

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
9/8/2015

SUBJECT:	SUBMITTED BY:
Sign Ordinance Text Amendments	Stan Popovich, AICP Planning Manager

SYNOPSIS

A motion has been prepared to waive the first reading to approve an ordinance adopting a text amendment to Article 9 of the Downers Grove Zoning Ordinance. An ordinance has been prepared to amend Article 9, Signs, of the Zoning Ordinance to include a substitution clause and a severability clause.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 include *Exceptional Municipal Services*

FISCAL IMPACT

n/a

RECOMMENDATION

Approval on the September 8 active agenda per the Plan Commission's unanimous 5:0 recommendation. The Plan Commission discussed this petition at a special September 3, 2015 meeting. The Plan Commission found that the proposed text amendments are compatible with the Comprehensive Plan and meet all the standards for approval of a Zoning Ordinance Text Amendment found in Section 28.12.020.

BACKGROUND

The Village is requesting two amendments to the Sign Ordinance in light of the recent Reed v. Town of Gilbert, 135 S. Ct. 2218 (2015) decision of the U.S. Supreme Court. As background, the Reed case involved non-commercial sign regulations which incorporated different rules and sign regulations based upon the type of non-commercial message being conveyed (religious vs ideological vs political). The U.S. Supreme Court declared that this differentiation rendered the non-commercial sign restrictions to be content-based speech regulations subject to strict scrutiny. Strict scrutiny is the most stringent standard of judicial review used by U.S. courts. The Village's non-commercial portion of the Sign Ordinance possesses some similarities to the Town of Gilbert's regulations.

In order to protect the Village's Sign Ordinance from constitutional challenges to the non-commercial sign regulations, staff is recommending the inclusion of a substitution clause and a severability clause as noted below. The adoption of these clauses will help protect the sign ordinance from constitutional challenges, while allowing the Village an opportunity to review the entire sign ordinance in upcoming months.

Substitution Clause

A substitution clause would permit non-commercial copy to be substituted in place of any commercial copy. The Village is recommending the following substitution clause be added to the Sign Ordinance:

Sec. 9.010.E No Discrimination Against Non-Commercial Signs Or Speech.

The owner of any sign which is otherwise allowed under this Article 9 may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a parcel or allow the substitution of an off-site commercial message in place of an on-site commercial message.

Severability Clause

A severance clause provides that if any provision of the ordinance is found to be invalid, the remainder of the ordinance stands on its own and is still valid. The State of Illinois has a general severance provision within 5 ILCS 70/1.31 and the Downers Grove Zoning Ordinance also has a general severability provision in Section 1.130. A specific severance clause in the Sign Ordinance will show that the Village has a specific intent that the commercial sign regulations can and should stand on their own and be severed from non-commercial speech regulations if the non-commercial speech regulations are deemed unconstitutional by a court. The Village recommends adding the following severance clause to the Sign Ordinance:

Sec. 9.130 Severability.

If any portion of this Article 9 or any regulation contained herein is held to be invalid or unconstitutional by a court of competent jurisdiction, it is the Village's specific legislative intent that said portion or regulation is to be deemed severed from this Article 9 and should in no way affect or diminish the validity of the remainder of Article 9 or any other sign regulation set forth herein.

Public Comment

One speaker at the September 3 Plan Commission meeting stated general opposition to the Sign Ordinance.

The proposed text amendments are consistent with the Comprehensive Plan and meet the review and approval criteria set forth in Section 28.12.020 of the Zoning Ordinance.

ATTACHMENTS

Ordinance

Staff Report with attachments dated September 3, 2015

Draft minutes of the Plan Commission meeting dated September 3, 2015

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney DATE: September 8, 2015
(Name)

RECOMMENDATION FROM: _____ FILE REF: _____
(Board or Department)

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to waive the first reading of an ordinance to adopt a text amendment to Article 9 of the Downers Grove Zoning Ordinance.



SUMMARY OF ITEM:

Adoption of the attached motion will waive the first reading of an ordinance to adopt a text amendment to Article 9 of the Downers Grove Zoning Ordinance.

RECORD OF ACTION TAKEN:
