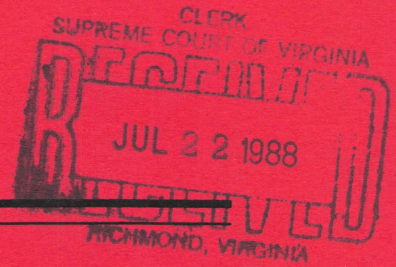


236Va 370



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 880126

MAR 23 1989

ADAMS OUTDOOR ADVERTISING,

Appellant,

v.

CITY OF NEWPORT NEWS, VIRGINIA, et al.,

Appellees.

JOINT APPENDIX

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VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

CREATIVE DISPLAYS OF NORFOLK,)
LTD., a Virginia limited)
partnership,)
Plaintiff,)

v.)

THE CITY OF NEWPORT NEWS,)
VIRGINIA, a Virginia municipal)
corporation,)
SERVE:)

Robert V. Beale, Esquire)
City Attorney)
City of Newport News, Virginia)
20th Floor)
2400 Washington Avenue)
Newport News, Virginia 23607)

IN CHANCERY NO. _____

and)

CHARLES ALEXANDER)
Zoning Administrator of the)
City of Newport News)
3rd Floor, 2400 Washington Avenue)
Newport News, Virginia 23607)

Defendants.)

BILL OF COMPLAINT FOR DECLARATORY
JUDGMENT AND TEMPORARY AND
PERMANENT INJUNCTIVE RELIEF

NOW COMES the plaintiff, Creative Displays of Norfolk,
Ltd., and for its Bill of Complaint for Declaratory Judgment
and Temporary and Permanent Injunctive Relief, respectfully
represents as follows:

FACTS COMMON TO ALL COUNTS

1. The plaintiff, Creative Displays of Norfolk, Ltd.
(referred to herein as "Creative Displays"), is a Virginia
limited partnership.

2. The defendant, the City of Newport News, Virginia (referred to herein as "the City"), is a municipal corporation of the Commonwealth of Virginia, as defined in § 15.1-837 of the Code of Virginia (1950).

3. The defendant Charles Alexander (referred to herein as "Alexander"), is the Zoning Administrator of the City and is responsible for administering and enforcing the zoning and building regulations, laws and ordinances of the City.

4. At all material times relevant to this action, Creative Displays was and is engaged in the outdoor advertising business in Newport News, Virginia. Creative Displays owns 68 billboard signs in Newport News, Virginia, which are outdoor permanent structures used to display and communicate messages (referred to herein as "billboards").

5. Each billboard is located on, and permanently affixed to, private property leased from the owner thereof by Creative Displays for the purpose of maintaining billboards.

6. Each billboard has a remaining useful income-producing life of over 25 years and a fair market value of between approximately \$15,000 and \$30,000.

7. Space on the billboards is made available to those who purchase it for a period of time. Additionally, Creative Displays donates space on its billboards to some public or community spirited groups and organizations free of charge.

8. Creative Displays' billboards, all of which are "off-site," have been and are being used to convey commercial messages as well as a broad range of noncommercial messages, including, but not limited to, political, religious, social and community messages.

9. During the years Creative Displays and its predecessor entity has engaged in the outdoor advertising business in Newport News, Virginia, all applicable City business and property taxes for the billboards have been paid.

10. All of Creative Displays' billboards were erected prior to August 14, 1984, and were erected and have been continuously maintained in conformity with all laws, ordinances, permits, rules and regulations applicable thereto with the exception of Ordinance 3213-84, Newport News Code §§ 13-335-344, enacted by the City on August 14, 1984 (referred to herein as "the Ordinance").

11. The Ordinance, inter alia, prohibits certain outdoor advertising signs in the City while allowing other commercial and noncommercial outdoor advertising signs. All outdoor advertising signs existing on the day the Ordinance was enacted and prohibited by the Ordinance are required to be removed either within 90 days or 180 days after the Ordinance takes effect, depending on the type of prohibited sign.

12. All of Creative Displays' billboards are prohibited by the Ordinance and are subject to removal by Mr. Alexander,

the Zoning Administrator, at this time because the applicable time limit for removal provided in the Ordinance has expired.

13. Mr. Alexander, in his capacity as Zoning Administrator, through the City Code Compliance Inspectors acting for him, notified more than 10 days ago in writing, the landowners from whom Creative Displays leases the real property on which its signs are located, that the signs are in violation of the Ordinance and must be removed within 10 days of receipt of the notice. However, in no instance has Mr. Alexander given Creative Displays any such notice despite the fact that the City has knowledge that Creative Displays owns the billboards and leases the land on which they are located.

14. Pursuant to the Ordinance, Mr. Alexander, in his capacity as Zoning Administrator, may cause the removal of illegal signs for failure to comply with the written orders of removal.

15. If the billboards are required to be removed, Creative Displays' business in Newport News will be destroyed.

16. Creative Displays has refused to remove its billboards because the Ordinance is unconstitutional and otherwise in violation of law as more fully set forth herein.

17. An actual controversy exists between the parties. Creative Displays has suffered and will suffer immediate and irreparable harm and has no adequate remedy at law.

COUNT I
(Freedom of Speech Infringement)

18. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

19. The Ordinance is in violation of the Constitution of the United States, in particular, the First and Fourteenth Amendments, and the Constitution of Virginia, in particular, Article I, § 12.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional and contrary to law; temporarily and permanently enjoin the defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses, including attorneys' fees, incurred herein and such other relief as the Court may deem just and proper.

COUNT II
(Unconstitutional and Improper
Exercise of Police Power)

20. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

21. The Ordinance is not a proper application of municipal authority over zoning and land use for the purpose of promoting the public safety and welfare, but is an unconstitutional exercise of the police power of the City in violation of the Constitution of the United States, the Constitution of Virginia and in violation of law.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional and contrary to law; temporarily and permanently enjoin the defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses, including attorneys' fees, incurred herein and such other relief as the Court may deem just and proper.

COUNT III
(Impairment of Vested Rights)

22. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

23. From prior to August 14, 1984 to date, the use and structural condition of each billboard owned by Creative Displays has remained unchanged and Creative Displays' rights to and in the billboards were vested as of August 14, 1984.

24. The Ordinance, although identified as a building regulation, is in actuality a zoning ordinance, and as such is illegal and unenforceable because it impairs the vested rights of Creative Displays to the billboards in violation of § 15.1-492 of the Code of Virginia (1950).

WHEREFORE, plaintiff prays that this Court declare the Ordinance in violation of § 15.1-492 of the Code of Virginia (1950), temporarily and permanently enjoin defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses, including attorneys'

fees, incurred herein and such other relief as the Court may deem just and proper.

COUNT IV
(Denial of Just Compensation)

25. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

26. Assuming arguendo for the purpose of this Count III only that the Ordinance is otherwise constitutional and legal, the Ordinance requires the removal of the billboards without due process and just compensation to Creative Displays, in violation of the Constitution of the United States, in particular the Fifth and Fourteenth Amendments, the Constitution of Virginia, in particular Article I, § 11, and in violation of law.

27. In addition, the Ordinance is unconstitutional and illegal because it does not provide an adequate fund from which to pay just compensation to billboard owners whose signs are removed pursuant to the Ordinance.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional and contrary to law; temporarily and permanently enjoin defendants from removing or requiring the removal of plaintiff's billboards pending institution by the City of condemnation proceedings against plaintiff's billboards as required by law; and award to plaintiff its costs and expenses, including attorneys' fees,

incurred herein and such other relief as the Court may deem just and proper.

CREATIVE DISPLAYS OF NORFOLK, LTD.

By 
Of Counsel

Hunter W. Sims, Jr.
Terence Murphy
Mark L. Tysinger
Kaufman & Canoles
P.O. Box 3037
Norfolk, VA 23514-3037

CITY OF NORFOLK

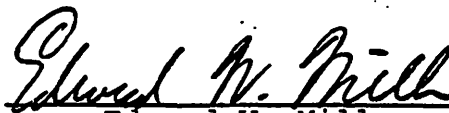
STATE OF VIRGINIA, to-wit:

This day personally appeared before me, the undersigned, a Notary Public of and for the City aforesaid, in the State of Virginia, EDWARD W. MILLER, who, after being duly sworn, deposes and says as follows:

1. That he is an agent for Creative Displays of Norfolk, Ltd., and is duly authorized to act on behalf of Creative Displays of Norfolk, Ltd.

2. That the allegations in this Bill of Complaint are true and correct to the best of his knowledge and belief.

And further this deponent saith not.

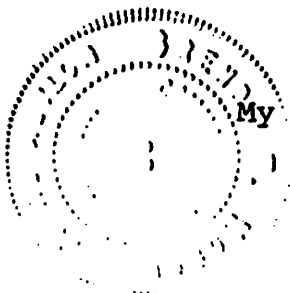

Edward W. Miller

Subscribed and sworn to before me this 13th day of August, 1985.


Notary Public

My commission expires:

6/10/89



VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

CREATIVE DISPLAYS OF
NORFOLK, LTD.,

Plaintiff,

v.

In Chancery No. 14759-FB

CITY OF NEWPORT NEWS,
VIRGINIA, et al.,

Defendants.

AMENDED BILL OF COMPLAINT FOR
DECLARATORY JUDGMENT

NOW COMES the plaintiff, Creative Displays of Norfolk, Ltd., and for its Amended Bill of Complaint for Declaratory Judgment, respectfully represents as follows:

FACTS COMMON TO ALL COUNTS

1. The plaintiff, Creative Displays of Norfolk, Ltd. (referred to herein as "Creative"), is a Virginia limited partnership.
2. The defendant, the City of Newport News, Virginia (referred to herein as "the City"), is a municipal corporation of the Commonwealth of Virginia, as defined in § 15.1-837 of the Code of Virginia (1950), as amended.
3. The defendant, Charles Alexander (referred to herein as "Alexander"), is the Zoning Administrator of the

City and is responsible for administering and enforcing the zoning and building regulations, laws, and ordinances of the City.

4. At all material times relevant to this action, Creative was and is engaged in the outdoor advertising business in Newport News, Virginia. Creative owns 68 billboard signs in Newport News, Virginia, which are outdoor permanent structures used to display and communicate messages (referred to herein as "billboards").

5. Each billboard is located on, and permanently affixed to, private property leased from the owner thereof by Creative for the purpose of maintaining billboards.

6. Each billboard has a remaining useful income-producing life of over 25 years and a fair market value of between approximately \$15,000 and \$30,000.

7. Space on the billboards is made available to those who purchase it for a period of time. Additionally, Creative donates space on its billboards to some public or community spirited groups and organizations free of charge.

8. Creative's billboards, all of which are "off-site," have been and are being used to convey commercial messages as well as a broad range of noncommercial messages, including, but not limited to, political, religious, social, and community messages.

9. During the years Creative and its predecessor entity has engaged in the outdoor advertising business in

Newport News, Virginia, all applicable City business and property taxes for the billboards have been paid.

10. All of Creative's billboards were erected prior to August 14, 1984, and were erected and have been continuously maintained in conformity with all laws, ordinances, permits, rules, and regulations applicable thereto with the exception of Ordinance 3213-84, Newport News Code § 13-335-344, enacted by the City on August 14, 1984 (referred to herein as "the Ordinance").

11. The Ordinance, inter alia, prohibits certain outdoor advertising signs in the City while allowing other commercial and noncommercial outdoor advertising signs. All outdoor advertising signs existing on the day the Ordinance was enacted and prohibited by the Ordinance are required to be removed either within 90 days or 180 days after the Ordinance takes effect, depending on the type of prohibited sign.

12. All of Creative's billboards are prohibited by the Ordinance and are subject to removal by Mr. Alexander, the Zoning Administrator, at this time because the applicable time limit for removal provided in the Ordinance has expired.

13. Mr. Alexander, in his capacity as Zoning Administrator, through the City Code Compliance Inspectors acting for him, notified more than 10 days ago in writing, the landowners from whom Creative leases the real property

on which its signs are located, that the signs are in violation of the Ordinance and must be removed within 10 days of receipt of the notice. However, in no instance has Mr. Alexander given Creative any such notice despite the fact that the City has knowledge that Creative owns the billboards and leases the land on which they are located.

14. Pursuant to the Ordinance, Mr. Alexander, in his capacity as Zoning Administrator, may cause the removal of illegal signs for failure to comply with the written orders of removal.

15. If the billboards are required to be removed, Creative's business in Newport News will be destroyed.

16. Creative has refused to remove its billboards because the Ordinance is unconstitutional and otherwise in violation of law as more fully set forth herein.

17. An actual controversy exists between the parties. Creative has suffered and will suffer immediate and irreparable harm and has no adequate remedy at law.

COUNT I
(Freedom of Speech Infringement)

18. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

19. The Ordinance is in violation of the Constitution of the United States, in particular, the First and Fourteenth

Amendments, and the Constitution of Virginia, in particular, Article I, § 12.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional on its face and as applied and is contrary to law; temporarily and permanently enjoin the defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses, including attorneys' fees, incurred herein, and such other relief as the Court may deem just and proper.

COUNT II
(Unconstitutional and Improper
Exercise of Police Power)

20. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

21. The Ordinance is not a proper application of municipal authority over zoning and land use for the purpose of promoting the public safety and welfare; but is an unconstitutional exercise of the police power of the City in violation of the Constitution of the United States, the Constitution of Virginia and in violation of law.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional on its face and as applied and is contrary to law; temporarily and permanently enjoin the defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses,

including attorneys' fees, incurred herein, and such other relief as the Court may deem just and proper.

COUNT III
(Impairment of Vested Rights)

22. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

23. From prior to August 14, 1984, to date, the use and structural condition of each billboard owned by Creative has remained unchanged and Creative's rights to and in the billboards were vested as of August 14, 1984.

24. Creative's billboards constitute lawfully established nonconforming uses.

25. Section 15.1-492 of the Code of Virginia (1950), as amended, specifically prohibits impairment of any vested right and protects nonconforming uses.

26. Building regulations relate to construction, reconstruction, alteration, conversion, repair, maintenance or use of structures and buildings but do not include zoning ordinances or other land use controls not affecting the manner of construction or materials to be used in construction.

27. Zoning refers, among other things, to the classifying of land and to the prescribing and application in each zoned area of regulations concerning building and

structure placement and uses to which land, buildings, and structures may be put in each area.

28. The Ordinance, although identified as a building regulation, is in actuality a zoning ordinance, and as such is illegal and unenforceable because it impairs the vested rights of Creative to the billboards in violation of § 15.1-492 of the Code of Virginia (1950).

WHEREFORE, plaintiff prays that this Court declare the Ordinance in violation of § 15.1-492 of the Code of Virginia (1950), temporarily and permanently enjoin the defendants from taking any further action to enforce the Ordinance; and award to plaintiff its costs and expenses, including attorneys' fees incurred herein, and such other relief as the Court may deem just and proper.

COUNT IV.
(Denial of Just Compensation)

29. The allegations contained in paragraphs 1-17, inclusive, are incorporated by reference herein.

30. Creative's billboards do not constitute a public nuisance and the defendants have not properly demonstrated that the billboards constitute a public nuisance.

31. While the City may enact ordinances applicable to structures and uses which existed prior to the enactment, if such structures and uses are not nuisances per se, their removal or destruction cannot be ordered without compensation.

32. Creative will incur substantial damages if the defendants remove its billboards pursuant to the Ordinance.

33. Assuming arguendo for the purpose of this Count only that the Ordinance is otherwise constitutional and legal, the Ordinance requires the removal of the billboards without due process and just compensation to Creative, in violation of the Constitution of the United States, in particular the Fifth and Fourteenth Amendments, the Constitution of Virginia, particular Article I, § 11, and in violation of law whether or not the billboards are determined to be public nuisance per se.

34. In addition, the Ordinance is unconstitutional and illegal because it does not provide an adequate fund from which to pay just compensation to billboard owners whose signs are removed pursuant to the Ordinance.

WHEREFORE, plaintiff prays that this Court declare that the Ordinance is unconstitutional on its face and as applied and is contrary to law; temporarily and permanently enjoin the defendants from removing or requiring the removal of plaintiff's billboards pending institution by the City of condemnation proceedings against plaintiff's billboards as required by law; and award to plaintiff its costs and

expenses, including attorneys' fees incurred herein, and such other relief as the Court may deem just and proper.

CREATIVE DISPLAYS OF NORFOLK, LTD.

By Hunter W. Sims, Jr.
Of Counsel

Hunter W. Sims, Jr.
Albert H. Poole
KAUFMAN & CANOLES, P.C.
Post Office Box 3037
Norfolk, VA 23514-3037

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was ~~mailed, postage prepaid~~ ^{hand-delivered} this 14th day of February, 1986, to Robert V. Beale, Esquire, City Attorney, 2400 Washington Avenue, Newport News, VA 23607, and to Leonard A. Wallin, II, Esquire, Assistant City Attorney, 2400 Washington Avenue, Newport News, VA 23607.

Hunter W. Sims, Jr.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,

Plaintiff,

v.

In Chancery No. 14759-FB

CITY OF NEWPORT NEWS,
VIRGINIA, et al.,

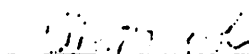
Defendants.


STIPULATION AS TO
ADMISSIBILITY OF DOCUMENTS

Adams Outdoor Advertising ("Adams"), the City of Newport News, Virginia (the "City") and Charles Alexander ("Alexander"), by their respective counsel, have agreed that the following documents may be introduced in evidence in this case without objection and without additional proof:

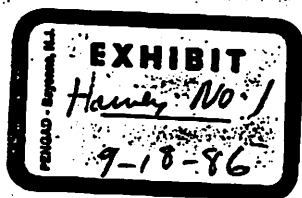
1. 48-Page booklet entitled, "City of Newport News Proposed Sign Regulations" (Exhibit 1 to Stipulation of Fact).
2. Minutes of the July 9, 1984 meeting of the Newport News City Council pertaining to a public hearing on the Ordinance (Exhibit 2 to Stipulation of Fact).
3. Newport News Ordinance 3213-84 (the Sign Ordinance) adopted by unanimous vote of the Newport News City Council on August 14, 1984, and found in Newport News City Code §§ 13-335 through 13-344 (Exhibit 3 to Stipulation of Fact).
4. Minutes of the August 14, 1984 meeting of the Newport News City Council (Exhibit 4 to Stipulation of Fact).

5. Memorandum dated June 23, 1984 from Brandol Harvey to members of the City Council entitled, "Additional Information Regarding Billboards and Portable Signs" (Exhibit 5 to Stipulation of Fact).
6. Letter dated September 1, 1983 to members of the City Council from H. Vincent Conway, Jr. (Exhibit 6 to Stipulation of Fact).
7. Memorandum dated August 14, 1984 to members of the City Council from Robert T. Williams, City Manager (Exhibit 7 to Stipulation of Fact).
8. Memorandum to members of the City Council from the City Clerk regarding comments by Wilma Charles (Exhibit 8 to Stipulation of Fact).
9. Former Article XXIV--Sign Regulations to Appendix A--Zoning Ordinance of the City of Newport News, Sec. 2401-2407 (the Old Sign Ordinance).
10. Newport News Ordinance 3211-84, amending and reordaining Appendix A, Zoning Ordinance of the Code of the City of Newport News and consisting of Article XXIVA Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District.


Counsel for Adams Outdoor
Advertising


Counsel for City of Newport News,
Virginia, and Charles Alexander

Stipulation #1
Filed
3/16/87



City of Newport News
**PROPOSED
SIGN REGULATIONS**



CITY COUNCIL WORK SESSION
on
PROPOSED SIGN REGULATIONS

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SUMMARY OF PROPOSED SIGN ORDINANCE

It has been determined that Newport News suffers from a negative visual image and an excessive number of signs, leading to traffic hazards and an overall reduction in the effectiveness of signage. To the outside observer, the City appears ugly and therefore unattractive as a possible new location for industry, business or home. The regulations proposed in the new Ordinance, however, recognize the need for commercial communication and are intended to provide for safe, effective signage throughout Newport News.

The present Sign Ordinance currently is contained entirely in the City's Zoning Ordinance and regulates the size, number and placement of signs within each zoning district. The proposed Ordinance will have two sections--one in the Zoning Ordinance for regulations applicable to particular zoning districts and an addition to Chapter 13, Building Regulations of the City Code, for regulations that are applicable to the entire City, irrespective of zoning districts.

● ACCUMULATIVE SIGN AREA

The present Sign Ordinance is rather ambiguous as to what signs are counted toward the total allowable sign area. The new Ordinance proposes that all permanent signs, whether internal or external displays, which are legible from the vehicular public right-of-way shall be regulated. Those signs which are not legible from the public right-of-way or are not intended to be permanent will not be regulated.

This concept does not alter the intent of the Ordinance. Instead, it clarifies the intent that messages intended to be read from the vehicular right-of-way or which draw attention to activities on that property are signs that most affect the public at large and should be counted toward the total sign area.

● OFF-PREMISE ADVERTISING

Presently, off-premise advertising, in the form of any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located, is allowed in all industrial zoning districts, up to a maximum of 300 sq. ft. per parcel. Since the total allowable sign area in industrial zones is 300 sq. ft., off-premise structures use the sign area that is (or will be) needed by the on-premise use. Therefore, to alleviate the problem of excessive sign area and to encourage the use of signs to identify a place of business rather than strictly advertise a product, new off-premise advertising will be prohibited throughout the City, irrespective of zoning districts. The one exception to this is that length of I-64 located in Newport News which more than any other stretch of highway in the City, may be said to have a basis to convey messages to the through-motorist. This section of the sign regulations will be placed in the City Code, Chapter 13, so as to avoid the issue of nonconformity. All existing billboards that were not erected under the control of special Federal and State regulations regarding signage adjacent to and visible from Federally aided highways will be declared illegal 181 days after adoption of the Ordinance and must be removed.

23

● TEMPORARY AND PORTABLE SIGNS

Similar to the existing Ordinance, the new Ordinance prescribes signs which are explicitly "exempted" as well as "prohibited." The regulations regarding these signs have been placed in Chapter 13 of the Code rather than the Zoning Ordinance because they apply to the entire City and not to individual zoning districts. Unless explicitly permitted under the "exempted sign" section of the proposed Ordinance, temporary signs of any nature will not be permitted to extend beyond the exterior wall of any building. Because they are temporary, these signs are not counted toward the accumulative sign area. However, because of potential safety hazards, portable signs which are trailer mounted or otherwise designed to be relocated will be prohibited in any zoning district, regardless of the "exempted sign" section, as is presently done in James City County, Williamsburg, Poquoson, and Virginia Beach. York County is currently considering the same restrictions in their draft Ordinance. The reasoning for this prohibition is that it has been determined that this form of advertising is not only unsightly to the community and effectively provides continuous additional sign area over the maximum permitted per lot, but can also be hazardous to the public safety. In many cases, the portable signs are not installed in a manner that meets the safety standards of the building code--they are not securely anchored nor properly wired, resulting in damages from wind-blown signs and electrical hazards.

● SHOPPING CENTERS AND HIGH-RISE BUILDINGS

Under the present Ordinance, shopping centers and high-rise buildings (seven stories or more) are allocated sign area only according to their street frontage. The proposed Ordinance recognizes the additional sign area required by these uses and has relaxed the regulations. Shopping centers will now be allowed identification ground signs according to their street frontage and individual store identification signs based on store frontage inside the shopping center. A minimum of 32 sq. ft. per shop will be guaranteed, even if a tenant has less than 32 linear feet of shop frontage. In the case of high-rise buildings, an additional square foot of sign area per linear foot of building frontage on a public street will be permitted.

● ADJUSTMENTS IN SIGN REGULATIONS

Presently there are two legislative processes for granting increases in sign area, and height and placement over the public right-of-way; Special Exceptions and Conditional Use Permits. In order to provide more consistency in the granting of such relief, the proposed Ordinance would make adjustments in the regulations an administrative matter. The Zoning Administrator would have authority to grant

waivers, up to 50% over otherwise allowable, when specific criteria are evidenced. The Planning Commission would become responsible for all requests exceeding 50% over otherwise allowable. Unlike the Zoning Administrator, there would no maximum increase that the Planning Commission would be limited to. The applicant would have the right to appeal the decision of the Zoning Administrator or the Planning Commission to the Board of Zoning Appeals on the basis of an alleged administrative error. In this circumstance, the complainant(s) would bear the burden of proof of administrative error rather than merely disagreeing with the findings before any relief could be provided by the Board.

● DISTRICT STANDARDS

The sign area, height and location standards for the individual zoning districts remain basically unchanged with the exceptions of increased allowable area for shopping centers and high-rise buildings. The major difference is that the proposed Ordinance provides a clarification of the standards by explicit written standards to replace the existing chart and footnote format. It is felt that the old format has been misinterpreted by administrators and property owners and that written standards will alleviate much of the confusion and inconsistency that resulted from the complicated old format.

The regulations proposed in the new Ordinance are intended to provide Newport News with safe, effective signage. The City does not propose to control the copy of signs nor their design, except as this pertains to size and building code requirements.

TEMPORARY SIGNS IN NEWPORT NEWS

I. Excessive Number of Signs

Codes Compliance and Planning surveyed Jefferson Avenue and Warwick Boulevard in July of 1982 and found 158 temporary signs. Of these, 128 were the trailer-mounted type. Trailer-mounted signs on that one day accounted for about 7000 square feet of sign area that is beyond that regulated by the current sign ordinance.

II. Violations

Between 1981 and mid-1983, the following breakdown in types of violations were prosecuted:

● Failure to obtain permit	66%
● Off-premise advertising	3%
● Displayed beyond 6-month period	10%
● Placed on City right-of-way	7%
● More signs than allowed in Shopping Center	10%
● Temporary signs having movement	2%
● Improper storage	2%

The high incidence of failure to obtain permits indicates a disregard for regulations that would not likely decrease with regulations allowing the continuation of temporary signs.

III. Safety

According to the Zoning Administrator, wind-blown temporary signs frequently happen when there are moderate to high winds. Although damage is not always done, damage to property has occurred. In at least one incident in March 1983, over \$2000 damage was incurred when a wind-blown trailer-mounted sign struck a parked car.

CITY OF NEWPORT NEWS

July 16, 1982

Mr. Brandol M. Harvey, Director Department of City Planning

Charles W. Alexander, Zoning Administrator

Jefferson - Warwick Sign Survey

Attached is the survey for particular types of signage on Warwick Boulevard and Jefferson Avenue. I thank you and Johnnie Davis for your assistance. The photos taken should appropriately complete the report and graphically support a conclusion, which specifically is as follows:

The proliferation of temporary trailer signs, A-frame signs, and abandoned signs significantly and negatively affects the visual impact along the commercial thoroughfares in our municipality. The elimination of over 200 of these type signs (on Jefferson and Warwick alone) would

1. provide fewer visual distractions to motorists,
2. encourage landscape and architectural enhancement of property and
3. allow for more consistency and fewer court cases in Sign Ordinance enforcement.

C. Alex

Charles W. Alexander

CWA/1h

Attachment

JEFFERSON - WARWICK SIGN SURVEY 7/2/82

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
----------	-----------------	-----------	----------	-----------	-------

JEFFERSON AVENUE

2503

1

3015

2

3500

2

4015

2

4314

1

4607

1

4703

1

4913

2

5100

2

5304

2

5700-04

1

c. Ellen Rd.

1

5800

1

5808

1

c. Temple Ln

2

5860

1

5872

1

5874

1

c. Hilton Blvd

3 (poles in gro

5923

1

5933

1

c. 74th St

1

6014

1

6101

1

6103

1

1

c. Morris Dr

1

6116

1

6129

1

6157

1

6163

1

9707

1

9816

1

1

9900

1

c. Bellwood Rd

1

9916

TION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
<u>PERSON AVE.CONT.</u>					
<u>21</u>	1	1			
<u>25</u>	1				
<u>Warwickshire Ct</u>	1				
<u>100</u>	1				
<u>119</u>	1				
<u>121</u>	1		1		
<u>510</u>		1		1	
<u>515</u>		1	1		
<u>745</u>			1		
<u>Ivy Farms Rd</u>	1 (nothing on it)				
<u>753</u>	1				
<u>002-A</u>	1				
<u>021</u>	1		1		
<u>111</u>	1				
<u>Harpersville</u>	1 (no business being conducted at time of survey)				
<u>201</u>	1				
<u>218</u>	1				
<u>234</u>	1				
<u>250</u>	1				
<u>281</u>	1		1		
<u>286</u>			1		
<u>Maconsdale</u>	1				
<u>Shopping Ctr</u>					
<u>312</u>	1				
<u>426</u>	1				
<u>500</u>	1				
<u>516</u>	1 (no permanent sign)				
<u>Robinson Dr</u>	1				
<u>Rt. 17</u>					

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
JEFFERSON AVE.CONT.					
<u>11702</u>	1				
Robert Hall Village		1			
<u>12105</u>	1				
<u>12135</u>	1				
North of Farm Fresh		1			
		Billboard "Too many Mosquitos"			
<u>12257</u>	1				
<u>12400</u>				1	
<u>12483</u>	1				
<u>12515</u>	1				
<u>12650</u>	1				
	(perm. sign could be used)				
<u>12800</u>	1				
	(temp. sign used perm.)				
c. Denbigh Blvd		1			
near 12825		1			
<u>12873</u>	1				
<u>12877</u>	1				
c. Richneck Rd		1			
<u>c. Richneck Rd</u>	1				
<u>12943</u>	1			1	1 Temp. sign mo permanently
<u>12946</u>	1				
<u>12950</u>	1				
<u>12954</u>				1	1 Sign in disr
<u>c. Ft Eustis Blvd</u> (Public Property)	1				
<u>c. Lee Hall</u>	1				
<u>c. Lee Hall</u>				1	

CATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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WICK BOULEVARD

<u>7116</u>	1				
<u>7311</u>	1				
<u>7324</u>	1				
<u>7330</u>	1				
<u>7706</u>		1			
<u>9512</u>				2	
<u>9600-9809</u>		1			
<u>9607</u>				1	
<u>9716</u>	1		1		
<u>9906</u>	1				

<u>10200</u>		1			
		Also in disrepair			

<u>10202</u>		1			
<u>10210</u>		1			
<u>10347</u>		1			
<u>10359</u>		1			
<u>10363</u>		1			
<u>10365</u>		1			
<u>10366</u>		1			
<u>10405</u>		2			
		One in dis- repair bldg occupied.			

<u>10413</u>		1			
<u>10600</u>	1				
<u>10606</u>	1				
<u>10817</u>		1			
<u>c. Cedar Ave</u>		1			

<u>10860</u>	2				
<u>11010</u>	1				
<u>11013</u>	1				
<u>11061</u>	1				
<u>11076</u>	1				
<u>11089</u>	1				

Nothing on sign

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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WARWICK BLVD CONT.

<u>11134</u>	1				
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<u>c. Copeland Ln</u>		1			
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<u>12264</u>		1			
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<u>12284</u>	1				
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<u>12300</u>	1				
--------------	---	--	--	--	--

<u>12309</u>				2	
--------------	--	--	--	---	--

<u>12368</u>	1				
--------------	---	--	--	--	--

<u>12399</u>	1				
--------------	---	--	--	--	--

<u>12444</u>	1				
--------------	---	--	--	--	--

<u>12460</u>	1				
--------------	---	--	--	--	--

<u>12468</u>	1				
--------------	---	--	--	--	--

<u>12533</u>	1				
--------------	---	--	--	--	--

<u>12541</u>	1				
--------------	---	--	--	--	--

<u>adj. to 12544</u>	1				
----------------------	---	--	--	--	--

<u>12544</u>	1				
--------------	---	--	--	--	--

<u>12589</u>	1				
--------------	---	--	--	--	--

<u>12601</u>	1				
--------------	---	--	--	--	--

<u>312 Oyster Pt. Rd</u>	1				
--------------------------	---	--	--	--	--

<u>12999</u>		7			
--------------	--	---	--	--	--

<u>13121</u>	1				
--------------	---	--	--	--	--

<u>13179</u>	1				
--------------	---	--	--	--	--

<u>13193½</u>	1				
---------------	---	--	--	--	--

Copy indicates
permanent :
use

<u>13262</u>	1				
--------------	---	--	--	--	--

<u>13269</u>	1				
--------------	---	--	--	--	--

<u>13286</u>	1				
--------------	---	--	--	--	--

<u>13313</u>	1				
--------------	---	--	--	--	--

<u>13324</u>	1				
--------------	---	--	--	--	--

<u>13622</u>	1				
--------------	---	--	--	--	--

<u>13630</u>	1				
--------------	---	--	--	--	--

<u>13650</u>	1				
--------------	---	--	--	--	--

<u>13665</u>	1				
--------------	---	--	--	--	--

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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BRWICK BLVD CONT.

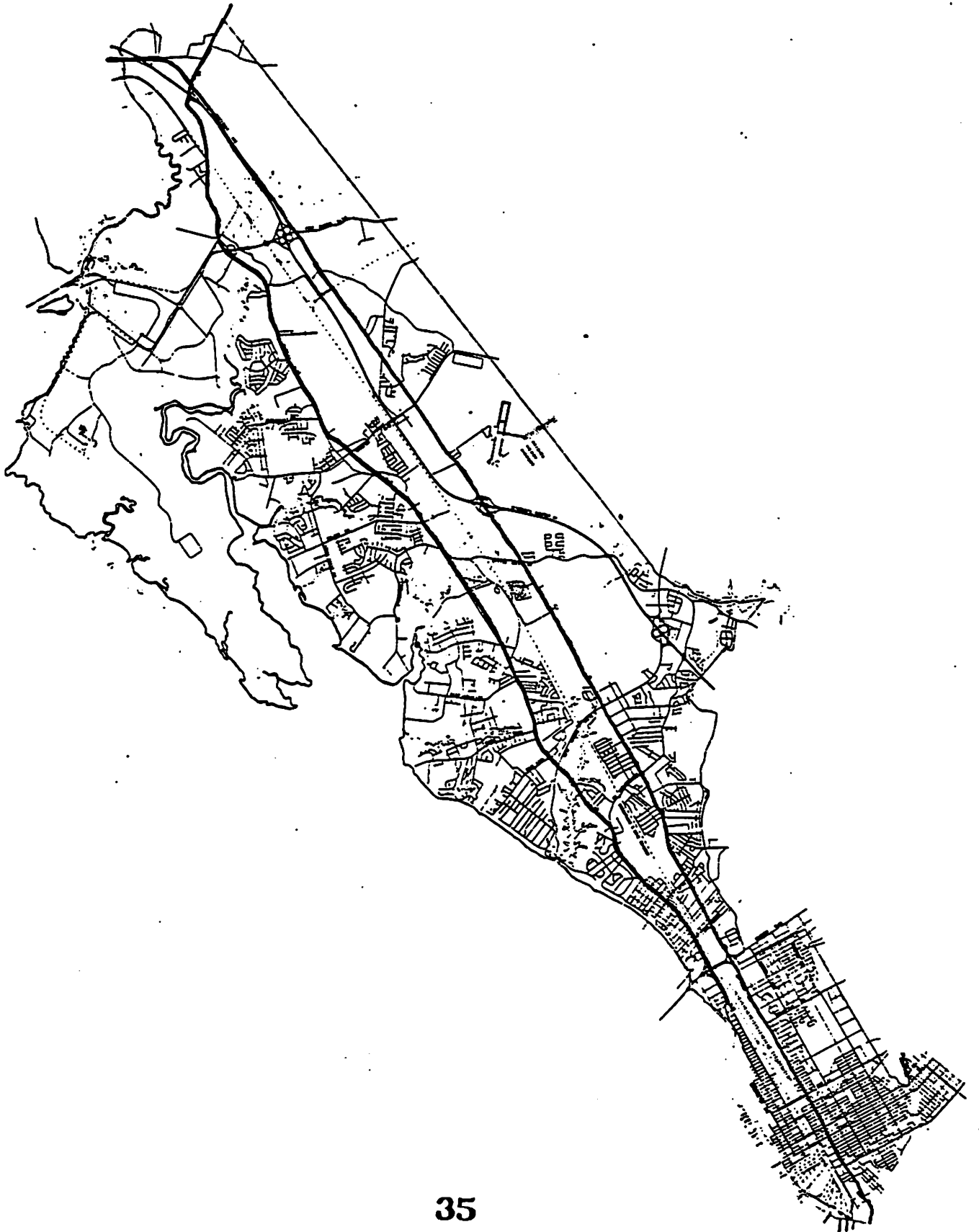
<u>666</u>	1				
<u>669</u>				1	
<u>Eastwood Dr</u>	1				
<u>684</u>	1				
<u>700</u>	1				
<u>754-77</u>	3	3			
<u>792</u>		1			
<u>797</u>	1				
<u>813</u>	1				
	Indicating store temp. closed				
<u>1200</u>	3				
<u>1350</u>				1	
<u>1351</u>	1				
<u>1369</u>	1				
<u>1375</u>			1		
<u>. Denbigh Blvd</u>	1				
<u>. Denbigh Blvd</u>				1	
<u>4407</u>	1				
<u>4605</u>		1			
<u>4700</u>	1				
<u>4704</u>	1				
<u>4746</u>	1				
<u>4758</u>				1	
<u>4758½</u>	1				
<u>4760</u>	1				
<u>4861</u>	1				
<u>4862</u>	1				
<u>4872</u>	1				
<u>5010</u>	1				
<u>5193</u>	1			1	
<u>5198</u>	1				
<u>5205</u>				1	
<u>5207</u>				1	

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
<u>WARWICK BLVD CONT.</u>					
5211	1				
15234	1				
15304				1	
15400	1	1			
		Freestanding in disrepair (fire damaged)			
15464	1				
	(Nothing on either side)				
15501	1				
15679	1				
15683				3	
16907	1				
16915	1				
17305	1				
TOTAL	128	56	13	30	6

Summonses were issued for the following violations from July 1981 to June 1982:

1. No permits	37
2. On R/W	3
3. Off premises	2
4. Not maintaining 500 feet	4
5. Altering sign	1
6. More than one free standing sign in shopping center	1
7. Exceeding square feet sign area	1
8. Exceeding six months	10
9. Windblown object on sign	2
TOTAL	61

158 freestanding temps on 7/2/82
34



BILLBOARDS IN NEWPORT NEWS

I. The attached map shows the locations of billboards in Newport News as of September 1983. The following are some facts of interest:

- There are a total of 41 sign structures and 72 sign faces.
- Half of the signs are in zones where they are not permitted (i.e. other than industrial, M-1, M-2). They are, therefore, nonconforming under current zoning standards, but are grandfathered and could not be eliminated unless declared illegal under City Code standards.
- Many are clustered in groups of 2 or 3 with as many as 6 faces or in very close proximity equaling to one every block on sections of 25th Street, Jefferson Avenue, and Terminal Avenue.
- 36 out of the 41 signs are owned by the same Atlanta-based company.
- Only 3 of the 41 are placed on an interstate so as to draw the tourist or traveling motorist. The copy on these 6 sign faces is predominantly for businesses located outside Newport News.

