



February 12, 2021

City of Glendale  
Business Council Committee

Dear Councilwoman Clark,

WeSERV Association of REALTORS® appreciates the opportunity to discuss the draft updates to the Glendale City Sign Ordinance. At the last meeting you asked for additional input on several items. Unfortunately, I will be unable to attend the upcoming meeting due to a conflict with a WeSERV Government Affairs governance meeting, but I wanted to provide you the input you requested.

WeSERV believe signs are more properly treated as free speech rather than land use since they are a form of communication. The Courts have held that sign ordinance restrictions must be narrowly tailored, serve a compelling government interest, and be content neutral.

For example, the Courts have questioned the government's compelling interest, as well as the practicality, of limiting signage to one side of a building when it faces more than one street or parking lot. They have also questioned the government's compelling interest in limiting signage within a complex, particularly building wall signage and interior complex directory signage.

Sign permits in most instances appear to infringe on free speech/expression. We recognize the necessity of proper construction and maintenance, particularly of large and illuminated signage, but those concerns are best addressed in the building/construction codes.

When considering signage for Multi-Tenant and multi-story buildings, attention should be given to the ability of the property owner to provide signage to each tenant on monument and wall signs.

When the City of Surprise updated its sign ordinance, it provided for different types of monument signs so that even in large retail, industrial, office and medical complexes the property owner could offer monument signage to each tenant. The City of Surprise provides an avenue for property owners to mix and match various monument sign types to meet the needs of their tenants. Our commercial real estate members have told me the ability to provide each tenant signage has become a great tool for property owners to attract long term lessees. In fact, the ability to have her office name on a monument sign, as well as have a wall sign, was a major factor in Representative Lesko's selection of office space.



At the last meeting Councilwoman Clark asked us to consider the topic of sign proliferation. Whether you call it sign proliferation or sign clutter, the topic at hand is large numbers of temporary and permanent signs that sometimes impact the ability of pedestrians, bicyclists and vehicle traffic to traverse safely and given a large enough quantity, make an area look jumbled and confusing.

Businesses and service providers with adequate, visible and legible signage have little need for additional signage except during special events. Their customers and potential customers can easily identify the business or service location and find their way efficiently.

WeSERV suggests one tool the City can use is to establish *minimum* sign sizes based on the science of the visual arc. Individual's sight lines fall within a cone or arc. Depending on the persons travel modality (walking, driving, etc.), the location (interior of complex, 6 lane roadway, rural environment, etc.), and the location of the signage, that visual arc or cone changes. As people grow older that arc changes and illumination becomes more significant. The need for various font sizes and types changes depending on the look, feel, branding, and audience being attracted. In an aging population, signage may need to be larger, allow for larger fonts, or allow some illumination.

The distance from the roadway a building sign or monument sign is, will be a major factor in determining an adequate sign size. Small, unseen signs set back a long distance from the roadway is one reason business and service providers resort to additional signage of their own.

While the Courts have held the sign ordinance cannot tamper with a business or service's branding (logo, colors, shape, etc.), it is also important to allow various signage types, sizes and locations so that accommodation may be made for all the demands of a sign in any particular location. For example, the building wall sign needs of a single-story building will be different than the needs of a two-story building or a building 5 stories or taller.

It is important a business or service be able to identify itself through signage by its name, not a general category. For example: Joe's Barber Shop vs. Barber, Banner Hospital vs. Hospital, ABC Realty vs. Real Estate.

Wayfinding or Directional signage is important prior to making a turn into a subdivision or business/service complex so that travelers have time to change lanes or cross the street in a safe manner preparatory to entering the business or service location. It is also important once one has entered the complex to provide easily seen and understood directional signage so that patrons and vendors can easily and efficiently arrive at their intended destination.

Many businesses and services utilize window signage to attract and retain customers and clients. It is inexpensive, effective and can be festive. Window signs can be placards, thin film media adhering to the window surface, painted, or other media.

Remember when visiting businesses and service providers during Holidays was made more fun by seeing how they had decorated their windows? One of the reasons this has gone away is restrictive sign ordinances essentially forbidding festive window painting, decorations and displays. Yet, some of the very same sign ordinances declare unique signage as a way to provide a feeling of place and theme in identified special use or theme areas.

Window signage can be very effective in locations with vehicle traffic and in pedestrian areas at eye level. WeSERV sees no government compelling interest in restricting window signage, decoration and display.

