

**Date** June 23, 2014

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding a definition of window sign and deleting the definition of video display in Section 134-3; by amending paragraph (7) of subsection (i) and paragraph (9) of subsection (j) of Section 134-1276; by adding a new paragraph (10) to subsection (j) of Section 134-1276; by amending Section 134-1277; and by amending subsection (e) of Section 134-1352, regarding the allowed operation, size and location of electronic signs and multi-vision display signs and the use of conversion credits earned by the removal of an off-premises advertising sign",

which was considered and voted for the first time upon under Roll Call No. 14-0793 of May 19, 2014, and then amended to:

- Add a new subsection (d) to Section 134-1277 regarding the allowed operation of existing electronic signs under 24 square feet in area;
- Add a new subsection (e) to Section 134-1277 reserving the right to change the operational standards for all new electronic signs; and,
- Change the effective date in Section 134-1352(e) for the application of the new limitations on the use of conversion credits earned by the removal of an existing off-premises advertising sign;

and considered and voted upon for the second time under Roll Call No. 14-0881 of June 9, 2014; again presented.

MOVED by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO: \_\_\_\_\_

FORM APPROVED:

  
 Roger K. Brown, Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
<b>TOTAL</b>				

MOTION CARRIED APPROVED

\_\_\_\_\_  
 Mayor

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
 City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by adding a definition of window sign and deleting the definition of video display in Section 134-3; by amending paragraph (7) of subsection (i) and paragraph (9) of subsection (j) of Section 134-1276; by adding a new paragraph (10) to subsection (j) of Section 134-1276; by amending Section 134-1277; and by amending subsection (e) of Section 134-1352, regarding the allowed operation, size and location of electronic signs and multi-vision display signs and the use of conversion credits earned by the removal of an off-premises advertising sign.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, be and is hereby amended by adding a definition of window sign and deleting the definition of video display in Section 134-3; by amending paragraph (7) of subsection (i) and paragraph (9) of subsection (j) of Section 134-1276; by adding a new paragraph (10) to subsection (j) of Section 134-1276; by amending Section 134-1277; and by amending subsection (e) of Section 134-1352, regarding the allowed operation, size and location of electronic signs and multi-vision display signs and the use of conversion credits earned by the removal of an off-premises advertising sign, as follows:

**Sec. 134-3. Definitions.**

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Sign, window means a sign within a building which is located and placed so as to evidence an intent for the sign to be viewed from a public right-of-way.

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~~Video display~~ means an electronic display sign upon which multiple color pictures or graphics are displayed in a series of frames which give the illusion of motion. This definition includes, but is not limited to, television screens, plasma screens, LED screens and holographic displays used to display video images.

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**Sec. 134-1276. General regulations.**

.....

(i) *Signs permitted in all zones.* The following designated signs shall be permitted in all zoning districts:

.....

(7) *Window signs.* Such signs which are displayed inside a window or within a building. However, an electronic display sign shall not be used as a window sign, and neon window signs shall be permitted only in those districts where neon signs are permitted.

.....

(j) *Prohibited signs.* The following designated signs shall be prohibited in all zoning districts:

.....

(9) ~~*Video display signs.*~~ Electronic display signs and multi-vision signs which do not conform with the operational standards in section 134-1277.

(10) Electronic display signs used as window signs in violation of section 134-1277.

.....

**Sec. 134-1277. Regulation of electronic signs.**

(a) Any sign utilizing an electronic display or multi-vision display more than 24 square feet in area must meet the following operational standards:

(a1) *Display Type.* No such sign shall display multiple pictures or graphics in a series of frames which give the illusion of motion or video, including but not limited to television screens, plasma screens, LED screens and holographic displays used to display video images.

(2) *Duration.* The display area and each portion thereof must be static for at least 8 seconds between any change in the message displayed display.

(b3) *Transition.* The change between static messages-displays must be instantaneous.

(e4) *Brightness.* No lighting shall be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any street, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle. In no event may such a sign exceed a maximum illumination of 5,000 candelas per square meter during daylight hours and a maximum illumination of 500 candelas per square meter between dusk to dawn as measured from the sign's face at maximum brightness.

