of Council in order to take action against these non-commercial signs in residential neighborhoods. Staff can also research more closely any questions Council has and report back.

Options are as follows:

1. **Take steps to enforce the City's Sign Ordinance across residential neighborhoods.** Staff will drive all residential neighborhoods, take note of all signs which are not allowable by the Ordinance, and enforce the Ordinance without regard to content. The benefit of this approach is that it will be consistently applied across the city. This will require significant staff time. Staff will move in this direction with full support of Council.
2. **Enforce the City's Sign Ordinance upon receiving a complaint.** Staff will receive complaints related to signs in residential neighborhoods, conduct inspections in response, and take any steps necessary to enforce the Ordinance without regard to content. This approach increases the potential for bias because staff will only respond to specific complaints from individuals. This will require moderate staff time. Staff will move in this direction with full support of Council.
3. **Explore an amendment to the Sign Ordinance which increases the number of signs allowed in residential neighborhoods and then eventually enforce the Ordinance as presented in options 1 and 2.** Staff will prepare an amendment which would allow one or more signs on residential lots. This option may show that the City is open to allowing these signs in residential neighborhoods. This approach would not eliminate the need to conduct enforcement action where signs are not in conformance with the code that is

eventually developed, however, it would provide a less intrusive avenue for political speech in a residential area which is not allowed today. This approach will open up residential neighborhoods to business advertisements because the City cannot limit the content of signs. At this time, residential neighborhoods are generally free of business advertising signs. Any amendment would start with discussion and a public hearing at Planning Commission, allowing for the public to provide opinions on the topic and thus providing more information for Council to ultimately make a decision. This will require significant staff time. Staff will move in this direction with full support of Council.

4. **Take no action at this time and ask staff to research specific topics.** Council can ask staff to research specific questions and topics related to the issue. Staff will do so and report back to Council so that Council can make a more informed decision. This will require moderate staff time.
5. **Take no additional steps to enforce the Sign Ordinance for non-commercial signs in residential neighborhoods.** Staff received one complaint and have not identified either a mass of public concern or a major zoning problem in residential neighborhoods. Staff can always bring the issue back to Council if conditions change related to non-commercial signs in residential neighborhoods. This will require little staff time.

Some concepts Council could discuss and weigh include:

- The need or lack of to take action on this issue
- Prioritization of staff time
- Allowing for a cultural shift away from signs being confined to an election “season” to all the time. Does the strict, no signs allowed rules in place today reflect values of the community? Should some increase of the number of signs in residential areas be considered?
- Potential for controversy and conflict for or against these signs, and any action or non-action taken
- Protecting the right to free speech by not targeting specific content
- Maintaining residential neighborhoods as a refuge from business advertisement