



Legislation Text

File #: 21-0217, **Version:** 1

Ordinance to Amend and Re-Enact the Zoning Ordinance of the City of Hampton, Virginia by Amending Chapter 10 Entitled, "Signs" Pertaining to Temporary Signs and Flags

Background Statement:

In 2015 the United States Supreme Court's decision in *Reed v. Town of Gilbert, AZ* (2015) ruled that content-based restrictions on signs are presumptively unconstitutional. In 2016, the City of Hampton's sign chapter was comprehensively updated in response to that ruling. For example, prior to 2016 the City permitted a specific number of "political signs" and "real estate signs," which were subject matter/content based regulations. The 2016 Zoning Ordinance Amendment added a temporary sign table, which allows for additional temporary signs in proximity to Election Day: 1 sign per issue and per candidate on the ballot allowed; up to 100 days prior to the election; up to 32 sq. ft. in commercial districts and 8 sq. ft. in residential districts.

The current sign definition regulates and exempts "flags of any nation, state, or other geopolitical entity not related to a commercial business, product, or service". This definition treats flags differently based upon the message displayed and is a content based restriction. This ordinance amendment removes that content based exemption and sets appropriate regulations for a sign type of flag.

Approval of this amendment would permit flags on lots with a one-family, two-family, or a duplex dwelling as the primary use with the following standards: flags shall be mounted on a flagpole or similar device; no more than two (2) flags, not to exceed 24 square feet in area per flag, permitted per parcel; no more than three (3) flags not to exceed two (2) square feet in area per flag, permitted per parcel. A permit would not be required to hang a flag or install a flag pole 5' in height or under.

Approval of this amendment would permit flags on lots with a use other than a one-family, two-family, or a duplex dwelling as the primary use with the following standards: flags shall be mounted on a flagpole or similar device; the total flag area shall not exceed the amount of monument sign area permitted on the parcel, but will be counted independently from any monument signs.

This amendment would require new ground mounted flag poles over 5' in height to obtain a zoning permit. Flagpoles would be required to be setback from the nearest property line no less than the height of the flagpole. The maximum height of a flag pole on a residentially used lot would be 30'.

Additionally, this amendment includes flags as a type of sign permitted in conjunction with an automobile dealer and an educational or medical campus encompassing 50 or more acres. This amendment does not increase the number or size of signs permitted.

This amendment adds flags as a type of temporary sign permitted in proximity to a federal holiday. These flags must not be more than 2 sq. ft. in area and are permitted 7 days prior to and must be taken down no later than 7 days after the federal holiday. This amendment adds flags as a permitted type of sign in proximity to Election Day. It does not increase the size or number of signs permitted in

proximity to Election Day.

This amendment is accompanied by a separate, related amendment to Chapter 2 (ZOA 21-0217), "Definitions".

Recommendations:

Staff Recommendation:

Approval

Planning Commission Recommendation:

Approval

Whereas, the public necessity, convenience, general welfare and good zoning practice so require;

BE IT ORDAINED by the Council of the City of Hampton, Virginia that Chapter 10 of the Zoning Ordinance of the City of Hampton, Virginia, be amended to read as follows:

Chapter 10 - SIGNS

Article I. - GENERAL SIGN REGULATIONS

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Sec. 10-4. - Requirements generally applicable to all permitted signs.

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(3) Movement. No part of any sign may be in motion, such as by fluttering or rotating, whether by internal means or when set in motion by movement of the atmosphere. This prohibition shall not apply to flags, feather, or inflatable signs or the changing copy on electronic signs where permitted.

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(5) Traffic and pedestrian safety. No sign or flag may obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of traffic or safety device.

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Sec. 10-5. - Freestanding and wall signs permitted.

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(3) Additional signage incidental to certain primary uses. In addition to the other permitted signs set forth in this section, the following signs are permitted in conjunction with certain permitted primary uses.

(a) In conjunction with an establishment with a drive-thru lane, two (2) freestanding signs per drive-thru lane, provided that the following provisions are met:

(i) The area of each additional freestanding sign shall not exceed 16 square feet when located in a front yard or a side yard and 24 square feet when located in a rear yard.

- (ii) The maximum height of each freestanding sign shall be six (6) feet.
- (iii) Each sign shall be located immediately adjacent to the applicable drive-thru lane.
- (b) In conjunction with an automobile dealer, one (1) freestanding or flag sign for each franchise provided that the signs are 100 linear feet apart.
- (c) In conjunction with a gasoline supply station, the permitted sign set forth in the Table of Freestanding Signage Permitted may be increased by 24 square feet in sign area. In addition, each gasoline pump shall be permitted one (1) additional sign not to exceed two (2) square feet in sign area located on the pump.
- (d) In conjunction with an educational or medical campus encompassing 50 or more acres that are contiguous or separated by a street:
 - (i) Up to two (2) freestanding or flag signs may be permitted at each principal entrance provided that no more than one (1) sign shall be permitted at each side of the road or driveway.
 - (ii) Such signs shall not exceed 110 square feet in sign area and 12 feet in height.
 - (iii) Walls integrated into the design of a sign at the entrance to a campus shall not exceed 15 feet in height provided that no more than 25 percent of the wall shall be permitted at the maximum height.
 - (iv) All signs comply with the City of Hampton Landscape Guidelines.

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Sec. 10-5.1 - Flag and flagpole regulations.

- (1) The following criteria shall apply to flags on lots with a one-family, two-family, or a duplex dwelling as the primary use:
 - (a) Flags shall be mounted on a flagpole or similar device, which shall be either ground mounted or wall mounted.
 - (b) Flagpoles shall be setback from the nearest property line no less than the height of the flagpole. The maximum flagpole shall be 30’.
 - (c) No more than two (2) flags, not to exceed 24 square feet in area per flag, shall be permitted per parcel.
 - (d) No more than three (3) flags, not to exceed two (2) square feet in area per flag, shall be permitted per parcel.
 - (e) Flags shall comply with requirements for off-premises advertising signs.
 - (f) Ground mounted flagpoles above 5’ in height shall require a zoning permit. No sign permit shall be required for flags.
- (2) The following criteria shall apply to flags on lots with a use other than a one-family, two-family, or a duplex dwelling as the primary use:
 - (a) Flags shall be mounted on a flagpole or similar device, which shall be either ground

mounted, roof mounted, or wall mounted.

- (b) The total flag area shall not exceed an amount equivalent to the permitted monument sign area. The total flag area shall be calculated separately from any monument signs such that the flag area is permitted in addition to the monument sign area.
- (c) Flags must comply with requirements for off-premises advertising signs.
- (d) Ground mounted flagpoles above 5' in height shall require a zoning permit. No sign permit shall be required for flags.
- (e) Flagpoles shall be setback from the nearest property line no less than the height of the flagpole..

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ARTICLE III. - TABLES OF SIGNAGE PERMITTED

Sec. 10-33. - Table of Temporary Signage Permitted.

The attached table entitled, "Table of Temporary Signage Permitted" is hereby declared to be a part of this article as if fully set forth herein.

[The attached Chart/Table/Graphic, entitled, "Temporary Signage Table" is hereby declared to be a part of this ordinance as if fully set forth herein.]