II. Under the proposed Sign Ordinance requirements:

At least 13 (possibly as many as 20) structures and at least 27 (possibly as many as 38) sign faces will be grandfathered. These are located along Federal-aid highways.

- Only 13 structures with 17 faces will be required to be removed.
- Approximately 8 structures and 18 faces are to be removed or relocated due to I-664 construction.

III. Under current regulations:

- Approximately 150 additional billboards could be constructed today.
- Considering full development of the 3350 acres of industrial land now vacant, there is a potential for about 475 additional billboards.

PLANNING COMMISSION RESOLUTION
ON SIGN REGULATIONS

- WHEREAS: The City Council of Hampton has underscored the importance of a vital and growing economy in Hampton by adopting as its principal goal the encouragement of economic development, and the Council has further recognized the value of a physically attractive community in this regard by adopting another goal "to improve the physical appearance and image" of the city; and
- WHEREAS: The Commission recognizes the importance of a pleasing physical appearance to a community in its efforts to attract and retain businesses and industries; and
- WHEREAS: The Commission is cognizant of the problem of the currently poor physical appearance on many developed areas of the Peninsula, a problem singled out for mention in a recent study on industrial development prospects for the Peninsula which was commissioned by the Virginia Peninsula Economic Development Council; and
- WHEREAS: The Peninsula Chamber of Commerce is attempting to foster a Peninsula-wide approach to solving the problems identified in the VPEDC report, among other ways by forming a Committee on the Visual Environment; and
- WHEREAS: One of the efforts of this committee is to promote the use of sign regulations which are fair, effective in upgrading the general level of sign appearance on the Peninsula, and consistent among the area jurisdictions; and
- WHEREAS: The City Planning Commission of Newport News is presently holding public hearings on a proposed new sign ordinance for Newport News, which ordinance has the stated purpose of promoting "safe, effective signage" throughout the city.

NOW THEREFORE, on motion by T. I. Miller, seconded by A. R. Vanasse

BE IT RESOLVED, that the Hampton City Planning Commission hereby expresses its support for the efforts of the Peninsula Chamber of Commerce to promote consistency of regulations among area jurisdictions; and

BE IT FURTHER RESOLVED, that the Commission endorses the current efforts of both the City of Hampton and the City of Newport News to improve their respective visual environment; and

BE IT FURTHER RESOLVED, that the Commission particularly supports the efforts of the City Planning Commission of Newport News to create effective and equitable sign regulations for that city; and

BE IT FURTHER RESOLVED, that the Commission pledges a future effort to establish equally effective and equitable sign regulations in Hampton, in support of City Council's goals, which will maintain consistency with then existing area regulations to the greatest extent possible.

A roll call vote on the motion resulted as follows:

AYES: Baker, Scoggin, Lovett, Miller, Vanasse, Curtin

NAYS: None

ABST: None

ABSENT: Norman

A COPY: TESTE;

Secretary

APPROVED:

Chairman

Peninsula Chamber of Commerce

VISUAL ENVIRONMENT COMMITTEE
RESOLUTION ON SIGN REGULATIONS

- Whereas: The Peninsula Chamber of Commerce has created the Visual Environment Committee, composed of Planning Directors, representatives of local governing bodies and administration, the Virginia Department of Highways and Transportation, and the Peninsula Chamber of Commerce, for the purpose of identifying, reviewing and solving problems associated with the visual environment; and
- Whereas: The Visual Environment Committee has reviewed the findings of the Competitive Factors Study conducted for the Virginia Peninsula Economic Development Council by Praful Shah; stating that a visually negative image of the Peninsula exists; and
- Whereas: Conclusions reached during the Critical Factors Workshops conducted by knowledgeable and involved community and business leaders as well as local officials have indicated a consensus that the Peninsula suffers from several negative contributing elements of the visual environment including excessive signage; and
- Whereas: The Newport News Planning Commission created a Sign Ordinance Committee to review problems and draft a sign ordinance promoting safe, effective signage and further that this Committee found that Newport News suffers from excessive and unsafe signage and has prepared a draft ordinance to resolve these problems; and
- Whereas: The Hampton City Council has recognized the value of a physically attractive community and adopted the goal "to improve the physical appearance and image" of the area and further that the Hampton Planning Commission has endorsed and expressed its support for the Newport News Planning Commission's efforts in adopting a sign ordinance to reduce excessive signage and promote the public's safety; and
- Whereas: The Beautification Subcommittee of the Visual Environment Committee, composed of zoning administration and enforcement personnel of the various Peninsula localities, has determined that signage is the highest single contributory element to the negative visual environment which can be controlled through legislation and enforcement and is the highest priority for corrective actions.

NOW THEREFORE BE IT RESOLVED, that the Peninsula Chamber of Commerce Visual Environment Committee finds:

1. That the Peninsula's visual environment is in dire need of protection and corrective actions to include more restrictive sign controls and enforcement.
2. That the Peninsula suffers from excessive and in some cases, unsafe, signage which unduly distracts the motorists and pedestrians, may create traffic hazards and reduces the effectiveness of signs overall, including signs needed to direct the public.

3. That the number of distracting signs must be reduced in order to alleviate these effects.
4. That the primary purpose of signs is to serve as an identification of a place of business.
5. That the signs of least importance in occupying limited views from the public rights-of-way are those which convey messages other than that which serves as an identification point as a place of business, such as those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located at the point where the sign is located.
6. That signs may constitute a significant danger if not structurally integrated with buildings or treated as free-standing structures which comply with requirements of the Uniform Statewide Building Code.
7. That signs which are in excess of the allowable district standards for permanent signs significantly contribute to visual clutter and should be prohibited or brought into conformity to the maximum degree possible.

BE IT FURTHER RESOLVED, that the Peninsula Chamber of Commerce Visual Environment Committee endorses the current efforts of the Cities of Williamsburg, Hampton, Newport News, the Town of Poquoson, James City County, and York County to improve their respective visual environment; and

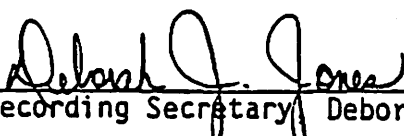
BE IT FURTHER RESOLVED, that the Committee supports the efforts of the Newport News Planning Commission to create effective and equitable sign regulations for that City; and

BE IT FURTHER RESOLVED, that the Committee recognizes and supports the actions of the Hampton Planning Commission in resolving to establish equally effective and equitable sign regulations in Hampton and their endorsement of the efforts of the Newport News Planning Commission.

A COPY: TESTE:


Chairman, Walter W. Wildman

October 4, 1983


Recording Secretary Deborah J. Jones

QUOTES FROM COMMUNITY LEADERS

Dave Edwards, Executive Director Virginia Peninsula Economic Development Council Inc.

The competitive factors study was done for the entire Peninsula - we had had many businesses and industries from outside the area that had come to visit the Peninsula. We had found that there were some concerns that some of these firms had that they weren't always expressing. There were problems that they were apparently seeing in the community which lead them not to locate here. General appearance and the quality of the environment in the community is very, very important to industry - I think, increasingly important. If there has been less than suitable or less than appropriate sensitivity to the way signs are handled, it's just one of the factors that may tend to have a community not show as well as it might. As you look around at other parts of the country, the kinds of communities that Newport News must increasingly compete with - the Raleigh/Durham/Chapel Hill area - northern Virginia - I think those communities have rather stringent sign ordinances. That would definitely help our general marketing effort to improve our marketing position. The improved appearance of signs in Newport News would clearly be to the community's long-term benefit for industry and for residents at home.

Walter Wildman, Chairman, Visual Environment Committee of Peninsula Chamber of Commerce

If you don't look very good they foresee that perhaps you might not be very good. The charge was given from VPEDC to the Peninsula Chamber of Commerce to try to implement a program to deal with the improvement of the visual environment on the Peninsula. And I think that we probably have to allow that the Peninsula did offer pretty fertile ground for some visual improvement. We identify signage as the number one visual blight, visual impairment on our visual environment.

Al Schlim, General Manager, Oyster Point Development Corporation

The first thing that is going to draw you to a place or turn you off or turn you away from a place is the quality of the signs. And, of course, a cluttered look of too many signs, the quantity itself is also a turn off. Emphasis on signage is something that's been required for a long time - control the total of square footage of what you can have in the first place and only really allow the advertising - just big enough for you to find out just what it is you're after. There's a lot of things that are put on signs that are pretty ridiculous, superfluous - gawdy pictures, gawdy shapes, colors, flashing lights - all kinds of things that really defeat the purpose of the signage. It turns you off rather than turns you on. If you see even a gas station cluttered with fifteen or twenty signs - regardless if the sign is a penny cheaper than somewhere else, because you associate the quality of the product with the quality of the surroundings. I think we could use some strength in the sign ordinance in a couple of ways. I would say on the legal end that removal of signs should be part of the site plan approval. The signage and landscaping should all be part of the site plan approval package. There ought to be a part of the sign ordinance that requires he takes down the sign instead of our own code, our own policy.

Joe Cross, Planning Management Associates, Ltd.

There is a concept called visual noise and the signs create, in a sense, noise. Each one trying to be a little bit bigger and a little bit gawdier and a little bit brighter than the next one; together they create a cacophony of noise that bombards the senses. The area around Christopher Newport College, where you have a strip with lots of signage on it, in a sense, detracts from the overall impression of the area surrounding the college. One that is very simple and very basic; that is very straightforward in its message and does not try and grab the attention in competition with everything else. It has to fit in with its surroundings.

Charles Alexander, Assistant Director, Newport News Department of Codes Compliance

If signage is back to identification, and that's just knowing where you are, and then allowing an individual to say where they are, and limiting the amount of advertising and the whole concept of the more signage I put out there the better my chances of drawing people in - if we can eliminate that, then the cluttered affect that we do have now in some areas would also be curtailed.

Art Casey, Casey Chevrolet, Inc.

A cluttered area, a lot of small signs and unkept signs in certain areas of the city are quite distracting and affect, we think, the image of the business and the surroundings. Too many small signs can become quite confusing and I think the public has the tendency to think that if you don't look good you must not be very good. Areas of certain streets in the city where they have sign after sign, where we have tremendous amount of duplication, have become quite confusing. As a result, the community looks unpleasant. To build a strong economic base on the Peninsula we need to look good to get industry or light industry, high-tech industry in our community to create that economic base.

Bill Hamner, Hamner Realty, Inc.

I feel that signs should be attractive and should have eye appeal. And should have a limited message. The hodge-podge that we find throughout the city seems to diminish the overall effect of the good signs. I'm just delighted that the city has decided to look at the overall signage here in Newport News.

George Ailsworth, Larasan Realty

I think the type sign you have sets the tone as far as the general public is concerned. If you have an attractive road sign, then I think they feel that the company they're doing business with will be a company they like to do business with.

Sue Hogue, Executive Coordinator, Newport News Clean Community Commission

Signs can either be compatible with the landscape and can actually add to the attractiveness of the business community or it can take away greatly. I'm glad to see that the city of Newport News is taking a look at its visual environment - creation of the Clean Community Commission - taking a look at its codes, particularly the Sign Ordinance. I'm just glad to see that we're taking an overall coordinated approach to making Newport News a much better place in which to live and work.

ZONING DISTRICTS

	R1 R1-A R1-B R1-C	R2-A R2-AM R2-B	R3-C R3-D	C1	C2	C2-A	DB	RD-1	M1 M2
Exempt									
Temporary (1)									
Shingle									
Marquee									
Projection									
Wall									
Roof									
Ground									
Advertising									
Spectacular									
Sign Area Permitted (Sq. Ft.) (3)	NA	NA	0.75	0.75	1.00	1.00	1.50	1.00	1.00
Max. Total Area Per Parcel (Sq. Ft.) (6) (7)	12	24	75	150	150	150	100	100	200
Sign Height (Feet)	6	6	16	16(5)	24(5)	40	40	24	40
Setbacks (Feet) (8)	Front		25	25	25(4)	10(4)	0(5)	25	0
	Side		10	10	5	0	0	10	0

(1) When erected in compliance with section 2406 of this ordinance.

(2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.

(3) Fifty (50) percent increase in height may be granted by board of zoning appeals.

(4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.

(5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.

(6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.

(7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:

(a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and

(b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.

Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.

(8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:

(a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.

(b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(TO BE PLACED IN CITY CODE)

CHAPTER 13 BUILDING REGULATIONS

AN ORDINANCE TO REGULATE THE USE OF SIGNS AND PROVIDE FOR REMOVAL OF OBSOLETE STRUCTURES.

The City of Newport News ordains:

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

SECTION 2. DEFINITIONS.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign: A sign made of fabric or any nonrigid material with no enclosing framework.

BUSINESS/OFFICE DIRECTORIES: A NONADVERTISING SIGN, ATTACHED TO A WALL OR MOUNTED ON A POLE, THAT LISTS THE BUILDING OCCUPANTS.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer, or contractor of a tract, building, or structure being developed under construction.

Directional/Information Sign: An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants, or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Flashing Sign: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention.

Frontage: The length of the property line of any one premise along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

GROUND/Free-standing Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lowest.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Off-Premise Sign: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.

On-Premise Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially re-

corded or otherwise brought to the attention of the Zoning Administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this Ordinance, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

PROJECTING SIGN: A SIGN OTHER THAN A WALL SIGN THAT IS ATTACHED TO A WALL OR SUSPENDED FROM A PEDESTRIAN PROTECTION OVERHANG.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to, any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A free-standing or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer, or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

WALL SIGN: A SIGN PAINTED ON OR ATTACHED TO AND ERECTED PARALLEL TO THE FACE OF AN OUTSIDE WALL.

Window/GRAPHICS Sign: A sign installed inside a window and intended to be viewed from the outside.

SECTION 3. PERMIT REQUIRED.

It shall be unlawful for any person to construct, erect or display any sign covered by this Article until a permit therefor has been issued by the Department of Codes Compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs; provided the signs legally exist by permit.

SECTION 4. EXEMPTED SIGN: The following signs shall be exempted from zoning regulations, but not necessarily building regulations as contained in this Code, when determined not to be detrimental to the health, safety, and welfare of the public.

- A. Activity signs denoting the revivals or other normal functions of bona fide religious or non-profit organizations when such signs are:
 - 1. Located on the site of such organization or activity;
 - 2. Limited to one(1) sign of not more than thirty-two (32) square feet per lot.
- B. Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
- C. Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
- D. Menu boards which are either free-standing or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one menu board per lot.

- E. "Noncommercial" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
- F. Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the Zoning Administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period only.
- G. Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- H. Public, institutional, or religious building identification signs.
- I. Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one lot.
- J. Real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - 1. Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:

- (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - (b) The sign is located only at intersections where a turning movement is indicated.
 - (c) There may be no more than two signs at any one intersection.
 - (d) Express permission has been obtained from all adjacent property owners.
 - (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sun-up to sun-down.
 - (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
- 2. Signs displayed in violation of the provisions of this section shall be confiscated by the City.
 - 3. Persons causing open house signs to be placed on City right-of-way shall provide the City with evidence of a \$500,000 general liability insurance policy with the City named as an additional insured before display of signs may be permitted.
- K. Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.

- L. Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:
1. Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or non-profit organization.
 2. Special decorative displays used for national holidays, public demonstrations or promotion for nonpartisan civic purposes.
 3. Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.
- M. Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs, and temporary emergency signs.
- N. URBAN SIGNS ADDRESSED BY THE NEWPORT CENTRE URBAN DESIGN PLAN:
1. BUSINESS/OFFICE DIRECTORIES WHICH ARE EITHER FREE-STANDING OR AFFIXED WALL SIGNS AND WHEN USED IN A NONADVERTISING DISPLAY TO OFFER INFORMATION TO THE PEDESTRIAN PUBLIC AND THEIR SIZE IS LIMITED TO 12 SQUARE FEET OR LESS.
 2. PROJECTING SIGNS WHEN LOCATED IN THE DBCW SECTOR AND NOT EXCEEDING TWO (2) SQUARE FEET IN AREA.

SECTION 5. PROHIBITED SIGN: The following signs shall be prohibited within the City:

- A. Abandoned signs.
- B. Animated signs: No such sign shall be permitted in any required front yard or building setback area except:

1. When located in the Downtown Business (DB) District as defined in the City Zoning Ordinance.

2. Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.

C. Flashing lights.

D. Flashing signs: No signs utilizing lighting effects simulating motion shall be permitted.

1. Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.

2. Provided further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.

E. Off-premise signs shall be prohibited with the exceptions set forth below:

1. Off-premise signs existing as of the adoption of this ordinance and erected pursuant to Section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.

2. New off-premise signs shall be permitted along Interstate 64 only and under these following conditions:

- a. Permitted only if the statutory provisions of the Code of Virginia 1950, (as amended) Title 33.1, Chapter 7 "Outdoor Advertising in Sight of Public Highways" are met.

- b. Permitted on undeveloped properties only and must be removed when the property is developed.

- c. Spaced no less than 2000 feet apart.
- d. Not located closer than 500 feet to the edge of an interchange.
- e. Not located closer than 2000 feet to any residential district.
- F. Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels.
- G. Posters or temporary signs (i.e. snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- H. Temporary signs: No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other non-permanent sign intended to call attention to, advertise or promote sales, special events, openings, or similar events shall be allowed on any lot beyond the exterior of any building(s).
- I. Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e. buses or taxis.
- J. ROOF SIGNS WHEN LOCATED IN THE DB DISTRICT.

SECTION 6. REMOVAL OF SIGNS.

Ninety (90) days after this ordinance takes effect it shall be a violation hereof to maintain any prohibited sign as defined in this ordinance except for Section 5.E. and Section 5.F. prohibited signs. One hundred eighty (180) days after this ordinance takes effect it shall be a violation hereof to maintain any Section 5.E. or Section 5.F. prohibited sign.

The Zoning Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of re-

removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty (30) days of the notice, it shall become an assessment upon a lien against the property of the sign owner, and will be certified as an assessment against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Zoning Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the City pertaining to signs.

SECTION 7. MAINTENANCE.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced.. The Zoning Administrator or his duly authorized representative shall have the right under Section 6 to order the repair or removal of any sign which is defective, damaged, or deteriorated.

SECTION 8. EXCEPTIONS.

This Code does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley, nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This Code does not regulate the number, size, height, or location of signs as contained in the Zoning Ordinance of the City of Newport News.

SECTION 9. PENALTY - EFFECTIVE DATE.

Whoever violates this Code shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100) or imprisonment in the City jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 10. SEVERABILITY.

This Code, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect.

REVISED DRAFT 6/84

ARTICLE XXIV. SIGN REGULATIONS

SEC. 2401. GENERALLY (PURPOSE).

The purpose of this article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the City. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

SEC. 2402. SCOPE.

This article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

SEC. 2403. DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply:

ACCUMULATIVE SIGN AREA: Any sign that is intended to be remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

ALLOWABLE SIGN AREA: That portion of a sign countable for determining compliance with district regulations of accumulative area and defined as the area of a rectangle, triangle, circle or combinations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

SIGN: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

SEC. 2404. RELATIONSHIP TO BUILDING REGULATIONS

The provisions of this article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Ordinance imposes regulations more restrictive than said Code, the regulations of this Ordinance shall prevail.

SEC. 2405. PROVISIONS APPLICABLE TO INTERSTATE HIGHWAYS.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City Sign Ordinance are met.

SEC. 2406. NONCONFORMING SIGNS.

Any permanent sign existing on the effective date of this Ordinance and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

- A. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
- B. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
- C. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Ordinance.

SEC. 2407: ZONING DISTRICT REGULATIONS.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

- A. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- B. Multi-family residential districts: R2-A, R2-AM.
 - 1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - 2. Unless otherwise permitted in this Ordinance, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
- C. Multi-family residential districts: R2-B, R2-C, R2-D.
 - 1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - 2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - 3. Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.

D. Commercial zoning districts: C2, C2-A.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
3. For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
4. There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Sec. 2408 can be met.
5. Free-standing identification signs shall maintain the following setbacks:
 - (a) In a C2 district: twenty-five (25) foot front yard
five (5) foot side yard
 - (b) In a C2-A district: ten (10) foot front yard
zero (0) foot side yard
 - (c) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

E. Downtown business district: DB.

THE PURPOSE OF THIS SECTION IS TO REGULATE SIGNAGE CONSISTENT WITH PROPOSED AND EXISTING DEVELOPMENT WITHIN THE DOWNTOWN BUSINESS DISTRICT AND GENERALLY KNOWN AS NEWPORT CENTRE IN CONFORMITY WITH THE PROVISIONS OF THE NEWPORT CENTRE URBAN DESIGN PLAN.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of THREE HUNDRED (300) square feet of sign area per lot.
3. FOR CORNER LOTS WITH MULTIPLE STREET FRONTAGES, THE NUMBER OF SIGNS AND SIGN AREA SHALL BE DETERMINED ACCORDING TO INDIVIDUAL STREET FRONTAGES. IN NO CASE SHALL THE SIGN AREA EXCEED THREE HUNDRED (300) SQUARE FEET PER LOT.
4. THERE SHALL BE NO FRONT OR SIDE YARD SETBACKS REQUIRED IN THE DBC SECTORS. PROJECTING SIGNS THAT MAY EXTEND OVER THE PUBLIC RIGHT-OF-WAY SHALL BE AUTHORIZED BY THE ZONING ADMINISTRATOR IF THE CRITERIA AS ESTABLISHED IN SEC. 2408 HAVE BEEN MET.
5. WALL SIGNS ABOVE THE FIRST STORY SHALL BE LIMITED TO ONE BUILDING IDENTIFICATION SIGN PER PARCEL EXCEPT WHEN THE COMBINED BUILDING FRONTAGE EXCEEDS 100 FEET IN LENGTH, AN ADDITIONAL IDENTIFICATION SIGN SHALL BE ALLOWED PER 100 LINEAR FEET.
6. GROUND SIGNS 10 SQUARE FEET OR MORE IN AREA SHALL BE REQUIRED TO HAVE A MINIMUM OF 5 SQUARE FEET OF LANDSCAPED GROUND AREA AT THE SIGN BASE FOR EVERY ONE SQUARE FOOT OF SIGN AREA. GROUND SIGNS OF LESS THAN 10 SQUARE FEET SHALL HAVE A MINIMUM OF 20 SQUARE FEET OF LANDSCAPED GROUND AREA. ANY COURTYARD OR PLAZA REQUIRED UNDER SEC. 2624 MAY APPLY THIS REQUIRED OPEN SPACE FOR THIS PURPOSE.

7. ANY GROUND SIGN WITHIN THE DBC SECTORS SHALL BE LIMITED TO 24 SQUARE FEET IN SIGN AREA AND 12 FEET IN HEIGHT.
8. WHEN PROJECTING SIGNS ARE LIMITED TO 2 SQUARE FEET, THEY ARE NOT COUNTED AGAINST THE TOTAL PER PARCEL. ANY INDIVIDUAL SIGN OVER 2 SQUARE FEET WILL BE COUNTED TOWARD THE TOTAL SIGN ALLOTMENT IN ITS ENTIRETY. A 12 FOOT CLEARANCE SHALL BE MAINTAINED FROM THE BOTTOM OF THE PROJECTING SIGN TO THE GROUND.
9. PROJECTING SIGNS, MARQUEES, AND WINDOW GRAPHICS SHALL BE LOCATED BELOW THE SECOND FLOOR LEVEL AND SHALL NOT EXCEED 24 FEET IN HEIGHT NOR IN ANY CASE EXTEND OVER 5 FEET INTO THE RIGHT-OF-WAY.
10. RETAIL USES ADJACENT TO, WITH ACCESS FROM, A PUBLIC COURTYARD OR PLAZA SHALL RECEIVE A 1:1 RATIO OF SIGN AREA TO STORE FRONTAGE.

F. Industrial zoning districts: M1, M2.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
3. For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
4. There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
5. There shall be no front or side yard setbacks required in this district.

G. Supplemental sign regulations.

1. For commercial high rise buildings of SEVEN (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street; provided such additional area is not constructed as a free-standing sign.
2. Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (a) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (b) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
3. The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (a) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

SEC. 2408. ADJUSTMENTS IN SIGN REGULATIONS.

The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and enforce and carry out all provisions of this Ordinance, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

A. Sign height: The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

1. Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
2. The location of entrance way(s) in relation to business.
3. A change in traffic patterns.
4. The distance from road rights-of-way.
5. A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

1. Consistent with other businesses in the general area;
2. Not within two hundred (200) feet fronting a residential zoning district; and
3. Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

B. Sign area increases: The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

1. Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
2. The location of entrance way(s) in relation to business.
3. A change in traffic patterns.
4. The distance from road rights-of-way.
5. A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

1. Consistent with other businesses in the general area;
2. Not within two hundred (200) feet fronting a residential zoning district; and
3. Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed 50 percent of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above 50 percent.

C. Signs over public right-of-ways: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-ways whenever all of the following conditions are present:

1. That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
2. That the location, clearance, and construction of the sign are sufficient to insure public safety.
3. That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

D. SIGN AREA INCREASES - DB/NEWPORT CENTRE: THE ZONING ADMINISTRATOR SHALL AUTHORIZE AN EXCEPTION IN THE DBC SECTORS FOR INCREASED SIGN AREA FOR BUILDING IDENTIFICATION SIGNS WHENEVER ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

1. A PERMANENT VISUAL OBSTRUCTION EXISTS, SUCH AS, BUT NOT LIMITED TO, ADJACENT BUILDINGS OR BRIDGES:
2. THE SIGN IS ORIENTED TO AND IS PRIMARILY INTENDED TO BE VISIBLE TO THE I-664 RIGHT-OF-WAY:
3. SUCH ADJUSTMENT WOULD BE CONSISTENT WITH OTHER BUSINESSES IN THE DBC SECTORS: AND
4. SUCH ADJUSTMENT WOULD BE CONSISTENT WITH GENERAL TRAFFIC SAFETY IN THE GENERAL AREA.

NOTWITHSTANDING, SAID EXCEPTION SHALL NOT AUTHORIZE A MAXIMUM INCREASE TO EXCEED 50 PERCENT OF THE TOTAL ALLOWABLE SIGN AREA PER LOT.

E. SIGN HEIGHT INCREASES - DB/NEWPORT CENTRE: THE ZONING ADMINISTRATOR SHALL AUTHORIZE AN EXCEPTION IN ANY DBC SECTOR OF AN INCREASE IN GROUND SIGN HEIGHT WHENEVER ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

1. A PERMANENT PHYSICAL OBSTRUCTION, SUCH AS, BUT NOT LIMITED TO, ADJACENT BUILDINGS OR BRIDGES OR OTHER FACTORS EXIST WHICH MAKE THE ALLOWABLE SIGN HEIGHT INADEQUATE TO PERMIT VISIBILITY FROM THE ADJOINING ROADWAY.
2. CONSISTENT WITH GENERAL TRAFFIC SAFETY IN THE GENERAL AREA.
3. NOTWITHSTANDING, SAID EXCEPTION SHALL NOT AUTHORIZE A MAXIMUM INCREASE TO EXCEED 24 FEET IN HEIGHT.

REVISED DRAFT 6/84

ADDITIONAL TEXT CHANGES

Text Amendment to Appendix A, City Zoning Ordinance, Article XXA. Conditional Use Permits, Sec. 20A02. Generally.

This amendment is required in order to be consistent with the proposed text changes to Article XXIV. Sign Regulations. The change involves adding the underlined clause below, as follows:

"Notwithstanding the above provisions, the City Council will not consider applications which are permitted as special exceptions under the provisions of Article XXVII. (Ordinance No. 1956, §1), nor will the City Council consider applications for modifications to the provisions contained in Article XXIV.

Text Amendment to Appendix A, City Zoning Ordinance, Article XXVII. Board of Zoning Appeals, Sec. 2704. Powers and duties. C. Special exceptions. §23. Temporary signs, 24. Sign height, 24-A. Sign area increase, and 25. Signs over public rights-of-way.

This amendment is also required in order to be consistent with the proposed text changes to Article XXIV. Sign Regulations. The change would delete the four referenced special exceptions in their entirety from the powers and duties of the Board of Zoning Appeals. As proposed in the draft Sign Ordinance, specific variations from the regulations are prescribed under an administrative procedure of the City Zoning Administrator.

MINUTES OF REGULAR MEETING
OF THE COUNCIL OF THE CITY OF NEWPORT NEWS
HELD IN THE COUNCIL CHAMBERS
JULY 9, 1984
7:30 P.M.

PRESENT: Brown, Fitzgerald, Hogge, Keator, Patten, Rattley
Ritchie ----- 7

ABSENT: None ----- 0

1. The invocation was rendered by The Reverend Truman H. Brunk, Warwick River Mennonite Church.

2. The Pledge of Allegiance to the Flag of the United States of America was led by Councilman Patten.

3. Public Hearings

(a) Site Plan Text Amendment No. 84-2, City of Newport News

Mayor Ritchie presented AN ORDINANCE TO AMEND AND REORDAIN APPENDIX C, SITE PLAN ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE, I, IN GENERAL, SECTION 1-07, REQUIREMENTS, REGULATIONS AND RESTRICTIONS, GENERALLY SUBSECTION (G). This ordinance will provide adequate approved water mains and fire hydrants in accessible places in accordance with the fire prevention code of the City.

(No Speakers)

Councilwoman Keator moved adoption of above ordinance; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: None

(b) Subdivision Text Amendment No. 84-1, City of Newport News

Mayor Ritchie presented AN ORDINANCE TO AMEND AND REORDAIN APPENDIX B, SUBDIVISION REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, ARTICLE IX, MINIMUM IMPROVEMENTS REQUIRED, SECTION 9-06, FIRE PROTECTION. This ordinance also provides adequate approved water mains and fire hydrants in accessible places in accordance with the fire prevention code of the City.

(No Speakers)

Councilwoman Rattley moved adoption of above ordinance; seconded by Councilwoman Keator.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: None

(Both of the above amendments essentially state that fire hydrants shall be placed no greater than 750 feet apart in residential districts and 500 feet apart in other districts. Because these merely formalize administrative policies currently used, there will be no appreciable effect regarding costs incurred by developers.)

(c) Zoning Text Amendment ZT-83-81, City of Newport News
Sign Ordinance

Councilwoman Keator stated she would be abstaining on the vote for the sign ordinance. Her husband owns a sign company, and she owns stock in the company even though she does not participate in the management of the company. She stated that as a member of the Planning Commission, the Commonwealth Attorney issued an opinion that the information in front of the Planning Commission was of a general

application, and she could vote. The Commonwealth Attorney still maintained she can legally vote on this issue as a council member even though there are specifics in the proposed ordinance. However, Councilwoman Keator felt this was a morally-gray area, and she would abstain as a council member based on this premise. She cited one possible example which she felt could result in a conflict of interest.

Councilwoman Rattley questioned the legality of the item before Council considering the vote of the Planning Commission. The City Manager advised that if Councilwoman Keator had abstained in the Planning Commission, the item would still be in front of Council; however, the Planning Commission recommendation would have been denial based on a 4-4 tie vote had Councilwoman Keator abstained from voting.

The City Attorney advised that the Commonwealth Attorney's opinion at the time of the Planning Commission vote was based entirely on a general application which is different than the present proposed ordinance. Councilwoman Keator should have voted at the Planning Commission, and since there is a gray area now, she was correct in her abstention. He saw no legal problem with this development.

Wayne R. Spencer, 690 J. Clyde Morris Boulevard - Mr. Spencer advised he represented Arrow Sign Company, Quick Sign Rental, and Norris Mobile Marquis - all companies which deal with temporary rental signs. He complimented Councilwoman Keator and stated his appreciation for the consideration which she gave to this issue in arriving at her decision. Mr. Spencer stated his remarks would deal with the temporary rental signs. He pointed to three special interests insofar as temporary signs are concerned: (1) quality of life in the City (aesthetic considerations); (2) the people who have invested years and money in building up their sign businesses to make them prosper. Council would need to look at all the aspects and ramifications of doing away with these businesses; and (3) effect on the consumers and businesses who benefit from this type of signage. He went on to state he understood the need for a pleasing, aesthetic environment, especially as it related to prospective industry coming into the area. However, he felt that total prohibition of portable signs was harsh. He applauded the effort of City staff which seemed to be recognizing and dealing with the non-profit and new business industry. He did not think that the small businessmen and the consumers interests had been investigated and properly addressed. Mr. Spencer went on to point out how important special event advertising on the portable signs is to the small businessman. He advised of a long list of small businesses that appeared before the Planning Commission. Mr. Spencer stated that there has not been enough investigation given to study the impact on the businesses and consumers who are affected by the proposed ordinance. He urged Council to refer the matter to a work session; contact the businesses and discuss the matter one-on-one basis, because he did not think this was done. Mr. Spencer believed that a continuation of a permit control sign use is imperative to the businesses and consumers in the City. He applauded that section of the proposal concerning maintenance and safety. He did think a proper balance could be struck to ensure commercial vitality on one hand and pleasant surroundings on the other. He urged Council to set up a committee to review and discuss this aspect of the proposed sign ordinance.

Al Carter, 6014 Jefferson Avenue - Mr. Carter advised he was the Used Car Manager for Center Ford. Center Ford was the one remaining large car dealer in downtown. The portable sign was an inexpensive means of advertising for them. Studies have shown that use of the sign increases their business by as much as 30-35% a month. He stated their business needed all the help they can possibly get. He also pointed out that signs did in fact generate tax dollars for the City.

Laura Zambardi, Creative Displays, 5547 Virginia Beach Boulevard, Norfolk - Ms. Zambardi advised she represented Creative Displays whose business is off premise advertising. She advised there were two types of standardized outdoor advertising structures - the poster panel and the painted bulletin. The standard dimension

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for a poster panel is 12x25', and it is changed every 30 days. Thirty-nine of these structures currently exist in Newport News. The standard dimension for a painted bulletin is 14x48' and this is sold on a long-time contract, either permanently or on a rotary basis. As a result of national advertising and co-op dollars, it costs little or nothing for local dealers to advertise their location through the use of a snipe on the bill boards. Newspaper advertising is too costly on a daily basis - a full page ad at \$2,000 for one day versus \$370 for thirty days of advertising on a bill board. She pointed out that their industry provides for jobs and contributes to the city's economy. It does not utilize any city services such as fire, police, water; there is no dirt, noise or odor. Their signs are built in accordance with the BOCA Code, and have had proper permits and inspections. Creative Displays has a total investment of \$355,531 in Newport News in signs. They have voluntarily removed signs which were in disrepair. Ms. Zambardi stated she supported reasonable regulation in the same manner as they supported the Highway Beautification Legislation. She felt the proposed ordinance prohibited freedom of communication and discriminated between sign owners. Highways/expressways will bring people into Newport News. However, with the required spacing of 2,000' in the new proposal, Creative Displays could not build any additional structures on I-64. Ms. Zambardi stated outdoor advertising is done tastefully. In addition to their doing business in Newport News, they also provide a service to civic organizations such as Clean Community Commission, United Way, and the Red Cross. Last year they donated space of sixty-one palens for a total value of \$22,570 to these organizations. She requested that Creative Displays be allowed to continue their partnership with the City of Newport News.

Richard Dixon, Advertising Federation of Greater Hampton Roads - Mr. Dixon, President of Dixon Group, an advertising firm in Norfolk, advised he was representing the Advertising Federation of Greater Hampton Roads, an organization comprised of 100 professional members from ALL the media. He stated his concern over the elimination of all outdoor advertising (bill boards) in the City of Newport News. He understood the need to make the city an attractive place in which to live. However, eliminating outdoor advertising would be doing a disservice to the business community. Bill boards are a vital means to communicate a commercial message to the public, especially to direct travelers/tourists to the City's Newport Centre. Bill board advertising is necessary if a hotel, restaurants, and our proposed cultural center are to be located in Newport Centre and flourish. Mr. Dixon provided poster illustrations for outdoor advertising for the various businesses. He pointed out that if bill board advertising was not permitted along I-64, the tourists travel would continue on to Norfolk and/or Virginia Beach by-passing Newport News. Tourists did indeed respond to bill board advertising, and this method of advertising would be a necessity for business locating in the City's Newport Centre area.

George F. McInturff, III, Consultant on Environmental Affairs, Box 24-6, Route 2, Stevensville, Maryland 21666 - Mr. McInturff advised he was self employed in the consulting business, and his principal client was the Outdoor Advertising Association of America. He advised he has been retired from the Federal Highway Department for ten years, and that the last eight years of his employment with the department were spent as the individual in charge of the outdoor advertising control portion of the Highway Beautification Act. In this capacity, he visited every state in the United States to negotiate agreements providing for control of outdoor advertising under the Highway Beautification Act. Since his retirement, he has traveled and testified at meetings such as the Council meeting. He recommended the current proposal be rejected in favor of reasonable regulations. He stated this proposal would eliminate all outdoor advertising, and this was not the purpose of the Highway Beautification Act. He further expounded on the Act. Mr. McInturff presented a copy of A STUDY OF ECONOMIC IMPACT OF DIRECTIONAL MOTOR SERVICES SIGNS FOR ROANOKE RAPIDS, NORTH CAROLINA. The study concluded that 31% of the overnight visitors stopped only because he saw a billboard, and that 72 75% of the day visitors stopped only because they saw bill board. Of the total amount spent per year, 57% is attributed to billboards. Copy of report is attached as part of the minutes.

Sumpter T. Priddy, Jr., Virginia Retail Merchants Association - Mr. Priddy stated that the ordinance should be tabled until such time as a study could be made of the possible impact on the City. He pointed out that advertising was the key to marketing strategy which builds sales volume which in turn brings in a profit. Profit brings taxes and jobs and keeps the wheels turning to make the economy work. The fiscal impact of eliminating advertising would be a great hurt to the businesses and the City. Based on a Tayloe-Murphy study which was done for the Virginia Retail Merchants Association, Mr. Priddy pointed out that one million dollars spent in advertising brings in thirty-three million dollars in sales. To do away with the advertising would be devastating to the businesses and the City. The proposal needed to be tabled in order to allow time to review data that would substantiate the fiscal impact on the businesses in the City and the City itself. He felt that once the City is aware of this impact, Council would by-pass the ordinance forever. In response to question posed by Mayor Ritchie, Mr. Priddy advised he knew of no city in Virginia which totally outlawed outdoor advertising - there were modified plans accepted to all. He indicated he would take issue with any item which would curtail sales volume in a community. All advertising should be dealt with equitably.

Harold Scarberry, Peninsula Retail Merchants Association - Mr. Scarberry stated he was the Chairman of the Peninsula Retail Merchants Association and a member of its Executive Committee. He read a position paper of the Association which stated in part their agreement with certain provisions of the proposed ordinance. However, they were in opposition to the elimination of off-premise advertising because they felt bill boards placed in strategic places along I-64 would be beneficial to the businesses as well as the travelers. Also, portable signs should not be eliminated, but controlled. They should be permissible for new businesses and for those businesses advertising a new product. They should not be a permanent part of the business. Mr. Scarberry stated the Association agreed that all possible should be done to beautify the City.

Bob Ramsey, Virginia Hotel/Motel Association - Mr. Ramsey advised he was the Executive Vice President of the Association and he was speaking on behalf of the entire hospitality industry which is the second largest industry in both the state of Virginia and the city of Newport News. He indicated this industry accounted for \$3.7 billion of the total income in the State. He pointed out that this industry was also the largest employer of women, minorities, teens and semi-skilled workers. Mr. Ramsey stated that of the travelers which come into this area 35% have made no previous travel reservations. This industry is of a competitive nature and Newport News 1,768 rooms represented only 24 properties out of a total of 77,000 across the state. According to the Director of the U.S. Travel Data Center, the future of the industry will be affected by the strong marketing judgement combined with sufficient promotion resources which will distinguish the gainers from the losers over the next ten years. He asked Council to consider the following three points: (1) the impact of hospitality on Newport News; (2) the opportunities to attract new visitors and travelers to Newport News and what that means to Newport News; and (3) the impact signs would have on attracting this business to Newport News.

Carl Morrisette, Manager, Travelers Inn, Denbigh - Mr. Morrisette stated his concern with the ban of bill board advertising in Newport News. He stated a traveler coming into Newport News receives no indication of any lodging facilities even though there is identification for hospitals, golf course, museums and colleges. The travel dollar is big dollars in Newport News, especially since there is no payout for any services of any type. There needs to be a place for advertising a night's rest.

Lillian DeVenny, Virginians Opposing Drunk Driving - Ms. DeVenny, Chairman of the Board, advised there were fifteen chapters across the State whose objective was to make the public aware of the dangers of drinking and driving and whose goal was to make the highways safer and to save lives. Since their organization operated on a shoe-string, they appreciated the support which the outdoor advertisers gave to them. Their relationship with Creative Signs has grown to such a point where the company has donated

their Report All Intoxicated Drivers (RAID) program. She stated that she felt bill boards reached a segment of people who did not otherwise read the newspaper, listen to the radio or watch television. She recognized the City's concern for a beautiful community; however, she inquired as to what would be more beautiful than saving a life, especially if this life was saved by a message on a bill board sign.

Steve Conway, Hampton Roads La-Z-Boy Showcase Shoppes - Mr. Conway stated he was the owner of these shoppes, one of which is located in the Denbigh Mall Shopping Center. He has used both bill boards and portable signs to promote his business and to relay messages to the public at particular times. He has found both types of signs to be effective means of advertising. He appreciated Council's concern for the environment. However, banning all signs was going to the extreme when reasonable regulations could produce the results for which the Planning Commission was looking.

Mel Bryant, Mel Bryant Advertising Company - Mr. Bryant presented the perspective of a small retail business which calls on him to assist with media decisions. The number one choice is the newspaper. However, this is expensive and can not be used at all times - an alternate or some type of media back-up needs to be developed to get the message across to the consumer. This leaves radio and television which are also both very expensive. Spending \$370 a month to advertise a sale on a bill board is much cheaper than direct mail and is by far the best method of advertising for the small business. Small businesses without a prime location depend on the bill board advertising. To do away with this form of advertising would create a pinch in the advertising budgets of a lot of businesses.

Bob Freeman, Attorney - Mr. Freeman stated he was retained by the Advertising Federation of Greater Hampton Roads to monitor and represent their position regarding off-premise (billboard) advertising in the City of Newport News. He stated that elimination of off-premise advertising would seriously damage the hotel/motel, restaurant and tourist businesses. It would serve as a deterrent and a detriment in securing a hotel and other businesses in downtown in Newport Centre, because the travelers going through Newport News would not have the benefit of seeing any of this advertised on a bill board and would not be aware of its existence. The City would be passed by in favor of the Southside. Mr. Freeman advised there were two legal problems dealing with the proposed ordinance: (1) elimination of off-premise advertising restricts free speech which is guaranteed under the first amendment. He agreed this was a complex issue, but felt it was one which had to be dealt with; (2) just compensation for removal of signs on the federal highway system. He did not think "federal highway system" had been properly identified. He felt there was a legal problem with the City removing signs after a 90-day notification period. Mr. Freeman noted the necessity of a pleasing environment in the City. However, he was quick to point out that the City can have bill boards and still protect its aesthetics. Council needed to find a way to coordinate the two, and not eliminate outdoor advertising, because it would be doing a disservice to many. Mr. Freeman distributed an Abstract of Local Codes Billboard Advertising for off-premise and on-premise Signs. It made a comparison of the local municipalities' ordinances (copy attached). He also provided to Council the industry's recommended changes concerning the new sign ordinance. He offered to make himself and others in the industry available for discussion to work out a compromise to the problem. Mr. Freeman stated that the economic barriers and given restrictions would allow off-premise advertising to exist in Newport News while at the same time controlling its use and providing a service to all those who needed it.

J. Mike O'Neil, 410 Pin Oak Road - Mr. O'Neil advised he owned a small restaurant in the Warwick Village Shopping Center. His place of business occupies a building where three previous businesses had failed. It is located off the "beaten track" of Warwick Boulevard. He installed a portable sign at \$5.00 a day or \$150 a month at the instructions of Mr. Norris. His business took off immediately. As a small businessman, he can afford this type of advertising, and small businesses need all the help they can get in order to survive. He indicated that the portable signs are necessary for the survival of the small businesses.

Edward B. Mirmelstein, 627 Valley Forge Drive - Mr. Mirmelstein, President of Eddy's Fashion Outlet, stated the need and importance of portable signs for the success of his business. He advised he has used the portable signs regularly for all the allowable time since 1972. He stated that the 32% increase he experienced in sales on July 4 in both his Hampton and Newport News stores was attributed to his sign advertising stating the business would be open on July 4. Mr. Mirmelstein pointed out that portable sign advertising was an integral part of his advertising program. This came first in his budget, and he then became flexible concerning the other means of advertising.

Mayor Ritchie closed the public hearing on the proposed sign ordinance and stated that there would be no further comments on the matter other than that which is submitted in writing.

Councilman Hogge moved that the matter be deferred in order to allow for a work session to: (1) see what the current ordinance provides versus what is being proposed with regard to bill boards; and (2) to receive written comments from the public concerning the four exceptions which were now being proposed by city staff with regard to portable signs; seconded by Councilwoman Rattley.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Patten, Rattley, Ritchie

Nayes: None

Abstention: Keator

(d) Newport Centre Urban Design Study and Plan

(No Speakers)

Councilwoman Rattley moved that the public hearing be closed, and that the item be deferred in order to allow for a work session to discuss the proposed changes in the zoning ordinance; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: None

(e) Change of Zoning Application Z-84-95, Snyder Hunt Corporation

Mayor Ritchie advised this was a request for a change from C2 retail commercial to R2-C multiple family residential for property located at the northwest corner intersection of Jefferson Avenue and Thimble Shoals Boulevard.

(No Speakers)

Councilman Hogge moved Zoning Application Z-84-95 be approved with any conditions; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: None

4. Mayor Ritchie presented those items listed below as part of the Consent Agenda. Councilwoman Rattley moved adoption of Consent Agenda; seconded by Vice Mayor Fitzgerald.

(a) Approval of Minutes of Special Meeting of June 12, 1984

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: None

(b) Approval of Minutes of Regular Meeting of June 25, 1984

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nayes: none

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(c) A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND CITY CLERK TO ATTEST, IN BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN DEED OF EASEMENT DATED THE 23RD DAY OF

ABSTRACTS OF LOCAL CODES
BILLBOARD ADVERTISING

16 307

	NORFOLK (1984 Proposal by City Planning Commission)	PORTSMOUTH Adopted 9/83	VA. BEACH	CHESAPEAKE Adopted 10/83	NEWPORT NEWS (Proposed by Advertising Industry)
Max. Area	672 to 750 sq. ft.	672 sq. ft.	600 sq. ft.	750 sq. ft.	750 sq. ft.
Height	24 ft.	50 ft. M-1 M-2 25 ft. C-2	24 ft. with extension to 40 ft.	40 ft.	40 ft. M-1 M-2 C-2A 24 ft. C-2
Spacing	500 ft.	500 ft.	500 ft.	1000 ft.	1000 ft.
Set back from R/W	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
Allowed Zones	C-2, C-3 M-1, M-2 M-3	C-2, M-1 M-2, M-1-1B	B-2, I-1 I-2	B-2, B-3 M-1, M-2 M-3	M-1, M-2 C-2, C-2A
Distance from Residential	500 ft.	None	200 ft.	None	250 ft.

ON PREMISE SIGNS

	NORFOLK	PORTSMOUTH	VA. BEACH	CHESAPEAKE	PROPOSED NEWPORT NEWS
Size	unlimited	1 sq. ft. per linear ft. frontage max 125 sq. ft. per face	B-2 max 125 sq. ft. B-3 max 125 sq. ft. I-1 max 200 sq. ft. I-2 max 200 sq. ft.	B-2 300 max 3 for 1 B-3 300 max 2 for 1 M-1 300 max 3 for 1 M-2 300 max 3 for 1	M-1, M-2 300 max 1 for 1 B-2 300 max 1.5 for 1 C-2, C-2A 150 max 1 for 1
Height	24 ft.	25 ft.	24 ft.	60 ft. all	C-2 40 ft. C-2A 24 ft. M-1, M-2 40 ft.
Zones	C-2, C-3 M-1, M-2 M-3	M-2, M-1 C-3, C-2	B-2, B-3 I-2, I-3	B-2, B-3 M-1, M-2	as indicated
Use Permit	No	No except M-1-2	No	No	No
Set back from R/W	None except if angle less than 75 degrees	7 ft.	7 ft.	15 ft.	(from 0 ft. to 25 ft.)

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSAL

Section 2407(D)
(Commercial Zoning Districts
C-2, C-2A)

PROPOSED CHANGES

Section 2407(D)
Add:

6. Off Premise Signs erected
in accordance with the following:

a) Area. The maximum area for any one sign facing shall be 750 square feet inclusive of border and trim, but excluding base, apron, supports, or other structural members. Signs may be erected back-to-back, or in V-type construction with not more than one sign face per side.

b) Height. No off-premise sign shall exceed a height of 24 feet in a C2 district and 40 feet in a C2A district. Measurement is to be made from ground level at the base of sign supports or from grade level of the street to which the sign faces, whichever is higher.

c) Spacing. No off-premise sign may be established within 1,000 feet of any other off-premise sign, measured on the same side of the street and facing in the same direction. Said spacing does not apply to structures separated by buildings or other obstructions in such manner that only one sign located within the spacing distances is visible from the street at any one time.

COMMENTS

This size will allow for standardized outdoor advertising units.

Same as proposed for "on premise" sign height requirements. Height measurement options reflect signs on "overpass" type roads.

Spacing will effectively control the number of units that can be built. This provision meets or exceeds the spacing requirements of every other city in the Tidewater area.

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSAL

None

PROPOSED CHANGES

Section 2407(D) (cont'd)

- d) Setbacks. C2: 25 feet front yard
5 feet side yard
C2A: 10 feet front yard
0 feet side yard

e) Other Spacing. No off-premise sign shall be located closer than 250 feet to any residential or historical district, nor closer than 250 feet to the edge of an interchange.

f) Attachment to Buildings Prohibited. No off-premise sign shall be erected upon the roof of any building, attached to any building, or painted on any building.

Section 2407(F) Add:

6. Off-premise signs erected in accordance with the following:

- a) Area. The maximum area for any one sign facing shall be 750 square feet inclusive of border and trim, but excluding base, apron, supports, or other structural members. Signs may be erected back-to-back, or in V-type construction with not more than one sign face per side.

COMMENTS

Same as proposed for "on-premises" sign setback requirements.

See Section 2407(D) for general comments to this section.

Section 2407(F)
(Industrial Zoning Districts:
M-1, M-2)
None

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSALPROPOSED CHANGESCOMMENTS

Section 2407(D) (cont'd)

b) Height. No off-premise sign shall exceed a height of 40 feet in M-1 and M-2 districts. Measurement is to be made from ground level at the base of sign supports or from grade level of street to which the sign faces, whichever is higher.

Same as proposed commercial off-premise sign restrictions.

c) Spacing. No off-premise sign may be established within 1,000 feet of any other off-premise sign, measured on the same side of the street and facing in the same direction. Said spacing does not apply to structures separated by buildings or other obstructions in such manner that the only one sign located within the spacing distances is visible from the street at any one time.

Same as proposed commercial off-premise sign restrictions.

d) Setback. No footage from setback lines required in M-1, M-2 districts.

Same as proposed commercial off-premise sign restrictions.

e) Other Spacing. No off-premise sign shall be located closer than 250 feet to any residential or historical district, nor closer than 250 feet to the edge of an interchange.

Same as proposed commercial off-premise sign restrictions.

f) Attachment to Buildings Prohibited. No off-premise sign shall be erected upon the roof of any building, attached to any building, or painted on any building.

Same as proposed commercial off-premise sign restrictions

CHAPTER 13 BUILDING REGULATIONS

23b

CURRENT PROPOSAL

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisements of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Section 5(E) Prohibited Signs

Section 6 Removal of Signs

PROPOSED CHANGES

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Delete

Delete references to off-premises signs: Section 5(E).

COMMENTS

To reflect change in ordinance of adding off-premises signs.

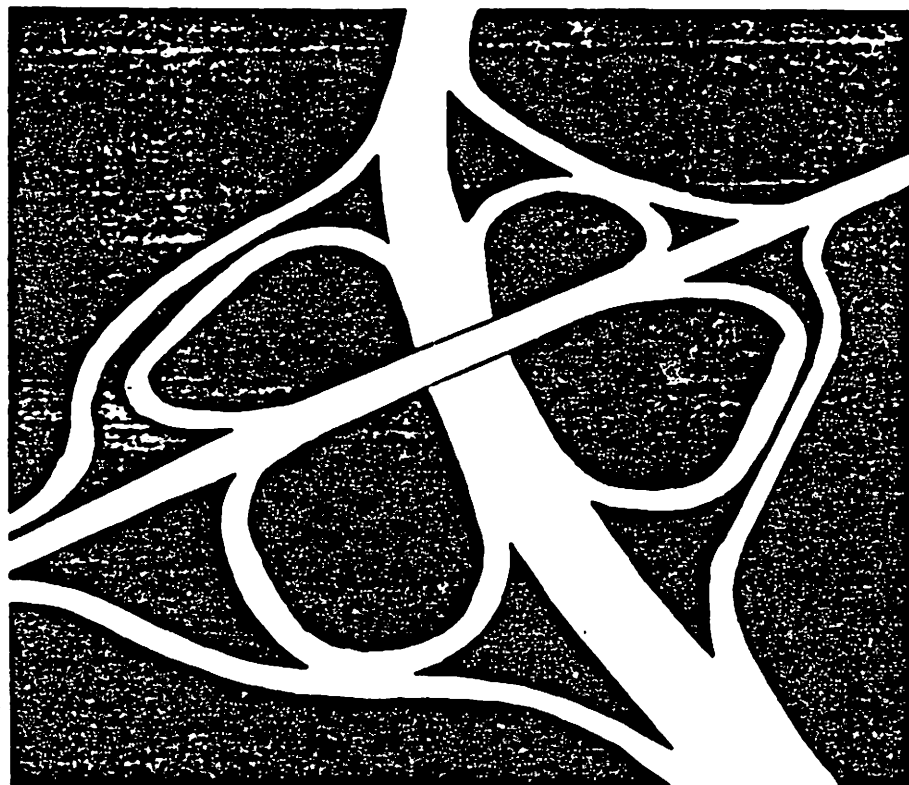
80

SECTION 5. PROHIBITED SIGNS:

F. Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

1. Upon payment of twenty-five dollars (\$25.00) application fee to Department of Codes Compliance for a temporary permit to place not more than one portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:
 - a. New Business: Permit may be granted for a period of not more than sixty (60) days from date of issuance of the Certificate of Occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permanent signage is installed in less than sixty (60) days.
 - b. Replacement of Damaged Permanent Sign: Should a permanent sign become damaged to the extent that in the opinion of the Zoning Administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.
 - c. Public Improvements in Right-of-Way: Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the Zoning Administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the Zoning Administrator that such conditions persist.
 - d. Special Non-Profit Event: A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bonafide activity by a governmental, charitable, or non-profit organization. No more than two such permits may be granted per location per calendar year.

**A STUDY OF THE
ECONOMIC IMPACT OF
DIRECTIONAL MOTOR SERVICES SIGNS.
ROANOKE RAPIDS, NORTH CAROLINA**



JOINTLY SPONSORED BY
ROANOKE VALLEY CHAMBER OF COMMERCE & ROADSIDE BUSINESS ASSOCIATION

A STUDY OF THE ECONOMIC

IMPACT OF DIRECTIONAL

MOTORIST SERVICES SIGNS,

ROANOKE RAPIDS,
NORTH CAROLINA

BY: ARTAM RESEARCH, INC.
VAIL, COLORADO

JOINTLY SPONSORED BY:
ROANOKE VALLEY CHAMBER OF COMMERCE
AND
ROADSIDE BUSINESS ASSOCIATION

ARTICLE XV. REGULATIONS GOVERNING USE OF SIGNS AND PROVIDING FOR REMOVAL OF OBSOLETE STRUCTURES*

Sec. 13-335. Findings.

It is hereby determined that the number of signs in the city is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the city is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the city are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose. (Ord. No. 3213-84)

Sec. 13-336. Definitions.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement, including but not restricted to animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on or attached flat against the surface of an awning.

*Cross reference—Regulation of placement, number and physical dimensions of signs by zoning district, App. A, § 24A01 et seq.

Supp. No. 23

Banner Sign: A sign made a fabric or any nonrigid material with no enclosing framework.

Business/Office Directories: A nonadvertising sign, attached to a wall or mounted on a pole, that lists the building occupants.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer or contractor of a tract, building or structure being developed under construction.

Directional/Information Sign: An on-premises sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Frontage: The length of the property line of any one (1) premises along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

Ground/Freestanding Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lower.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this article, the cleaning, painting, repair or replacement of defective parts of a sign in a

manner that does not alter the basic copy, design or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premises identification sign giving only the name, address and/or occupation of an occupant or group of occupants.

Off-Premises Sign: A sign structure advertising an establishment, merchandise, service or entertainment, which is not sold, produced manufactured or furnished at the property on which said sign is located.

On-Premises Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this article, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the zoning administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this article, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Projecting Sign: A sign other than a wall sign that is attached to a wall or suspended from a pedestrian protection overhang.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall or other object used for the display of any message, including but not limited to any device, structure, fixture or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A freestanding or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

Wall Sign: A sign painted on or attached to and erected parallel to the face of an outside wall.

Window/Graphics Sign: A sign installed inside a window and intended to be viewed from the outside. (Ord. No. 3213-84)

Sec. 13-337. Permit required.

It shall be unlawful for any person to construct, erect or display any sign covered by this article until a permit therefor has been issued by the department of codes compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs, provided the signs legally exist by permit. (Ord. No. 3213-84)

Sec. 13-338. Exempted signs.

The following signs shall be exempted from the provisions of this article but not the building regulations as contained in this

Code, when determined not to be detrimental to the health, safety, and welfare of the public:

- (a) Activity signs denoting the revivals or other normal functions of bona fide religious or nonprofit organizations when such signs are:
 - (1) Located on the site of such organization or activity.
 - (2) Limited to one (1) sign of not more than thirty-two (32) square feet per lot.
- (b) Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
- (c) Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
- (d) Menu boards which are either freestanding or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one (1) menu board per lot.
- (e) Noncommercial signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
- (f) Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date

of the election. Upon written application to and approval by the zoning administrator, the period for removal may be extended, for good cause shown, for an additional ten-day period only.

- (g) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- (h) Public, institutional or religious building identification signs.
- (i) Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) square feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one (1) lot.
- (j) Real estate open house signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (1) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - a. No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - b. The sign is located only at intersections where a turning movement is indicated.
 - c. There may be no more than two (2) signs at any one (1) intersection.
 - d. Express permission has been obtained from all adjacent property owners.
 - e. The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - f. The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sunup to sundown.

- g. Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
- (2) Signs displayed in violation of the provisions of this section shall be confiscated by the city.
- (3) Persons causing open house signs to be placed on city right-of-way shall provide the city with evidence of a five hundred thousand dollars (\$500,000.00) general liability insurance policy with the city named as an additional insured before display of signs may be permitted.
- (k) Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
- (l) Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:
 - (1) Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or nonprofit organization.
 - (2) Special decorative displays used for national holidays, public demonstrations or promotion for nonpartisan civic purposes.
 - (3) Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.
- (m) Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs and temporary emergency signs.
- (n) Urban signs addressed by the Newport Centre Urban Design Plan:
 - (1) Business/office directories which are either freestanding or affixed wall signs and when used in a nonadvertising display to offer information to the pedestrian

NEW YORK NEWS CODE
public and their size is limited to twelve (12) square feet or less.

- (2) Projecting signs when located in the DBCW sector and not exceeding two (2) square feet in area. (Ord. No. 3213-84)

Sec. 13-339. Prohibited signs.

The following signs shall be prohibited within the city:

- (a) Abandoned signs.
- (b) Animated signs. No such sign shall be permitted in any required front yard or building setback area except:
 - (1) When located in the Downtown Business (DB) District as defined in the city zoning ordinance [appendix A].
 - (2) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.
- (c) Flashing lights.
- (d) Flashing signs. No signs utilizing lighting effects simulating motion shall be permitted.
 - (1) Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
 - (2) Provided, further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.
- (e) Off-premises signs shall be prohibited with the exceptions set forth below:
 - (1) Off-premises signs existing as of the adoption of this article [August 14, 1984] and erected pursuant to section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.

- (2) New off-premises signs shall be permitted along Interstate 64 and Interstate 664 only and under these following conditions:
- Permitted only if the statutory provisions of the Code of Virginia 1950 (as amended), title 33.1, chapter 7, "Outdoor Advertising in Sight of Public Highways," are met.
 - Permitted on undeveloped properties only and must be removed when the property is developed.
 - Spaced no less than one thousand (1,000) feet apart.
 - Not located closer than five hundred (500) feet to the edge of an interchange.
 - Not located closer than seven hundred fifty (750) feet to any residential district.

- (f) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

Upon payment of twenty-five dollars (\$25.00) application fee to department of code compliance for a temporary permit to place not more than one (1) portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:

- New business:* A permit may be granted for a period of not more than sixty (60) days from date of issuance of the certificate of occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permit signage is installed in less than sixty (60) days.
- Replacement of damaged permanent sign:* Should a permanent sign become damaged to the extent that in the opinion of the zoning administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide

business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.

(9) *Public improvements in right-of-way:* Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the zoning administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the zoning administrator that such conditions persist.

- (4) *Special nonprofit event:* A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bona fide activity by a governmental, charitable or nonprofit organization. No more than two (2) such permits may be granted per location per calendar year.
- (g) Posters or temporary signs (i.e., snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- (h) Temporary signs. No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other nonpermanent sign intended to call attention to, advertise or promote sales, special events, openings or similar events shall be allowed on any lot beyond the exterior of any building(s).
- (i) Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e., buses or taxis.
- (j) Roof signs when located in the DB district. (Ord. No. 3213-84)

Sec. 13-340. Removal of signs.

Ninety (90) days after this article takes effect, it shall be a violation hereof to maintain any prohibited sign except for section 13-339(e) and 13-339(f), "Prohibited Signs." One hundred eighty (180) days after this article takes effect, it shall be a violation hereof to maintain any section 13-339(e) prohibited sign. After June 30, 1985, it shall be a violation hereof to maintain any section 13-339(f) prohibited sign except as provided therein.

The zoning administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty days (30) days of the notice, it shall become a lien against the property of the sign owner, and will be certified as such against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the zoning administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the city pertaining to signs. (Ord. No. 3213-84)

Sec. 13-341. Maintenance.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced. The zoning administrator or his duly authorized representative shall have the right under section 13-339 to order the repair or removal of any sign which is defective, damaged or deteriorated. (Ord. No. 3213-84)

Sec. 13-342. Exceptions.

This article does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This article does not regulate the number, size, height or location of signs as contained in the Zoning Ordinance of the City of Newport News [appendix A]. (Ord. No. 3213-84)

Sec. 13-343. Penalty.

Whoever violates this article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00), or imprisonment in the city jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 3213-84)

Sec. 13-344. Severability.

This article, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect. (Ord. No. 3213-84)

**ARTICLE XVI. REGULATIONS GOVERNING USE
OF PORTABLE SIGNS***

Sec. 13-345. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Editor's note—Article XVI, §§ 13-345—13-355, was added by § 1 of Ord. No. 3413-86. Section 2 of the ordinance reads as follows:

"Section 2. That as a transitional provision, a thirty day period shall be permitted those persons having portable signs displayed without permits as of the date of adoption of this ordinance within which period a permit must be secured; provided, however, that the sixty day maximum display period allowed by Section 13-346 shall be computed using the effective date of this ordinance as a beginning point."

Lot: Any tract of land described by metes and bounds in a recorded deed or on a subdivision plat of record which possesses or is in the process of being assigned a number for tax assessment identification purposes; provided, however, where two (2) or more contiguous lots are held in single ownership, "lot" shall be interpreted to be the tract held in single ownership.

Owner: The holder of title in fee simple; and/or any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. Any such person, group of persons, company, association or corporation shall have joint and several responsibility for compliance with the provisions of this article.

Portable sign: A freestanding sign that is trailer mounted, or otherwise designed to be relocated, or is constructed on a chassis or carriage with permanent or removable wheels, and has an area not to exceed sixty (60) square feet on each of two (2) parallel sides.

Setback: The minimum distance from any property line of the lot on which a portable sign is located, to any part of the portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-346. General; permitted display period.

Notwithstanding other provisions of this chapter, portable signs may be erected, installed and displayed on any lot in a district zoned for commercial or manufacturing use subject to the regulations set out in this article. Display of portable signs shall be for specific time periods not to exceed a maximum of sixty (60) consecutive days. When the permitted display period expires, a period of thirty (30) days must elapse before a portable sign may again be displayed on the same lot. The maximum display period for portable signs for any one (1) lot per calendar year shall be one hundred eighty (180) days. (Ord. No. 3413-86, § 1)

Sec. 13-347. Location.

Portable signs shall be erected, installed or displayed with a minimum setback of ten (10) feet; and shall not be located in such a manner so as to reduce the number of parking spaces required

by the zoning ordinance found in appendix A of this Code. (Ord. No. 3413-86, § 1)

Sec. 13-348. Number permitted.

Only one (1) portable sign shall be permitted on any lot held under single ownership. (Ord. No. 3413-86, § 1)

Sec. 13-349. Usage.

The use of portable signs for commercial purposes shall be limited to advertising, promoting or calling attention to special events, openings, sales or similar occurrences taking place on the same lot where the portable sign is located. It is not the intent of this article to prohibit the use of portable signs for religious, political or educational purposes, whether on or off the site. (Ord. No. 3413-86, § 1)

Sec. 13-350. Special effects.

It shall be unlawful to utilize flashing lights, animated displays, or other effects that simulate motion in conjunction with any portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-351. Maintenance; electrical requirements.

(a) Portable signs shall be maintained and kept in good repair during the period in which they are displayed. Signs not maintained and kept in good repair may, after proper notice by the building official, be removed by the building official at the expense of the owner or lessee thereof as provided in the BOCA Basic Building Code adopted in this chapter.

(b) Portable signs which require electrical service shall be properly connected to the electrical system in conformance with the electrical code, by the use of approved attachment plugs/receptacle outlets. Electrical cords shall be approved for the use and shall be protected from physical damage from any anticipated traffic. (Ord. No. 3413-86, § 1)

Sec. 13-352. Permit required.

It shall be unlawful for any person to erect, install or display, or for a property owner to allow a portable sign to be erected, installed or displayed until a permit therefor has been issued by the department of codes compliance. Permits shall be issued within three (3) working days of receipt of a proper application meeting the requirements of this Code. (Ord. No. 3413-86, § 1)

Sec. 13-353. Permit validity.

Permits shall indicate the period of time authorized for the erection, installation or display of portable signs; provided however, that no permit shall be issued that would provide for display of a portable sign on any lot for a period of time in excess of one hundred eighty (180) days in any calendar year.

The time of display authorized by the permit shall be considered to be the time the portable sign is displayed, unless the permit is canceled in writing prior to the final display date authorized. When permits are canceled, the time the portable sign is displayed shall be considered to be from the initial display date to the date of cancellation. (Ord. No. 3413-86, § 1)

Sec. 13-354. Permit application.

Applications for the erection, installation or display of portable signs shall be in writing on forms provided by the city, and shall be accompanied by a plot diagram showing the location of the proposed portable sign with respect to the property lines of the lot. Such application shall be signed by the property owner or the agent for the property owner, and shall be made not more than thirty (30) days in advance of the date of erection, installation or display of the portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-355. Permit fees.

Fees for permits to erect, install or display a portable sign shall be as specified in article II of this chapter. (Ord. No. 3413-86, § 1)

OF THE COUNCIL OF THE CITY OF NEWPORT NEWS

HELD IN THE COUNCIL CHAMBERS

AUGUST 14, 1984

7:30 P.M.

PRESENT: Fitzgerald, Hogge, Keator, Rattley, Ritchie, Brown -- 6

ABSENT: Patten ----- 0

1. The invocation was rendered by The Reverend Viola D. Armstead, Park Place Baptist Church.

2. The Pledge of Allegiance to the Flag of the United States of America was led by Vice Mayor Fitzgerald.

3. Presentations:

(a) Mayor Ritchie, on behalf of the City Council, presented a Certificate of Appreciation to Joe H. Jordan, Jr., Retired City employee, who completed twenty-five years of service with the City.

(b) Mayor Ritchie, on behalf of the City Council, presented a Certificate of Conformance in Financial Reporting to the City Manager, Robert T. Williams. Mayor Ritchie advised the certificate is the highest form of recognition in governmental accounting and financial reporting.

(c) City Manager, Robert T. Williams, presented a Certificate of Award of Financial Reporting Achievement to Philip A. Curtis, Jr., Director, Finance, as being the individual designated by the City as primarily responsible for its having earned the Certificate of Conformance in Financial Reporting.

4. Upon motion made by Councilman Hogge; seconded by Vice Mayor Fitzgerald; and carried unanimously by voice vote, Councilman Patten was excused.

5. Mayor Ritchie presented those items listed below as part of the Consent Agenda. Councilman Hogge moved adoption of the Consent Agenda; seconded by Vice Mayor Fitzgerald.

(a) Approval of Organizational Meeting Minutes of July 2, 1984.
Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown
Nayes: None

(b) Approval of Minutes of Special Meeting of July 9, 1984.
Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown
Nayes: None

(c) Approval of Minutes of Regular Meeting of July 9, 1984.
Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown
Nayes: None

(d) Approval of Minutes of Special Meeting of July 28, 1984.
Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown
Nayes: None

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(e) A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND CITY CLERK TO ATTEST IN BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN JOINT FUNDING AGREEMENT FOR INVESTIGATION OF WATER RESOURCES DATED THE 1ST DAY OF JULY, 1984, BY AND

Councilwoman Rattley moved adoption of above resolution;
seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

22. The City Manager requested Council authorization to contact the Virginia Department of Highways and Transportation to request they install a directional sign on I-64 eastbound in the northern portion of the City to direct motorists to use I-664 to reach downtown Newport News.

Councilman Hogge moved that above authorization be granted;
seconded by Councilman Brown.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

23. The City Manager presented sign regulations amendments for the following:

Zoning Text Amendment No. ZT-83-81 - Appendix A, Article XXIV, Sign Regulations. Sections 2401-2407.

Appendix A, Article XXA, Conditional Use Permits, Section 20A02, Generally. This text change will amend the conditional use permit procedure to be consistent with the amendments to the sign regulations.

Appendix A, Article XXVII, Board of Zoning Appeals, Section 2704, Powers and Duties, C. Special Exceptions, Section 23, Temporary Signs, Section 24, Sign Height, Section 24-A, Sign Area Increases and Section 25, Signs Over Public Rights-of-way. This text change will delete the above special exceptions to be consistent with the amendments to the Sign Regulations.

Councilman Hogge moved adoption of the changes as presented with the following exceptions:

(1) Spacing requirements for billboards along I-64 and I-664 shall be spaced no less than 1,000 feet apart, 750' from residential zone and 500' from interchange;

(2) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels may be used in four situations: (a) by a new business for sixty days or until a permanent sign is erected; (b) for up to sixty days while a damaged permanent sign is being repaired or replaced; (c) when a public improvement project impacts access to a place of business; and (d) by a governmental, charitable or non-profit organization to advertise a special event - a permit for this purpose is limited to a forty-day period; and

(3) Any new signs from date of ordinance would fall under the new sign regulations; and all those which are being grandfathered in have until July 1, 1985 to come into compliance.

Above motion seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown

Nayes: None

Abstention: Keator (Has financial interest in a sign company)

24. The City Manager requested Council authorization to acquire the below-listed property for right-of-way associated with sanitary sewer replacement in Piez Alley from Main Street to Hopkins Street.

Parcel #1	J. W. McLaurin	\$ 15.00
Parcel #2	J. R. Aquirre	\$ 115.00
Parcel #3	C. R. Flynn	\$ 1,120.00
Parcel #4	J. H. Warner, Jr.	\$ 1,515.00

 100

Councilman Hogge moved that above authorization be granted;
seconded by Vice Mayor Fitzgerald.

ORDINANCE NO. 3211-84

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields, flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

nations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Section 24A04. Relationship to building regulations.

The provisions of this Article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Article imposes regulations more restrictive than said Code, the regulations of this Article shall prevail.

Section 24A05. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as a part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled, "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City sign regulations are met.

Section 24A06. Nonconforming signs.

Any permanent legal sign existing on the effective date of this Article and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

1. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
2. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
3. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Code.

Section 24A07. Zoning district regulations.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

1. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Multi-family residential districts: R2-A, R2-AM.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
3. Multi-family residential districts: R2-B, R2-C, R2-D.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - (c) Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.
4. Commercial zoning districts: C2, C2-A.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
 - (c) For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, shall seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
 - (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria established in Section 24A08.
 - (e) Free-standing identification signs shall maintain the following setbacks:
 - (1) In a C2 district: twenty-five (25) foot front yard and five (5) foot side yard.
 - (2) In a C2-A district: ten (10) foot front yard and zero (0) foot side yard.

