City of Fredericksburg, Virginia

City Council

AGENDA

Council Chambers

715 Princess Anne Street

Fredericksburg, Virginia 22401

Hon. Mary Katherine Greenlaw, Mayor
Hon. William C. Withers, Jr., Vice-Mayor, Ward Two
Hon. Kerry P. Devine, At-Large
Hon. Matthew J. Kelly, At-Large
Hon. Bradford C. Ellis, Ward One
Hon. Timothy P. Duffy, Ph.D., Ward Three
Hon. Charlie L. Frye, Jr., Ward Four

Tuesday, December 13, 2016
5:30 p.m.
Suite, Room 218

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1. **Call To Order**

2. **Topics**

   A. Council Vision And Strategic Work Plan Follow-Up

   B. Sign Regulations Text Amendment

      Documents:

      WS SIGNS.PDF

   C. Bed & Breakfast Regulations Text Amendments

      Documents:

      WS AIR B-B.PDF

   D. Council Chambers Planned Renovations

3. **Adjournment**

Work Session Item

MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Marne E. Sherman, Development Administrator
Rob Eckstrom, Assistant City Attorney
RE: Proposed Amendments to Sign Regulations
DATE: December 6, 2016 (for the December 13, 2016 Work Session)

ISSUE

Shall the Unified Development Ordinance (UDO) be amended to update sign regulations to remove content-based provisions in accordance with the Supreme Court ruling in the case of Reed v. Town of Gilbert, Arizona while also making general updates?

RECOMMENDATION

Provide feedback on the proposed changes and direct staff to engage with stakeholders prior to scheduling the item for City Council's formal initiation of the text amendments.

BACKGROUND

The U.S. Supreme Court has made several major changes to First Amendment law, including a decision regarding local sign ordinances. One effect of this is the explicit invalidation of local ordinances regulating signs based on their content. Sign ordinances across the country have typically been content-based, for example referring to signs based on their status as "directional signs", "for sale signs", or "political signs." This type of ordinance is no longer constitutional.

The proposed replacement for the current sign ordinance removes impermissible content-based distinctions. Instead, the draft ordinance focuses more generally on the sizes, locations, and general characteristics (illuminated, moving, variable message, etc.) of signs. The general intent of the ordinance is to continue to allow signs that are currently allowed, and to prohibit signs that are currently prohibited. However, several recommended changes to the ordinance, listed below.

PROPOSED TEXT AMENDMENTS

City Council directed staff to periodically review existing ordinances and propose changes in the best interest of the City, its residents, and business owners. Several updates are identified which will address gaps in the existing regulations, consolidate regulations to ease in the use and enforcement of the UDO, address state legislation, and harmonize signage throughout the City.

Section 72-59: Signs

- Eliminates content-based references to comply with the Supreme Court ruling.

- Revises and expands exempt signage to cover signs that were previously exempt due to specific content (§72-59.3.)
- Exempts any sign within a building, if the sign does not display flashing or intermittent lights or lights changing degrees of intensity, and if the sign is not in motion by any means. (§72-59.3.M.)
- Maintains currently identified prohibited signage (§72-59.4.) with the exception of:
    - Reduces the duration of message cycles on electronic variable message board signs from 8 second cycles to 5 second cycles, consistent with the City's former Zoning Ordinance in effect prior to October 2013 and neighboring regulations in Spotsylvania and Stafford Counties. (§72-59.4.D.)
    - Removes the prohibition on lighting that outlines a building for any ornamental feature.
- Creates uniform design standards that will apply to all zoning districts using the previously adopted design standards established in Commercial and Industrial Districts. (§72-59.6.)
- Removes the requirement to landscape the base of freestanding signs.
- Reduces setbacks for freestanding signs to equal half the height of the proposed sign to property lines and a distance equal to the height of the proposed sign to existing freestanding signs, more in keeping with setbacks generally established throughout the City. (§72-59.6.D.)
- Amends the requirement that businesses turn off illuminated signs before and after hours only when adjacent to Residential and Planned Development-Residential (PD-R) Districts. (§72-59.6.E.(2))
- Establishes a standard for building mounted signs for non-residential principal uses in Residential and PD-R Districts. (§72-59.7.)
- Updates the size allowance for freestanding signs for non-residential principal uses in the Residential and PD-R Districts based on the width of an adjacent right-of-way, more in keeping with the scale of residential neighborhoods. (§72-59.7.)
- Implements design standards adopted in the Princess Anne Street and Lafayette Boulevard Corridor Design Guidelines by prohibiting the use of electronic variable message board signs. (§72-59.7.E.(2))
- Consolidates regulations for temporary signs to one section. (§72-59.8.)

Section 72-84: Definitions

- Revises the definition of "Structure" to include flagpoles.
- Creates definitions for Public Art and Roof Signs.

Section 72-82.8: Sign Measurements

- Consolidates existing sign measurements into one section.

Section 72-64: Nonconforming signs

- Removes existing regulations to conformance with enabling legislation.

MOTION:

SECOND:

Date
Regular Meeting
Ordinance No. 16-__

RE: REPEALING AND REPLACING THE SIGN PROVISIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

ACTION: APPROVED; Ayes: 0; Nays: 0

IT IS HEREBY ORDAINED by the Fredericksburg City Council that Chapter 72 of the City Code is amended as follows:

SEC. I. City Code Amendment.

Article 72-59: Signage of City Code is hereby repealed and replaced with the following:

Article 72-5: Development Standards:
Section 72-59: Signage:
72-59.1 Purpose and applicability.
72-59.2 General regulations.
72-59.3 Exempted signs.
72-59.4 Prohibited signs.
72-59.5 Applications.
72-59.6 Design standards.
72-59.7 Sign regulations by zoning district.
72-59.8 Temporary signs.
72-59.9 Visibility from interstate and federal aid highways.

72-59.1 Purpose and applicability.

The purpose and intent of this section is to establish reasonable regulations on the size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, and removal of signs and the structures to which they are affixed. The section applies to signs that are visible from the public rights-of-way and those visible across property boundaries. These regulations are intended to protect public health and safety, safeguard the public nature and uses of the rights-of-way, preserve the scenic and natural beauty of the City, and foster a community image that promotes economic growth, all within the bounds of the United States Constitution.

72-59.2 General regulations.

A. All signs shall comply with all provisions of this chapter, all applicable provisions of the Building Code, and all state and federal laws and regulations pertaining to the display of signage.

B. No sign, unless exempted by this section, shall be erected, constructed, posted, painted, altered, or relocated, 1) except as provided in this section and 2) until a sign permit has been issued.
C. Before a sign permit is issued, an application for a certificate of zoning use and a certificate of appropriateness, as well as any building or electrical permits required by the City, if applicable, must be approved.

72-59.3 Exempted signs.

The following signs are allowed without a sign permit:

A. Signs of a duly-constituted governmental body.
B. Up to four square feet of building signage within six feet of any building entrance. This signage shall not be illuminated in R and PD-R districts.
C. Flags that are not larger than 24 square feet in size that do not advertise a product or service.
D. Address numbers signs that are not larger than one square foot in R and PD-R districts and not larger than two square feet in all other districts.
E. Seasonal displays and decorations that do not advertise a product or service.
F. Temporary signs:
  (1) On property with an active building permit: One sign, up to six square feet in area, and up to six feet in height if freestanding, in any R and PD-R districts or 32 square feet, and eight feet in height if freestanding, in any other district.
  (2) On a property for sale or rent: One sign, up to six square feet in area, and six feet in height if freestanding, in any R and PD-R districts; or 32 square feet in area, and eight feet in height if freestanding, in any other district.
  (3) Beginning 60 days before a federal, state, or local primary, general, or special election, and ending 30 days after that election: in addition to any other signs permitted by this article, up to 32 square feet of signage in area and up to 8 feet in height.
G. Permanent ground or wall-mounted signs of up to 2 square feet each within a parking lot that do not advertise a product or service.
H. Normal maintenance and repair of a conforming sign.
I. Change of advertised copy on a variable message board sign or marquee designed and approved for replaceable copy.
J. Public art.
K. Signs that are illegible because their physical attributes do not allow for the differentiation of words, letters, figures, designs, symbols, or logos by an observer with 20/20 vision located in the public right of way, on public property, or across a property boundary.
L. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.
M. Any sign within a building, if the sign does not display flashing or intermittent lights or lights changing degrees of intensity, and if the sign is not in motion by any means.

72-59.4 Prohibited signs.