(d5) *Dimmer control.* Electronic display signs must have an automatic dimmer control to automatically reduce the illumination at night and during times of reduced ambient light.

(e6) *Separation from Residential.* No such sign shall be permitted within 100

feet of (i) any lot in an R district which either is used for residential purposes or is vacant, or (ii) any portion of a PUD district devoted to single- or two-family use.

- (7) Window signs. An electronic display sign shall not be used as a window sign.
- (b) Any on-premises advertising sign utilizing an electronic display or multi-vision display shall be a monument sign and no more than 24 square feet of the allowed sign area shall be utilized for the electronic or multi-vision display.
- (c) The duration and transition standards set forth in this section shall supersede any more restrictive duration and transition requirements applicable to any electronic or multi-vision sign previously permitted.
- (d) Transitional provisions. In lieu of the operational requirements under paragraphs (1), (2) and (3) of subsection (a) above, electronic signs under 24 square feet in area which were placed into use prior to June 1, 2014, under authority of a sign permit shall be subject to the following requirements until June 1, 2024, or such earlier time as the electronic components of the sign are replaced. This shall not prevent the replacement of individual components as part of normal maintenance of the sign.
- (1) No such sign shall display multiple pictures or graphics in a series of frames which gives the illusion of motion or video, except as allowed below:
- i) Such signs may be used to display a series of images consisting of pictures, graphics, text or a combination thereof, provided that the entire display is static for at least two seconds between changes of image, and the change of images is instantaneous.
- ii) Such signs may be used to display text that scrolls in one direction (vertically or horizontally) at a rate that is legible to the average person. Any change in the direction of scrolling shall be separated by an intervening display of a static image for at least two seconds. The scrolling text can be combined with a background image that is static for at least two seconds between changes, and instantaneously changes between images.
- (e) Operational standards subject to future change. The city reserves the right to amend the operational standards for the use of electronic signs placed into use after June 1, 2014, regardless of size. Issuance of a permit for an electronic sign shall not be construed as establishing a right for continued operation of the sign in accordance with the operational standards then in effect. No permit shall be issued for a new electronic sign without a written acknowledgment by the owner or tenant of the premises that they have received notice that the future use of the sign is subject to the applicable operational standards, as amended from time to time.
- (f) Statement of intent. The amendments to this section are intended to clarify the prohibition on video display signs imposed by Ordinance No. 14,668, effective July 23, 2007, and the interpretation thereof that any electronic sign which does

not comply with paragraphs (a)(1), (a)(2) and (a)(3) above is a prohibited sign.

**Sec. 134-1352. Use of land, use of structures and structures in any R district.**

.....

(e) *Conversion of non-conforming off-premises advertising signs.* An off-premises advertising sign which lawfully exists at the effective date of the ordinance adopting or amending this chapter, that could not be built under the terms of this chapter because of the district in which such sign is located or the lack of required separation from another sign, district or use, may be converted to use an electronic display or multi-vision display only under the following circumstances:

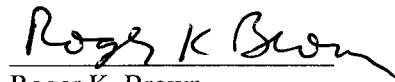
- (1) The owner of an existing lawful conforming or non-conforming off-premises advertising sign may apply to the community development director for a conversion credit for the removal of that sign. The application shall be approved and a conversion credit allowed for the removal of the existing lawful off-premises advertising sign if the following conditions are satisfied:
  - i. The sign and the entire supporting structure above grade are subsequently removed; and,
  - ii. The parcel from which the sign was removed cannot again be used for the placement of an off-premises advertising sign by reason of the district or corridor in which it is located; the lack of required separation from another district; or the recording of a restrictive covenant in a form approved by the city legal department that prohibits the use of the parcel for off-premises advertising.
- (2) If a conversion credit is allowed, the amount and usage of the conversion credit to be allowed shall be as follows:
  - i. One credit shall be ~~allowed~~ earned for each sign face on the removed sign structure that was at least 600 square feet in area; ~~and,~~
  - ii. One-half credit shall be ~~allowed~~ earned for each sign face on the removed sign structure that was at least 300 square feet in area, and less than 600 square feet in area; ~~and,-~~
  - iii. Any conversion credit earned after June 1, 2014, shall be used for the conversion of an existing sign located in and designed to be viewed from the same gateway or scenic corridor or street as the removed sign structure.
- (3) An applicant for a permit to convert an existing non-conforming sign structure to a sign structure using an electronic display or multi-vision display shall relinquish previously earned conversion credits in the amounts set forth below for each sign face on the converted sign structure converted to an electronic display or multi-vision display. The total area utilized for an electronic display or multi-vision display on each face of the sign shall be no larger than the area of the previously existing sign face.