- (3) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

5. Downtown business district: DB. The purpose of this section is to regulate signage consistent with proposed and existing development within the downtown business district and generally known as Newport Centre in conformity with the provisions of the Newport Centre Urban Design Plan.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of Three hundred (300) square feet of sign area per lot.
- (c) For corner lots with multiple street frontages, the number of signs and sign area shall be determined according to individual street frontages. In no case shall the sign area exceed three hundred (300) square feet per lot.
- (d) There shall be no front or sign yard setbacks required in the DBC sectors. Projecting signs that may extend over the public right-of-way shall be authorized by the Zoning Administrator if the criteria as established in Section 24408 have been met.
- (e) Wall signs above the first story shall be limited to one building identification sign per parcel except when the combined building frontage exceeds one hundred (100) feet in length, an additional identification sign shall be allowed per one hundred (100) linear feet.
- (f) Ground signs ten (10) square feet or more in area shall be required to have a minimum of five (5) square feet of landscaped ground area at the sign base for every one (1) square foot of sign area. Ground signs of less than ten (10) square feet shall have a minimum of twenty (20) square feet of landscaped ground area. Any courtyard or plaza required under Section 2624 may apply this required open space for this purpose.
- (g) Any ground sign within the DBC sectors shall be limited to twenty-four (24) square feet in sign area and twelve (12) feet in height.
- (h) When projecting signs are limited to two (2) square feet, they are not counted against the total per parcel. Any individual sign over two (2) square feet will be counted toward the total sign allotment in its entirety. A twelve (12) foot clearance shall be maintained from the bottom of the projecting sign to the ground.
- (i) Projecting signs, marquees, and window graphics shall be located below the second floor level and shall not exceed twenty-four (24) feet in height nor in any case extend over five (5) feet into the right-of-way.
- (j) Retail uses adjacent to, with access from, a public courtyard or plaza shall receive a 1:1 ratio of sign area to store frontage.

6. Industrial zoning districts: M1, M2.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
- (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
- (e) There shall be no front or side yard setbacks required in this district.

7. Supplemental sign regulations.

- (a) For commercial high rise buildings of seven (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street, provided such additional area is not constructed as a free-standing sign.
- (b) Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (1) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (2) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
- (c) The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (1) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (2) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

Section 24A08. Adjustments in sign regulations.

The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and

enforce and carry out all provisions of this Article, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

1. **Sign height:** The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

2. **Sign area increases:** The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

- (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
- (b) The location of entrance way(s) in relation to business.
- (c) A change in traffic patterns.
- (d) The distance from road rights-of-way.
- (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed fifty percent (50%) of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above fifty percent (50%).

3. Signs over public rights-of-way: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-way whenever all of the following conditions are present:

- (a) That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
- (b) That the location, clearance, and construction of the sign are sufficient to insure public safety.
- (c) That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

4. Sign area increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in the DBC sectors for increased sign area for building identification signs whenever all of the following conditions are present:

- (a) A permanent visual obstruction exists, such as, but not limited to, adjacent buildings or bridges;
- (b) The sign is oriented to and is primarily intended to be visible to the I-664 right-of-way;
- (c) Such adjustment would be consistent with other businesses in the DBC sectors; and
- (d) Such adjustment would be consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum increase to exceed fifty percent (50%) of the total allowable sign area per lot.

5. Sign height increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in any DBC sector of an increase in ground sign height whenever all of the following conditions are present:

- (a) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges or other factors exist which make the allowable sign height inadequate to permit visibility from the adjoining roadway.

- (b) Consistent with general traffic safety in the general area.

(c) Notwithstanding, said exception shall not authorize a maximum increase to exceed twenty-four (24) feet in height.

Sponsor:

Anthony J.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Mayor *Jack C. Patten*

Teste:

Bernie D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

ORDINANCE NO, 3211-84 A

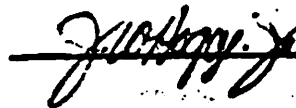
AN ORDINANCE REPEALING ARTICLE XXIV, SIGN REGULATIONS, OF APPENDIX A., ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, WHILE RETAINING THE EFFECTIVENESS OF THE ARTICLE UNTIL JUNE 30, 1985, FOR USE OF DESIGNATED SIGNS.

BE IT ORDAINED by the Council of the City of Newport News:

1. That Article XXIV, Sign Regulations, of Appendix A., Zoning Ordinance, of the Code of the City of Newport News, Virginia, be, and hereby is, repealed except for the limited purpose set forth in paragraph 2 below.

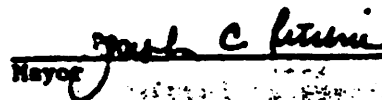
2. That Article XXIV, Sign Regulations, of Appendix A., Zoning Ordinance, of the Code of the City of Newport News, Virginia, shall remain effective until June 30, 1985, to regulate the use of portable signs which are trailer mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels. As of July 1, 1985, Article XXIV shall not govern the use of any manner of sign. It is the intent of this Council that all portable signs be displayed in conformance with Chapter 13 of this Code and Article XXIVA of the Zoning Ordinance from and after July 1, 1985, and that no permit for erection or display of portable signs pursuant to Article XXIV, as authorized herein shall extend beyond June 30, 1985.

Sponsor:

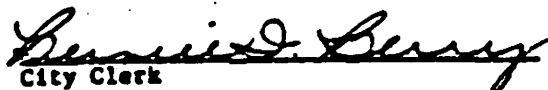


PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:


Mayor

Teste:


City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Battley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXA, CONDITIONAL USE PERMITS, SECTION 20A02, GENERALLY.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXA, Conditional Use Permits, Section 20A02, Generally, be, and the same hereby is, amended and re-ordained to provide as follows:

APPENDIX A.

ZONING ORDINANCE

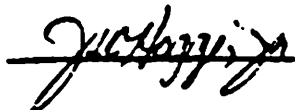
ARTICLE XXA. CONDITIONAL USE PERMITS

Section 20A02. Generally.

The city council shall authorize the use of land, buildings and structures in a district that does not conform to the regulations and restrictions prescribed for that district and shall authorize the issuance of special use permits therefor only to the owners of fee simple title thereto, and their successors in fee simple title, whenever it is made to appear that such special use will not be detrimental to the safety, health, morals and general welfare of the community involved; will not tend to create congestion in the streets, roads, alleys and other public ways and places in the area involved; will not create hazards from fire, panic or other dangers; will not tend to overcrowding of land and cause an undue concentration of population; will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements; and will not interfere with adequate light and air.

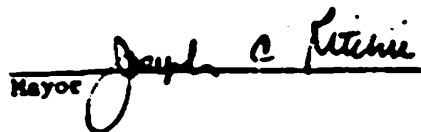
Notwithstanding the above provisions, the city council will not consider applications which are permitted as special exceptions under the provisions of Article XXVII, nor will the city council consider applications for modifications to the provisions contained in Article XXIV or XXIVA.

Sponsor:

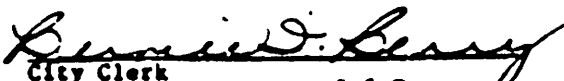


PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:


Mayor

Teste:


City Clerk

110

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogg, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Foster (Has financial interest in a sign company)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, BUILDING REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY ADDING THERETO A NEW ARTICLE, NAMELY, ARTICLE XV, REGULATIONS GOVERNING USE OF SIGNS AND PROVIDING FOR REMOVAL OF OBSOLETE STRUCTURES.

BE IT ORDAINED by the Council of the City of Newport News:

That Chapter 13, Building Regulations, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained by adding thereto a new article, namely, Article XV, Regulations Governing Use of Signs and Providing for Removal of Obsolete Structures, to provide as follows:

CHAPTER 13

BUILDING REGULATIONS

ARTICLE XV. REGULATIONS GOVERNING USE OF SIGNS AND PROVIDING FOR REMOVAL OF OBSOLETE STRUCTURES.

Section 13-335. Findings.

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Section 13-336. Definitions.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign: A sign made of fabric or any nonrigid material with no enclosing framework.

Business/Office Directories: A nonadvertising sign, attached to a wall or mounted on a pole, that lists the building occupants.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer, or contractor of a tract, building, or structure being developed under construction.

Directional/Information Sign: An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants, or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Frontage: The length of the property line of any one premise along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

Ground/Free-standing Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lowest.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premise identification sign giving only the name, address and/or occupation of an occupant or group of occupants.

Off-Premise Sign: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.

On-Premise Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Zoning Administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this Article, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Projecting Sign: A sign other than a wall sign that is attached to a wall or suspended from a pedestrian protection overhang.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to, any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A free-standing or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer, or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

Wall Sign: A sign painted on or attached to and erected parallel to the face of an outside wall.

Window/graphics Sign: A sign installed inside a window and intended to be viewed from the outside.

Section 13-337. Permit required.

It shall be unlawful for any person to construct, erect or display any sign covered by this Article until a permit therefor has been issued by the Department of Codes Compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs, provided the signs legally exist by permit.

Section 13-338. Exempted signs.

The following signs shall be exempted from the provisions of this Article but not the building regulations as contained in this Code, when determined not to be detrimental to the health, safety, and welfare of the public.

- (a) Activity signs denoting the revivals or other normal functions of bona fide religious or non-profit organizations when such signs are:

- (1) Located on the site of such organization or activity;
 - (2) Limited to one (1) sign of not more than thirty-two square feet per lot.
- (b) Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
 - (c) Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
 - (d) Menu boards which are either free-standing or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one menu board per lot.
 - (e) "Noncommercial" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
 - (f) Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the Zoning Administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period only.
 - (g) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
 - (h) Public, institutional, or religious building identification signs.
 - (i) Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) square feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred feet (100) feet or more. Not more than two (2) such signs shall be located on any one lot.
 - (j) Real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (1) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.

- (b) The sign is located only at intersections where a turning movement is indicated.
- (c) There may be no more than two signs at any one intersection.
- (d) Express permission has been obtained from all adjacent property owners.
- (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
- (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sun-up to sun-down.
- (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
- (2) Signs displayed in violation of the provisions of this section shall be confiscated by the City.
- (3) Persons causing open house signs to be placed on City right-of-way shall provide the City with evidence of a \$500,000.00 general liability insurance policy with the City named as an additional insured before display of signs may be permitted.
- (k) Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
- (l) Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:
 - (1) Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or non-profit organization.
 - (2) Special decorative displays used for national holidays, public demonstrations or promotion for non-partisan 'civic purposes.
 - (3) Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.
- (m) Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs, and temporary emergency signs.
- (n) Urban signs addressed by the Newport Centre Urban Design Plan:
 - (1) Business/office directories which are either free-standing or affixed wall signs and when used in a nonadvertising display to offer information to the pedestrian public and their size is limited to twelve (12) square feet or less.

- (2) Projecting signs when located in the DBCW sector and not exceeding two (2) square feet in area.

Section 13-339. Prohibited signs.

The following signs shall be prohibited within the City:

- (a) Abandoned signs.
- (b) Animated signs: No such sign shall be permitted in any required front yard or building setback area except:
 - (1) When located in the Downtown Business (DB) District as defined in the City Zoning Ordinance.
 - (2) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.
- (c) Flashing lights.
- (d) Flashing signs: No signs utilizing lighting effects simulating motion shall be permitted.
 - (1) Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
 - (2) Provided, further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.
- (e) Off-premise signs shall be prohibited with the exceptions set forth below:
 - (1) Off-premise signs existing as of the adoption of this ordinance and erected pursuant to Section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.
 - (2) New off-premises signs shall be permitted along Interstate 64 and Interstate 664 only and under these following conditions:
 - (a) Permitted only if the statutory provisions of the Code of Virginia 1950, (as amended) Title 33.1, Chapter 7 "Outdoor Advertising in Sight of Public Highways" are met.
 - (b) Permitted on undeveloped properties only and must be removed when the property is developed.
 - (c) Spaced no less than 1,000 feet apart.
 - (d) Not located closer than 500 feet to the edge of an interchange.
 - (e) Not located closer than 750 feet to any residential district.
- (f) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

Upon payment of twenty-five dollars (\$25.00) application fee to Department of Code Compliance for a temporary permit to place not more than one portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:

(1) **New Business:** Permit may be granted for a period of not more than sixty (60) days from date of issuance of the Certificate of Occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permanent signage is installed in less than sixty (60) days.

(2) **Replacement of Damaged Permanent Sign:** Should a permanent sign become damaged to the extent that in the opinion of the Zoning Administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.

(3) **Public Improvements in Right-of-Way:** Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the Zoning Administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the Zoning Administrator that such conditions persist.

(4) **Special Non-profit Event:** A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bona fide activity by a governmental, charitable, or non-profit organization. No more than two such permits may be granted per location per calendar year.

- (g) Posters or temporary signs (i.e., snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- (h) Temporary signs: No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other non-permanent sign intended to call attention to, advertise or promote sales, special events, openings, or similar events shall be allowed on any lot beyond the exterior of any building(s).
- (i) Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e., buses or taxis.

Section 13-340. Removal of signs.

Ninety (90) days after this ordinance takes effect it shall be a violation hereof to maintain any prohibited sign except for Section 13-339 (e) and 13-339 (f) prohibited signs. One hundred eighty (180) days after this Article takes effect it shall be a violation hereof to maintain any Section 13-339 (e) prohibited sign. After June 30, 1985, it shall be a violation hereof to maintain any Section 13-339 (f) prohibited sign except as provided therein.

The Zoning Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty days (30) days of the notice, it shall become a lien against the property of the sign owner, and will be certified as such against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Zoning Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the city pertaining to signs.

Section 13-341. Maintenance.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced. The Zoning Administrator or his duly authorized representative shall have the right under Section 13-339 to order the repair or removal of any sign which is defective, damaged, or deteriorated.

Section 13-342. Exceptions.

This Article does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley, nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This Article does not regulate the number, size, height, or location of signs as contained in the Zoning Ordinance of the City of Newport News.

Section 13-343. Penalty.

Whoever violates this Article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00) or imprisonment in the City jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 13-344. Severability.

This Article, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect.

Sponsor:

Joseph J. ...

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1924

Countersigned:

Joseph C. Patten
Mayor

Teste:

Bessie D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown

Nayes: None

Excused: Patten

Abstention: Keator (Has financial interest in sign company)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXVII, BOARD OF ZONING APPEALS, BY DELETING THEREFROM SECTION 2704.C.23, 24, 24-A and 25.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXVII, Board of Zoning Appeals, be, and the same hereby is, amended and reordained by deleting therefrom Section 2704.C.23, 24, 24-A and 25.

Sponsor:

Jim Hogg

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Jack C. Patten
Mayor

Teste:

Bernard D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogg, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in sign company)



CITY OF NEWPORT NEWS

VIRGINIA

17 371

DEPARTMENT OF CITY PLANNING
OFFICE OF THE DIRECTOR

2400 WASHINGTON AVENUE
NEWPORT NEWS 23607
(804) 247-4761

July 23, 1984

TO: Honorable Members of the Newport News City Council
FROM: Planning Director
SUBJECT: Additional Information Regarding Billboards and Portable Signs

The following information is offered as a supplement to that provided in the work session booklet "Proposed Sign Regulations" distributed June 4.

I. Portable Signs

• Alleged Need for Portable Signs

The two primary issues which have been raised in defense of portable signs are that they are:

- 1) Needed because in many cases permanent signage cannot be adequately seen due to distance from right-of-way or visual obstructions exist.

In the proposed sign ordinance, Section 2408.B. Sign Area Increases allows for relief from such situations by permitting increases in permanent sign area. Such relief would be reviewed and granted by the Zoning Administrator for sign area increases up to 50 percent of that otherwise allowed. Requests for increases over 50 percent would be reviewed and granted by the Planning Commission. In all cases the applicant would have to demonstrate that conditions exist which make allowable signage unreadable from the adjoining roadway rather than merely desiring more advertising area. Therefore, if such a situation in fact exists, portable signs would not be necessary. Furthermore, the proposed ordinance guarantees at least 32 square feet to each tenant of a shopping center regardless of his store frontage and regardless of the total signage displayed.

- 2) Used because they are the only signage small businesses can afford.

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Based on current rental charges for portable signs, small businesses would be better off to install legal permanent signage. At the rental cost of \$936 per 6-month period and utilizing a portable sign for the maximum periods allowed, a business would spend in 3-1/2 years more on rent than it would cost to install comparable permanent signage even if a loan had to be taken to finance it. In addition, he would enjoy continuous use of the sign for those 42 months and thereafter rather than only 24 months, the sign would be up permanently at no additional expense and on

Costs for Renting a 60 Square Foot Portable Sign
Versus Cost of Installing Comparable Permanent Readerboard

<u>Portable</u>	<u>Permanent</u>
\$936/6 months @ 5% annual inflation for 4 6-month periods: \$4,634.28 over 42 months	\$3,000 financed at 12.5% for same 42-month period: \$3,719.10
YIELD = Use of sign for 24 months; zero "equity"	YIELD: \$315.18 savings, con- tinuous use of sign; 100% "equity"

In the case of a newly opening business which has not had time to install permanent signage, the proposed ordinance allows the use of legal forms of temporary signage.

• Further Endorsement of Proposed Ordinance

The Virginia Peninsula Economic Development Council has endorsed the elimination of portable signs by joining the Peninsula Chamber of Commerce in adopting the "Model for Local Governments: Objectives and Strategies for Use in Improving the Visual Environment of the Peninsula."

• Portable Signs Prohibited Elsewhere

The following localities prohibit portable signs:

Virginia

Fairfax County
Virginia Beach*
Fredericksburg
Poquoson

Williamsburg
James City County
York County(1)
Chesapeake(2)*

North Carolina

Raleigh*
Charlotte*

Maryland

Annapolis
Baltimore
Prince Georges County

(1) Present ordinance allows portable sign if it is the only free-standing sign. Proposed ordinance prohibits in all cases.

(2) Allows for grand opening only; only for 30 days

*Identified in VPEDC's "Competitive Factors Study" as competitors to Peninsula.

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Page 3

II. Billboards

• Revenue to Newport News

Creative Displays which owns over 90 percent of the billboards in Newport News paid only \$2,418.05 in Newport News taxes in FY84 ... \$2,127.65 in business equipment tax for the billboards and \$214.80 in real property tax for the two sites they own.

• Counter Proposal by Outdoor Advertising Industry

The outdoor advertising-sign industry represented by Mr. Robert Freeman presented an abstract of local codes regulating billboards and a counter proposal for Newport News. Attached is a copy of Mr. Freeman's abstract with additional information in italics to help make a better comparison. You will note that Mr. Freeman presented a counter proposal to the Newport News Planning Commission in November 1983 (shown in the last column) which was used by the Planning Commission as a basis for the compromise which was forwarded to City Council. You will also note that his counter proposal to City Council (shown in the next to last column) favors the billboard industry even more than the earlier counter proposal to the Planning Commission.

• Net Effects of Proposed Ordinance on Existing Billboards

The following is a breakdown of the impact of the proposed sign ordinance on billboards in place as of September 1983 when the survey was taken. A map locating these billboards is also attached for your information.

Billboards to be Grandfathered

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
I-64	3	6	M2
39th & Roanoke	1	1	M2
39th & Chestnut	1	4	M2
Jefferson & Mercury	1	2	M1
Jefferson & Main	1	1	C2
Jefferson & McLawhorne	1	1	C2-A
Warwick & O'Hara	1	4	M1
Warwick & Hilltop	2	4	R2-C or M2
Warwick & Denbigh Park	1	2	C2
Warwick & Mercury	1	2	C2-A
	13	27	

MEMO
Page 4

Additional Billboards Which May be Grandfathered,
Pending VDM&T Determination of Visibility from I-664

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
Jefferson & 41st	1	1	C2-A
Jefferson & 42nd	3	4	C2-A
Jefferson & 43rd	2	4	C2-A
27th between Jefferson & Terminal	1 8	2 11	C2
TOTAL POSSIBLE UNDER GRANDFATHER CLAUSE SEPTEMBER 1983	21	38	

Any additional billboards erected before adoption of the ordinance may also be grandfathered depending on their location.

Billboards to be Removed or Relocated
Due to I-664 Construction

(Relocated billboards may be grandfathered under the proposed ordinance if they are relocated before adoption of the ordinance)

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th between Terminal & Jefferson	1	2	M1
Jefferson & 39th	1	4	M2
Jefferson & 40th	1	2	C2-A
Terminal & 26th	1	2	M2
Terminal & 31st	1	2	M2
Terminal & 33rd	1	2	M2
Terminal & 34th	2 8	4 18	M2

Billboards to be Removed Under the Proposed Ordinance

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th & Pear	1	1	C2-A
25th & Maple	1	1	C2-A
25th & Buxton	1	1	C2-A
25th & Marshall	1	1	C2-A
27th & Wickham	1	2	R2-C
27th & Buxton	1	2	R2-C
28th & Chestnut	1	2	C2-A
Jefferson & 30th	1	1	C2-A
Jefferson & 44th	1	1	C2-A
Jefferson & 72nd	2	2	C2-A
Jefferson & I-64	1	1	M2
Warwick & 34th	1	2	M2
	<u>13</u>	<u>17</u>	

• Billboards Prohibited Elsewhere

A brief survey turned up the following localities which do not allow billboards. This is by no means a comprehensive listing.

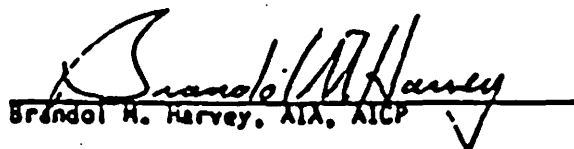
Virginia

York County
James City County
Williamsburg
Charlottesville

Maryland

Annapolis

In addition, Norfolk and Virginia Beach allow billboards only on certain roadways and then only by Special Use Permit.


Brandol H. Harvey, AIA, AICP

kmo

Attachments

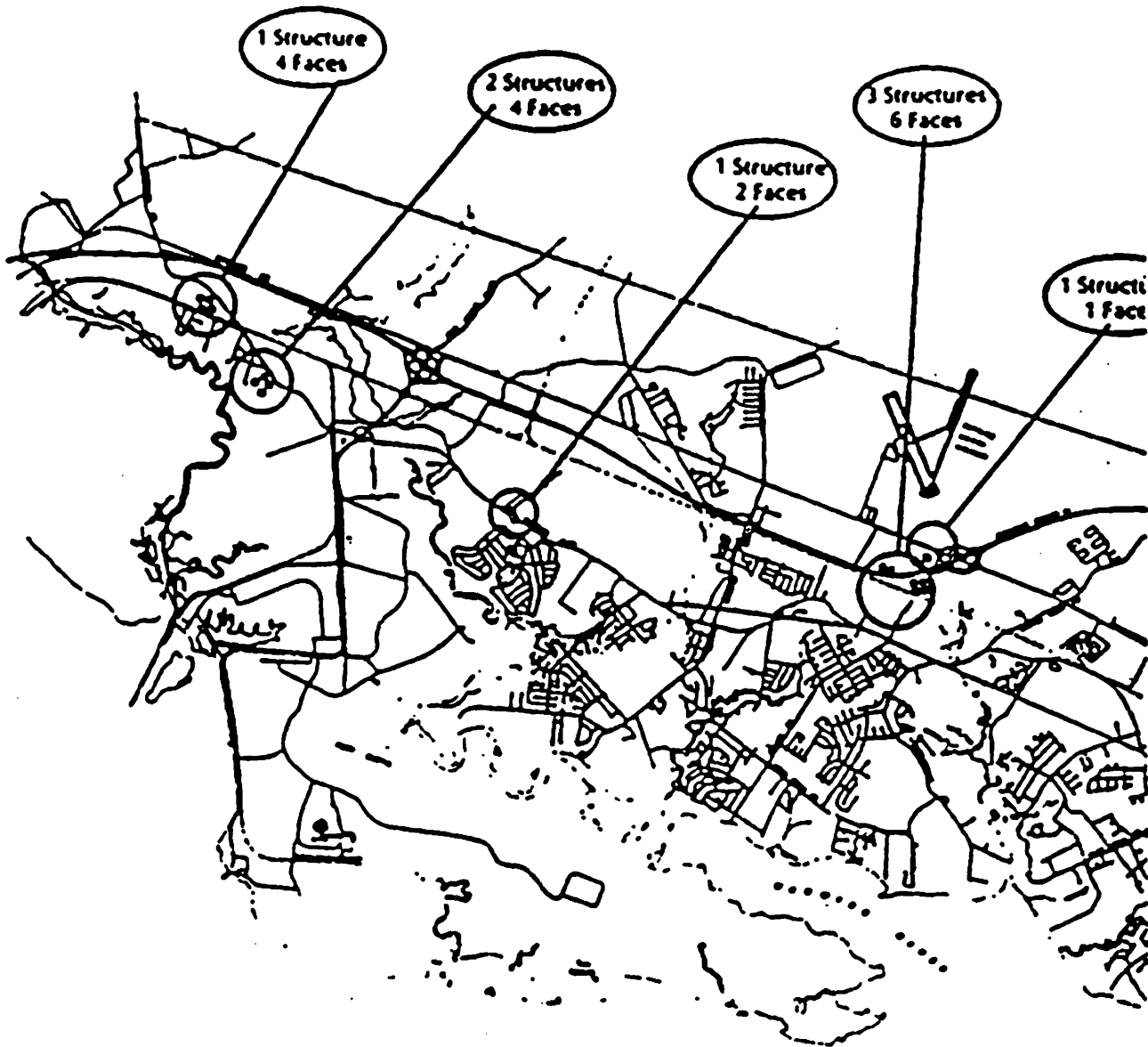
ABSTRACTS OF LOCAL CODES
Billboard Advertising -
 (as presented to City Council July 1964 with annotations by the Planning Department)

	WORTLE (1964) Proposed by City Planning Commission)	PORTSMOUTH (Adopted 9/63)	VIRGINIA BEACH	CHESAPEAKE (Adopted 10/63)	NEWPORT NEWS (Proposed by Advertising Industry 7/64)	NEWPORT NEWS (Proposed by Advertising Industry 11/63)
<i>300 ft</i> Max. Area	672-750 sq. ft.	672 sq. ft. (M1,M2) 300 sq. ft. (C2)	600 sq. ft.	750 sq. ft.	750 sq. ft. (M1,M2, C1,C2-a)	700 sq. ft. (M1,M2) 300 sq. ft. (C1,C2-a)
Height	24 ft.	50 ft. (M1,M2) 24 ft. (C2)	24 ft. with extension to 40 ft.	40 ft.	40 ft. (M1,M2,C2-a) 24 ft. (C2)	40 ft. (M1,M2) 24 ft. (C1,C2-a)
Spacing	500 ft.	500 ft.	500 ft.	1000 ft.	1000 ft.	1000 ft.
Setback from ROW	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
Allowed Zones	C2,C3 M1,M2,M3 (allowed only on certain streets)	C2 (only on undeveloped property) M1,M2,M3-1B	B2,1-1 1-2 (only where undeveloped) (allowed only on certain streets)	B2,B3 M1,M2 M3	M1,M2 C1,C2-a	M1,M2 C1,C2-a
Distance from Residential	500 ft.	None 15' from any property line regardless of district	200 ft. (removed if developed)	None 50' from property line regardless of district	250 ft.	250 ft.

The following are some of the localities which do not allow billboards; any existing are non-conforming:

- Williamsburg
- James City County
- York County
- Charlottesville

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BILLBOARD LOCATION SURVEY SEPTEMBER 1983

■ = ONE BILLBOARD FACE

127



Grandfathered

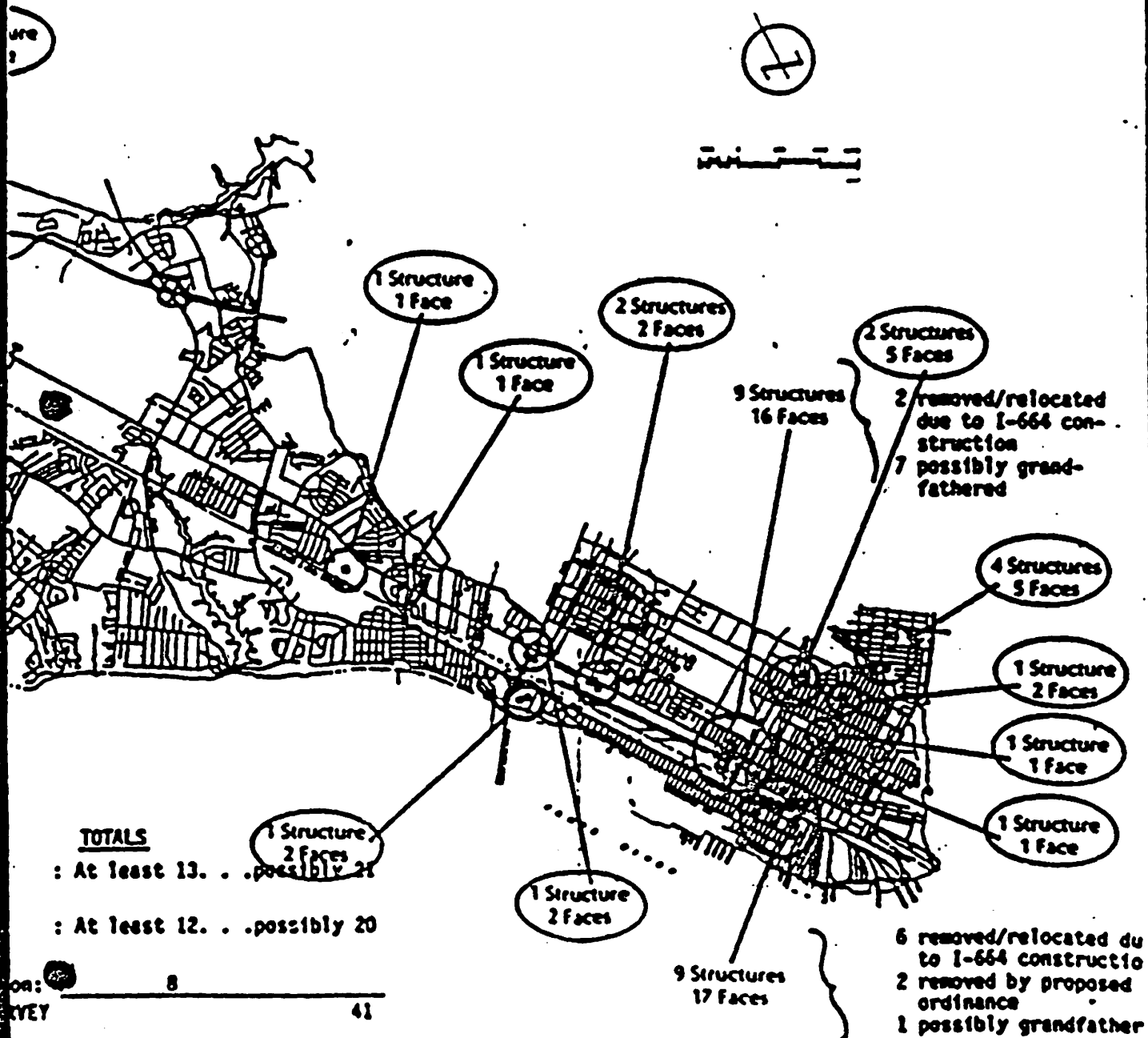
Removed according to
proposed ordinance

To be removed/relocated
due to I-664 construction

TOTAL IN SUR

NEWPORT NEWS, VIRGINIA

DEPARTMENT OF CITY PLANNING





CITY OF NEWPORT NEWS

VIRGINIA

17 371

DEPARTMENT OF CITY PLANNING
OFFICE OF THE DIRECTOR

1408 WASHINGTON AVENUE
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(804) 247-4741

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Jefferson & 41st	1	1	C2-A
Jefferson & 42nd	3	4	C2-A
Jefferson & 43rd	2	4	C2-A
27th between Jefferson & Terminal	1	2	C2
	8	11	
TOTAL POSSIBLE UNDER GRANDFATHER CLAUSE SEPTEMBER 1983	<u>21</u>	<u>18</u>	

Any additional billboards erected before adoption of the ordinance may also be grandfathered depending on their location.

Billboards to be Removed or Relocated
Due to I-664 Construction

(Relocated billboards may be grandfathered under the proposed ordinance if they are relocated before adoption of the ordinance)

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th between Terminal & Jefferson	1	2	M1
Jefferson & 39th	1	4	M2
Jefferson & 40th	1	2	C2-A
Terminal & 26th	1	2	M2
Terminal & 31st	1	2	M2
Terminal & 33rd	1	2	M2
Terminal & 34th	2	4	M2
	8	18	

Billboards to be Removed Under the Proposed Ordinance

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th & Pear	1	1	C2-A
25th & Maple	1	1	C2-A
25th & Buxton	1	1	C2-A
25th & Marshall	1	1	C2-A
27th & Wickham	1	2	R2-C
27th & Buxton	1	2	R2-C
28th & Chestnut	1	2	C2-A
Jefferson & 30th	1	1	C2-A
Jefferson & 44th	1	1	C2-A
Jefferson & 72nd	2	2	C2-A
Jefferson & I-64	1	1	M2
Warwick & 34th	1	2	M2
	<u>13</u>	<u>17</u>	

• Billboards Prohibited Elsewhere

A brief survey turned up the following localities which do not allow billboards. This is by no means a comprehensive listing.

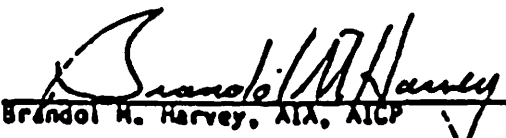
Virginia

York County
James City County
Williamsburg
Charlottesville

Maryland

Annapolis

In addition, Norfolk and Virginia Beach allow billboards only on certain roadways and then only by Special Use Permit.


Brandol H. Harvey, AIA, AICP

kmo

Attachments

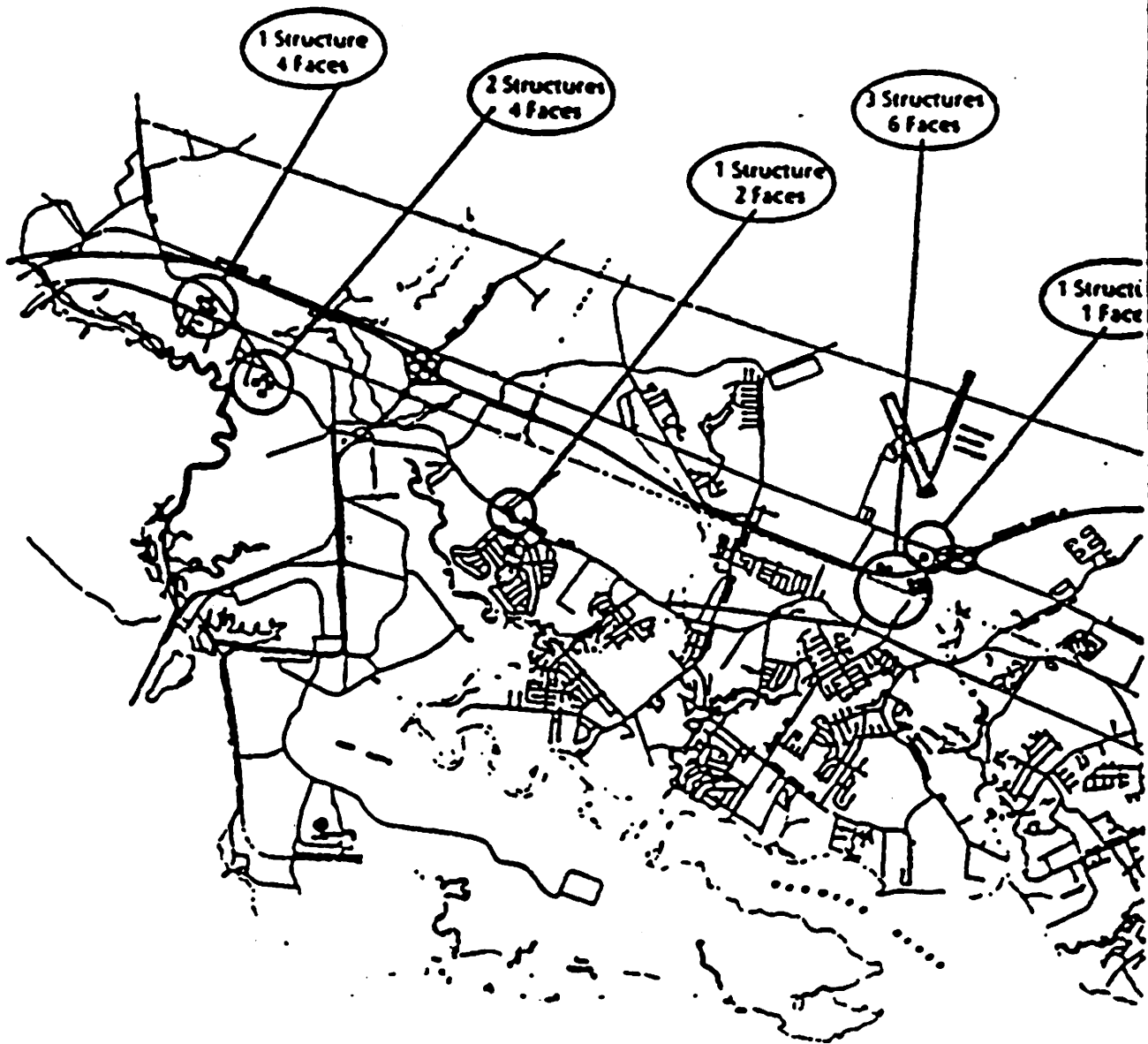
**ABSTRACTS OF LOCAL CODES
Billboard Advertising -
(as presented to City Council July 1964 with amendments by the Planning Department)**

LOCAL CODE	PROPOSED BY CITY PLANNING COMMISSION	POSTSCRIPTUM (Adopted 9/73)	VIRGINIA LAW	DESCRIPTIVE (Adopted 10/73)	REPORT AIDS (Proposed by Advertising Industry 1/74)	
					1964 sq. ft. (C1, C2)	1964 sq. ft. (C1, C2-1)
Height	67-150 ft. ft.	67-150 ft. ft. (C1, C2) 300 sq. ft. ft. (C2)	600 ft. ft.	750 ft. ft.	100 sq. ft. (C1, C2)	300 sq. ft. (C1, C2-1)
Location	20 ft.	50 ft. (C1, C2) 25 ft. (C2)	20 ft. with extension to 40 ft.	40 ft.	40 ft. (C1, C2)	20 ft. (C1, C2-1)
Setback from road	500 ft.	500 ft.	500 ft.	1000 ft.	1000 ft.	1000 ft.
Allowed Zones	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
	C1, C2 M1, M2, M3 followed only on certain streets	C2 (only on unimproved property) M1, M2, M3-18 followed only on certain streets	82.1-1 1-2 (only where unimproved) followed only on certain streets	82.83 M1, M2 10	M1, M2 C1, C2-1	M1, M2 C1, C2-1
Distance from Residential	500 ft.	None 35' from any property line regardless of distance	500 ft. (unimproved if developed)	None 35' from property line regardless of distance	500 ft.	500 ft.