All signs and sign structures that are not specifically exempted or permitted by section 72-59 are prohibited, specifically including:

A. Signs that violate any provision of United States or Virginia law.
B. Signs that obstruct a door, fire escape, or building opening intended for light, air or access to a building.
C. All signs, pennants, streamers, floating and stationary balloons, strings of flags, sail/feather signs, inflated devices, and signs held by a person, that is in motion by any means, including fluttering or rotating.
D. Signs displaying flashing or intermittent lights or lights changing degrees of intensity, including variable message signs when message changes alternate on a less than five-second cycle. Variable message signs are prohibited when the Development Administrator determines the sign constitutes a public safety or traffic hazard.
E. Signs that obscure a governmental sign, and signs likely to be mistaken for governmental signs.
F. Signs that are likely to cause a pedestrian or vehicular traffic hazard.
G. Temporary signs, except as specifically permitted by section 72-59.8.
H. Signs that are structurally unsafe.
I. Portable signs.
J. Signs that emit smoke, flame, scent, mist aerosol, liquid, gas, or sound (other than a customer/business employee intercom).
K. Any sign displayed on a stationary or moving motor vehicle or trailer when the vehicle or trailer is used primarily for the purpose of and serving the function of a portable sign, except when the vehicle or trailer is not parked adjacent to a public road or is loading or unloading.
L. Signs representing or depicting specified sexual activities, specified anatomical areas, or sexually oriented goods, and signs containing obscene text or pictures as defined by the Code of Virginia.
M. Off-premises advertising signs.
N. Roof signs.
O. Signs erected on public property, including rights of way, other than those approved by an authorized city official in writing, required by law, or permitted under Code of Virginia § 24.2-310. These signs may be immediately removed and disposed of by any authorized official. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
P. Any sign or illumination that causes any direct glare into or onto any building other than the building to which the sign is located.
Q. Any sign, except official notices, which is nailed, tacked, posted or in any other manner attached to any pipe or utility pole, whether on public or private property of any description, or to any natural vegetation.
R. Any sign which extends above the zoning district height limits.

72-59.5 Applications.

A. Applications for a sign permit may be obtained from the office of the Zoning Administrator.

B. Any property owner or tenant of a parcel of land upon which a sign is to be displayed, or any authorized agent of such owner or tenant may apply for a sign permit. If a tenant is an applicant, the property owner or owner's agent shall sign the application.

C. Every sign permit application shall include the square footage, height and location of all existing signs on the property, and the area, size, height, structure, design, location, lighting, and materials for the proposed signs. In addition, the Development Administrator may require that the application contain any other information deemed necessary to ensure compliance with, or effectively administer, these regulations.

D. A nonrefundable sign permit fee, established by the City Council, is due with the filing of a sign permit application. More than one sign on one building or group of buildings located on the same parcel of land may be included on one application.

E. After all applicable fees have been paid and a sign permit approved, the applicant may install and display approved signage. Once installed, the Zoning Administrator or Building Code Official may inspect the signs for conformance with the approved sign permit and section 72-59.

F. A sign permit is void if any sign for which the permit was issued is not installed in accordance with the permit, nor all fees paid, within 6 months of the date the permit was issued (or within 30 days in the case of a temporary sign permit). The permit for a temporary sign shall state the duration of its validity. The City may revoke a sign permit under any of the following circumstances:

(1) The City determines that information in the application was materially false or misleading;

(2) The sign as installed does not conform to the sign permit application; or

(3) The sign violates the zoning ordinance, building code, or other law or regulation.

G. Within 60 days after the occupant of a lot or building vacates the premises, the property owner shall remove all signs of or relating to that occupant from the premises. Any new or replacement sign shall be subject to § 72-59.2B.

H. Any sign that is a safety hazard or is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder.

72-59.6 Design standards. The following regulations apply to all signs permitted or exempted under section 72-59:

A. No more than 40 percent of the area of any permitted sign may be an electronic variable message display.

B. Freestanding signs:

(1) Freestanding signs shall be set back a distance equal to half their height from any property or right-of-way line.

(2) Freestanding signs shall be set back a distance equal to their height from any existing freestanding sign.

C. Illumination. The following applies to all illuminated signs:

(1) External lights of any technology may be installed, directed solely at the sign in a manner that does not illuminate surrounding areas, or signs may be illuminated by any technology

with a brightness not exceeding the maximum illumination levels shown in Section 72-58.2D.

(2) The illumination of signs within 300 feet of and visible from Residential Districts or PD-R shall be turned off at 10:00 pm or within one hour after the closing of the business, whichever is later, and shall be turned on no sooner than one hour before the business opens.

72-59.7 Sign regulations by zoning district.