Size of electronic display <u>or multi-</u> <u>vision display</u> <del>face</del> placed on the converted sign structure:	Number of conversion credits to be relinquished for that sign face:
over 600 square feet	1.0 conversion credit
at least 300 square feet and less than 600 square feet	0.5 conversion credits

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Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Roger K. Brown  
Assistant City Attorney

14-0881  
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★ Roll Call Number

14-0792

Agenda Item Number

~~39~~

Date May 19, 2014

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BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that upon consideration of the facts, statements of interested persons and arguments of counsel, the objections to said proposed amendments to the Zoning Ordinance be and the same are hereby overruled, and the hearing closed.

MOVED by Gray to approve the first reading of the ordinance and refer back to the City Manager and Legal Department to provide an amended ordinance for second reading concerning 24 square feet or smaller signs and definition changes for video, animation and image duration consistent with the discussion at the meeting.

FORM APPROVED:

Roger K Brown  
Roger K. Brown, Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED APPROVED  
T. M. Franklin Mayor

CERTIFICATE


I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh

City Clerk

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 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> June 9, 2014
	<b>Agenda Item No.</b> 48 <b>Roll Call No.</b> [ <del>14-0851</del> ] <b>Communication No.</b> <u>14-753</u> <b>Submitted by:</b> Phillip Delafield, Community Development Director

**AGENDA HEADING:**

Second reading on proposed amendment to the Zoning Ordinance regarding the allowed operation, size and location of electronic signs and multi-vision display signs and use of conversion credits earned by the removal of an off-premises advertising sign.

**SYNOPSIS:**

The proposed ordinance has been revised to create separate operational standards for electronic sign under 24-square-feet in area which were placed in use prior to June 1, 2014, under the authority of a sign permit. The operational standards for these signs would be applicable until June 1, 2024 or such earlier time as the electronic components of the sign are replaced. Electronic signs which are placed in use after June 1, 2014 under the authority of a sign permit shall comply with the existing operational standards for electronic signs that have existed since 2007 regardless of the size of the sign. In addition, the proposed ordinance has also been revised to state the City reserves the right to amend the operational standards for the use of all electronic signs placed into use after June 1, 2014, regardless of size. Issuance of a permit will require written acknowledgement from the owner of tenant of the premises that they have received notice that the future use of the sign is subject to the applicable operational standards, as amended from time to time.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

On May 19, 2014, the City Council approved first reading of the proposed ordinance and directed staff to prepare a revision to the ordinance to allow existing electronic signs under 24 square feet in area which were placed in use prior to June 1, 2014, under the authority of a sign permit, to continue use at a modified operational standard for a period of time. Staff met with sign owners and representatives of the Merle Hay and Beavertdale Neighborhood Associations on June 3, 2014. As a result of that meeting the following transitional provisions are proposed:

*Section 134-1277(d)*

*Transitional provisions. In lieu of the requirements under paragraphs (1), (2) and (3) of subsection (a) above, electronic signs under 24 square feet in area which were placed in use prior to June 1, 2014, under authority of a sign permit shall be subject to the following requirements until June 1, 2024, or such earlier time as the electronic components of the sign are replaced. This shall not prevent the*



*replacement of individual components as part of the maintenance of the existing sign.*

*(1) No such sign shall display multiple pictures or graphics in a series of frames which gives the illusion of motion or video, except as allowed below:*