The following are some of the localities which do not allow billboards any, existing are non-conforming:

- Williamsburg
- James City County
- York County
- Charlottesville

17 1177



BILLBOARD LOCATION SURVEY SEPTEMBER 1983

■ = ONE BILLBOARD FACE



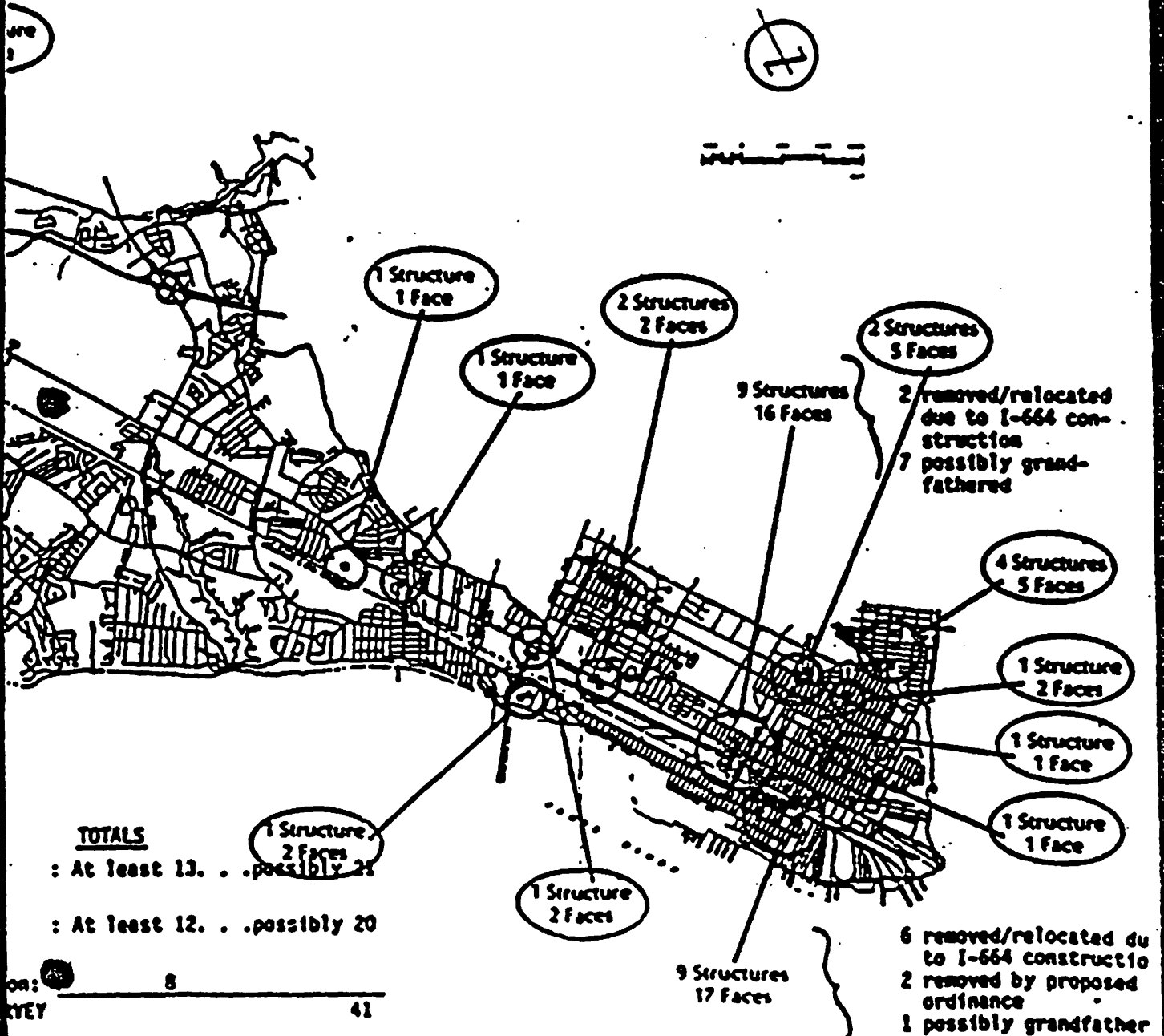
Grandfathered

Removed according to
proposed ordinance

To be removed/relocated
due to I-664 constructi

TOTAL IN SUR

NEWPORT NEWS, VIRGINIA DEPARTMENT OF CITY PLANNING





NEWPORT NEWS CITY PLANNING COMMISSION

2400 WASHINGTON AVENUE
NEWPORT NEWS, VIRGINIA 23607

7 713

W. VINCENT CONWAY, JR.

Chairman

MARTHA M. FIELD
Vice-Chairman

004/247-0761

September 1, 1983

MEMORANDUM

TO: Honorable Members of the Newport News City Council

SUBJECT: Proposed Sign Ordinance

As you may be aware, the Sign Ordinance Subcommittee of the Planning Commission has spent the past five months studying and preparing a revised Sign Ordinance. The Subcommittee had the following composition of Planning Commissioners and advisory representatives of interested groups:

Planning Commission Members

Mr. W. Vincent Conway, Jr., Chairman
Mr. Donald Hyatt
Mr. Dean Short
Mrs. Penny Taylor

Advisory Members

Mr. Charles Alexander - Department of Codes Compliance
Mr. Fred Calhoun (rep. Lloyd Jobson) - Sign Industry
Ms. Judith Davis - Former Planning Commissioner
Ms. Sue Hogue - Clean Community Coordinator
Mr. David Peebles - WPEC

In addition, representatives from special interests groups, including outdoor advertising and temporary signs, attended and participated in the review meetings. Ample time was allotted for discussion of various concerns, special interests and individual positions.

As a result of the Subcommittee's work, a proposed new Sign Ordinance has been recommended for the Commission's review. Enclosed for your review is a summary of the proposed Ordinance and its potential implications for a better, more visually aesthetic environment within the City. Some of the positions taken are consistent with other ordinances operating in James City County, Virginia Beach, and Williamsburg.

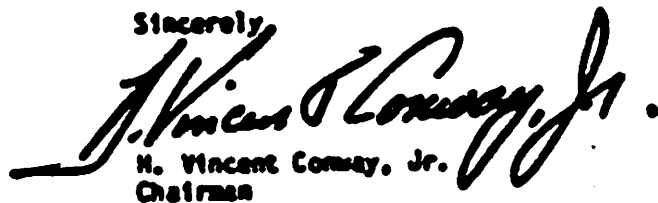
A work session has been conducted by the full Commission on the Ordinance and a subsequent public hearing has been scheduled on

MEMORANDUM
Page 2

September 21, 1983, at 2:00 p.m. in Council Chambers. I am hopeful that the Commission will be able to make a recommendation on the Ordinance sometime in mid-to-late October. Consequently, I would request your consideration of having a joint work session and/or bus tour of the City prior to any Council scheduled public hearing on the matter. The purpose of this would be to allow thorough discussion of the Commission's recommendation and time to address any concerns and questions the Council may have. In its deliberations, the Commission will strive to present a more effective, equitable and understandable Sign Ordinance for your final disposition. The founding concepts of the draft Ordinance are: 1) that every business should be treated equitably by sign regulations that are clearly understood, 2) public safety is of paramount concern, and 3) an appropriate and well designed Ordinance will result in more effective signage as well as a more positive visual environment.

If additional information is needed or discussion of my request is desired, I am available at your convenience.

Sincerely,



H. Vincent Conway, Jr.
Chairman

HVC, Jr:BNH:kas

SUMMARY OF PROPOSED SIGN ORDINANCE

It has been determined that Newport News suffers from a negative visual image and an excessive number of signs, leading to traffic hazards and an overall reduction in the effectiveness of signage. To the outside observer, the City appears ugly and therefore unattractive as a possible new location for industry, business or home. The regulations proposed in the new Ordinance, however, recognize the need for commercial communication and are intended to provide for safe, effective signage throughout Newport News.

The present Sign Ordinance currently is contained entirely in the City's Zoning Ordinance and regulates the size, number and placement of signs within each zoning district. The proposed Ordinance will have two sections—one in the Zoning Ordinance for regulations applicable to particular zoning districts and an addition to Chapter 13, Building Regulations of the City Code, for regulations that are applicable to the entire City, irrespective of zoning districts.

• ACCUMULATIVE SIGN AREA

The present Sign Ordinance is rather ambiguous as to what signs are counted toward the total allowable sign area. The new Ordinance proposes that all permanent signs, whether internal or external displays, which are legible from the public right-of-way shall be regulated. Those signs which are not legible from the public right-of-way or are not intended to be permanent will not be regulated.

This concept does not alter the intent of the Ordinance. Instead, it clarifies the intent that messages intended to be read from the right-of-way or which draw attention to activities on that property are signs that most affect the public at large and should be counted toward the total sign area.

• OFF-PREMISE ADVERTISING

Presently, off-premise advertising, in the form of any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located, is allowed in all industrial zoning districts, up to a maximum of 300 sq. ft. per parcel. Since the total allowable sign area in industrial zones is 300 sq. ft., off-premise structures use the sign area that is (or will be) needed by the on-premise use. Therefore, to alleviate the problem of excessive sign area and to encourage the use of signs to identify a property rather than strictly advertise a product, off-premise advertising will be prohibited throughout the City, irrespective of zoning districts. This section of the sign regulations will be placed in the City Code, Chapter 13, so as to avoid the issue of nonconformity. All off-premise advertising will become illegal 91 days after adoption of the Ordinance and must be removed.

SUMMARY OF PROPOSED SIGN ORDINANCE

Page 2

• TEMPORARY AND PORTABLE SIGNS

Similar to the existing Ordinance, the new Ordinance prescribes signs which are explicitly "exempted" as well as "prohibited." The regulations regarding these signs have been placed in Chapter 13 of the Code rather than the Zoning Ordinance because they apply to the entire City and not to individual zoning districts. Unless explicitly permitted under the "exempted sign" section of the proposed Ordinance, temporary signs of any nature will not be permitted to extend beyond the exterior wall of any building. Because they are temporary, these signs are not counted toward the accumulative sign area. However, because of potential safety hazards, portable signs which are trailer mounted or otherwise designed to be relocated will be prohibited in any zoning district, regardless of the "exempted sign" section, as is presently done in James City County and Virginia Beach. The reasoning for this prohibition is that it has been determined that this form of advertising is not only unsightly to the community and effectively provides continuous additional sign area over the maximum permitted per lot, but can also be hazardous to the public safety. In many cases, the portable signs are not installed in a manner that meets the safety standards of the building code--they are not securely anchored nor properly wired, resulting in damages from wind-blown signs and electrical hazards.

• SHOPPING CENTERS AND HIGH-RISE BUILDINGS

Under the present Ordinance, shopping centers and high-rise towers (ten stories or more) are allocated sign area only according to their street frontage. The proposed Ordinance recognizes the additional sign area required by these uses and has relaxed the regulations. Shopping centers will now be allowed identification ground signs according to their street frontage and individual store identification signs based on store frontage inside the shopping center. A minimum of 32 sq. ft. per shop will be guaranteed, even if a tenant has less than 32 linear feet of shop frontage. In the case of high-rise buildings, an additional square foot of sign area per linear foot of street frontage will be permitted.

• ADJUSTMENTS IN SIGN REGULATIONS

Presently there are two legislative processes for relief in terms of sign area, and height and placement over the public right-of-way, Special Exceptions and Conditional Use Permits. In order to provide more consistency in the granting of such relief, the proposed Ordinance would make adjustments in the regulations an administrative matter. The Zoning Administrator would have authority to grant waivers, up to an ordained maximum, when specific criteria were evidenced. The applicant would have the right to appeal the decision of the Zoning Administrator to the Board of Zoning Appeals on the basis of an alleged administrative error. In this circumstance, the complainant(s) would bear the burden of proof of the error before any relief could be provided by the Board.

SUMMARY OF PROPOSED SIGN ORDINANCE
Page 3

• DISTRICT STANDARDS

The sign area, height and location standards for the individual zoning districts remain basically unchanged. The major difference is that the proposed Ordinance provides a clarification of the standards by explicit written standards to replace the existing chart and footnote format. It is felt that the old format has been misinterpreted by administrators and property owners and that written standards will alleviate much of the confusion and inconsistency that resulted from the complicated old format.

The regulations proposed in the new Ordinance are intended to provide Newport News with safe, effective signage. The City does not propose to control the copy of signs nor their design, except as this pertains to size and building code requirements.

CITY OF NEWPORT NEWS

August 14, 1984

To: The Honorable City Council
From: City Manager
Subject: Potential Placement of Billboards

In response to a request from Councilman Hogge, the Planning Department has attempted to analyze the impact of varying the spacing requirements for billboards from what is now in the proposed sign ordinance. The results of this analysis may be found on the attached chart. The spacing standards have been applied to existing conditions on both I-64 and the planned I-664 segment to show the differing impact of the various alternatives. In reviewing this information, it is evident that the standard involving the distance from a residential zone is the most important determinant in the number of billboards which may be constructed. I should caution that this information on the potential number of new billboards is not exact at this point since it had to be computed from a large scale map. It also assumes no change in the existing zoning districts which surround the I-64 and I-664 corridors.


Robert T. Williams

RTW:RWH:kds

Attachment

IMPACT OF SPACING ON
POTENTIAL BILLBOARD INSTALLATION

<u>Alternatives</u>	<u>Standards</u>	<u>No. of New Billboards I-64</u>	<u>No. of New Billboards I-664</u>
1. Current Ordinance Proposal	<ul style="list-style-type: none"> • 2000' apart • 2000' from residential zone • 500' from interchange 	0*	0**
2. Alternative A	<ul style="list-style-type: none"> • 1000' apart • 2000' from residential zone • 500' from interchange 	0	0
3. Alternative B	<ul style="list-style-type: none"> • 2000' apart • 1000' from residential zone • 500' from interchange 	2	4
4. Alternative C	<ul style="list-style-type: none"> • 1000' apart • 1000' from residential zone - 750' 500' • 500' from interchange 	2	5 6
5. Alternative D	<ul style="list-style-type: none"> • 1000' apart • 500' from residential zone • 500' from interchange 	12	13
6. Alternative E (Similar to Advertising Industry Proposal in 7/84)	<ul style="list-style-type: none"> • 1000' apart • 250' from residential zone • 500' from interchange 	34	24

*Three billboards would be grandfathered under proposed ordinance.

**Billboards prohibited entirely on I-664 under proposed ordinance.

CITY OF NEWPORT NEWS

July 9, 1984

16 1017

To: The Honorable City Council
From: City Clerk
Subject: Portable Signs

A Ms. Wilma Charles of Video and Computer Center, 14501 Warwick Boulevard, called to advise that she didn't think every store should have a portable sign. There should be some restrictions. However, this was an effective and efficient means of advertising for a small business.

Bea Berry
Bea Berry

APPENDIX A—ZONING ORDINANCE Art. XXIV, § 2401

4. The uses of such buildings or structures shall conform to the regulations of the district in which they are located whenever they are enlarged, extended, reconstructed or structurally altered, except as provided elsewhere in this article.

Sec. 2302. [Repealed by Ordinance No. 1660, § 1.]

Sec. 2303. Reconstruction.

In the event that all or a part of a nonconforming use is destroyed by fire or act of God, the use may be reconstructed providing:

1. Reconstruction be limited to uses destroyed by fire or act of God and shall not exceed the degree of nonconformity which existed prior to such destruction; and
2. All yards, height and other applicable dimensional regulations of the district in which the use is located shall be observed; and
3. Any reconstruction shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded; and
4. Construction shall begin within one year of the date the nonconforming use was destroyed by fire or act of God. (Ord. No. 2236, § 1)

ARTICLE XXIV. SIGN REGULATIONS*

Sec. 2401. Generally.

It shall be the purpose of this article to provide for and regulate the use of outdoor displays in order to clearly index the environment in such a manner as to facilitate an easy,

*Cross reference—Liability insurance for signs overhanging public right-of-way, § 38-23.

safe and pleasant communication between people and their environment. To this purpose it is the intent of these regulations to authorize the use of outdoor displays which are:

1. Compatible with their surroundings.
2. Appropriate to the type of activities to which they pertain.
3. Express the identity of individual proprietors or of the community as a whole.
4. Legible in the circumstances in which they are seen. (Ord. No. 1818, § 1)

Sec. 2402. Definitions.

For the purpose of this article certain words and terms are herewith defined as follows:

1. **Advertising sign:** An outdoor display which:
 - (a) Is located elsewhere than upon the same premises as the profession, business, commodity, service or activity to which such display draws attention; or
 - (b) Any motor vehicle, as defined by state law, which has been altered, painted, or modified as to produce the effect of an outdoor display; provided, however, that trailers are excluded herefrom. This provision is not intended to prevent the painting of a company or business name on a bona fide business vehicle; or
 - (c) Any outdoor display which illustrates or draws attention to a single product not unique to an individual business, profession, or attraction in such a manner so that the space allocated to the illustration or attention to that single product represents fifty (50) percent of the total display area.
2. **Display area:** That portion of an outdoor display countable for determining compliance with district regulations of accumulative display area and defined as the

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area of the rectangle, triangle, circle or combinations thereof that will enclose the outdoor display including background. Supports, braces, and other structural elements shall not be included unless they are designed as an integral part of the display for the purpose of illustration or attraction.

3. *Exempted sign:* The following specific outdoor displays shall be exempted from zoning regulations:
- (a) Bulletin boards for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
 - (b) Nameplates denoting the name of public or institutional buildings.
 - (c) Memorial signs or tablets when cut into a masonry surface or constructed of bronze or other non-combustible material.
 - (d) Traffic or other municipal signs, including legal notices, railroad crossing signs, and temporary emergency signs.
 - (e) Signs denoting the names of residential developments when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
 - (f) Signs denoting the name of the developers of a subdivision or the name of the architect, engineer, or contractor of a tract, building, or structure being developed under construction when erected temporarily. Such signs shall be removed at the completion of said development or construction, and limited to a maximum area of thirty-two (32) square feet.
 - (g) Real estate signs advertising the sale of the premises upon which such sign is located provided such

signs are limited to a total area of six (6) square feet for residential properties; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one parcel.

- (h) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- (i) Signs attached to or displayed on public transportation vehicles.
- (j) Political signs located on sites which are used for campaign headquarters for political campaigns shall be exempt from height, area, type and location restrictions that may otherwise apply to the district in which the campaign headquarters is located. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the zoning administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period, only.
- (k) Signs denoting the revivals or other normal activities of bona fide religious organizations when such signs are:
 - (1) Located on the site of such organization.
 - (2) Limited to two (2) signs of not more than thirty-two (32) square feet.
- (l) Signs commonly known as menu boards which are either freestanding or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in

a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one (1) menu board per site.

(m) Portable real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:

(i) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:

(a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.

(b) The sign is located only at intersections where a turning movement is indicated.

(c) There may be no more than two (2) signs at any one (1) intersection.

(d) Express permission has been obtained from all adjacent property owners.

(e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.

(f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sunup to sundown.

(g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.

(ii) Signs displayed in violation of the provisions of this section shall be confiscated by the city.

(iii) Persons causing open house signs to be placed on city rights-of-way shall provide the city with evidence of a five hundred thousand dollar (\$500,000.00) general liability insurance policy with the City named as an additional insured before display of signs may be permitted.

4. *Outdoor display:* A letter, figure, character, mark, plan, point, marquee, sign, design poster, pictorial,

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picture, stroke, strip, line, trade mark, reading matter, or illuminated surface which is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, persons, firm, corporation, public performance, article, machine or merchandise, whatsoever, which shall be displayed in any manner out of doors.

5. *Sign*: An outdoor display attached to or painted on a building, structure or natural geographic feature or in any manner represented on any real or personal property. The following classifications of signs shall be as defined in chapter XXIII of the Building Code for the City of Newport News as amended, except as may be set forth below:*

(a) Spectacular sign.

(b) Ground sign.

(c) Roof sign.

(d) Wall sign.

(e) Projection sign.

(f) Marquee sign.

(g) *Shingle sign*: A projection or wall sign not over six (6) square feet in area, constructed of metal or other noncombustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.

6. *Temporary signs*: Outdoor displays such as lights, flags, pennants, "A" frames, and other nonpermanent displays intended to call attention to, advertise or promote sales, special events, openings, or similar events. The outdoor display of merchandise shall be considered

*Editor's note—This reference is to the prior building code of the city. For the definition of signs in the current building code, see § 201.0 of the BOCA Basic Building Code, which is adopted by § 13-23 of this Code. Also, see article 14 of the BOCA Basic Building Code.

a temporary sign when such display is intended to advertise or call attention to such merchandise rather than the normal storage of such merchandise as otherwise permitted by this ordinance. Provided, however, that the display of merchandise for advertising purposes shall be permitted in any commercial or manufacturing zoning district when such display is limited to:

- (a) A product normally offered for sale or manufactured by the establishment located on the parcel on which the product is displayed.
- (b) Not more than two (2) of any model, type, size, or uniquely different item of merchandise.
- (c) A total ground area of not more than twenty-five (25) percent of the permitted sign area for that parcel.

The display of motor vehicles or similar items that by reason of size or volume are normally stored on an open lot shall be excluded from any restrictions on display of merchandise for advertising.

There shall be no exemptions from the following requirements:

- (1) One temporary sign per five hundred (500) feet of street frontage shall be permitted in a shopping center, provided however, that there shall be no more than two (2) signs per shopping center and that the signs shall be no less than five hundred (500) feet apart.
- (2) Only one temporary sign shall be permitted per business not located in a shopping center.
- (3) Outside storage of temporary signs shall be allowed in any commercial or industrial zoning district provided, however, that such storage is screened or buffered from general public view. (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2643-80; Ord. No. 2984-82)

Sec. 2403. Relationship to Building Code.

The provisions of this article are intended to supplement the sign regulations of the Building Code of the City of Newport News by specifying the type, size, and location of signs permitted in each zoning district. In the event this ordinance imposes regulations more restricting than said code, the regulations of this ordinance shall prevail. (Ord. No. 1818, § 1)

Cross reference—Building code, § 13-21 et seq.

Sec. 2404. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as part of the national system of interstate and defense highways, no sign shall be erected except in conformance with [title 33,] chapter 7, sections 33.1-351 to 33.1-381, Code of Virginia, entitled "Outdoor Advertising in Sight of Public Highways," notwithstanding that this regulation shall not include any provision of the state law which exempts property located in commercial or industrial zones within the corporate limits of Newport News; and provided further, that all applicable requirements of the sign ordinance are met. (Ord. No. 1818, § 1)

Sec. 2405. Nonconforming outdoor displays.

1. Any permanent outdoor display existing on the effective date of this ordinance and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

- (a) Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this ordinance.
- (b) For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
- (c) No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this ordinance.

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2. Existing trailer-mounted signs licensed at the date of passage of this ordinance may be located within a commercial district of the city, provided that no flashing lights or flashing lighting effect is used. (Ord. No. 1818, § 1; Ord. No. 2134-78)

Sec. 2406. General regulations.

1. *Temporary signs:* Temporary signs, in addition to permanent signs otherwise authorized by this ordinance, are permitted:

- (1) In any residential zoning district when authorized by the board of zoning appeals as a special exception in conformance with the conditions specified in article XXVII of this ordinance, or,
- ✓ (2) [In] any commercial or manufacturing zoning district when installed under a permit issued by the sign inspector for the city in compliance with the following conditions:
 - ✓ (a) No temporary sign shall be installed, permitted or located on any given parcel of land for more than one hundred eighty (180) days per calendar year.
 - ✓ (b) The use of such temporary sign shall be limited to advertising, promoting or calling attention to special events, openings, sales or similar occurrences.
 - ✓ (c) The area of such temporary signs shall not exceed twenty-five (25) percent of the allowable sign area for that specific parcel or where merchandise is displayed by a temporary permit the total ground area covered shall not exceed twenty-five (25) percent of the allowable sign area; provided, however, that this provision shall not be applied to reduce the minimum allowable sign area on an individual lot to less than sixty (60) square feet.
 - (d) Pennants, flags, and lights, but excluding flashing lights, shall be authorized by such permit and

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shall be excluded from the area restriction when such items carry no written or illustrated advertising copy.

- ✓(e) Yard and height requirements of the appropriate zoning district shall apply to any temporary sign authorized by this section.
 - (f) A new sign shall not hereafter be erected, constructed, altered or maintained except as herein provided and until after a permit has been issued in the division of city planning and any required insurance shall have been filed in accordance with section 38-23 of this Code.
 - ✓(g) A violation of any provision of this section shall constitute a class 3 misdemeanor.
2. *Flashing lights*: No outdoor displays utilizing flashing lights or lighting effects simulating motion shall be permitted.
- (a) Provided, however, that messages on changing message signs which do not change more frequently than once every ten (10) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
 - (b) Provided further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.
3. *Animated displays*: No outdoor display utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical or wind-blown, shall be permitted in any required front yard or building setback area except:
- (a) When located in the DB District.
 - (b) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.

4. *Removal of signs:* All copy and sign structures shall be removed from the premises of vacated businesses within ninety (90) days from the date of vacation. Removal of political signs shall be in accordance with the provisions of this ordinance as set forth in section 2402, subsection 3, subsection (j). (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2541-79; Ord. No. 2716-81)

Sec. 2407. Zoning district regulations.

The height, area, type and location of signs permitted in each zoning district within the city shall be in accordance with the following table:

ZONING DISTRICTS

	R1	R2-A	R2-C	C1	C2	C2-A	DB	RD-1	M1
	R1-A R1-B R1-C	R2-AM R2-B	R2-D						M2
Exempt									
Temporary (1)									
Shingle									
Marquee									
Projection									
Wall									
Roof									
Ground									
Advertising									
Spectacular									
Sign Area Permitted (Sq. Ft.) (2)	NA	NA	0.75	0.75	1.00	1.00	1.50	1.00	1.00
Max. Total Area Per Parcel (Sq. Ft.) (6) (7)	12	24	75	150	150	150	100	100	300
Sign Weight (Feet)	6	6	16	16(8)	24(8)	40	40	24	40
Setbacks (Feet) (8)	Front		25	25	25(4)	10(4)	0(8)	25	0
	Side		10	10	5	0	0	10	0

- (1) When erected in compliance with section 2406 of this ordinance.
 - (2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.
 - (3) Fifty (50) percent increase in height may be granted by board of zoning appeals.
 - (4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.
 - (5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.
 - (6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.
 - (7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:
 - (a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and
 - (b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.
- Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.
- (8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:
 - (a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(Ord. No. 1818, § 1; Ord. No. 2434-78)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News;

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields, flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

nations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Section 24A04. Relationship to building regulations.

The provisions of this Article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Article imposes regulations more restrictive than said Code, the regulations of this Article shall prevail.

Section 24A05. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as a part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled, "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City sign regulations are met.

Section 24A06. Nonconforming signs.

Any permanent legal sign existing on the effective date of this Article and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

1. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
2. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
3. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Code.

Section 24A07. Zoning district regulations.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

1. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Multi-family residential districts: R2-A, R2-AM.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
3. Multi-family residential districts: R2-B, R2-C, R2-D:
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - (c) Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.
4. Commercial zoning districts: C2, C2-A:
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
 - (c) For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, shall seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
 - (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Section 24A08.
 - (e) Free-standing identification signs shall maintain the following setbacks:
 - (1) In a C2 district: twenty-five (25) foot front yard and five (5) foot side yard
 - (2) In a C2-A district: ten (10) foot front yard and zero (0) foot side yard

- (3) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

5. **Downtown business district: DB.** The purpose of this section is to regulate signage consistent with proposed and existing development within the downtown business district and generally known as Newport Centre in conformity with the provisions of the Newport Centre Urban Design Plan.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of Three hundred (300) square feet of sign area per lot.
- (c) For corner lots with multiple street frontages, the number of signs and sign area shall be determined according to individual street frontages. In no case shall the sign area exceed three hundred (300) square feet per lot.
- (d) There shall be no front or sign yard setbacks required in the DBC sectors. Projecting signs that may extend over the public right-of-way shall be authorized by the Zoning Administrator if the criteria as established in Section 24408 have been met.
- (e) Wall signs above the first story shall be limited to one building identification sign per parcel except when the combined building frontage exceeds one hundred (100) feet in length, an additional identification sign shall be allowed per one hundred (100) linear feet.
- (f) Ground signs ten (10) square feet or more in area shall be required to have a minimum of five (5) square feet of landscaped ground area at the sign base for every one (1) square foot of sign area. Ground signs of less than ten (10) square feet shall have a minimum of twenty (20) square feet of landscaped ground area. Any courtyard or plaza required under Section 2624 may apply this required open space for this purpose.
- (g) Any ground sign within the DBC sectors shall be limited to twenty-four (24) square feet in sign area and twelve (12) feet in height.
- (h) When projecting signs are limited to two (2) square feet, they are not counted against the total per parcel. Any individual sign over two (2) square feet will be counted toward the total sign allotment in its entirety. A twelve (12) foot clearance shall be maintained from the bottom of the projecting sign to the ground.
- (i) Projecting signs, marquees, and window graphics shall be located below the second floor level and shall not exceed twenty-four (24) feet in height nor in any case extend over five (5) feet into the right-of-way.
- (j) Retail uses adjacent to, with access from, a public courtyard or plaza shall receive a 1:1 ratio of sign area to store frontage.

6. Industrial zoning districts: M1, M2.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
- (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
- (e) There shall be no front or side yard setbacks required in this district.

7. Supplemental sign regulations.

- (a) For commercial high rise buildings of seven (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street; provided such additional area is not constructed as a free-standing sign.
- (b) Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (1) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (2) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
- (c) The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (1) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (2) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

Section 24A08. Adjustments in sign regulations.

The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and

enforce and carry out all provisions of this Article, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

1. **Sign height:** The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

2. **Sign area increases:** The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

- (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
- (b) The location of entrance way(s) in relation to business.
- (c) A change in traffic patterns.
- (d) The distance from road rights-of-way.
- (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed fifty percent (50%) of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above fifty percent (50%).

- 3. Signs over public rights-of-way: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-way whenever all of the following conditions are present:

- (a) That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
- (b) That the location, clearance, and construction of the sign are sufficient to insure public safety.
- (c) That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient, and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

- 4. Sign area increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in the DBC sectors for increased sign area for building identification signs whenever all of the following conditions are present:

- (a) A permanent visual obstruction exists, such as, but not limited to, adjacent buildings or bridges;
- (b) The sign is oriented to and is primarily intended to be visible to the I-664 right-of-way;
- (c) Such adjustment would be consistent with other businesses in the DBC sectors; and
- (d) Such adjustment would be consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum increase to exceed fifty percent (50%) of the total allowable sign area per lot.

- 5. Sign height increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in any DBC sector of an increase in ground sign height whenever all of the following conditions are present:

- (a) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges or other factors exist which make the allowable sign height inadequate to permit visibility from the adjoining roadway.

- (b) Consistent with general traffic safety in the general area.

(c) Notwithstanding, said exception shall not authorize a maximum increase to exceed twenty-four (24) feet in height.

Sponsor:

James J. J. J.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

James C. Patten
Mayor

Teste:

Bernard D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hoggs, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,

Plaintiff,

v.

In Chancery No. 14759-FB

CITY OF NEWPORT NEWS,
VIRGINIA, et al.,

Defendants.

STIPULATION OF FACT

Adams Outdoor Advertising, the City of Newport News, Virginia (the "City"), and Charles Alexander ("Alexander"), by their respective counsel, have agreed to the following Stipulation of Fact for the purpose of this case only. This Stipulation shall not be binding upon any party hereto in any other proceeding.

Adams Outdoor Advertising is the successor in interest to Creative Displays of Norfolk, Ltd. ("Adams"). The City is a municipal corporation of the Commonwealth of Virginia as defined in § 15.1-837 of the Code of Virginia (1950), as amended, and Alexander in his capacity as Assistant Director of Codes Compliance for the City, is responsible for administering and enforcing the zoning and building regulations, laws, and ordinances of the City.

Adams is the owner of thirty-eight (38) off-premises billboards used for commercial and a wide variety of non-commercial advertising purposes within the corporate limits of the City. Those forty structures have a total of 53 poster panels on which advertising may be displayed and all of the billboards are outdoor permanent structures used to display and communicate messages. Each billboard is located on and permanently affixed to private property. All of the billboards except one is located on property leased from the owner thereof by Adams and the billboards are classified as off-premise as opposed to on-premise signs because the advertising thereon does not pertain to the use being made of the property on which they are located.

With one exception, all of Adams' billboards were constructed prior to August 14, 1984. The permit for the billboard which was constructed after August 14, 1984, was obtained prior to that date. This billboard is located at Denbigh Boulevard near Interstate 64. Adams (to include its predecessors) has maintained each billboard since its date of construction. Before each of the billboards was constructed, Adams obtained the appropriate permits/licenses from the City and complied with rules and regulations applicable to construction of billboards. With the exception of the ordinance which is the subject of this declaratory judgment action, all of Adams' billboards in the City were erected and have been

continuously maintained in conformity with all laws, ordinances, permits, rules, and regulations applicable thereto.

The City classifies Adams' billboards as business equipment, assesses them as personal property, and bills Adams annually for personal property taxes thereon. In 1981, for example, Adams paid \$2,744.28 in personal property taxes on its billboards to the City. Personal property taxes paid to the City totaled \$2,480.50 in 1982; \$2,127.65 in 1983; \$1,999.99 in 1984; \$1,592.06 in 1985; and \$1,574.33 in 1986. During the years Adams has engaged in the outdoor advertising business in the City, it has paid all applicable business and property taxes for the billboards. ✓

In June 1984, the City Council of the City of Newport News, Virginia (the "City Council"), began its consideration of a revised ordinance to govern and regulate the use of outdoor advertising signs in the City. Prior to that time, a sign ordinance subcommittee of the Newport News Planning Commission and the Planning Commission itself had studied revision of the City sign ordinance. City Council members were not present at nor did they participate in the meeting of the Planning Commission or of the sign ordinance subcommittee. On June 4, 1984, the City Council held its first session to consider the proposed new sign ordinance. No minutes were kept for that work session but each member of

City Council was provided with a copy of a 48-page booklet entitled, "City of Newport News Proposed Sign Regulations," a copy of which is attached to this Stipulation as Exhibit No. 1.

On July 9, 1984, the City Council conducted a public hearing on the proposed new sign ordinance. At that time interested citizens were allowed to present their views to City Council. The minutes of that public hearing are attached hereto as Exhibit No. 2.

On August 14, 1984, the City Council, by unanimous vote, enacted Ordinance 3213-84, Newport News Code §§ 13-335 through 344 which regulated outdoor advertising signs in the City and provided for the removal of outdoor advertising signs not in compliance with the terms of that Ordinance (the "Ordinance") and Ordinance 3211-84, amending and reordaining Appendix A, Zoning Ordinance of the Code of the City of Newport News. A copy of the Ordinance is attached hereto as Exhibit No. 3 and the minutes of the August 14, 1984 City Council meeting are attached hereto as Exhibit No. 4. Alexander, the City employee empowered to administer and enforce the Ordinance, has notified owners of the land on which the billboards in question are located, that all of Adams' billboards must be removed in the City except those falling within the scope of § 33.1-370, Code of Virginia (1950), as amended, which regulates signs adjacent to

interstate and federal-aid highways. The City has refused to pay any compensation for removal of the billboards. The 180 day removal period provided for in the Ordinance was intended to give owners ample time to remove their billboards and was not intended to be an amortization period.

The only information made available to City Council for their consideration regarding the Ordinance prior to its passage on August 14, 1984, was the following:

(1) A 48-page booklet entitled, "City of Newport News Proposed Sign Regulations," (Exhibit No. 1).

(2) A memorandum dated June 23, 1984, addressed to members of the Newport News City Council from Brandol Harvey, Planning Director, entitled, "Additional Information Regarding Billboards and Portable Signs." A copy of that letter is attached hereto as Exhibit No. 5.