A. Residential Districts. In addition to the general regulations of section 72-59, the regulations in this section 72-59.7(A) apply to signs in all Residential Districts and PD-R Districts, and to residential uses in mixed-used developments:

(1) Non-residential uses permitted as a principal use in a district shall be permitted:

Non-illuminated building-mounted signs as follows:

Table 72-XXXX: Building Mounted Signs

Total maximum area	0.5 square feet for each linear foot of building front (total sign area shall not exceed 50 square feet)
Maximum projection	42 inches from the wall
Minimum clearance for signs projecting more than 6 inches:	
Above pedestrian travel ways	8 feet
Above vehicular travel ways	15 feet

Freestanding signs shall be permitted as follows:

Table 72-XXXX: Freestanding Signs

	Residential Zoning Districts					
	Total Number Per Street Frontage	**Maximum Size (Square Feet)**	**Illumination Permitted**	**Maximum Height (Feet)**	**Minimum Setback to Property Lines (Feet)**	**Minimum Setback to Other Existing Freestanding Signs (Feet)**
For each sign adjacent to a public street right-of-way > 70 feet	1	20	Yes	5	2.5	5
For each sign adjacent to a public street right-of-way ≤ 70 feet	1	10	No	5	2.5	5

Freestanding signs shall only be illuminated by direct white lighting. Lighting shall illuminate only the face of the sign. Sign illumination shall comply with §72-58 Exterior Lighting.

(2) One wall or ground sign shall be permitted for each major entrance to a neighborhood. When an entrance to the neighborhood is designed to require two ground signs for the sake of symmetry, two signs may be permitted. Each sign may be up to 20 square feet in area and up to five feet in height. Signs shall be set back at least half their height from all property lines.

B. Commercial and Industrial Districts. In addition to the general regulations of section 72-59, the regulations in this section 72-59.7(B) apply to signs in all Commercial Districts, Industrial Districts, and to commercial uses in mixed-used developments:

(1) Building mounted signs shall be permitted as follows:

Table 72-XXXX: Building Mounted Signs

Total maximum area	1.5 square feet for each linear foot of building front (total sign area shall not exceed 200 square feet)
Maximum projection	42 inches from the wall
Minimum clearance for signs projecting more than 6 inches:	
Above pedestrian travel ways	8 feet
Above vehicular travel ways	15 feet

Freestanding signs shall be permitted as follows:

Table 72-XXXX: Freestanding Signs

Maximum Number	Zoning Districts					
	CT	**CD**	**CSC**	**CH**	**I-1**	**I-2**
Per parcel per street frontage	1	1	N/A	1	1	1
Per entrance to shopping center or industrial park	N/A	N/A	1	N/A	N/A	1
Per gasoline sales uses	N/A	N/A	1	1	1	1
Maximum Sign Area (square feet)						
For each sign adjacent to a public street right-of-way > 70 feet	40	40	100	100	100	100
For each sign adjacent to a public street right-of-way ≤ 70 feet	30	30	75	75	75	75
For gasoline sales uses	N/A	N/A	25	25	25	25
Maximum Height (feet)	5	5	20	20	20	20

(2) In addition to the signs allowed above, each building containing a commercial use in the Commercial-Downtown District may have building-mounted signage advertising off-premise non-residential uses, of up to 4 square feet per off-premise use and up to 16 square feet total.

(3) Three or more businesses in the Industrial Zoning Districts that are not adjacent to an arterial or collector road may jointly erect a freestanding sign off-site. These signs shall not exceed 100 square feet in area and 10 feet in height. These signs shall be located within 1,000 feet of the businesses being advertised and be on property zoned I-1 or I-2.

(4) Two signs are permitted for each stacking lane of an accessory drive-through use. The signs shall not be included in calculating the number of freestanding signs or in calculating the total aggregate sign area. One sign is limited to 30 square feet in area and six feet in height. One sign is limited to 15 square feet in area and six feet in height. Signs shall be installed within 10 feet of the drive-through lane.

(5) Signs in the CT and CD Districts shall be low-profile, monument type signs.

C. Planned Development Districts. A sign design package is required for all signs in a PD-C, PD-MU, PD-MC or PD-R Districts that will have multiple land uses or multiple development phases.

(1) All sign design packages shall be in conformance with all sign permit requirements of section 72-59.

(2) The Development Administrator may approve minor amendments to a sign design package. The Development Administrator has the sole discretion to determine whether an amendment to a package is minor.

(3) A sign design package:

(a) Shall contain only signs with consistent colors and fonts (excepting business logos), lighting, and construction materials.