- i) Such signs may be used to display a series of images consisting of pictures, graphics, text or a combination thereof, provided that the entire display is static for at least two seconds between changes of image, and the change of images is instantaneous.*
- ii) Such signs may be used to display text that scrolls in one direction (vertically or horizontally) at a rate that is legible to the average person. Any change in the direction of scrolling shall be separated by an intervening display of a static image for at least two seconds. The scrolling text can be combined with a background image that is static for at least two seconds between changes, and instantaneously changes between images.*

Staff is concerned about the number of new electronic signs that may be permitted and placed in operation over the next three (3) years while staff works on the Comprehensive Plan and Zoning Code Update. It is likely that more stringent regulation of electronic signs may be proposed as a result of that project. Staff believes that a prohibition of new electronic signs would require referral of the ordinance back to the Plan and Zoning Commission. Therefore, electronic signs permitted and placed in operation after June 1, 2014 will be subject to the existing operational standards of 134-1277 that were adopted in 2007 (8 seconds between messages, instantaneous change, etc.) regardless of the size of the sign. Staff also proposes that the ordinance be amended to include the following language for new electronic signs that are placed in use after June 1, 2014 under authority of a sign permit:

*Section 134-1277(e)*

*Operational standards subject to future change. The city reserves the right to amend the operational standards for the use of electronic signs placed into use after June 1, 2014, regardless of size. Issuance of a permit for an electronic sign shall not be construed as establishing a right for continued operation of the sign in accordance with the operational standards then in effect. No permit shall be issued for a new electronic sign without a written acknowledgment by the owner or tenant of the premises that they have received notice that the future use of the sign is subject to the applicable operational standards, as amended from time to time.*

The ordinance has also been amended to change the effect date in Section 134-1352(e) for the application of the new limitations on the use of conversion credits earned by the removal of an existing off-premises advertising sign. This change is required to properly reflect the action of the City Council on April 21, 2014, by Roll Call No. 14-0657, granting an application by Clear Channel Outdoor for relief from the moratorium on electronic signs. By that action, the City Council approved the issuance of a conversion credit for use in accordance with the existing regulations for the removal of the off-premises advertising sign then existing at 1300 Keosauqua Way. That sign was removed prior to June 1, 2014. The effective date for the new limitations on the use of conversion credits was delayed to June 1, 2014, to allow the conversion credit earned by the removal of the sign at 1300 Keosauqua Way to be used in accordance with the existing regulations as provided by Roll Call No. 14-0657. At this time there are a total of three (3) outstanding conversion credits, all of which are held by Clear Channel Outdoor.

**PREVIOUS COUNCIL ACTION(S):**

Date: May 19, 2014

Roll Call Number: 14-0792 and 14-0793

Action: On proposed amendment to the Zoning Ordinance regarding the allowed operation, size and location of electronic signs and multi-vision display signs and use of conversion credits earned by the removal of an off-premises advertising sign. Moved by Gray to approve the first reading of the ordinance and refer back to the City Manager and Legal Department to provide an amended ordinance for second reading concerning 24 square feet or smaller signs and definition changes for video, animation and image duration consistent with the discussion at the meeting. Motion Carried 7-0.

(A) First consideration of ordinance above. Moved by Gray that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

Date: April 21, 2014

Roll Call Number: 14-0657

Action: Granting the request on conversion credits for the removal of existing off-premises advertising signs, to allow a credit to be earned for the removal of the sign at 1300 Keosauqua Way. Moved by Hensley to adopt and approve the application for relief from the moratorium. Motion Carried 7-0.

Date: April 7, 2014

Roll Call Number: 14-0575

Action: Setting date of hearing on proposed amendment to the Zoning Ordinance to further regulate the operation and allowed location of electronic signs, and imposing a temporary moratorium on the approval of new electronic signs, (5-19-14). Sponsors: Mayor Cownie and Council Member Bill Gray. (Council Communication No. 14-158) Moved by Gray to adopt; refer to the City Manager to include this topic on the April 21st Council workshop agenda. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Board: Plan and Zoning Commission

Date: May 1, 2014

Resolution Number: 10-2014-5.02

Action: Approval of the original text amendment and for creation of a sign taskforce by a vote of 7-5.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Third reading of the proposed ordinance on June 23, 2014.

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For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).