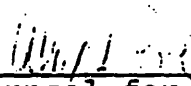
(3) A letter dated September 1, 1983, to members of the Newport News City Council from H. Vincent Conway, Jr. regarding the proposed sign ordinance. A copy of that letter is attached hereto as Exhibit No. 6.

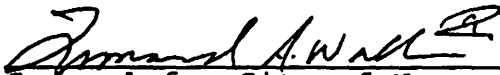
(4) A memorandum from Robert T. Williams, City Manager, to members of City Council, dated August 14, 1984, wherein the Newport News Planning Department attempted to analyze the impact of varying the spacing requirements for billboards from what was contained in the, at that time, proposed sign ordinance (Exhibit No. 7).

(5) A memorandum to members of the City Council from the City Clerk regarding comments by Wilma Charles of Video & Computer Center. A copy of that memorandum is attached hereto as Exhibit No. 8.

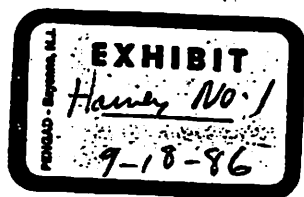
(6) The minutes of the July 9, 1984, City Council meeting at which a public hearing was held regarding the Ordinance as well as the minutes of the August 14, 1984, City Council meeting accurately reflect additional citizen comments to members of the City Council. Copies of those minutes are attached hereto as Exhibit Nos. 2 and 3.

The market value of individual billboards owned by Adams in the City ranged from \$6,000 to \$24,000 each both at the time the Ordinance was passed and at the present time. It would take Adams more than five (5) years to recover or amortize its investment in those billboards.


Counsel for Adams Outdoor
Advertising


Counsel for City of Newport
News, Virginia, and
Charles Alexander

Shylate #2
3/16/87



City of Newport News
**PROPOSED
SIGN REGULATIONS**



173

CITY COUNCIL WORK SESSION
on
PROPOSED SIGN REGULATIONS

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SUMMARY OF PROPOSED SIGN ORDINANCE

It has been determined that Newport News suffers from a negative visual image and an excessive number of signs, leading to traffic hazards and an overall reduction in the effectiveness of signage. To the outside observer, the City appears ugly and therefore unattractive as a possible new location for industry, business or home. The regulations proposed in the new Ordinance, however, recognize the need for commercial communication and are intended to provide for safe, effective signage throughout Newport News.

The present Sign Ordinance currently is contained entirely in the City's Zoning Ordinance and regulates the size, number and placement of signs within each zoning district. The proposed Ordinance will have two sections--one in the Zoning Ordinance for regulations applicable to particular zoning districts and an addition to Chapter 13, Building Regulations of the City Code, for regulations that are applicable to the entire City, irrespective of zoning districts.

● ACCUMULATIVE SIGN AREA

The present Sign Ordinance is rather ambiguous as to what signs are counted toward the total allowable sign area. The new Ordinance proposes that all permanent signs, whether internal or external displays, which are legible from the vehicular public right-of-way shall be regulated. Those signs which are not legible from the public right-of-way or are not intended to be permanent will not be regulated.

This concept does not alter the intent of the Ordinance. Instead, it clarifies the intent that messages intended to be read from the vehicular right-of-way or which draw attention to activities on that property are signs that most affect the public at large and should be counted toward the total sign area.

● OFF-PREMISE ADVERTISING

Presently, off-premise advertising, in the form of any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located, is allowed in all industrial zoning districts, up to a maximum of 300 sq. ft. per parcel. Since the total allowable sign area in industrial zones is 300 sq. ft., off-premise structures use the sign area that is (or will be) needed by the on-premise use. Therefore, to alleviate the problem of excessive sign area and to encourage the use of signs to identify a place of business rather than strictly advertise a product, new off-premise advertising will be prohibited throughout the City, irrespective of zoning districts. The one exception to this is that length of I-64 located in Newport News which more than any other stretch of highway in the City, may be said to have a basis to convey messages to the through-motorist. This section of the sign regulations will be placed in the City Code, Chapter 13, so as to avoid the issue of nonconformity. All existing billboards that were not erected under the control of special Federal and State regulations regarding signage adjacent to and visible from Federally aided highways will be declared illegal 181 days after adoption of the Ordinance and must be removed.

- TEMPORARY AND PORTABLE SIGNS

Similar to the existing Ordinance, the new Ordinance prescribes signs which are explicitly "exempted" as well as "prohibited." The regulations regarding these signs have been placed in Chapter 13 of the Code rather than the Zoning Ordinance because they apply to the entire City and not to individual zoning districts. Unless explicitly permitted under the "exempted sign" section of the proposed Ordinance, temporary signs of any nature will not be permitted to extend beyond the exterior wall of any building. Because they are temporary, these signs are not counted toward the accumulative sign area. However, because of potential safety hazards, portable signs which are trailer mounted or otherwise designed to be relocated will be prohibited in any zoning district, regardless of the "exempted sign" section, as is presently done in James City County, Williamsburg, Poquoson, and Virginia Beach. York County is currently considering the same restrictions in their draft Ordinance. The reasoning for this prohibition is that it has been determined that this form of advertising is not only unsightly to the community and effectively provides continuous additional sign area over the maximum permitted per lot, but can also be hazardous to the public safety. In many cases, the portable signs are not installed in a manner that meets the safety standards of the building code--they are not securely anchored nor properly wired, resulting in damages from wind-blown signs and electrical hazards.

- SHOPPING CENTERS AND HIGH-RISE BUILDINGS

Under the present Ordinance, shopping centers and high-rise buildings (seven stories or more) are allocated sign area only according to their street frontage. The proposed Ordinance recognizes the additional sign area required by these uses and has relaxed the regulations. Shopping centers will now be allowed identification ground signs according to their street frontage and individual store identification signs based on store frontage inside the shopping center. A minimum of 32 sq. ft. per shop will be guaranteed, even if a tenant has less than 32 linear feet of shop frontage. In the case of high-rise buildings, an additional square foot of sign area per linear foot of building frontage on a public street will be permitted.

- ADJUSTMENTS IN SIGN REGULATIONS

Presently there are two legislative processes for granting increases in sign area, and height and placement over the public right-of-way; Special Exceptions and Conditional Use Permits. In order to provide more consistency in the granting of such relief, the proposed Ordinance would make adjustments in the regulations an administrative matter. The Zoning Administrator would have authority to grant

waivers, up to 50% over otherwise allowable, when specific criteria are evidenced. The Planning Commission would become responsible for all requests exceeding 50% over otherwise allowable. Unlike the Zoning Administrator, there would no maximum increase that the Planning Commission would be limited to. The applicant would have the right to appeal the decision of the Zoning Administrator or the Planning Commission to the Board of Zoning Appeals on the basis of an alleged administrative error. In this circumstance, the complainant(s) would bear the burden of proof of administrative error rather than merely disagreeing with the findings before any relief could be provided by the Board.

● DISTRICT STANDARDS

The sign area, height and location standards for the individual zoning districts remain basically unchanged with the exceptions of increased allowable area for shopping centers and high-rise buildings. The major difference is that the proposed Ordinance provides a clarification of the standards by explicit written standards to replace the existing chart and footnote format. It is felt that the old format has been misinterpreted by administrators and property owners and that written standards will alleviate much of the confusion and inconsistency that resulted from the complicated old format.

The regulations proposed in the new Ordinance are intended to provide Newport News with safe, effective signage. The City does not propose to control the copy of signs nor their design, except as this pertains to size and building code requirements.

TEMPORARY SIGNS IN NEWPORT NEWS

I. Excessive Number of Signs

Codes Compliance and Planning surveyed Jefferson Avenue and Warwick Boulevard in July of 1982 and found 158 temporary signs. Of these, 128 were the trailer-mounted type. Trailer-mounted signs on that one day accounted for about 7000 square feet of sign area that is beyond that regulated by the current sign ordinance.

II. Violations

Between 1981 and mid-1983, the following breakdown in types of violations were prosecuted:

● Failure to obtain permit	66%
● Off-premise advertising	3%
● Displayed beyond 6-month period	10%
● Placed on City right-of-way	7%
● More signs than allowed in Shopping Center	10%
● Temporary signs having movement	2%
● Improper storage	2%

The high incidence of failure to obtain permits indicates a disregard for regulations that would not likely decrease with regulations allowing the continuation of temporary signs.

III. Safety

According to the Zoning Administrator, wind-blown temporary signs frequently happen when there are moderate to high winds. Although damage is not always done, damage to property has occurred. In at least one incident in March 1983, over \$2000 damage was incurred when a wind-blown trailer-mounted sign struck a parked car.

CITY OF NEWPORT NEWS

July 16, 1982

To: Mr. Brandol M. Harvey, Director Department of City Planning
From: Charles W. Alexander, Zoning Administrator
Subject: Jefferson - Warwick Sign Survey

Attached is the survey for particular types of signage on Warwick Boulevard and Jefferson Avenue. I thank you and Johnnie Davis for your assistance. The photos taken should appropriately complete the report and graphically support a conclusion, which specifically is as follows:

The proliferation of temporary trailer signs, A-frame signs, and abandoned signs significantly and negatively affects the visual impact along the commercial thoroughfares in our municipality. The elimination of over 200 of these type signs (on Jefferson and Warwick alone) would

1. provide fewer visual distractions to motorists,
2. encourage landscape and architectural enhancement of property and
3. allow for more consistency and fewer court cases in Sign Ordinance enforcement.

C. Alex

Charles W. Alexander

CWA/1h

Attachment

JEFFERSON - WARWICK SIGN SURVEY 7/2/82

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
<u>JEFFERSON AVENUE</u>					
2503		1			
3015		2			
3500		2			
4015		2			
<u>4314</u>				1	
<u>4607</u>		1			
<u>4703</u>				1	
<u>4913</u>		2			
<u>5100</u>		2			
<u>5304</u>		2			
<u>5700-04</u>	1				
<u>c. Ellen Rd.</u>		1			
<u>5800</u>				1	
<u>5808</u>				1	
<u>c. Temple Ln</u>				2	
<u>5860</u>	1				
<u>5872</u>				1	
<u>5874</u>		1			
<u>c. Hilton Blvd</u>					3 (poles in gro
<u>5923</u>			1		
<u>5933</u>			1		
<u>c. 74th St</u>		1			
<u>6014</u>	1				
<u>6101</u>	1				
<u>6103</u>	1		1		
<u>c. Morris Dr</u>				1	
<u>6116</u>			1		
<u>6129</u>				1	
<u>6157</u>	1				
<u>6163</u>	1				
<u>9707</u>	1				
<u>9816</u>	1		1		
<u>9900</u>	1				
<u>c. Bellwood Rd</u>	1				
<u>9916</u>					

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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PERSON AVE. CONT.

21	1	1			
25	1				
Warwickshire Ct	1				
00	1				
19	1				
21	1		1		
10		1		1	
15		1	1		
45			1		

Ivy Farms Rd 1
(nothing on it)

753	1				
002-A	1				
021	1		1		
111	1				

Harpersville 1
(no business
being conducted
at time of
survey)

201	1				
218	1				
234	1				
250	1				
281	1		1		
286			1		

Maconsdale 1
opping Ctr

312	1				
426	1				
500	1				
516	1				

(no permanent
sign)

Robinson Dr 1

Rt. 17

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
<u>JEFFERSON AVE. CONT.</u>					
<u>11702</u>	1				
Robert Hall Village		1			
<u>12105</u>	1				
<u>12135</u>	1				
North of Farm Fresh		1			
		Billboard "Too many Mosquitos"			
<u>12257</u>	1				
<u>12400</u>				1	
<u>12483</u>	1				
<u>12515</u>	1				
<u>12650</u>	1				
	(perm. sign could be used)				
<u>12800</u>	1				
	(temp. sign used perm.)				
c. Denbigh Blvd		1			
near 12825		1			
<u>12873</u>	1				
<u>12877</u>	1				
c. Richneck Rd		1			
<u>c. Richneck Rd</u>	1				
<u>12943</u>	1			1	1 Temp. sign m permanently
<u>12946</u>	1				
<u>12950</u>	1				
<u>12954</u>				1	1 Sign in discr
<u>c. Ft Eustis Blvd</u> (Public Property)	1				
<u>c. Lee Hall</u>	1				
<u>c. Lee Hall</u>				1	

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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ARWICK BOULEVARD

<u>7116</u>	1				
<u>7311</u>	1				
<u>7324</u>	1				
<u>7330</u>	1				
<u>7706</u>		1			
<u>9512</u>				2	
<u>9600-9809</u>		1			
<u>9607</u>				1	
<u>9716</u>	1		1		
<u>9906</u>	1				
<u>10200</u>		1			
		Also in disrepair			
<u>10202</u>		1			
<u>10210</u>		1			
<u>10347</u>		1			
<u>10359</u>		1			
<u>10363</u>		1			
<u>10365</u>		1			
<u>10366</u>		1			
<u>10405</u>		2			
		One in dis- repair bldg occupied.			
<u>10413</u>		1			
<u>10600</u>	1				
<u>10606</u>	1				
<u>10817</u>		1			
<u>c. Cedar Ave</u>		1			
<u>10860</u>	2				
<u>11010</u>	1				
<u>11013</u>	1				
<u>11061</u>	1				
<u>11076</u>	1				
<u>11089</u>	1				

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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WARWICK BLVD CONT.

<u>11134</u>	1				
<u>c. Copeland Ln</u>		1			
<u>12264</u>		1			
<u>12284</u>	1				
<u>12300</u>	1				
<u>12309</u>				2	
<u>12368</u>	1				
<u>12399</u>	1				
<u>12444</u>	1				
<u>12460</u>	1				
<u>12468</u>	1				
<u>12533</u>	1				
<u>12541</u>	1				
<u>adj.to 12544</u>	1				
<u>12544</u>	1				
<u>12589</u>	1				
<u>12601</u>	1				
<u>312 Oyster Pt. Rd</u>	1				
<u>12999</u>		7			
<u>13121</u>	1				
<u>13179</u>	1				
<u>13193½</u>	1				
Copy indicates permanent use					
<u>13262</u>	1				
<u>13269</u>	1				
<u>13286</u>	1				
<u>13313</u>	1				
<u>13324</u>	1				
<u>13622</u>	1				
<u>13630</u>	1				
<u>13650</u>	1				
<u>13665</u>	1				

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
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WARWICK BLVD CONT.

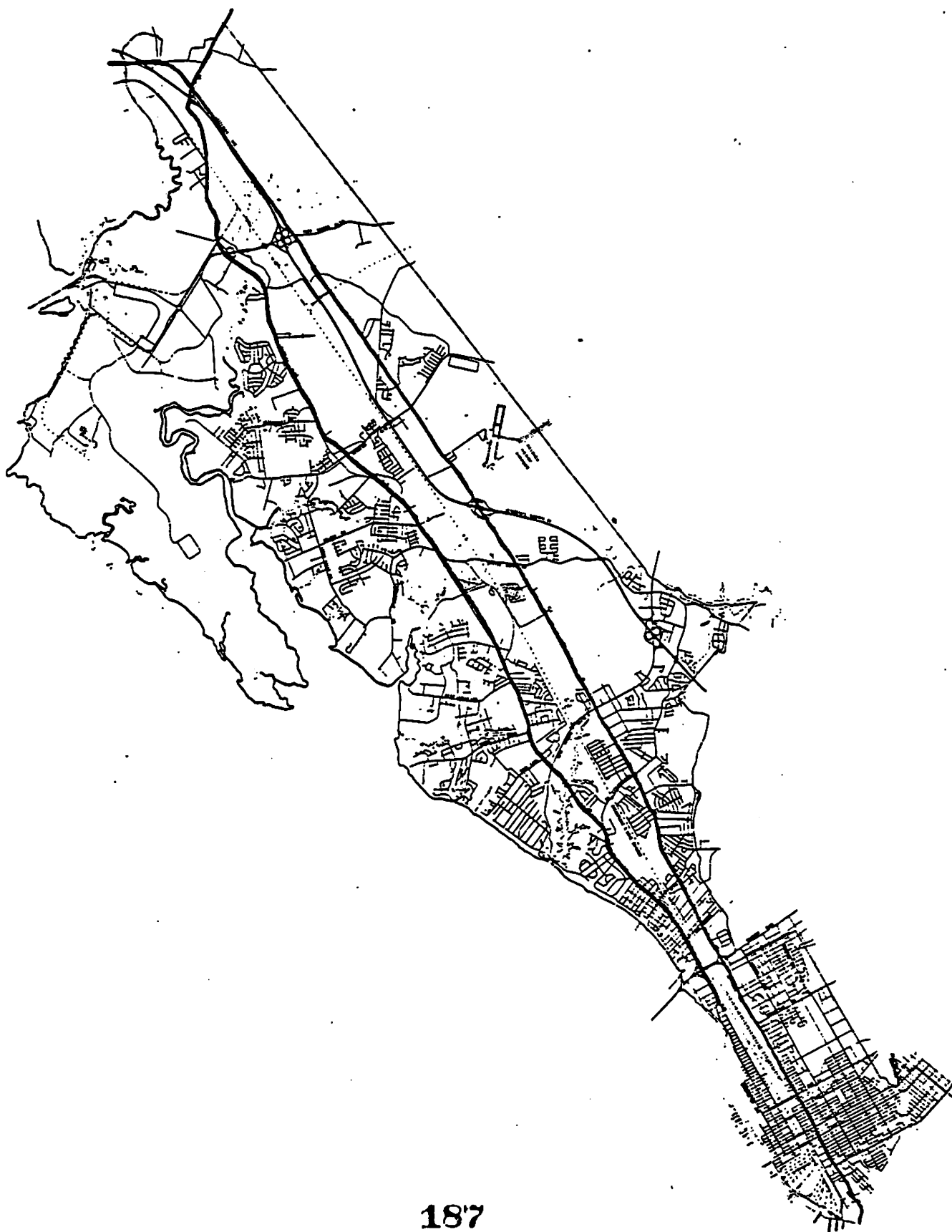
<u>13666</u>	1				
<u>13669</u>				1	
<u>13684</u>	1				
<u>13700</u>	1				
<u>13754-77</u>	3	3			
<u>13792</u>		1			
<u>13797</u>	1				
<u>13813</u>	1				
	Indicating store temp. closed				
<u>14200</u>	3				
<u>14350</u>				1	
<u>14351</u>	1				
<u>14369</u>	1				
<u>14375</u>			1		
<u>14407</u>	1				
<u>14605</u>		1			
<u>14700</u>	1				
<u>14704</u>	1				
<u>14746</u>	1				
<u>14758</u>				1	
<u>14758½</u>	1				
<u>14760</u>	1				
<u>14861</u>	1				
<u>14862</u>	1				
<u>14872</u>	1				
<u>15010</u>	1				
<u>15193</u>	1			1	
<u>15198</u>	1				
<u>15205</u>				1	
<u>15207</u>				1	

LOCATION	TRAILER MOUNTED	ABANDONED	PENNANTS	"A"-FRAME	OTHER
<u>WARWICK BLVD CONT.</u>					
5211	1				
15234	1				
15304				1	
15400	1	1			
		Freestanding in disrepair (fire damaged)			
15464	1				
	(Nothing on either side)				
15501	1				
15679	1				
15683				3	
16907	1				
16915	1				
17305	1				
TOTAL	128	56	13	30	6

Summonses were issued for the following violations from July 1981 to June 1982:

1. No permits	37
2. On R/W	3
3. Off premises	2
4. Not maintaining 500 feet	4
5. Altering sign	1
6. More than one free standing sign in shopping center	1
7. Exceeding square feet sign area	1
8. Exceeding six months	10
9. Windblown object on sign	2
TOTAL	61

158 freestanding temps on 7/2/82
186



BILLBOARDS IN NEWPORT NEWS

I. The attached map shows the locations of billboards in Newport News as of September 1983. The following are some facts of interest:

- There are a total of 41 sign structures and 72 sign faces.
- Half of the signs are in zones where they are not permitted (i.e. other than industrial, M-1, M-2). They are, therefore, nonconforming under current zoning standards, but are grandfathered and could not be eliminated unless declared illegal under City Code standards.
- Many are clustered in groups of 2 or 3 with as many as 6 faces or in very close proximity equaling to one every block on sections of 25th Street, Jefferson Avenue, and Terminal Avenue.
- 36 out of the 41 signs are owned by the same Atlanta-based company.
- Only 3 of the 41 are placed on an interstate so as to draw the tourist or traveling motorist. The copy on these 6 sign faces is predominantly for businesses located outside Newport News.

II. Under the proposed Sign Ordinance requirements:

At least 13 (possibly as many as 20) structures and at least 27 (possibly as many as 38) sign faces will be grandfathered. These are located along Federal-aid highways.

- Only 13 structures with 17 faces will be required to be removed.
- Approximately 8 structures and 18 faces are to be removed or relocated due to I-664 construction.

III. Under current regulations:

- Approximately 150 additional billboards could be constructed today.
- Considering full development of the 3350 acres of industrial land now vacant, there is a potential for about 475 additional billboards.

PLANNING COMMISSION RESOLUTION
ON SIGN REGULATIONS

- WHEREAS: The City Council of Hampton has underscored the importance of a vital and growing economy in Hampton by adopting as its principal goal the encouragement of economic development, and the Council has further recognized the value of a physically attractive community in this regard by adopting another goal "to improve the physical appearance and image" of the city; and
- WHEREAS: The Commission recognizes the importance of a pleasing physical appearance to a community in its efforts to attract and retain businesses and industries; and
- WHEREAS: The Commission is cognizant of the problem of the currently poor physical appearance on many developed areas of the Peninsula, a problem singled out for mention in a recent study on industrial development prospects for the Peninsula which was commissioned by the Virginia Peninsula Economic Development Council; and
- WHEREAS: The Peninsula Chamber of Commerce is attempting to foster a Peninsula-wide approach to solving the problems identified in the VPEDC report, among other ways by forming a Committee on the Visual Environment; and
- WHEREAS: One of the efforts of this committee is to promote the use of sign regulations which are fair, effective in upgrading the general level of sign appearance on the Peninsula, and consistent among the area jurisdictions; and
- WHEREAS: The City Planning Commission of Newport News is presently holding public hearings on a proposed new sign ordinance for Newport News, which ordinance has the stated purpose of promoting "safe, effective signage" throughout the city.

NOW THEREFORE, on motion by T. I. Miller, seconded by A. R. Vanasse

- BE IT RESOLVED, that the Hampton City Planning Commission hereby expresses its support for the efforts of the Peninsula Chamber of Commerce to promote consistency of regulations among area jurisdictions; and
- BE IT FURTHER RESOLVED, that the Commission endorses the current efforts of both the City of Hampton and the City of Newport News to improve their respective visual environment; and
- BE IT FURTHER RESOLVED, that the Commission particularly supports the efforts of the City Planning Commission of Newport News to create effective and equitable sign regulations for that city; and
- BE IT FURTHER RESOLVED, that the Commission pledges a future effort to establish equally effective and equitable sign regulations in Hampton, in support of City Council's goals, which will maintain consistency with then existing area regulations to the greatest extent possible.

A roll call vote on the motion resulted as follows:

AYES: Baker, Scoggin, Lovett, Miller, Vanasse, Curtin

NAYS: None

ABST: None

ABSENT: Norman

A COPY: TESTE;

Secretary

APPROVED:

Chairman

Peninsula Chamber of Commerce

VISUAL ENVIRONMENT COMMITTEE
RESOLUTION ON SIGN REGULATIONS

- Whereas: The Peninsula Chamber of Commerce has created the Visual Environment Committee, composed of Planning Directors, representatives of local governing bodies and administration, the Virginia Department of Highways and Transportation, and the Peninsula Chamber of Commerce, for the purpose of identifying, reviewing and solving problems associated with the visual environment; and
- Whereas: The Visual Environment Committee has reviewed the findings of the Competitive Factors Study conducted for the Virginia Peninsula Economic Development Council by Praful Shah; stating that a visually negative image of the Peninsula exists; and
- Whereas: Conclusions reached during the Critical Factors Workshops conducted by knowledgeable and involved community and business leaders as well as local officials have indicated a consensus that the Peninsula suffers from several negative contributing elements of the visual environment including excessive signage; and
- Whereas: The Newport News Planning Commission created a Sign Ordinance Committee to review problems and draft a sign ordinance promoting safe, effective signage and further that this Committee found that Newport News suffers from excessive and unsafe signage and has prepared a draft ordinance to resolve these problems; and
- Whereas: The Hampton City Council has recognized the value of a physically attractive community and adopted the goal "to improve the physical appearance and image" of the area and further that the Hampton Planning Commission has endorsed and expressed its support for the Newport News Planning Commission's efforts in adopting a sign ordinance to reduce excessive signage and promote the public's safety; and
- Whereas: The Beautification Subcommittee of the Visual Environment Committee, composed of zoning administration and enforcement personnel of the various Peninsula localities, has determined that signage is the highest single contributory element to the negative visual environment which can be controlled through legislation and enforcement and is the highest priority for corrective actions.

NOW THEREFORE BE IT RESOLVED, that the Peninsula Chamber of Commerce Visual Environment Committee finds:

1. That the Peninsula's visual environment is in dire need of protection and corrective actions to include more restrictive sign controls and enforcement.
2. That the Peninsula suffers from excessive and in some cases, unsafe, signage which unduly distracts the motorists and pedestrians, may create traffic hazards and reduces the effectiveness of signs overall, including signs needed to direct the public.

3. That the number of distracting signs must be reduced in order to alleviate these effects.
4. That the primary purpose of signs is to serve as an identification of a place of business.
5. That the signs of least importance in occupying limited views from the public rights-of-way are those which convey messages other than that which serves as an identification point as a place of business, such as those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located at the point where the sign is located.
6. That signs may constitute a significant danger if not structurally integrated with buildings or treated as free-standing structures which comply with requirements of the Uniform Statewide Building Code.
7. That signs which are in excess of the allowable district standards for permanent signs significantly contribute to visual clutter and should be prohibited or brought into conformity to the maximum degree possible.

BE IT FURTHER RESOLVED, that the Peninsula Chamber of Commerce Visual Environment Committee endorses the current efforts of the Cities of Williamsburg, Hampton, Newport News, the Town of Poquoson, James City County, and York County to improve their respective visual environment; and

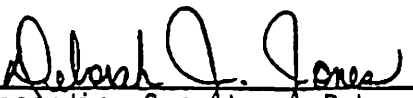
BE IT FURTHER RESOLVED, that the Committee supports the efforts of the Newport News Planning Commission to create effective and equitable sign regulations for that City; and

BE IT FURTHER RESOLVED, that the Committee recognizes and supports the actions of the Hampton Planning Commission in resolving to establish equally effective and equitable sign regulations in Hampton and their endorsement of the efforts of the Newport News Planning Commission.

A COPY: TESTE:


Chairman, Walter W. Wildman

October 4, 1983


Recording Secretary Deborah J. Jones

QUOTES FROM COMMUNITY LEADERS

Dave Edwards, Executive Director Virginia Peninsula Economic Development Council Inc.

The competitive factors study was done for the entire Peninsula - we had had many businesses and industries from outside the area that had come to visit the Peninsula. We had found that there were some concerns that some of these firms had that they weren't always expressing. There were problems that they were apparently seeing in the community which lead them not to locate here. General appearance and the quality of the environment in the community is very, very important to industry - I think, increasingly important. If there has been less than suitable or less than appropriate sensitivity to the way signs are handled, it's just one of the factors that may tend to have a community not show as well as it might. As you look around at other parts of the country, the kinds of communities that Newport News must increasingly compete with - the Raleigh/Durham/Chapel Hill area - northern Virginia - I think those communities have rather stringent sign ordinances. That would definitely help our general marketing effort to improve our marketing position. The improved appearance of signs in Newport News would clearly be to the community's long-term benefit for industry and for residents at home.

Walter Wildman, Chairman, Visual Environment Committee of Peninsula Chamber of Commerce

If you don't look very good they foresee that perhaps you might not be very good. The charge was given from VPEDC to the Peninsula Chamber of Commerce to try to implement a program to deal with the improvement of the visual environment on the Peninsula. And I think that we probably have to allow that the Peninsula did offer pretty fertile ground for some visual improvement. We identify signage as the number one visual blight, visual impairment on our visual environment.

Al Schlim, General Manager, Oyster Point Development Corporation

The first thing that is going to draw you to a place or turn you off or turn you away from a place is the quality of the signs. And, of course, a cluttered look of too many signs, the quantity itself is also a turn off. Emphasis on signage is something that's been required for a long time - control the total of square footage of what you can have in the first place and only really allow the advertising - just big enough for you to find out just what it is you're after. There's a lot of things that are put on signs that are pretty ridiculous, superfluous - gawdy pictures, gawdy shapes, colors, flashing lights - all kinds of things that really defeat the purpose of the signage. It turns you off rather than turns you on. If you see even a gas station cluttered with fifteen or twenty signs - regardless if the sign is a penny cheaper than somewhere else, because you associate the quality of the product with the quality of the surroundings. I think we could use some strength in the sign ordinance in a couple of ways. I would say on the legal end that removal of signs should be part of the site plan approval. The signage and landscaping should all be part of the site plan approval package. There ought to be a part of the sign ordinance that requires he takes down the sign instead of our own code, our own policy.

Joe Cross, Planning Management Associates, Ltd.

There is a concept called visual noise and the signs create, in a sense, noise. Each one trying to be a little bit bigger and a little bit gawdier and a little bit brighter than the next one; together they create a cacophony of noise that bombards the senses. The area around Christopher Newport College, where you have a strip with lots of signage on it, in a sense, detracts from the overall impression of the area surrounding the college. One that is very simple and very basic; that is very straightforward in its message and does not try and grab the attention in competition with everything else. It has to fit in with its surroundings.

Charles Alexander, Assistant Director, Newport News Department of Codes Compliance

If signage is back to identification, and that's just knowing where you are, and then allowing an individual to say where they are, and limiting the amount of advertising and the whole concept of the more signage I put out there the better my chances of drawing people in - if we can eliminate that, then the cluttered affect that we do have now in some areas would also be curtailed.

Art Casey, Casey Chevrolet, Inc.

A cluttered area, a lot of small signs and unkept signs in certain areas of the city are quite distracting and affect, we think, the image of the business and the surroundings. Too many small signs can become quite confusing and I think the public has the tendency to think that if you don't look good you must not be very good. Areas of certain streets in the city where they have sign after sign, where we have tremendous amount of duplication, have become quite confusing. As a result, the community looks unpleasant. To build a strong economic base on the Peninsula we need to look good to get industry or light industry, high-tech industry in our community to create that economic base.

Bill Hamner, Hamner Realty, Inc.

I feel that signs should be attractive and should have eye appeal. And should have a limited message. The hodge-podge that we find throughout the city seems to diminish the overall effect of the good signs. I'm just delighted that the city has decided to look at the overall signage here in Newport News.

George Ailsworth, Larasan Realty

I think the type sign you have sets the tone as far as the general public is concerned. If you have an attractive road sign, then I think they feel that the company they're doing business with will be a company they like to do business with.

Sue Hogue, Executive Coordinator, Newport News Clean Community Commission

Signs can either be compatible with the landscape and can actually add to the attractiveness of the business community or it can take away greatly. I'm glad to see that the city of Newport News is taking a look at its visual environment - creation of the Clean Community Commission - taking a look at its codes, particularly the Sign Ordinance. I'm just glad to see that we're taking an overall coordinated approach to making Newport News a much better place in which to live and work.

ZONING DISTRICTS

	R1	R1-A	R2-A	R2-AM	R2-C	C1	C2	C2-A	DB	RD-1	M1	M2
Exempt												
Temporary (1)												
Shingle												
Marquee												
Projection												
Wall												
Roof												
Ground												
Advertising												
Spectacular												
Sign Area Permitted (Sq. Ft.) (3)	NA	NA	0.75	0.75	1.00	1.00	1.00	1.50	1.00	1.00		
Max. Total Area Per Parcel (Sq. Ft.) (4) (7)	12	24	75	150	150	150	150	100	100	100	300	
Sign Height (Feet)	6	6	16	16(2)	24(2)	40	40	40	24	40		
Setbacks (Feet) (8)												
Front			25	25	25(4)	10(4)	0(5)	25	0			
Side			10	10	5	0	0	10	0			

APPENDIX A—ZONING ORDINANCE

Art. XXIV, § 2407

Art. XXIV, § 2407

NEWPORT NEWS CODE

- (1) When erected in compliance with section 2406 of this ordinance.
- (2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.
- (3) Fifty (50) percent increase in height may be granted by board of zoning appeals.
- (4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.
- (5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.
- (6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.
- (7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:
 - (a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and
 - (b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.
- Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.
- (8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:
 - (a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(TO BE PLACED IN CITY CODE)

CHAPTER 13 BUILDING REGULATIONS

AN ORDINANCE TO REGULATE THE USE OF SIGNS AND PROVIDE FOR REMOVAL OF OBSOLETE STRUCTURES.

The City of Newport News ordains:

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

SECTION 2. DEFINITIONS.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign: A sign made of fabric or any nonrigid material with no enclosing framework.

BUSINESS/OFFICE DIRECTORIES: A NONADVERTISING SIGN, ATTACHED TO A WALL OR MOUNTED ON A POLE, THAT LISTS THE BUILDING OCCUPANTS.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer, or contractor of a tract, building, or structure being developed under construction.

Directional/Information Sign: An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants, or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Flashing Sign: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention.

Frontage: The length of the property line of any one premise along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

GROUND/Free-standing Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lowest.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

Off-Premise Sign: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.

On-Premise Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially re-

corded or otherwise brought to the attention of the Zoning Administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this Ordinance, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

PROJECTING SIGN: A SIGN OTHER THAN A WALL SIGN THAT IS ATTACHED TO A WALL OR SUSPENDED FROM A PEDESTRIAN PROTECTION OVERHANG.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to, any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A free-standing or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer, or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

WALL SIGN: A SIGN PAINTED ON OR ATTACHED TO AND ERECTED PARALLEL TO THE FACE OF AN OUTSIDE WALL.

Window/GRAPHICS Sign: A sign installed inside a window and intended to be viewed from the outside.

SECTION 3. PERMIT REQUIRED.

It shall be unlawful for any person to construct, erect or display any sign covered by this Article until a permit therefor has been issued by the Department of Codes Compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs; provided the signs legally exist by permit.

SECTION 4. EXEMPTED SIGN: The following signs shall be exempted from zoning regulations, but not necessarily building regulations as contained in this Code, when determined not to be detrimental to the health, safety, and welfare of the public.

- A. Activity signs denoting the revivals or other normal functions of bona fide religious or non-profit organizations when such signs are:
 - 1. Located on the site of such organization or activity;
 - 2. Limited to one(1) sign of not more than thirty-two (32) square feet per lot.
- B. Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
- C. Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
- D. Menu boards which are either free-standing or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one menu board per lot.

- E. "Noncommercial" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
- F. Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the Zoning Administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period only.
- G. Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- H. Public, institutional, or religious building identification signs.
- I. Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one lot.
- J. Real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - 1. Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:

- (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - (b) The sign is located only at intersections where a turning movement is indicated.
 - (c) There may be no more than two signs at any one intersection.
 - (d) Express permission has been obtained from all adjacent property owners.
 - (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sun-up to sun-down.
 - (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
- 2. Signs displayed in violation of the provisions of this section shall be confiscated by the City.
 - 3. Persons causing open house signs to be placed on City right-of-way shall provide the City with evidence of a \$500,000 general liability insurance policy with the City named as an additional insured before display of signs may be permitted.
- K. Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.

L. Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:

1. Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or non-profit organization.
2. Special decorative displays used for national holidays, public demonstrations or promotion for nonpartisan civic purposes.
3. Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.

M. Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs, and temporary emergency signs.

N. URBAN SIGNS ADDRESSED BY THE NEWPORT CENTRE URBAN DESIGN PLAN:

1. BUSINESS/OFFICE DIRECTORIES WHICH ARE EITHER FREE-STANDING OR AFFIXED WALL SIGNS AND WHEN USED IN A NONADVERTISING DISPLAY TO OFFER INFORMATION TO THE PEDESTRIAN PUBLIC AND THEIR SIZE IS LIMITED TO 12 SQUARE FEET OR LESS.
2. PROJECTING SIGNS WHEN LOCATED IN THE DBCW SECTOR AND NOT EXCEEDING TWO (2) SQUARE FEET IN AREA.

SECTION 5. PROHIBITED SIGN: The following signs shall be prohibited within the City:

A. Abandoned signs.

B. Animated signs: No such sign shall be permitted in any required front yard or building setback area except:

1. When located in the Downtown Business (DB) District as defined in the City Zoning Ordinance.
2. Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.

C. Flashing lights.

D. Flashing signs: No signs utilizing lighting effects simulating motion shall be permitted.

1. Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
2. Provided further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.

E. Off-premise signs shall be prohibited with the exceptions set forth below:

1. Off-premise signs existing as of the adoption of this ordinance and erected pursuant to Section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.
2. New off-premise signs shall be permitted along Interstate 64 only and under these following conditions:
 - a. Permitted only if the statutory provisions of the Code of Virginia 1950, (as amended) Title 33.1, Chapter 7 "Outdoor Advertising in Sight of Public Highways" are met.
 - b. Permitted on undeveloped properties only and must be removed when the property is developed.

- c. Spaced no less than 2000 feet apart.
- d. Not located closer than 500 feet to the edge of an interchange.
- e. Not located closer than 2000 feet to any residential district.
- F. Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels.
- G. Posters or temporary signs (i.e. snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- H. Temporary signs: No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other non-permanent sign intended to call attention to, advertise or promote sales, special events, openings, or similar events shall be allowed on any lot beyond the exterior of any building(s).
- I. Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e. buses or taxis.
- J. ROOF SIGNS WHEN LOCATED IN THE DB DISTRICT.

