



DEVELOPMENT DEPARTMENT REPORT

The agenda request before the City Council is an Ordinance amending the Land Development Code Chapter 13 on signs and pertaining to the definition of vehicle sign. The agenda request is before the City Council because the Land Development Code (LDC) § 3.06.01.1 provides the Land Development Review Board (LDRB) shall recommend to the city council the adoption of ordinances promoting orderly development in conformance with the adopted Comprehensive Plan and at their June 4th, 2020 special meeting the LDRB recommended the Council adopt this Ordinance.

I. BACKGROUND

Land Development Code (LDC) Chapter 13 addresses signs. The Code Enforcement Division reports it recently has had issues with the enforcement of vehicle signs. LDC § 13.02.00 defines a vehicle sign as “a sign attached to or placed on a vehicle, including automobiles, trucks, boats, campers, and trailers which is parked on or otherwise utilizing a public right-of-way, public property or on private property so as to be intended to be viewed from a vehicular right-of-way for the

basic purposes of providing advertisement for products or services or directing people to a business or activity. This definition is not to be construed to include those signs that identify a firm or its principal products on a vehicle, unless such vehicle is parked in such a manner that it is intended to provide advertisement of products or services or to direct people to a business or activity, or such advertising devices as may be attached to and within the normal unaltered lines of the vehicle of a licensed transit carrier, when and during that period of time said vehicle is regularly and customarily used to traverse the public highways during the normal course of business.”

LDC § 13.02.00 defines a sign as “any surface, device, fixture, placard, fabric, or structure which bears colors, letters, figures, designs, symbols, trademarks, reflecting or illuminating devices, including forms shaped to resemble any human, animal or product, architectural style or design with text, or writing to advertise, attract attention, announce the purpose of, identify the purpose of any person or entity or to communicate or convey information of any kind to the public and is visible from an abutting property, public right-of-way, or body of water and which is not artwork as defined herein or architectural detail as defined herein. The term does not include wayfinding, directional, hazard and traffic control devices and similar signs required or installed by a government agency on private property or notices required to be posted by law or ordinance on private property.”

LDC § 13.02.00 defines a vehicle or vehicles as “automobiles, trucks, trailers, construction equipment and other such mobile equipment whose major purpose is other than the display of advertising.” It should be noted that this vehicle definition is different than the vehicle definition in LDC Chapter 2 on Definitions. That chapter defines vehicle as “Any self-propelled vehicle (excluding recreation vehicles, watercraft vehicles, and trailers) which is designed for use upon a public roadway or highway.” Notwithstanding, the vehicle definition is LDC Chapter 13

prevails over the definition in LDC Chapter 2 because it is more specific and intended to apply to signs.

The specific enforcement problems pertain to the language used to address what types of signs are not to be construed as vehicle signs. The intent of that language was to allow businesses to place a sign on a vehicle that is used in the everyday course of its business and, when not in use, is parked on the premises. This language, however, was vague and didn't address such issues as:

- A vehicle with a sign used in the everyday business but the vehicle is oversized as related to the business and the vehicle is predominately parked on the premises as opposed to being off-premises. For example, an insurance agency only needs a car to travel to and from its clients but has a box truck with signage that is predominantly parked on the premises.
- A vehicle with a sign used in the everyday business but the vehicle is not registered or has an expired tag.

Attachment A includes four (4) different photographs that provide examples of vehicle signs where the vehicle has little relationship to the business. In order to improve the City's Code Enforcement efforts and avoid these types of signs, there is a need to add more specificity as to what is and is not allowed. The proposed Ordinance amends the definition of vehicle sign and adds eight (8) characteristics that create a rebuttal presumption that sign is an illegal vehicle sign.

II. PROPOSED ORDINANCE

Attachment B is an Ordinance (*Ordinance No. 2020-2190*) of the City of New Port Richey, Florida amending Section 13.02.00 of Chapter 13 of the Land Development Code, pertaining to definitions used in said

chapter pertaining to signs; providing for amendment to the definition of vehicle sign; providing for severability; providing for repeal of ordinances in conflict herewith; providing for codification; and providing an effective date.

III. DATA & ANALYSIS

Land Development Code § 5.04.03 requires the staff report address, and the Land Development Review Board and City Council consider, two guidelines when making a recommendation on a LDC amendment: the need and justification for the change, and whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC.

A. Section-by-section analysis. The Ordinance contains one (1) substantive section and four (4) procedural sections (conflicts, severability, codification, and effective date). This part of the staff report addresses the substantive change in Section 1.