While there may be an argument regarding law enforcement's ability to see into the business during emergency situations, if the city allows sunscreens to fully cover the window, then business owners are left wondering what the compelling government interest is in limiting their window signage. In addition, there are newer window products that serve as sunscreen, signage and allow law enforcement the visual access they request.

The University of Cincinnati and University of San Diego have conducted several sign studies over the years and have found adequate, visible and legible signage is a significant component of business success no matter how big the business. Signage contributes to economic development.

WeSERV suggests the City of Glendale employ a useful tool used by the City of Surprise, software illustrations. The City of Surprise used software to illustrate visibility and legibility of proposed sign types and sizes from various vantage points: roadways, sidewalks, parking lots, and other visual locations customers or clients would be looking to find the business or service.

This type of modeling became very helpful in determining if a sign size and location was adequate to the task of identifying the business, medical facility, government facility, educational facility, religious facility or other service given the environment the sign was located in.

An easily accessible example of inadequate signage from the most likely visual vantage point of a customer is the 303. Starting at the Southern end at 303 and I-10, you will see easily identifiable signage for Daimler, Sub Zero – Wolf, UPS and other businesses and services. As you travel north, you will find a Prasada car dealership sign. Although there are several spaces allocated to individual dealerships, it is very difficult to determine who the dealerships are at 65 miles an hour.

Court cases in Arizona and the 9<sup>th</sup> Circuit Court of Appeals have upheld the right of a business to have a brand identity through their signage and found that cities cannot demand businesses change their logo, colors or other items that make that sign identifiable with that business.

A few more specific WeSERV concerns involve nuisance signs, due process, sign repair and replacement, sign permits and murals.

In the proposed draft sign ordinance, section 4.5.5J, the Community Development Director may order the immediate repair or removal of a sign declared a nuisance. There appears to be no definition provided of nuisance nor does there appear to be a due process method for a sign owner to dispute the declaration. WeSERV suggests the City of Glendale define nuisance and provide a due process method for dispute.

The repair and replacement timelines described in section 4.5.5 of 48 hours (F) and 30 days (L) may not be sufficient given the current inadequacy of manufacturing and transportation systems and the lack of qualified labor. WeSERV suggests the City provide a method the business or service may request an extension without cost or penalty due to market conditions. Providing the Community Development Director flexible timelines to accommodate current and future market realities may be a reasonable alternative as well.

In section 4.5.7D, the application for sign permit requires a Glendale Sales Tax number. WeSERV would appreciate clarification. Is this tax ID of business requesting the sign or the contractor placing the sign? Not all businesses/service providers pay sales tax. Is there a provision to allow signage for non sales tax payers?

WeSERV suggests that section 4.5.7A include a mini-index to general sign types described in the following pages for ease of use. Examples would be:

- Permanent Signs pg \_\_, Temporary Signs pg \_\_
- Signs requiring a permit pg \_\_\_\_, Sign not requiring a permit page \_\_\_\_
- Building signs pg \_\_\_\_\_, monument/freestanding signs pg \_\_\_\_\_, temporary signs pg \_\_\_\_

This type of mini-index will help lead the reader to the appropriate illustrations, description and pages.

WeSERV appreciates the inclusion of illustrations for the various sign types. Our members and their clients appreciate sign ordinances with these types of illustrations for their ease of use and understanding.

WeSERV cautions the City of Glendale to carefully consider sign permitting and murals in light of the U.S. Supreme Court, Federal Court of Appeals and Arizona Court of Appeals rulings so as to not violate the content neutral, free speech/expression and disparate impact concerns of the Courts.

The Courts have struck down sign ordinances attempting to allow murals as art vs. not allowing murals reflecting a business theme. The Courts have found murals covered under free speech/expression just as signage. The Courts have found the act of requiring a permit for speech/expression as an impermissible government action. It is difficult to regulate expression without it becoming subjective and violating case law. Mandating a mural have no relationship to the business means determining the mural's content and regulating signage based on content thereby violating the rulings in Reed v. Town of Gilbert and Central Radio Company v. Norfolk.

While there are many sign studies and court cases, WeSERV has attached a few recommended readings in hopes it will help illuminate various signage considerations.

We look forward to this ongoing conversation and appreciate your willingness to consider our input.

I look forward to future meetings,



Liz Recchia

Government Affairs Director