SECTION 6. REMOVAL OF SIGNS.

Ninety (90) days after this ordinance takes effect it shall be a violation hereof to maintain any prohibited sign as defined in this ordinance except for Section 5.E. and Section 5.F. prohibited signs. One hundred eighty (180) days after this ordinance takes effect it shall be a violation hereof to maintain any Section 5.E. or Section 5.F. prohibited sign.

The Zoning Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of re-

removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty (30) days of the notice, it shall become an assessment upon a lien against the property of the sign owner, and will be certified as an assessment against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Zoning Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the City pertaining to signs.

SECTION 7. MAINTENANCE.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced. The Zoning Administrator or his duly authorized representative shall have the right under Section 6 to order the repair or removal of any sign which is defective, damaged, or deteriorated.

SECTION 8. EXCEPTIONS.

This Code does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley, nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This Code does not regulate the number, size, height, or location of signs as contained in the Zoning Ordinance of the City of Newport News.

SECTION 9. PENALTY - EFFECTIVE DATE.

Whoever violates this Code shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100) or imprisonment in the City jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

SECTION 10. SEVERABILITY.

This Code, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect.

REVISED DRAFT 6/84

ARTICLE XXIV. SIGN REGULATIONS

SEC. 2401. GENERALLY (PURPOSE).

The purpose of this article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the City. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

SEC. 2402. SCOPE.

This article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

SEC. 2403. DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply:

ACCUMULATIVE SIGN AREA: Any sign that is intended to be remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

ALLOWABLE SIGN AREA: That portion of a sign countable for determining compliance with district regulations of accumulative area and defined as the area of a rectangle, triangle, circle or combinations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

SIGN: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

SEC. 2404. RELATIONSHIP TO BUILDING REGULATIONS

The provisions of this article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Ordinance imposes regulations more restrictive than said Code, the regulations of this Ordinance shall prevail.

SEC. 2405. PROVISIONS APPLICABLE TO INTERSTATE HIGHWAYS.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City Sign Ordinance are met.

SEC. 2406. NONCONFORMING SIGNS.

Any permanent sign existing on the effective date of this Ordinance and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

- A. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
- B. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
- C. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Ordinance.

SEC. 2407. ZONING DISTRICT REGULATIONS.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

A. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.

B. Multi-family residential districts: R2-A, R2-AM.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.

2. Unless otherwise permitted in this Ordinance, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.

C. Multi-family residential districts: R2-B, R2-C, R2-D.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.

2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.

3. Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.

D. Commercial zoning districts: C2, C2-A.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
3. For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
4. There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Sec. 2408 can be met.
5. Free-standing identification signs shall maintain the following setbacks:
 - (a) In a C2 district: twenty-five (25) foot front yard
 five (5) foot side yard
 - (b) In a C2-A district: ten (10) foot front yard
 zero (0) foot side yard
 - (c) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

E. Downtown business district: DB.

THE PURPOSE OF THIS SECTION IS TO REGULATE SIGNAGE CONSISTENT WITH PROPOSED AND EXISTING DEVELOPMENT WITHIN THE DOWNTOWN BUSINESS DISTRICT AND GENERALLY KNOWN AS NEWPORT CENTRE IN CONFORMITY WITH THE PROVISIONS OF THE NEWPORT CENTRE URBAN DESIGN PLAN.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of THREE HUNDRED (300) square feet of sign area per lot.
3. FOR CORNER LOTS WITH MULTIPLE STREET FRONTAGES, THE NUMBER OF SIGNS AND SIGN AREA SHALL BE DETERMINED ACCORDING TO INDIVIDUAL STREET FRONTAGES. IN NO CASE SHALL THE SIGN AREA EXCEED THREE HUNDRED (300) SQUARE FEET PER LOT.
4. THERE SHALL BE NO FRONT OR SIDE YARD SETBACKS REQUIRED IN THE DBC SECTORS. PROJECTING SIGNS THAT MAY EXTEND OVER THE PUBLIC RIGHT-OF-WAY SHALL BE AUTHORIZED BY THE ZONING ADMINISTRATOR IF THE CRITERIA AS ESTABLISHED IN SEC. 2408 HAVE BEEN MET.
5. WALL SIGNS ABOVE THE FIRST STORY SHALL BE LIMITED TO ONE BUILDING IDENTIFICATION SIGN PER PARCEL EXCEPT WHEN THE COMBINED BUILDING FRONTAGE EXCEEDS 100 FEET IN LENGTH, AN ADDITIONAL IDENTIFICATION SIGN SHALL BE ALLOWED PER 100 LINEAR FEET.
6. GROUND SIGNS 10 SQUARE FEET OR MORE IN AREA SHALL BE REQUIRED TO HAVE A MINIMUM OF 5 SQUARE FEET OF LANDSCAPED GROUND AREA AT THE SIGN BASE FOR EVERY ONE SQUARE FOOT OF SIGN AREA. GROUND SIGNS OF LESS THAN 10 SQUARE FEET SHALL HAVE A MINIMUM OF 20 SQUARE FEET OF LANDSCAPED GROUND AREA. ANY COURTYARD OR PLAZA REQUIRED UNDER SEC. 2624 MAY APPLY THIS REQUIRED OPEN SPACE FOR THIS PURPOSE.

7. ANY GROUND SIGN WITHIN THE DBC SECTORS SHALL BE LIMITED TO 24 SQUARE FEET IN SIGN AREA AND 12 FEET IN HEIGHT.
8. WHEN PROJECTING SIGNS ARE LIMITED TO 2 SQUARE FEET, THEY ARE NOT COUNTED AGAINST THE TOTAL PER PARCEL. ANY INDIVIDUAL SIGN OVER 2 SQUARE FEET WILL BE COUNTED TOWARD THE TOTAL SIGN ALLOTMENT IN ITS ENTIRETY. A 12 FOOT CLEARANCE SHALL BE MAINTAINED FROM THE BOTTOM OF THE PROJECTING SIGN TO THE GROUND.
9. PROJECTING SIGNS, MARQUEES, AND WINDOW GRAPHICS SHALL BE LOCATED BELOW THE SECOND FLOOR LEVEL AND SHALL NOT EXCEED 24 FEET IN HEIGHT NOR IN ANY CASE EXTEND OVER 5 FEET INTO THE RIGHT-OF-WAY.
10. RETAIL USES ADJACENT TO, WITH ACCESS FROM, A PUBLIC COURTYARD OR PLAZA SHALL RECEIVE A 1:1 RATIO OF SIGN AREA TO STORE FRONTAGE.

F. Industrial zoning districts: M1, M2.

1. Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Unless otherwise permitted in this Ordinance, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
3. For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
4. There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
5. There shall be no front or side yard setbacks required in this district.

G. Supplemental sign regulations.

1. For commercial high rise buildings of SEVEN (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street; provided such additional area is not constructed as a free-standing sign.
2. Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (a) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (b) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
3. The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (a) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

SEC. 2408. ADJUSTMENTS IN SIGN REGULATIONS.

The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and enforce and carry out all provisions of this Ordinance, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

A. Sign height: The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

1. Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
2. The location of entrance way(s) in relation to business.
3. A change in traffic patterns.
4. The distance from road rights-of-way.
5. A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

1. Consistent with other businesses in the general area;
2. Not within two hundred (200) feet fronting a residential zoning district; and
3. Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

B. Sign area increases: The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

1. Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
2. The location of entrance way(s) in relation to business.
3. A change in traffic patterns.
4. The distance from road rights-of-way.
5. A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

1. Consistent with other businesses in the general area;
2. Not within two hundred (200) feet fronting a residential zoning district; and
3. Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed 50 percent of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above 50 percent.

C. Signs over public right-of-ways: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-ways whenever all of the following conditions are present:

1. That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
2. That the location, clearance, and construction of the sign are sufficient to insure public safety.
3. That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

D. SIGN AREA INCREASES - DB/NEWPORT CENTRE: THE ZONING ADMINISTRATOR SHALL AUTHORIZE AN EXCEPTION IN THE DBC SECTORS FOR INCREASED SIGN AREA FOR BUILDING IDENTIFICATION SIGNS WHENEVER ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

1. A PERMANENT VISUAL OBSTRUCTION EXISTS, SUCH AS, BUT NOT LIMITED TO, ADJACENT BUILDINGS OR BRIDGES:
2. THE SIGN IS ORIENTED TO AND IS PRIMARILY INTENDED TO BE VISIBLE TO THE I-664 RIGHT-OF-WAY:
3. SUCH ADJUSTMENT WOULD BE CONSISTENT WITH OTHER BUSINESSES IN THE DBC SECTORS: AND
4. SUCH ADJUSTMENT WOULD BE CONSISTENT WITH GENERAL TRAFFIC SAFETY IN THE GENERAL AREA.

NOTWITHSTANDING, SAID EXCEPTION SHALL NOT AUTHORIZE A MAXIMUM INCREASE TO EXCEED 50 PERCENT OF THE TOTAL ALLOWABLE SIGN AREA PER LOT.

E. SIGN HEIGHT INCREASES - DB/NEWPORT CENTRE: THE ZONING ADMINISTRATOR SHALL AUTHORIZE AN EXCEPTION IN ANY DBC SECTOR OF AN INCREASE IN GROUND SIGN HEIGHT WHENEVER ALL OF THE FOLLOWING CONDITIONS ARE PRESENT:

1. A PERMANENT PHYSICAL OBSTRUCTION, SUCH AS, BUT NOT LIMITED TO, ADJACENT BUILDINGS OR BRIDGES OR OTHER FACTORS EXIST WHICH MAKE THE ALLOWABLE SIGN HEIGHT INADEQUATE TO PERMIT VISIBILITY FROM THE ADJOINING ROADWAY.
2. CONSISTENT WITH GENERAL TRAFFIC SAFETY IN THE GENERAL AREA.
3. NOTWITHSTANDING, SAID EXCEPTION SHALL NOT AUTHORIZE A MAXIMUM INCREASE TO EXCEED 24 FEET IN HEIGHT.

REVISED DRAFT 6/84

ADDITIONAL TEXT CHANGES

Text Amendment to Appendix A, City Zoning Ordinance, Article XXA. Conditional Use Permits, Sec. 20A02. Generally.

This amendment is required in order to be consistent with the proposed text changes to Article XXIV. Sign Regulations. The change involves adding the underlined clause below, as follows:

"Notwithstanding the above provisions, the City Council will not consider applications which are permitted as special exceptions under the provisions of Article XXVII. (Ordinance No. 1956, §1), nor will the City Council consider applications for modifications to the provisions contained in Article XXIV.

Text Amendment to Appendix A, City Zoning Ordinance, Article XXVII. Board of Zoning Appeals, Sec. 2704. Powers and duties. C. Special exceptions. §23. Temporary signs, 24. Sign height, 24-A. Sign area increase, and 25. Signs over public rights-of-way.

This amendment is also required in order to be consistent with the proposed text changes to Article XXIV. Sign Regulations. The change would delete the four referenced special exceptions in their entirety from the powers and duties of the Board of Zoning Appeals. As proposed in the draft Sign Ordinance, specific variations from the regulations are prescribed under an administrative procedure of the City Zoning Administrator.

MINUTES OF REGULAR MEETING
OF THE COUNCIL OF THE CITY OF NEWPORT NEWS
HELD IN THE COUNCIL CHAMBERS
JULY 9, 1984
7:30 P.M.

PRESENT: Brown, Fitzgerald, Hogge, Keator, Patten, Rattley
Ritchie ----- 7

ABSENT: None ----- 0

1. The invocation was rendered by The Reverend Truman H. Brunk, Warwick River Mennonite Church.

2. The Pledge of Allegiance to the Flag of the United States of America was led by Councilman Patten.

3. Public Hearings

(a) Site Plan Text Amendment No. 84-2, City of Newport News

Mayor Ritchie presented AN ORDINANCE TO AMEND AND REORDAIN APPENDIX C, SITE PLAN ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE, I, IN GENERAL, SECTION 1-07, REQUIREMENTS, REGULATIONS AND RESTRICTIONS, GENERALLY SUBSECTION (C). This ordinance will provide adequate approved water mains and fire hydrants in accessible places in accordance with the fire prevention code of the City.

(No Speakers)

Councilwoman Keator moved adoption of above ordinance; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nays: None

(b) Subdivision Text Amendment No. 84-1, City of Newport News

Mayor Ritchie presented AN ORDINANCE TO AMEND AND REORDAIN APPENDIX B, SUBDIVISION REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, ARTICLE IX, MINIMUM IMPROVEMENTS REQUIRED, SECTION 9-06, FIRE PROTECTION. This ordinance also provides adequate approved water mains and fire hydrants in accessible places in accordance with the fire prevention code of the City.

(No Speakers)

Councilwoman Rattley moved adoption of above ordinance; seconded by Councilwoman Keator.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten
Rattley, Ritchie

Nays: None

(Both of the above amendments essentially state that fire hydrants shall be placed no greater than 750 feet apart in residential districts and 500 feet apart in other districts. Because these merely formalize administrative policies currently used, there will be no appreciable effect regarding costs incurred by developers.)

(c) Zoning Text Amendment ZT-83-81, City of Newport News
Sign Ordinance

Councilwoman Keator stated she would be abstaining on the vote for the sign ordinance. Her husband owns a sign company, and she owns stock in the company even though she does not participate in the management of the company. She stated that as a member of the Planning Commission, the Commonwealth Attorney issued an opinion that the information in front of the Planning Commission was of a general

application, and she could vote. The Commonwealth Attorney still maintained she can legally vote on this issue as a council member even though there are specifics in the proposed ordinance. However, Councilwoman Keator felt this was a morally-gray area, and she would abstain as a council member based on this premise. She cited one possible example which she felt could result in a conflict of interest.

Councilwoman Rattley questioned the legality of the item before Council considering the vote of the Planning Commission. The City Manager advised that if Councilwoman Keator had abstained in the Planning Commission, the item would still be in front of Council; however, the Planning Commission recommendation would have been denial based on a 4-4 tie vote had Councilwoman Keator abstained from voting.

The City Attorney advised that the Commonwealth Attorney's opinion at the time of the Planning Commission vote was based entirely on a general application which is different than the present proposed ordinance. Councilwoman Keator should have voted at the Planning Commission, and since there is a gray area now, she was correct in her abstention. He saw no legal problem with this development.

Wayne R. Spencer, 690 J. Clyde Morris Boulevard - Mr. Spencer advised he represented Arrow Sign Company, Quick Sign Rental, and Norris Mobile Marquis - all companies which deal with temporary rental signs. He complimented Councilwoman Keator and stated his appreciation for the consideration which she gave to this issue in arriving at her decision. Mr. Spencer stated his remarks would deal with the temporary rental signs. He pointed to three special interests insofar as temporary signs are concerned: (1) quality of life in the City (aesthetic considerations); (2) the people who have invested years and money in building up their sign businesses to make them prosper. Council would need to look at all the aspects and ramifications of doing away with these businesses; and (3) effect on the consumers and businesses who benefit from this type of signage. He went on to state he understood the need for a pleasing, aesthetic environment, especially as it related to prospective industry coming into the area. However, he felt that total prohibition of portable signs was harsh. He applauded the effort of City staff which seemed to be recognizing and dealing with the non-profit and new business industry. He did not think that the small businessmen and the consumers interests had been investigated and properly addressed. Mr. Spencer went on to point out how important special event advertising on the portable signs is to the small businessman. He advised of a long list of small businesses that appeared before the Planning Commission. Mr. Spencer stated that there has not been enough investigation given to study the impact on the businesses and consumers who are affected by the proposed ordinance. He urged Council to refer the matter to a work session; contact the businesses and discuss the matter one-on-one basis, because he did not think this was done. Mr. Spencer believed that a continuation of a permit control sign use is imperative to the businesses and consumers in the City. He applauded that section of the proposal concerning maintenance and safety. He did think a proper balance could be struck to ensure commercial vitality on one hand and pleasant surroundings on the other. He urged Council to set up a committee to review and discuss this aspect of the proposed sign ordinance.

Al Carter, 6014 Jefferson Avenue - Mr. Carter advised he was the Used Car Manager for Center Ford. Center Ford was the one remaining large car dealer in downtown. The portable sign was an inexpensive means of advertising for them. Studies have shown that use of the sign increases their business by as much as 30-35% a month. He stated their business needed all the help they can possibly get. He also pointed out that signs did in fact generate tax dollars for the City.

Laura Zambardi, Creative Displays, 5547 Virginia Beach Boulevard, Norfolk - Ms. Zambardi advised she represented Creative Displays whose business is off premise advertising. She advised there were two types of standardized outdoor advertising structures - the poster panel and the painted bulletin. The standard dimension

for a poster panel is 12x25', and it is changed every 30 days. Thirty-nine of these structures currently exist in Newport News. The standard dimension for a painted bulletin is 14x48' and this is sold on a long-time contract, either permanently or on a rotary basis. As a result of national advertising and co-op dollars, it costs little or nothing for local dealers to advertise their location through the use of a snipe on the bill boards. Newspaper advertising is too costly on a daily basis - a full page ad at \$2,000 for one day versus \$370 for thirty days of advertising on a bill board. She pointed out that their industry provides for jobs and contributes to the city's economy. It does not utilize any city services such as fire, police, water; there is no dirt, noise or odor. Their signs are built in accordance with the BOCA Code, and have had proper permits and inspections. Creative Displays has a total investment of \$355,531 in Newport News in signs. They have voluntarily removed signs which were in disrepair. Ms. Zambardi stated she supported reasonable regulation in the same manner as they supported the Highway Beautification Legislation. She felt the proposed ordinance prohibited freedom of communication and discriminated between sign owners. Highways/expressways will bring people into Newport News. However, with the required spacing of 2,000' in the new proposal, Creative Displays could not build any additional structures on I-64. Ms. Zambardi stated outdoor advertising is done tastefully. In addition to their doing business in Newport News, they also provide a service to civic organizations such as Clean Community Commission, United Way, and the Red Cross. Last year they donated space of sixty-one palens for a total value of \$22,570 to these organizations. She requested that Creative Displays be allowed to continue their partnership with the City of Newport News.

Richard Dixon, Advertising Federation of Greater Hampton Roads - Mr. Dixon, President of Dixon Group, an advertising firm in Norfolk, advised he was representing the Advertising Federation of Greater Hampton Roads, an organization comprised of 100 professional members from ALL the media. He stated his concern over the elimination of all outdoor advertising (bill boards) in the City of Newport News. He understood the need to make the city an attractive place in which to live. However, eliminating outdoor advertising would be doing a disservice to the business community. Bill boards are a vital means to communicate a commercial message to the public, especially to direct travelers/tourists to the City's Newport Centre. Bill board advertising is necessary if a hotel, restaurants, and our proposed cultural center are to be located in Newport Centre and flourish. Mr. Dixon provided poster illustrations for outdoor advertising for the various businesses. He pointed out that if bill board advertising was not permitted along I-64, the tourists travel would continue on to Norfolk and/or Virginia Beach by-passing Newport News. Tourists did indeed respond to bill board advertising, and this method of advertising would be a necessity for business locating in the City's Newport Centre area.

George F. McInturff, III, Consultant on Environmental Affairs, Box 24-6, Route 2, Stevensville, Maryland 21666 - Mr. McInturff advised he was self employed in the consulting business, and his principal client was the Outdoor Advertising Association of America. He advised he has been retired from the Federal Highway Department for ten years, and that the last eight years of his employment with the department were spent as the individual in charge of the outdoor advertising control portion of the Highway Beautification Act. In this capacity, he visited every state in the United States to negotiate agreements providing for control of outdoor advertising under the Highway Beautification Act. Since his retirement, he has traveled and testified at meetings such as the Council meeting. He recommended the current proposal be rejected in favor of reasonable regulations. He stated this proposal would eliminate all outdoor advertising, and this was not the purpose of the Highway Beautification Act. He further expounded on the Act. Mr. McInturff presented a copy of A STUDY OF ECONOMIC IMPACT OF DIRECTIONAL MOTOR SERVICES SIGNS FOR ROANOKE RAPIDS, NORTH CAROLINA. The study concluded that 31% of the overnight visitors stopped only because he saw a billboard, and that 75% of the day visitors stopped only because they saw bill board. Of the total amount spent per year, 57% is attributed to billboards. Copy of report is attached as part of the minutes.

Sumpter T. Priddy, Jr., Virginia Retail Merchants Association - Mr. Priddy stated that the ordinance should be tabled until such time as a study could be made of the possible impact on the City. He pointed out that advertising was the key to marketing strategy which builds sales volume which in turn brings in a profit. Profit brings taxes and jobs and keeps the wheels turning to make the economy work. The fiscal impact of eliminating advertising would be a great hurt to the businesses and the City. Based on a Taylor-Murphy study which was done for the Virginia Retail Merchants Association, Mr. Priddy pointed out that one million dollars spent in advertising brings in thirty-three million dollars in sales. To do away with the advertising would be devastating to the businesses and the City. The proposal needed to be tabled in order to allow time to review data that would substantiate the fiscal impact on the businesses in the City and the City itself. He felt that once the City is aware of this impact, Council would by-pass the ordinance forever. In response to question posed by Mayor Ritchie, Mr. Priddy advised he knew of no city in Virginia which totally outlawed outdoor advertising - there were modified plans accepted to all. He indicated he would take issue with any item which would curtail sales volume in a community. All advertising should be dealt with equitably.

Harold Scarberry, Peninsula Retail Merchants Association - Mr. Scarberry stated he was the Chairman of the Peninsula Retail Merchants Association and a member of its Executive Committee. He read a position paper of the Association which stated in part their agreement with certain provisions of the proposed ordinance. However, they were in opposition to the elimination of off-premise advertising because they felt bill boards placed in strategic places along I-64 would be beneficial to the businesses as well as the travelers. Also, portable signs should not be eliminated, but controlled. They should be permissible for new businesses and for those businesses advertising a new product. They should not be a permanent part of the business. Mr. Scarberry stated the Association agreed that all possible should be done to beautify the City.

Bob Ramsey, Virginia Hotel/Motel Association - Mr. Ramsey advised he was the Executive Vice President of the Association and he was speaking on behalf of the entire hospitality industry which is the second largest industry in both the state of Virginia and the city of Newport News. He indicated this industry accounted for \$3.7 billion of the total income in the State. He pointed out that this industry was also the largest employer of women, minorities, teens and semi-skilled workers. Mr. Ramsey stated that of the travelers which come into this area 35% have made no previous travel reservations. This industry is of a competitive nature and Newport News 1,768 rooms represented only 24 properties out of a total of 77,000 across the state. According to the Director of the U.S. Travel Data Center, the future of the industry will be affected by the strong marketing judgement combined with sufficient promotion resources which will distinguish the gainers from the losers over the next ten years. He asked Council to consider the following three points: (1) the impact of hospitality on Newport News; (2) the opportunities to attract new visitors and travelers to Newport News and what that means to Newport News; and (3) the impact signs would have on attracting this business to Newport News.

Carl Morrisette, Manager, Travelers Inn, Denbigh - Mr. Morrisette stated his concern with the ban of bill board advertising in Newport News. He stated a traveler coming into Newport News receives no indication of any lodging facilities even though there is identification for hospitals, golf course, museums and colleges. The travel dollar is big dollars in Newport News, especially since there is no payout for any services of any type. There needs to be a place for advertising a night's rest.

Lillian DeVenny, Virginians Opposing Drunk Driving - Ms. DeVenny, Chairman of the Board, advised there were fifteen chapters across the State whose objective was to make the public aware of the dangers of drinking and driving and whose goal was to make the highways safer and to save lives. Since their organization operated on a shoe-string, they appreciated the support which the outdoor advertisers gave to them. Their relationship with Creative

Signs has grown to such a point where the company has donated twenty-three posters or a total of \$35,000 worth of signs to support

their Report All Intoxicated Drivers (RAID) program. She stated that she felt bill boards reached a segment of people who did not otherwise read the newspaper, listen to the radio or watch television. She recognized the City's concern for a beautiful community; however, she inquired as to what would be more beautiful than saving a life, especially if this life was saved by a message on a bill board sign.

Steve Conway, Hampton Roads La-Z-Boy Showcase Shoppes - Mr. Conway stated he was the owner of these shoppes, one of which is located in the Denbigh Mall Shopping Center. He has used both bill boards and portable signs to promote his business and to relay messages to the public at particular times. He has found both types of signs to be effective means of advertising. He appreciated Council's concern for the environment. However, banning all signs was going to the extreme when reasonable regulations could produce the results for which the Planning Commission was looking.

Mel Bryant, Mel Bryant Advertising Company - Mr. Bryant presented the perspective of a small retail business which calls on him to assist with media decisions. The number one choice is the newspaper. However, this is expensive and can not be used at all times - an alternate or some type of media back-up needs to be developed to get the message across to the consumer. This leaves radio and television which are also both very expensive. Spending \$370 a month to advertise a sale on a bill board is much cheaper than direct mail and is by far the best method of advertising for the small business. Small businesses without a prime location depend on the bill board advertising. To do away with this form of advertising would create a pinch in the advertising budgets of a lot of businesses.

Bob Freeman, Attorney - Mr. Freeman stated he was retained by the Advertising Federation of Greater Hampton Roads to monitor and represent their position regarding off-premise (billboard) advertising in the City of Newport News. He stated that elimination of off-premise advertising would seriously damage the hotel/motel, restaurant and tourist businesses. It would serve as a deterrent and a detriment in securing a hotel and other businesses in downtown in Newport Centre, because the travelers going through Newport News would not have the benefit of seeing any of this advertised on a bill board and would not be aware of its existence. The City would be passed by in favor of the Southside. Mr. Freeman advised there were two legal problems dealing with the proposed ordinance: (1) elimination of off-premise advertising restricts free speech which is guaranteed under the first amendment. He agreed this was a complex issue, but felt it was one which had to be dealt with; (2) just compensation for removal of signs on the federal highway system. He did not think "federal highway system" had been properly identified. He felt there was a legal problem with the City removing signs after a 90-day notification period. Mr. Freeman noted the necessity of a pleasing environment in the City. However, he was quick to point out that the City can have bill boards and still protect its aesthetics. Council needed to find a way to coordinate the two, and not eliminate outdoor advertising, because it would be doing a disservice to many. Mr. Freeman distributed an Abstract of Local Codes Billboard Advertising for off-premise and on-premise Signs. It made a comparison of the local municipalities' ordinances (copy attached). He also provided to Council the industry's recommended changes concerning the new sign ordinance. He offered to make himself and others in the industry available for discussion to work out a compromise to the problem. Mr. Freeman stated that the economic barriers and given restrictions would allow off-premise advertising to exist in Newport News while at the same time controlling its use and providing a service to all those who needed it.

J. Mike O'Neil, 410 Pin Oak Road - Mr. O'Neil advised he owned a small restaurant in the Warwick Village Shopping Center. His place of business occupies a building where three previous businesses had failed. It is located off the "beaten track" of Warwick Boulevard. He installed a portable sign at \$5.00 a day or \$150 a month at the instructions of Mr. Norris. His business took off immediately. As a small businessman, he can afford this type of advertising, and small businesses need all the help they can get in order to survive. He indicated that the portable signs are necessary for the survival of the small businesses.

Edward B. Mirmelstein, 627 Valley Forge Drive - Mr. Mirmelstein, President of Eddy's Fashion Outlet, stated the need and importance of portable signs for the success of his business. He advised he has used the portable signs regularly for all the allowable time since 1972. He stated that the 32% increase he experienced in sales on July 4 in both his Hampton and Newport News stores was attributed to his sign advertising stating the business would be open on July 4. Mr. Mirmelstein pointed out that portable sign advertising was an integral part of his advertising program. This came first in his budget, and he then became flexible concerning the other means of advertising.

Mayor Ritchie closed the public hearing on the proposed sign ordinance and stated that there would be no further comments on the matter other than that which is submitted in writing.

Councilman Hogge moved that the matter be deferred in order to allow for a work session to: (1) see what the current ordinance provides versus what is being proposed with regard to bill boards; and (2) to receive written comments from the public concerning the four exceptions which were now being proposed by city staff with regard to portable signs; seconded by Councilwoman Rattley.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Patten, Rattley, Ritchie

Nayes: None

Abstention: Keator

(d) Newport Centre Urban Design Study and Plan

(No Speakers)

Councilwoman Rattley moved that the public hearing be closed, and that the item be deferred in order to allow for a work session to discuss the proposed changes in the zoning ordinance; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten

Rattley, Ritchie

Nayes: None

(e) Change of Zoning Application 2-84-95, Snyder Hunt Corporation

Mayor Ritchie advised this was a request for a change from C2 retail commercial to R2-C multiple family residential for property located at the northwest corner intersection of Jefferson Avenue and Thimble Shoals Boulevard.

(No Speakers)

Councilman Hogge moved Zoning Application 2-84-95 be approved with any conditions; seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten

Rattley, Ritchie

Nayes: None

4. Mayor Ritchie presented those items listed below as part of the Consent Agenda. Councilwoman Rattley moved adoption of Consent Agenda; seconded by Vice Mayor Fitzgerald.

(a) Approval of Minutes of Special Meeting of June 12, 1984

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten

Rattley, Ritchie

Nayes: None

(b) Approval of Minutes of Regular Meeting of June 25, 1984

Vote on Roll Call:

Ayes: Brown, Fitzgerald, Hogge, Keator, Patten

Rattley, Ritchie

Nayes: none

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(c) A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND CITY CLERK TO ATTEST, IN BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN DEED OF EASEMENT DATED THE 23RD DAY OF

ABSTRACTS OF LOCAL CODES BILLBOARD ADVERTISING

16 307

	NORFOLK (1984 Proposal by City Planning Commission)	PORTSMOUTH Adopted 9/83	VA. BEACH	CHESAPEAKE Adopted 10/83	NEWPORT NEWS (Proposed by Advertising Industry)
Max. Area	672 to 750 sq. ft.	672 sq. ft.	600 sq. ft.	750 sq. ft.	750 sq. ft.
Height	24 ft.	30 ft. M-1 M-2 26 ft. C-2	24 ft. with extension to 40 ft.	40 ft.	40 ft. M-1 M-2 C-2A 24 ft. C-2
Spacing	500 ft.	500 ft.	500 ft.	1000 ft.	1000 ft.
Set back from R/W	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
Allowed Zones	C-2, C-3 M-1, M-2 M-3	C-2, M-1 M-2, M-1-1R	B-2, I-1 I-2	B-2, B-3 M-1, M-2 M-3	M-1, M-2 C-2, C-2A
Distance from Residential	500 ft.	None	200 ft.	None	250 ft.

ON PREMISE SIGNS

	NORFOLK	PORTSMOUTH	VA. BEACH	CHESAPEAKE	PROPOSED NEWPORT NEWS
Size	unlimited	1 sq. ft. per linear ft. frontage max 125 sq. ft. per face	B-2 max 125 sq. ft. B-3 max 125 sq. ft. I-1 max 200 sq. ft. I-2 max 200 sq. ft.	B-2 300 max 3 for 1 B-3 300 max 2 for 1 M-1 300 max 3 for 1 M-2 300 max 3 for 1	M-1, M-2 300 max 1 for 1 C-2 300 max 1.5 for 1 C-2, C-2A 150 max 1 for 1
Height	24 ft.	26 ft.	24 ft.	60 ft. all	C-2 40 ft. C-2A 24 ft. M-1, M-2 40 ft.
Zones	C-2, C-3 M-1, M-2 M-3	M-2, M-1 C-3, C-2	B-2, B-3 I-2, I-3	B-2, B-3 M-1, M-2	as indicated
Use Permit	No	No except M-1-2	No	No	No
Set back from R/W	None except if angle less than 75 degrees	7 ft.	7 ft.	15 ft.	(from 0 ft. to 25 ft.)

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSAL

Section 2407(D)
(Commercial Zoning Districts
C-2, C-2A)

PROPOSED CHANGES

Section 2407(D)
Add:

6. Off Premise Signs erected
in accordance with the following:

a) Area. The maximum area for any one sign facing shall be 750 square feet inclusive of border and trim, but excluding base, apron, supports, or other structural members. Signs may be erected back-to-back, or in V-type construction with not more than one sign face per side.

b) Height. No off-premise sign shall exceed a height of 24 feet in a C2 district and 40 feet in a C2A district. Measurement is to be made from ground level at the base of sign supports or from grade level of the street to which the sign faces, whichever is higher.

c) Spacing. No off-premise sign may be established within 1,000 feet of any other off-premise sign, measured on the same side of the street and facing in the same direction. Said spacing does not apply to structures separated by buildings or other obstructions in such manner that only one sign located within the spacing distances is visible from the street at any one time.

COMMENTS

This size will allow for standardized outdoor advertising units.

Same as proposed for "on premise" sign height requirements. Height measurement options reflect signs on "overpass" type roads.

Spacing will effectively control the number of units that can be built. This provision meets or exceeds the spacing requirements of every other city in the Tidewater area.

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSAL

None

PROPOSED CHANGES

Section 2407(D) (cont'd)

- d) Setbacks. C2: 25 feet front yard
5 feet side yard
C2A: 10 feet front yard
0 feet side yard

e) Other Spacing. No off-premise sign shall be located closer than 250 feet to any residential or historical district, nor closer than 250 feet to the edge of an interchange.

f) Attachment to Buildings Prohibited. No off-premise sign shall be erected upon the roof of any building, attached to any building, or painted on any building.

Section 2407(F)
Add:

6. Off-premise signs erected in accordance with the following:

- a) Area. The maximum area for any one sign facing shall be 750 square feet inclusive of border and trim, but excluding base, apron, supports, or other structural members. Signs may be erected back-to-back, or in V-type construction with not more than one sign face per side.

COMMENTS

Same as proposed for "on-premises" sign setback requirements.

See Section 2407(D) for general comments to this section.

906

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Section 2407(F)
(Industrial Zoning Districts:
M-1, M-2)
None

ARTICLE XXIV SIGN REGULATIONS

CURRENT PROPOSAL

PROPOSED CHANGES

COMMENTS

Section 2407(D) (cont'd)

b) Height. No off-premise sign shall exceed a height of 40 feet in M-1 and M-2 districts. Measurement is to be made from ground level at the base of sign supports or from grade level of street to which the sign faces, whichever is higher.

Same as proposed commercial off-premise sign restrictions.

c) Spacing. No off-premise sign may be established within 1,000 feet of any other off-premise sign, measured on the same side of the street and facing in the same direction. Said spacing does not apply to structures separated by buildings or other obstructions in such manner that the only one sign located within the spacing distances is visible from the street at any one time.

Same as proposed commercial off-premise sign restrictions.

d) Setback. No footage from setback lines required in M-1, M-2 districts.

Same as proposed commercial off-premise sign restrictions.

e) Other Spacing. No off-premise sign shall be located closer than 250 feet to any residential or historical district, nor closer than 250 feet to the edge of an interchange.

Same as proposed commercial off-premise sign restrictions.

f) Attachment to Buildings Prohibited. No off-premise sign shall be erected upon the roof of any building, attached to any building, or painted on any building.

Same as proposed commercial off-premise sign restrictions

CHAPTER 13 BUILDING REGULATIONS

CURRENT PROPOSALPROPOSED CHANGESCOMMENTS

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisements of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Section 5(E) Prohibited Signs

Section 6 Removal of Signs

SECTION 1. FINDINGS

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Delete

Delete references to off-premises signs: Section 5(E).

To reflect change in ordinance of adding off-premises signs.

SECTION 5. PROHIBITED SIGNS:

F. Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

1. Upon payment of twenty-five dollars (\$25.00) application fee to Department of Codes Compliance for a temporary permit to place not more than one portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:
 - a. New Business: Permit may be granted for a period of not more than sixty (60) days from date of issuance of the Certificate of Occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permanent signage is installed in less than sixty (60) days.
 - b. Replacement of Damaged Permanent Sign: Should a permanent sign become damaged to the extent that in the opinion of the Zoning Administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.
 - c. Public Improvements in Right-of-Way: Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the Zoning Administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the Zoning Administrator that such conditions persist.
 - d. Special Non-Profit Event: A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bonafide activity by a governmental, charitable, or non-profit organization. No more than two such permits may be granted per location per calendar year.

**A STUDY OF THE
ECONOMIC IMPACT OF
DIRECTIONAL MOTOR SERVICES SIGNS.**

ROANOKE RAPIDS, NORTH CAROLINA



JOINTLY SPONSORED BY
ROANOKE VALLEY CHAMBER OF COMMERCE & FOONDSIDE BUSINESS ASSOCIATION

A STUDY OF THE ECONOMIC

IMPACT OF DIRECTIONAL

MOTORIST SERVICES SIGNS,

ROANOKE RAPIDS,

NORTH CAROLINA

BY: ARTAM RESEARCH, INC.

VAIL, COLORADO

JOINTLY SPONSORED BY:

ROANOKE VALLEY CHAMBER OF COMMERCE

AND

ROADSIDE BUSINESS ASSOCIATION

**ARTICLE XV. REGULATIONS GOVERNING USE OF
SIGNS AND PROVIDING FOR REMOVAL OF
OBSOLETE STRUCTURES*****Sec. 13-335. Findings.**

It is hereby determined that the number of signs in the city is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the city is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the city are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose. (Ord. No. 3213-84)

Sec. 13-336. Definitions.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement, including but not restricted to animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on or attached flat against the surface of an awning.