1. *Section 1.* This section amends LDC § 13.02.00 on vehicle signs. It provides that a vehicle sign shall be presumed to exist if it exhibits one or more of the following eight (8) characteristics:

- The vehicle is unregistered or inoperable;
- The vehicle is parked within 35 feet of the nearest public right-of-way (to encourage vehicles to be parked at the rear and not the front of the business);

- The vehicle is located perpendicular to the nearest public right-of-way (as opposed to being located horizontally so the sign is less visible);
 - The vehicle is located in substantially the same location on two occasions at least seven (7) days apart in any 90 day period;
 - The vehicle is the only one of its size and type located on the premises;
 - The vehicle is not one customarily used in the business;
 - The vehicle is not parked in a parking area; and
 - The vehicle is altered in a manner that makes it a sign.
- a. The need and justification for the change. There is a need for minimizing the number of signs that are allowed. The justification is that excessive signage creates an aesthetically unpleasant and distracting environment which can lead to driver distraction and a potential danger to the public safety.
- b. Whether the proposed amendment implements or is consistent with the Comprehensive Plan, whether it is consistent with or implements other federal and state laws, and whether the proposed change is internally consistent with and furthers the purposes of the LDC. This change is consistent with and furthers the purposes of the LDC by protecting the public safety and enhancing the public welfare by avoiding roadside signage clutter.

Based on the above findings, it is concluded this subsection is consistent with LDR § 5.04.03.

B. Public notice. Florida Statutes § 166.041(2) provides each ordinance shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. The Department finds the proposed Ordinance is in writing and it embraces a single subject, an amendment pertaining to signs (See Attachment A).

Florida Statutes § 166.041(3) provides a proposed ordinance may be read by title, or in full, on at least 2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

The proposed Ordinance has been noticed in the Tampa Bay Times, a newspaper of general circulation within the City of New Port Richey, and a copy of the LDRB proof of publication is included within the May 21st, 2020 LDRB agenda package. The notices state the date, time and place of the LDRB meeting, the ordinance title, where the ordinance can be inspected, and advises that interested parties may appear at the meeting and be heard.

The Department will notice the June 16th, and July 7th, 2020 City Council meetings after the LDRB meeting.

IV. ATTACHMENTS

Attachment A: Photographic Examples of Vehicle Signs

Attachment B: Proposed Ordinance

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Department Report, the following findings of fact and conclusions of law are offered:

- A. The Land Development Code (LDC) definition of vehicle sign is vague and is difficult to enforce.
- B. The proposed Ordinance addresses vagueness by providing eight (8) criteria or characteristics to help determine whether a vehicle sign exists.
- C. The proposed Ordinance has been reviewed for consistency with Land Development Code § 5.04.03 and the Department concludes the Ordinance is consistent with that Section because the need, the justification, and conformance to applicable laws was established.
- D. The Ordinance has been properly noticed.

VI. ALTERNATIVE ACTIONS

The LDRB has one of the following alternative actions at its disposal:

- A. Enter the Development Department Report and all competent substantial evidence presented at the hearing into the record and forward the record to the City Council with a recommendation the Ordinance be adopted as submitted.
- B. Enter the Development Department Report and all competent substantial evidence presented at the hearing into the record, amend the record to support changes, and forward the record to the Council with a recommendation the Ordinance be adopted with changes, such as:
 - 1. Amend the definition of vehicle sign in Chapter 2 to make clear the definition of vehicle in Chapter 13 prevails when referring to vehicle signs; or
 - 2. Repeal the characteristic that a vehicle sign is presumed to exist if it is located within 35 feet of the nearest public right-of-way.
- C. Enter the Development Department Report and all competent substantial evidence presented at the hearing into the record and forward the record to the Council with a recommendation the Ordinance be denied because the City is excessively regulating vehicle signs.
- D. Enter the Development Department Report and all competent substantial evidence presented at the hearing into the record and forward the record to the Council with a recommendation the Ordinance be continued until such time as additional information is brought back to support the adoption of the Ordinance.

VII. RECOMMENDED ACTION

- A. Recommendation. The Development Department Director recommends LDRB enter the Development Department Report and all competent substantial evidence presented at the hearing into the record and forward the record to the City Council with a recommendation the Ordinance be adopted as submitted.

- B. LDRB recommendation. At their duly noticed May 21st, 2020 public hearing, the LDRB continued this agenda request to their duly noticed June 4th, 2020 public hearing.

- C. City Council action. This Ordinance is scheduled for first reading before the City Council at their duly noticed June 16th, 2020 public hearing and for second reading and adoption at their duly noticed July 7th, 2020 public hearing.

ATTACHMENT A
PHOTOGRAPHIC EXAMPLES OF VEHICLE SIGNS



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