(b) May contain any types of signs that the Development Administrator deems to be consistent with the overall planned development district.

(c) Specify the types of materials proposed for construction or use on the project's various signs. Sign poles, supports, panels, attachments, lettering and visible base materials must be identified. Individual purchasers or lessees of project property may select sign materials for their individual signs where the package so allows.

(4) Upon approval of the sign design package by the Development Administrator, all new signs within the boundaries of the PD-C, PD-MU, PD-MC, or PD-R project shall adhere to the standards of the approved signage design package.

(5) Sign design package review process:

(a) Applicant shall submit a sign design package for approval by the Development Administrator with either the final site design for the first phase of development or before construction of the first phase of lot or site development.

(b) The Development Administrator shall review the proposed sign design package within 60 days. The package may be returned to the applicant for changes or modifications. A changed or modified package that addresses departmental comments and is resubmitted shall be approved or denied within 45 days. The applicant may file an appeal of the Development Administrator's decision to the BZA.

(6) In addition to the general sign design package regulations, the regulations in this section 72-59.7(E)(7) apply to signs in all PD-C districts.

(a) Individual users within a PD-C may be permitted:

(1) Building signs of up to one square foot for each linear foot of building perimeter, up to 200 square feet of sign face per building side on not more than three sides per building.

(2) A monument signup to 10 feet high and 100 square feet in area. A monument sign identifying more than one user may be up to 150 square feet in area.

(3) A off-premises monument sign up to 10 feet high and 100 square feet in area if the subject of the sign is on a site or lot of at least 100,000 square feet that does not abut a four-lane major thoroughfare, and the sign is located within 300 feet of the subject.

(7) In addition to the general sign design package regulations, the regulations in this section 72-59.7(E)(8) apply to signs in all PD-MU, PD-MC, and PD-R districts.

(a) Commercial, industrial, or retail properties housing one or more tenants may not exceed 1.5 square feet of sign area for each linear foot of building frontage. No total sign area, including the area of any freestanding sign, may exceed 200 square feet in area.

(b) Freestanding signs for commercial, industrial, or retail properties may not exceed 15 feet in height.

D. Historic Districts. In addition to the general regulations of section 72-59, the regulations in this section 72-59.7(D) apply to signs in all the Old and Historic Fredericksburg District:

(1) All signs to be located in the Old and Historic Fredericksburg District shall be approved by the Architectural Review Board in accordance with the provisions of the HFD Overlay

District. The ARB may regulate the area, height, placement, materials, color, lighting, graphics, lettering, and architectural styling of signs, consistent with applicable guidelines.

(2) Electronic variable message signs are prohibited in all historic districts.

E. Gateway Overlay Districts. In addition to the general regulations of section 72-59, the regulations in this section 72-59.7(E) apply to signs in all Gateway Overlay Districts:

(1) All signs to be located in Gateway Overlay Districts shall be approved by the Zoning Administrator in accordance with the provisions of this overlay district. The Zoning Administrator may regulate the area, height, placement, materials, color, lighting, graphics, lettering, and architectural styling of signs, consistent with applicable guidelines.

(2) Electronic variable message signs are prohibited in the Lafayette Boulevard Corridor Overlay District along Lafayette Boulevard from the Blue Gray Parkway to Kenmore Avenue and the Princess Anne Street Corridor Overlay District along Princess Anne Street.

72-59.8 Temporary signs. Temporary signs shall be permitted with a temporary sign permit, subject to the following:

A. Temporary signs shall be building mounted. The aggregate area of building mounted temporary signs on display at any one time is limited to 50 percent of the aggregate area of permitted permanent building signage or 40 square feet, whichever is less.

B. Each permitted temporary sign shall be displayed for no more than 30 consecutive days.

C. Temporary signs shall be located on the same property as the sponsoring business or organization.

D. Applications for temporary signs must be submitted at least 10 business days before the installation of sign. Such application shall be on an application form prescribed by the Zoning Administrator and shall indicate the size, area, proposed location and manner of fastening of the temporary sign. Any banner installed without prior approval of the Zoning Administrator shall be removed immediately upon notification by the Community Planning and Building Department and no other temporary sign shall be displayed on the property by the same business or organization for 90 days.

E. Temporary sign permits shall not be issued to the same applicant or business more than four times in any calendar year; each temporary sign permit shall be separated by a period of not less than 30 days.

72-59.9 Visibility from interstate and federal aid highways. Code of Virginia, § 33.1-351 et seq., shall be applicable to signs visible from interstate and federal aid primary highways.

<u>The following changes are hereby made to City Code Section 72-84: Definitions</u>:

STRUCTURE: An assembly of materials forming a construction for occupancy or use including stadiums, gospel and circus tents, reviewing stands, platforms, stag~~ing~~*ses*, *flagpoles*, observation towers, radio towers, water tanks, storage tanks (underground and above ground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature but excluding water wells.

The following definitions are added:

Public art: Items expressing creative skill or imagination in a visual form, such as painting or sculpture, which are intended to beautify or provide aesthetic influences to public areas or areas which are visible from the public realm.

Roof sign: any sign that extends above the eaves or parapet of a structure.

The following additions are hereby made to City Code Section 72-82.8: Sign Measurements:

H. Signs on awnings, canopies, marquees, or umbrellas shall be included in building-mounted sign area computation.

I. Window signs shall be included in the calculation of size for building mounted signs.

The following changes are hereby made to City Code Section 72-64: Nonconforming signs:

72-64.1 Generally. Signs lawfully existing as of October 8, 2013, which do not conform to the provisions of this section, and signs which are accessory to a nonconforming use, shall be deemed to be nonconforming signs.

72-64.2 Ability to continue. Nonconforming signs may be changed, altered, repaired, restored, replaced, relocated or expanded only as provided in this article. Nonconforming signs shall be subject to the regulations and restrictions as set forth in § 72-59, except that:

A. ~~If the sign is repaired or refurbished at a cost in excess of 35% of the replacement cost of the total sign structure the sign must be brought into compliance with this section's requirements. Costs associated with normal maintenance and re-facing of outdoor advertising signs shall not be deemed to be repair or refurbishing costs.~~

B. ~~Nonconforming signs and their structures that are damaged to an extent where the estimated reconstruction cost is 50% or more of their appraised value shall not be rebuilt or repaired, unless brought into compliance with this section.~~

C. ~~Refacing of any sign that exceeds the size or height requirements specified within this chapter, by 100% or more, is prohibited, and any such refaced sign shall be unlawful. Otherwise, signs may be refaced if the refacing does not increase the extent of the nonconformity.~~

D. *Nonconforming signs may be changed, altered, repaired, restored, replaced, relocated or expanded only so long as the signs are not structurally altered and the surface area of the sign is not increased.*

E. Nothing in this section shall be construed to prevent the City, after making a reasonable attempt to notify the owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the use or business for which the sign was erected has not been in operation for a period of at least two years. Following the expiration of the two-year period, an abandoned nonconforming sign shall

be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property, and the owner shall reimburse the City for such cost. Nothing herein shall prevent the City from applying to a court for an order requiring the removal of an abandoned nonconforming sign by the owner, by means of injunction or other appropriate remedy.

72-64.3 Moving nonconforming signs. No nonconforming sign shall be moved on the same lot, and no nonconforming sign shall be moved to any other lot which is not properly zoned to permit such sign or on which such sign would be or remain noncompliant with the zoning regulations prescribed for the district in which such lot is located.

SEC. II. Effective Date.

This ordinance is effective immediately.

Votes:
Ayes:
Nays:
Absent from Vote:
Absent from Meeting:

Approved as to form:

_____
Kathleen Dooley, City Attorney

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Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 16-_ duly adopted at a meeting of the City Council meeting held Date, 2016 at which a quorum was present and voted.

_____
Tonya B. Lacey, CMC
Clerk of Council

Work Session Item

MEMORANDUM

TO: Tim Baroody, City Manager
FROM: Mike Craig, Zoning Administrator
DATE: December 5, 2016 (for the December 13, 2016 meeting)
RE: Proposed Unified Development Ordinance Text Amendment– Bed-and-Breakfast Inns and Limited Residential Lodging (Airbnb)

ISSUE

Shall the Unified Development Ordinance be amended to define a Limited Residential Lodging accessory use and to amend the definition of Bed-and-Breakfast Inns? Today, the ordinance treats these two uses equally. However, the proposed Limited Residential Lodging use is an accessory use of property that does not generate the same level of impacts on neighboring properties as a traditional Bed and Breakfast Inn, due to the proposed restrictions on the number of bedrooms, number of guests, and prohibitions on the use of the property as an event venue.

RECOMMENDATION

Discuss the proposal and set a legislative priority for the City for the upcoming 2017 Virginia State Legislature session. Legislation approved by the 2016 Virginia General Assembly would preempt many of the proposed revisions to the UDO. The legislation included a reenactment clause, providing that it would not become effective unless reenacted in 2017. The new law would not permit the City to regulate the maximum number of bedrooms or number of guests, or to prohibit the use of the property as an event venue – all keys to finding that this use is of lower intensity than a traditional Bed-and-Breakfast Inn. The City should work with the General Assembly to preserve the City's authority to protect residential neighborhoods from incompatible uses of real property.

BACKGROUND

Over the last decade the internet has created new markets and new means of using residential property for short term lodging services that have dramatically changed the role of the individual homeowner in the hospitality economy.

The changing landscape precipitated Senate Bill 416, The Limited Residential Lodging Act, in the 2016 Virginia Legislative Session. The bill preempted localities from adopting ordinances or zoning restriction prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of $500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and

requiring persons renting their primary residences to register with the locality[1]. The bill stipulated that the issue be studied for reconsideration by the General Assembly in 2017.

Limited Residential Lodgings exist in the City of Fredericksburg. In June of 2016, City staff reviewed registration on the popular website Airbnb and found a variety of different types of users registered on the site. Some of the registrants, like the Richard Johnston Inn in the Downtown, are commercial oriented inns with the proper commercial permits. Some, like the Ryan House Bed-and-Breakfast in a historic home in the Rising Sun Tavern neighborhood, are quasi-residential but had obtained a special use permit to operate. Eight others were residential homes advertising rooms for rent as an accessory use that had not applied for any permits from the City.

The City sent letters to each of these registrants in June explaining the permitting steps necessary to bring their uses into compliance with the City's zoning ordinance. As a result, there have been three Special Use Permit applications processed for Bed-and-Breakfast Inns. During the review process, both the Planning Commission and City Council expressed interest in exploring how to permit a limited, Airbnb oriented, type of Bed-and-Breakfast Inn as a by-right use in residential districts.

Other localities, including Charlottesville, already permit accessory short term rentals as a by-right accessory use in residential neighborhoods. Attached is a conceptual ordinance based on those models that would create a new accessory use called a "Limited Residential Lodging" with specific accessory use regulations.The use as proposed is limited by different measures of intensity: maximum number of bedrooms, maximum number of guests, a requirement for a resident manager, whether or not events are permitted on-site, signage, parking, and maximum permitted stay. Here is how the Limited Residential Lodging would fit into the different uses already established by the City of Fredericksburg's Zoning Ordinance:

Use	Max Bedrooms	Max Guests	Resident Manager	Events	Max Sign SF	Parking	Max Stay	Principal vs. Accessory	R District Status
Single Family Home	-	3 unrelated	-	Residential	2 sf	2 per SFH	-	Principal	Permitted
Limited Residential Lodging	3	6	Yes	No	None	2 + 1 per bedroom	30	Accessory	Permitted
Bed-and-Breakfast Inn	5	10	Yes	Yes	4 sf	2 + 1 per bedroom	30	Principal	Special Use in R-2 - R-8
Multifamily Building	-	3 unrelated	No	Residential	12 sf per building	1.5 per DU + 1 per every 5 units	-	Principal	Special Use in R-8 Permitted in R-12 - R-30
Hotel	-	-	No	Yes	Commercial Signage	1 per guest room + 75% of spaces required for on-site accessory uses	90	Principal	Special Use in R-16

The operative language of SB 416 (with respect to local zoning authority) is as follows:

(A): Notwithstanding any other law, general or special, and except as expressly provided in this chapter, no local ordinance shall:

(1) Prohibit or restrict any residential dwelling unit from being used for limited residential lodging. Any such limited residential lodging shall (i) be deemed to be consistent with residential use; (ii) be authorized in any zoning district established pursuant to Article 7 of Chapter 22 of Title 15.2 allowing residential use; and (iii) not require the residential dwelling unit or the owner or

[1] SB 416 Limited Residential Lodging Act. https://lis.virginia.gov/cgi-bin/legp604.exe?161+sum+SB416 Accessed on December 5, 2016.

primary resident of the residential dwelling unit to adhere to any zoning or licensing requirements applicable to hotels, motels, bed and breakfast inns, lodging houses, or other commercial enterprises;

(2) Impose or purport to impose any additional regulation or obligation on a limited residential lodging operator based on the use of such operator's residential dwelling unit for limited residential lodging purposes; or

(3) Prohibit, impose additional regulations or obligations on, or otherwise restrict the operation of a hosting platform that collects and remits any taxes pursuant to this chapter.

(D): Nothing in this section shall be construed to prohibit a locality from:

(1) Adopting or enforcing ordinances and regulations generally applicable to residential use and zoning including those related to noise, health and safety, the quiet enjoyment of property, parking, litter, yard signs, and other related issues, so long as such ordinances shall not be drawn or applied in such a manner as to create burdens or restrictions on limited residential lodging not placed on other authorized uses of residential property.

In short, the provisions regulating the maximum number of bedrooms, the maximum number of guest, whether or not events are permitted, signage and parking in the conceptual Limited Residential Lodging proposal would be preempted by the General Assembly *if* it reenacts SB416 in the 2017 legislative session:

Proposal	Max Bedrooms	Max Guests	Resident Manager	Events	Max Sign SF	Parking	Max Stay
Conceptual - LRL	3	6	Yes	No	None	2 + 1 per bedroom	30
General Assembly - LRL	None	None	Yes	Yes, subject to existing noise and nusiance ordinances.	2 sf	2 parking spaces (per SFH)	30

Here would be the public hearing schedule if a resolution initiating an amendment to this section of the UDO was adopted in January:

1. Ordinance initiation: January 10
2. Planning Commission public hearing: February 15
3. City Council public hearing: March 14

The Virginia General Assembly session starts on January 11, 2017 and ends at the end of February.

CONCLUSION

The Unified Development Ordinance needs to be updated to keep pace with how hospitality is provided in the sharing economy. Until the General Assembly revisits SB416 in the 2017 legislative session, however, it is unclear whether state law will preempt some of the land use protections incorporated into the conceptualordinance attached to this memo.Staff recommends that the Council discuss the provisions in the conceptual ordinance and instruct staff to work during the 2017 legislative session to preserve local zoning authority for this use, and then to review the UDO in light of the final provisions of the new law adopted by the General Assembly.

ATTACHMENTS

1. ConceptualUDO Text Amendment

CONCEPTUAL LIMITED RESIDENTIAL LODGING ORDINANCE

1. Adopt a new definition of a "Limited Residential Lodging" use:

Limited residential lodging means the accessory use of a residential dwelling unit or portion thereof to provide sleeping accommodations for transient persons, on a daily, weekly, or similar short-term basis of 30 days or less.

2. Amend the definition of a "Bed-and-breakfast inn," to define it as the principal use of a structure, not an accessory use:

Bed-and-breakfast inn – A single-family dwelling containing sleeping and breakfast accommodations ~~as an accessory use~~ for transient persons, on a daily, weekly, or similar short basis of 30 days or less.

3. Permit a Limited Residential Lodging use as an accessory use in all zoning districts that permit residential uses. The approval for the use would be administrative, through the issuance of a zoning permit:

TABLE 72-42.5: TABLE OF COMMON ACCESSORY USES

P = Allowed by right S = Special use permit required blank cell = prohibited

ACCESSORY USE	ZONING DISTRICT															
	R-2	R-4	R-8	R-12	R-16	R-30	C-T	C-D	C-SC	C-H	I-1	I-2	PD-R	PD-C	PD-MU	PD-MC
Limited Residential Lodging	P	P	P	P	P	P	P	P	P	P	·	·	P	P	P	P

4. Add use standards for the new Limited Residential Lodging use, in the "Specific standards for certain accessory uses," section of the UDO:

§ 72-42.6(E) Specific standards for certain accessory uses - Limited Residential Lodging

Limited residential lodging shall be permitted in any residential dwelling unit, subject to the approval of the Zoning Administrator and the following criteria:

(1) The use shall be operated by either (i) the owner of the residential dwelling unit who actually occupies the dwelling unit as his principal place of residence, or (ii) a tenant who has lived in the residential dwelling unit for at least 60 days and who actually occupies the dwelling unit as his principal place of residence.

(2) A maximum of three bedrooms may be offered as sleeping accommodations for transient persons.

(3) The maximum number of guests at any time shall be six.

(4) There shall be no more than one kitchen on the site.

(5) The use shall provide one off-street parking space per guest bedroom, in addition to the two parking spaces required for the dwelling unit. If parking cannot be provided on the site, it shall be provided within 500 feet of the site.

(6) No on-site signage is permitted for the use.

(7) No outdoor events are permitted in connection with the use.

(8) Each zoning permit shall include a condition that the operator shall provide the Zoning Administrator with current contact information for emergency contacts, and update this information within 10 days of any changes.