*Cross reference—Regulation of placement, number and physical dimensions of signs by zoning district, App. A, § 24A01 et seq.

Banner Sign: A sign made a fabric or any nonrigid material with no enclosing framework.

Business/Office Directories: A nonadvertising sign, attached to a wall or mounted on a pole, that lists the building occupants.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer or contractor of a tract, building or structure being developed under construction.

Directional/Information Sign: An on-premises sign giving directions, instructions or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Frontage: The length of the property line of any one (1) premises along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

Ground/Freestanding Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lower.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this article, the cleaning, painting, repair or replacement of defective parts of a sign in a

manner that does not alter the basic copy, design or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premises identification sign giving only the name, address and/or occupation of an occupant or group of occupants.

Off-Premises Sign: A sign structure advertising an establishment, merchandise, service or entertainment, which is not sold, produced manufactured or furnished at the property on which said sign is located.

On-Premises Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this article, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the zoning administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this article, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Projecting Sign: A sign other than a wall sign that is attached to a wall or suspended from a pedestrian protection overhang.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall or other object used for the display of any message, including but not limited to any device, structure, fixture or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A freestanding or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

Wall Sign: A sign painted on or attached to and erected parallel to the face of an outside wall.

Window/Graphics Sign: A sign installed inside a window and intended to be viewed from the outside. (Ord. No. 3213-84)

Sec. 13-337. Permit required.

It shall be unlawful for any person to construct, erect or display any sign covered by this article until a permit therefor has been issued by the department of codes compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs, provided the signs legally exist by permit. (Ord. No. 3213-84)

Sec. 13-338. Exempted signs.

The following signs shall be exempted from the provisions of this article but not the building regulations as contained in this

Code, when determined not to be detrimental to the health, safety, and welfare of the public:

- (a) Activity signs denoting the revivals or other normal functions of bona fide religious or nonprofit organizations when such signs are:
 - (1) Located on the site of such organization or activity.
 - (2) Limited to one (1) sign of not more than thirty-two (32) square feet per lot.
- (b) Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
- (c) Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
- (d) Menu boards which are either freestanding or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one (1) menu board per lot.
- (e) Noncommercial signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
- (f) Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date

of the election. Upon written application to and approval by the zoning administrator, the period for removal may be extended, for good cause shown, for an additional ten-day period only.

- (g) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- (h) Public, institutional or religious building identification signs.
- (i) Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) square feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one (1) lot.
- (j) Real estate open house signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (1) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - a. No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - b. The sign is located only at intersections where a turning movement is indicated.
 - c. There may be no more than two (2) signs at any one (1) intersection.
 - d. Express permission has been obtained from all adjacent property owners.
 - e. The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - f. The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sunup to sundown.

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- g. Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
 - (2) Signs displayed in violation of the provisions of this section shall be confiscated by the city.
 - (3) Persons causing open house signs to be placed on city right-of-way shall provide the city with evidence of a five hundred thousand dollars (\$500,000.00) general liability insurance policy with the city named as an additional insured before display of signs may be permitted.
 - (k) Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
 - (l) Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:
 - (1) Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or nonprofit organization.
 - (2) Special decorative displays used for national holidays, public demonstrations or promotion for nonpartisan civic purposes.
 - (3) Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.
 - (m) Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs and temporary emergency signs.
 - (n) Urban signs addressed by the Newport Centre Urban Design Plan:
 - (1) Business/office directories which are either freestanding or affixed wall signs and when used in a nonadvertising display to offer information to the pedestrian

public and their size is limited to twelve (12) square feet or less.

- (2) Projecting signs when located in the DBCW sector and not exceeding two (2) square feet in area. (Ord. No. 3213-84)

Sec. 13-339. Prohibited signs.

The following signs shall be prohibited within the city:

- (a) Abandoned signs.
- (b) Animated signs. No such sign shall be permitted in any required front yard or building setback area except:
 - (1) When located in the Downtown Business (DB) District as defined in the city zoning ordinance [appendix A].
 - (2) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.
- (c) Flashing lights.
- (d) Flashing signs. No signs utilizing lighting effects simulating motion shall be permitted.
 - (1) Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
 - (2) Provided, further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.
- (e) Off-premises signs shall be prohibited with the exceptions set forth below:
 - (1) Off-premises signs existing as of the adoption of this article [August 14, 1984] and erected pursuant to section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.

- (2) New off-premises signs shall be permitted along Interstate 64 and Interstate 664 only and under these following conditions:
- Permitted only if the statutory provisions of the Code of Virginia 1950 (as amended), title 33.1, chapter 7, "Outdoor Advertising in Sight of Public Highways," are met.
 - Permitted on undeveloped properties only and must be removed when the property is developed.
 - Spaced no less than one thousand (1,000) feet apart.
 - Not located closer than five hundred (500) feet to the edge of an interchange.
 - Not located closer than seven hundred fifty (750) feet to any residential district.

- (f) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

Upon payment of twenty-five dollars (\$25.00) application fee to department of code compliance for a temporary permit to place not more than one (1) portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:

- New business:* A permit may be granted for a period of not more than sixty (60) days from date of issuance of the certificate of occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permit signage is installed in less than sixty (60) days.
- Replacement of damaged permanent sign:* Should a permanent sign become damaged to the extent that in the opinion of the zoning administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide

business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.

(8) *Public improvements in right-of-way:* Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the zoning administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the zoning administrator that such conditions persist.

(4) *Special nonprofit event:* A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bona fide activity by a governmental, charitable or nonprofit organization. No more than two (2) such permits may be granted per location per calendar year.

- (g) Posters or temporary signs (i.e., snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- (h) Temporary signs. No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other nonpermanent sign intended to call attention to, advertise or promote sales, special events, openings or similar events shall be allowed on any lot beyond the exterior of any building(s).
- (i) Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e., buses or taxis.
- (j) Roof signs when located in the DB district. (Ord. No. 3213-84)

Sec. 13-340. Removal of signs.

Ninety (90) days after this article takes effect, it shall be a violation hereof to maintain any prohibited sign except for section 13-339(e) and 13-339(f), "Prohibited Signs." One hundred eighty (180) days after this article takes effect, it shall be a violation hereof to maintain any section 13-339(e) prohibited sign. After June 30, 1985, it shall be a violation hereof to maintain any section 13-339(f) prohibited sign except as provided therein.

The zoning administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty days (30) days of the notice, it shall become a lien against the property of the sign owner, and will be certified as such against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the zoning administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the city pertaining to signs. (Ord. No. 3213-84)

Sec. 13-341. Maintenance.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced. The zoning administrator or his duly authorized representative shall have the right under section 13-339 to order the repair or removal of any sign which is defective, damaged or deteriorated. (Ord. No. 3213-84)

Sec. 13-342. Exceptions.

This article does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This article does not regulate the number, size, height or location of signs as contained in the Zoning Ordinance of the City of Newport News [appendix A]. (Ord. No. 3213-84)

Sec. 13-343. Penalty.

Whoever violates this article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00), or imprisonment in the city jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 3213-84)

Sec. 13-344. Severability.

This article, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect. (Ord. No. 3213-84)

**ARTICLE XVI. REGULATIONS GOVERNING USE
OF PORTABLE SIGNS***

Sec. 13-345. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Editor's note—Article XVI, §§ 13-345—13-355, was added by § 1 of Ord. No. 3413-86. Section 2 of the ordinance reads as follows:

"Section 2. That as a transitional provision, a thirty day period shall be permitted those persons having portable signs displayed without permits as of the date of adoption of this ordinance within which period a permit must be secured; provided, however, that the sixty day maximum display period allowed by Section 13-346 shall be computed using the effective date of this ordinance as a beginning point."

Lot: Any tract of land described by metes and bounds in a recorded deed or on a subdivision plat of record which possesses or is in the process of being assigned a number for tax assessment identification purposes; provided, however, where two (2) or more contiguous lots are held in single ownership, "lot" shall be interpreted to be the tract held in single ownership.

Owner: The holder of title in fee simple; and/or any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted. Any such person, group of persons, company, association or corporation shall have joint and several responsibility for compliance with the provisions of this article.

Portable sign: A freestanding sign that is trailer mounted, or otherwise designed to be relocated, or is constructed on a chasis or carriage with permanent or removable wheels, and has an area not to exceed sixty (60) square feet on each of two (2) parallel sides.

Setback: The minimum distance from any property line of the lot on which a portable sign is located, to any part of the portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-346. General; permitted display period.

Notwithstanding other provisions of this chapter, portable signs may be erected, installed and displayed on any lot in a district zoned for commercial or manufacturing use subject to the regulations set out in this article. Display of portable signs shall be for specific time periods not to exceed a maximum of sixty (60) consecutive days. When the permitted display period expires, a period of thirty (30) days must elapse before a portable sign may again be displayed on the same lot. The maximum display period for portable signs for any one (1) lot per calendar year shall be one hundred eighty (180) days. (Ord. No. 3413-86, § 1)

Sec. 13-347. Location.

Portable signs shall be erected, installed or displayed with a minimum setback of ten (10) feet; and shall not be located in such a manner so as to reduce the number of parking spaces required

Sec. 13-348. Number permitted.

Only one (1) portable sign shall be permitted on any lot held under single ownership. (Ord. No. 3413-86, § 1)

Sec. 13-349. Usage.

The use of portable signs for commercial purposes shall be limited to advertising, promoting or calling attention to special events, openings, sales or similar occurrences taking place on the same lot where the portable sign is located. It is not the intent of this article to prohibit the use of portable signs for religious, political or educational purposes, whether on or off the site. (Ord. No. 3413-86, § 1)

Sec. 13-350. Special effects.

It shall be unlawful to utilize flashing lights, animated displays, or other effects that simulate motion in conjunction with any portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-351. Maintenance; electrical requirements.

(a) Portable signs shall be maintained and kept in good repair during the period in which they are displayed. Signs not maintained and kept in good repair may, after proper notice by the building official, be removed by the building official at the expense of the owner or lessee thereof as provided in the BOCA Basic Building Code adopted in this chapter.

(b) Portable signs which require electrical service shall be properly connected to the electrical system in conformance with the electrical code, by the use of approved attachment plugs/receptacle outlets. Electrical cords shall be approved for the use and shall be protected from physical damage from any anticipated traffic. (Ord. No. 3413-86, § 1)

Sec. 13-352. Permit required.

It shall be unlawful for any person to erect, install or display, or for a property owner to allow a portable sign to be erected, installed or displayed until a permit therefor has been issued by the department of codes compliance. Permits shall be issued within three (3) working days of receipt of a proper application meeting the requirements of this Code. (Ord. No. 3413-86, § 1)

Sec. 13-353. Permit validity.

Permits shall indicate the period of time authorized for the erection, installation or display of portable signs; provided however, that no permit shall be issued that would provide for display of a portable sign on any lot for a period of time in excess of one hundred eighty (180) days in any calendar year.

The time of display authorized by the permit shall be considered to be the time the portable sign is displayed, unless the permit is canceled in writing prior to the final display date authorized. When permits are canceled, the time the portable sign is displayed shall be considered to be from the initial display date to the date of cancellation. (Ord. No. 3413-86, § 1)

Sec. 13-354. Permit application.

Applications for the erection, installation or display of portable signs shall be in writing on forms provided by the city, and shall be accompanied by a plot diagram showing the location of the proposed portable sign with respect to the property lines of the lot. Such application shall be signed by the property owner or the agent for the property owner, and shall be made not more than thirty (30) days in advance of the date of erection, installation or display of the portable sign. (Ord. No. 3413-86, § 1)

Sec. 13-355. Permit fees.

Fees for permits to erect, install or display a portable sign shall be as specified in article II of this chapter. (Ord. No. 3413-86, § 1)

OF THE COUNCIL OF THE CITY OF NEWPORT NEWS

HELD IN THE COUNCIL CHAMBERS

AUGUST 14, 1984

7:30 P.M.

PRESENT: Fitzgerald, Hogge, Keator, Rattley, Ritchie, Brown -- 6

ABSENT: Patten ----- 0

1. The invocation was rendered by The Reverend Viola D. Armstead, Park Place Baptist Church.

2. The Pledge of Allegiance to the Flag of the United States of America was led by Vice Mayor Fitzgerald.

3. Presentations:

(a) Mayor Ritchie, on behalf of the City Council, presented a Certificate of Appreciation to Joe H. Jordan, Jr., Retired City employee, who completed twenty-five years of service with the City.

(b) Mayor Ritchie, on behalf of the City Council, presented a Certificate of Conformance in Financial Reporting to the City Manager, Robert T. Williams. Mayor Ritchie advised the certificate is the highest form of recognition in governmental accounting and financial reporting.

(c) City Manager, Robert T. Williams, presented a Certificate of Award of Financial Reporting Achievement to Philip A. Curtis, Jr., Director, Finance, as being the individual designated by the City as primarily responsible for its having earned the Certificate of Conformance in Financial Reporting.

4. Upon motion made by Councilman Hogge; seconded by Vice Mayor Fitzgerald; and carried unanimously by voice vote, Councilman Patten was excused.

5. Mayor Ritchie presented those items listed below as part of the Consent Agenda. Councilman Hogge moved adoption of the Consent Agenda; seconded by Vice Mayor Fitzgerald.

(a) Approval of Organizational Meeting Minutes of July 2, 1984.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

(b) Approval of Minutes of Special Meeting of July 9, 1984.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

(c) Approval of Minutes of Regular Meeting of July 9, 1984.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

(d) Approval of Minutes of Special Meeting of July 28, 1984.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

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(e) A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND CITY CLERK TO ATTEST IN BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN JOINT FUNDING AGREEMENT FOR INVESTIGATION OF WATER RESOURCES DATED THE 1ST DAY OF JULY, 1984, BY AND BETWEEN THE GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR

Councilwoman Rattley moved adoption of above resolution;
seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

22. The City Manager requested Council authorization to contact the Virginia Department of Highways and Transportation to request they install a directional sign on I-64 eastbound in the northern portion of the City to direct motorists to use I-664 to reach downtown Newport News.

Councilman Hogge moved that above authorization be granted;
seconded by Councilman Brown.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Keator, Rattley, Ritchie
Brown

Nayes: None

23. The City Manager presented sign regulations amendments for the following:

Zoning Text Amendment No. ZT-83-81 - Appendix A, Article XXIV, Sign Regulations. Sections 2401-2407.

Appendix A, Article XXA, Conditional Use Permits, Section 20A02, Generally. This text change will amend the conditional use permit procedure to be consistent with the amendments to the sign regulations.

Appendix A, Article XXVII, Board of Zoning Appeals, Section 2704, Powers and Duties, C. Special Exceptions, Section 23, Temporary Signs, Section 24, Sign Height, Section 24-A, Sign Area Increases and Section 25, Signs Over Public Rights-of-way. This text change will delete the above special exceptions to be consistent with the amendments to the Sign Regulations.

Councilman Hogge moved adoption of the changes as presented with the following exceptions:

(1) Spacing requirements for billboards along I-64 and I-664 shall be spaced no less than 1,000 feet apart, 750' from residential zone and 500' from interchange;

(2) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels may be used in four situations: (a) by a new business for sixty days or until a permanent sign is erected; (b) for up to sixty days while a damaged permanent sign is being repaired or replaced; (c) when a public improvement project impacts access to a place of business; and (d) by a governmental, charitable or non-profit organization to advertise a special event - a permit for this purpose is limited to a forty-day period; and

(3) Any new signs from date of ordinance would fall under the new sign regulations; and all those which are being grandfathered in have until July 1, 1985 to come into compliance.

Above motion seconded by Vice Mayor Fitzgerald.

Vote on Roll Call:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown

Nayes: None

Abstention: Keator (Has financial interest in a sign company)

24. The City Manager requested Council authorization to acquire the below-listed property for right-of-way associated with sanitary sewer replacement in Piez Alley from Main Street to Hopkins Street.

Parcel #1	J. W. McLaurin	\$ 15.00
Parcel #2	J. R. Aquirre	\$ 115.00
Parcel #3	C. R. Flynn	\$ 1,120.00
Parcel #4	J. H. Warner, Jr.	\$ 1,515.00

Councilman Hogge moved that above authorization be granted;
seconded by Vice Mayor Fitzgerald. 252

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields, flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

nations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Section 24A04. Relationship to building regulations.

The provisions of this Article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Article imposes regulations more restrictive than said Code, the regulations of this Article shall prevail.

Section 24A05. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as a part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled, "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City sign regulations are met.

Section 24A06. Nonconforming signs.

Any permanent legal sign existing on the effective date of this Article and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

1. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
2. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
3. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Code.

Section 24A07. Zoning district regulations.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

1. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Multi-family residential districts: R2-A, R2-AM.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
3. Multi-family residential districts: R2-B, R2-C, R2-D.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - (c) Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.
4. Commercial zoning districts: C2, C2-A.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
 - (c) For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, shall seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
 - (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Section 24A08.
 - (e) Free-standing identification signs shall maintain the following setbacks:
 - (1) In a C2 district: twenty-five (25) foot front yard and five (5) foot side yard.
 - (2) In a C2-A district: ten (10) foot front yard and zero (0) foot side yard.

(3) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

5. Downtown business district: D3. The purpose of this section is to regulate signs consistent with proposed and existing development within the downtown business district and generally known as Newport Centre in conformity with the provisions of the Newport Centre Urban Design Plan.

(a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.

(b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.

(c) For corner lots with multiple street frontages, the number of signs and sign area shall be determined according to individual street frontages. In no case shall the sign area exceed three hundred (300) square feet per lot.

(d) There shall be no front or sign yard setbacks required in the DBC sectors. Projecting signs that may extend over the public right-of-way shall be authorized by the zoning Administrator if the criteria as established in Section 2624 have been met.

(e) Wall signs above the first story shall be limited to one building identification sign per parcel, except when the combined building frontage exceeds one hundred (100) feet in length, an additional identification sign shall be allowed per one hundred (100) linear feet.

(f) Ground signs ten (10) square feet or more in area shall be required to have a minimum of five (5) square feet of landscaped ground area at the sign base for every one (1) square foot of sign area. Ground signs of less than ten (10) square feet shall have a minimum of twenty (20) square feet of landscaped ground area. Any courtyard or plaza requested under Section 2624 may apply this required open space for this purpose.

(g) Any ground sign within the DBC sectors shall be limited to twenty-four (24) square feet in sign area and twelve (12) feet in height.

(h) When projecting signs are limited to two (2) square feet, they are not counted against the total per parcel. Any individual sign over two (2) square feet will be counted toward the total sign allotment in its entirety. A twelve (12) foot clearance shall be maintained from the bottom of the projecting sign to the ground.

(i) Projecting signs, marquees, and window graphics shall be located below the second floor level and shall not exceed twenty-four (24) feet in height nor in any case extend over five (5) feet into the right-of-way.

(j) Retail uses adjacent to, with access from, a public courtyard or plaza shall receive a 1:1 ratio of sign area to store frontage.

6. Industrial zoning districts: M1, M2.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
- (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
- (e) There shall be no front or side yard setbacks required in this district.

7. Supplemental sign regulations.

- (a) For commercial high rise buildings of seven (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street, provided such additional area is not constructed as a free-standing sign.
- (b) Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (1) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (2) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
- (c) The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (1) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (2) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

Section 24A08. Adjustments in sign regulations.

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The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and

enforce and carry out all provisions of this Article, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

1. **Sign height:** The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

2. **Sign area increases:** The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

- (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
- (b) The location of entrance way(s) in relation to business.
- (c) A change in traffic patterns.
- (d) The distance from road rights-of-way.
- (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed fifty percent (50%) of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above fifty percent (50%).

- 3. Signs over public rights-of-way: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-way whenever all of the following conditions are present:

- (a) That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
- (b) That the location, clearance, and construction of the sign are sufficient to insure public safety.
- (c) That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

- 4. Sign area increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in the DBC sectors for increased sign area for building identification signs whenever all of the following conditions are present:

- (a) A permanent visual obstruction exists, such as, but not limited to, adjacent buildings or bridges;
- (b) The sign is oriented to and is primarily intended to be visible to the I-664 right-of-way;
- (c) Such adjustment would be consistent with other businesses in the DBC sectors; and
- (d) Such adjustment would be consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum increase to exceed fifty percent (50%) of the total allowable sign area per lot.

- 5. Sign height increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in any DBC sector of an increase in ground sign height whenever all of the following conditions are present:

- (a) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges or other factors exist which make the allowable sign height inadequate to permit visibility from the adjoining roadway.

- (b) Consistent with general traffic safety in the general area.

(c) Notwithstanding, said exception shall not authorize a maximum increase to exceed twenty-four (24) feet in height.

Sponsor:

J. J. J. J.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Mayor *James C. Patten*

Teste:

Bernard D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

ORDINANCE NO. 3211-84 A

AN ORDINANCE REPEALING ARTICLE XXIV, SIGN REGULATIONS, OF APPENDIX A., ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, WHILE RETAINING THE EFFECTIVENESS OF THE ARTICLE UNTIL JUNE 30, 1985, FOR USE OF DESIGNATED SIGNS.

BE IT ORDAINED by the Council of the City of Newport News:

1. That Article XXIV, Sign Regulations, of Appendix A., Zoning Ordinance, of the Code of the City of Newport News, Virginia, be, and hereby is, repealed except for the limited purpose set forth in paragraph 2 below.

2. That Article XXIV, Sign Regulations, of Appendix A., Zoning Ordinance, of the Code of the City of Newport News, Virginia, shall remain effective until June 30, 1985, to regulate the use of portable signs which are trailer mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels. As of July 1, 1985, Article XXIV shall not govern the use of any manner of sign. It is the intent of this Council that all portable signs be displayed in conformance with Chapter 13 of this Code and Article XXIVA of the Zoning Ordinance from and after July 1, 1985, and that no permit for erection or display of portable signs pursuant to Article XXIV, as authorized herein shall extend beyond June 30, 1985.

Sponsor:

[Signature]

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

[Signature]
Mayor

Teste:

[Signature]
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Battley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXA, CONDITIONAL USE PERMITS, SECTION 20A02, GENERALLY.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXA, Conditional Use Permits, Section 20A02, Generally, be, and the same hereby is, amended and re-ordained to provide as follows:

APPENDIX A.

ZONING ORDINANCE

ARTICLE XXA. CONDITIONAL USE PERMITS

Section 20A02. Generally.

The city council shall authorize the use of land, buildings and structures in a district that does not conform to the regulations and restrictions prescribed for that district and shall authorize the issuance of special use permits therefor only to the owners of fee simple title thereto, and their successors in fee simple title, whenever it is made to appear that such special use will not be detrimental to the safety, health, morals and general welfare of the community involved; will not tend to create congestion in the streets, roads, alleys and other public ways and places in the area involved; will not create hazards from fire, panic or other dangers; will not tend to overcrowding of land and cause an undue concentration of population; will not adversely affect or interfere with public or private schools, parks, playgrounds, water supplies, sewage disposal, transportation or other public requirements, conveniences and improvements; and will not interfere with adequate light and air.

Notwithstanding the above provisions, the city council will not consider applications which are permitted as special exceptions under the provisions of Article XXVII, nor will the city council consider applications for modifications to the provisions contained in Article XXIV or XXIVA.

Sponsor:

J. C. Hogge, Jr.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Joseph C. Ritchie
Mayor

Teste:

Bernard D. Berry
City Clerk
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Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogge, Rattley, Ritchie, Brown
Nays: None
Excused: Patten

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 13, BUILDING REGULATIONS, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, BY ADDING THERE-TO A NEW ARTICLE, NAMELY, ARTICLE XV, REGULATIONS GOVERNING USE OF SIGNS AND PROVIDING FOR REMOVAL OF OBSOLETE STRUCTURES.

BE IT ORDAINED by the Council of the City of Newport News:

That Chapter 13, Building Regulations, of the Code of the City of Newport News, Virginia, be, and the same hereby is, amended and reordained by adding thereto a new article, namely, Article XV, Regulations Governing Use of Signs and Providing for Removal of Obsolete Structures, to provide as follows:

CHAPTER 13

BUILDING REGULATIONS

ARTICLE XV. REGULATIONS GOVERNING USE OF SIGNS AND PROVIDING FOR REMOVAL OF OBSOLETE STRUCTURES.

Section 13-335. Findings.

It is hereby determined that the number of signs in the City is excessive and unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. It is also determined that the appearance of the City is marred by the excessive number of signs. It is also determined that the number of distracting signs needs to be reduced in order to minimize the aforementioned effects, and that signs of least importance in occupying limited public views to people within the City are those which convey commercial messages other than the advertisement of any product, service, event, person, institution or business located on the premises where the sign is located, or for the sale or rental of such premises. It is also determined that the regulations contained in this Code are the minimum amount of regulation necessary to achieve its purpose.

Section 13-336. Definitions.

As used in this article:

Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign: Any sign utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical, wind-blown, or through change in lighting.

Awning: A shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework (compare "Marquee").

Awning Sign: A sign painted on, printed on, or attached flat against the surface of an awning.

Banner Sign: A sign made of fabric or any nonrigid material with no enclosing framework.

Business/Office Directories: A nonadvertising sign, attached to a wall or mounted on a pole, that lists the building occupants.

Construction Sign: A temporary sign denoting the name of the developer of a subdivision or the name of an architect, engineer, or contractor of a tract, building, or structure being developed under construction.

Directional/Information Sign: An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.

Festoons: A string of ribbons, tinsel, small flags, pennants, or pinwheels.

Flashing Light: A device which contains an intermittent or sequential light source used primarily to attract attention.

Frontage: The length of the property line of any one premise along a public right-of-way on which it borders.

Frontage, Building: The length of an outside building wall facing a public right-of-way or where public ingress/egress is provided.

Ground/Free-standing Sign: A sign supported upon the ground by poles or braces and not attached to any building.

Height (of a Sign): The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade of the lot, whichever is lowest.

Identification Sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.

Illegal Sign: A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.

Maintenance: For the purposes of this Ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

Marquee: A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building (compare "Awning").

Marquee Sign: Any sign attached to or supported by a marquee structure.

Nameplate: A nonelectric on-premise identification sign giving only the name, address and/or occupation of an occupant or group of occupants.

Off-Premise Sign: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located.

On-Premise Sign: A sign which pertains to the use of the property on which it is located.

Owner: A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Zoning Administrator, e.g., a sign leased from a sign company.

Point of Display: Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.

Political Sign: For the purposes of this Article, a temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

Projecting Sign: A sign other than a wall sign that is attached to a wall or suspended from a pedestrian protection overhang.

Readerboard: A changeable copy sign on which copy is changed manually in the field or automatically through mechanical means.

Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

Revolving Sign: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to, any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Snipe Sign: A temporary sign or poster affixed to a tree, fence, etc.

Subdivision Identification Sign: A free-standing or wall sign identifying a recognized residential subdivision.

Temporary Sign: A sign not constructed or intended for long-term use.

Vehicular Sign: A sign on a bus, car, trailer, or truck used for the purpose of advertising or identifying any establishment, product, goods or services.

Wall Sign: A sign painted on or attached to and erected parallel to the face of an outside wall.

Window/graphics Sign: A sign installed inside a window and intended to be viewed from the outside.

Section 13-337. Permit required.

It shall be unlawful for any person to construct, erect or display any sign covered by this Article until a permit therefor has been issued by the Department of Codes Compliance. No permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs, provided the signs legally exist by permit.

Section 13-338. Exempted signs.

The following signs shall be exempted from the provisions of this Article but not the building regulations as contained in this Code, when determined not to be detrimental to the health, safety, and welfare of the public.

- (a) Activity signs denoting the revivals or other normal functions of bona fide religious or non-profit organizations when such signs are:

- (1) Located on the site of such organization or activity;
 - (2) Limited to one (1) sign of not more than thirty-two square feet per lot.
- (b) Bulletin boards not exceeding twelve (12) square feet for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
 - (c) Construction signs shall be limited to a maximum area of thirty-two (32) square feet and removed at the completion of said development or construction.
 - (d) Menu boards which are either free-standing or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one menu board per lot.
 - (e) "Noncommercial" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls which shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of accumulative sign area. Directional signs over two (2) square feet will be computed in the accumulative sign area.
 - (f) Political signs located on sites which are used for campaign headquarters for political campaigns. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the Zoning Administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period only.
 - (g) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
 - (h) Public, institutional, or religious building identification signs.
 - (i) Real estate signs advertising the sale or rental of the premises upon which such sign is located provided such signs are limited to an accumulative area of six (6) square feet for residential properties and for commercial and industrial properties having a frontage of less than one hundred (100) square feet; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred feet (100) feet or more. Not more than two (2) such signs shall be located on any one lot.
 - (j) Real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (1) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.

- (b) The sign is located only at intersections where a turning movement is indicated.
 - (c) There may be no more than two signs at any one intersection.
 - (d) Express permission has been obtained from all adjacent property owners.
 - (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sun-up to sun-down.
 - (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
- (2) Signs displayed in violation of the provisions of this section shall be confiscated by the City.
 - (3) Persons causing open house signs to be placed on City right-of-way shall provide the City with evidence of a \$500,000.00 general liability insurance policy with the City named as an additional insured before display of signs may be permitted.
- (k) Residential subdivision development signs when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
 - (l) Special event signs when in the public interest and not hazardous to private property. Such signs shall be displayed no more than thirty (30) days prior to the special event and removed within ten (10) days following the event. Such signs shall be limited to the following events:
 - (1) Special civic or cultural event such as a fair or exposition, play, concert or other bona fide activity or meeting by a government, charitable or non-profit organization.
 - (2) Special decorative displays used for national holidays, public demonstrations or promotion for non-partisan civic purposes.
 - (3) Special decorative displays used for purposes of announcing the grand opening or reopening of a new store, business or profession.
 - (m) Traffic or all other municipal signs, including but not limited to legal notices, railroad crossing signs, and temporary emergency signs.
 - (n) Urban signs addressed by the Newport Centre Urban Design Plan:
 - (1) Business/office directories which are either free-standing or affixed wall signs and when used in a nonadvertising display to offer information to the pedestrian public and their size is limited to twelve (12) square feet or less.

- (2) Projecting signs when located in the DECW sector and not exceeding two (2) square feet in area.

Section 13-339. Prohibited signs.

The following signs shall be prohibited within the City:

- (a) Abandoned signs.
- (b) Animated signs: No such sign shall be permitted in any required front yard or building setback area except:
 - (1) When located in the Downtown Business (DB) District as defined in the City Zoning Ordinance.
 - (2) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.
- (c) Flashing lights.
- (d) Flashing signs: No signs utilizing lighting effects simulating motion shall be permitted.
 - (1) Provided, however, that messages on changing message signs which do not change more frequently than once every three (3) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.
 - (2) Provided, further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.
- (e) Off-premise signs shall be prohibited with the exceptions set forth below:
 - (1) Off-premise signs existing as of the adoption of this ordinance and erected pursuant to Section 33.1-370 of the Code of Virginia (pertaining to outdoor displays along interstate and federal-aid highways) shall be permitted to remain.
 - (2) New off-premises signs shall be permitted along Interstate 64 and Interstate 664 only and under these following conditions:
 - (a) Permitted only if the statutory provisions of the Code of Virginia 1950, (as amended) Title 33.1, Chapter 7 "Outdoor Advertising in Sight of Public Highways" are met.
 - (b) Permitted on undeveloped properties only and must be removed when the property is developed.
 - (c) Spaced no less than 1,000 feet apart.
 - (d) Not located closer than 500 feet to the edge of an interchange.
 - (e) Not located closer than 750 feet to any residential district.
- (f) Portable signs which are trailer-mounted or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels shall be prohibited with the exceptions set forth below:

Upon payment of twenty-five dollars (\$25.00) application fee to Department of Code Compliance for a temporary permit to place not more than one portable sign not exceeding sixty (60) square feet per parcel (or parcels if contiguous and under common ownership) in commercial and industrial zoning districts when the following conditions are evidenced provided allowable sign area is available:

(1) New Business: Permit may be granted for a period of not more than sixty (60) days from date of issuance of the Certificate of Occupancy for the placement of a portable sign for the purpose of providing business identification pending installation of permanent signage. Such temporary sign shall be removed upon installation of permanent signage if such permanent signage is installed in less than sixty (60) days.

(2) Replacement of Damaged Permanent Sign: Should a permanent sign become damaged to the extent that in the opinion of the Zoning Administrator it no longer serves its purpose to identify the place of business, a permit may be granted for a portable sign to provide business identification for a period not to exceed sixty (60) days. The portable sign shall be removed upon installation of new permanent signage if such permanent signage is installed in less than sixty (60) days.

(3) Public Improvements in Right-of-Way: Should public improvement construction within the right-of-way result in the removal of a permanent sign or in the opinion of the Zoning Administrator necessitates directional information due to a remote or otherwise indistinguishable entrance created by the construction, a permit may be granted for a period not to exceed ninety (90) days. Such permit may be extended upon the determination by the Zoning Administrator that such conditions persist.

(4) Special Non-profit Event: A permit may be granted for the placement of a portable sign for no more than thirty (30) days prior to the special event and removed within ten (10) days following the event (total display not to exceed forty (40) days) for a special event of a bona fide activity by a governmental, charitable, or non-profit organization. No more than two such permits may be granted per location per calendar year.

- (g) Posters or temporary signs (i.e., snipe signs) attached to trees, telephone poles, public benches, streetlights, or placed on any public property or public right-of-way.
- (h) Temporary signs: No temporary sign, except as exempted, including but not limited to flags, banners, pennants, festoons, and any other non-permanent sign intended to call attention to, advertise or promote sales, special events, openings, or similar events shall be allowed on any lot beyond the exterior of any building(s).
- (i) Vehicular signs on cars or trucks which are parked or located for the primary purpose of displaying said sign. This does not apply to vehicular signs placed on commercial passenger carriers, i.e., buses or taxis.

(j) Root signs when located in the DB district.

Section 13-340. Removal of signs.

Ninety (90) days after this ordinance takes effect it shall be a violation hereof to maintain any prohibited sign except for Section 13-339 (e) and 13-339 (f) prohibited signs. One hundred eighty (180) days after this Article takes effect it shall be a violation hereof to maintain any Section 13-339 (e) prohibited sign. After June 30, 1985, it shall be a violation hereof to maintain any Section 13-339 (f) prohibited sign except as provided therein.

The Zoning Administrator may cause the removal of an illegal sign in cases of emergency, or for failure to comply with the written orders of removal or repair. After removal or demolition of the sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed and demanding payment of the costs.

If the amount specified in the notice is not paid within thirty days (30) days of the notice, it shall become a lien against the property of the sign owner, and will be certified as such against the property.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon unless facts to the contrary are brought to the attention of the Zoning Administrator, as in the case of a leased sign.

For purposes of removal, the definition of sign shall include all sign embellishments and structures designed specifically to support the sign. This section shall not apply to signs erected in conformance with all other provisions of the city pertaining to signs.

Section 13-341. Maintenance.

All signs shall be maintained. Exposed surfaces shall be clean and surface coated when required to prevent deterioration. Defective parts shall be replaced. The Zoning Administrator or his duly authorized representative shall have the right under Section 13-339 to order the repair or removal of any sign which is defective, damaged, or deteriorated.

Section 13-342. Exceptions.

This Article does not apply to any sign which is not visible to motorists or pedestrians on any public highway, street or alley, nor to any specific information panel for the direction of motorists or pedestrians which may be located, under the authority of any state statute, on any public highway, street or right-of-way of the State of Virginia. This Article does not regulate the number, size, height, or location of signs as contained in the Zoning Ordinance of the City of Newport News.

Section 13-343. Penalty.

Whoever violates this Article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100.00) or imprisonment in the City jail for not more than thirty (30) days, or both, for each offense. Each and every day on which a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 13-344. Severability.

This Article, and the various parts, sections and clauses hereof, are hereby declared to be severable. If any part, section or clause is adjudged invalid, the remainder shall remain in full force and effect.

Sponsor:

George J. J.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1924

Countersigned:

Joseph C. Patten
Mayor

Teste:

Bernard Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hoggs, Rattley, Ritchie, Brown

Nayes: None

Excused: Patten

Abstention: Keator (Has financial interest in sign company)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A, ZONING ORDINANCE, OF THE CODE OF THE CITY OF NEWPORT NEWS, VIRGINIA, ARTICLE XXVII, BOARD OF ZONING APPEALS, BY DELETING THEREFROM SECTION 2704.C.23, 24, 24-A and 25.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A, Zoning Ordinance, of the Code of the City of Newport News, Virginia, Article XXVII, Board of Zoning Appeals, be, and the same hereby is, amended and reordained by deleting therefrom Section 2704.C.23, 24, 24-A and 25.

Sponsor:

J. H. Hodge, Jr.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Joseph C. Pittman
Mayor

Teste:

Bernice D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hodge, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in sign company)



CITY OF NEWPORT NEWS

VIRGINIA

17 371

DEPARTMENT OF CITY PLANNING
OFFICE OF THE DIRECTOR

2400 WASHINGTON AVENUE
NEWPORT NEWS 23607
(804) 247-4761

July 23, 1984

TO: Honorable Members of the Newport News City Council
FROM: Planning Director
SUBJECT: Additional Information Regarding Billboards and Portable Signs

The following information is offered as a supplement to that provided in the work session booklet "Proposed Sign Regulations" distributed June 4.

I. Portable Signs

a. Alleged Need for Portable Signs

The two primary issues which have been raised in defense of portable signs are that they are:

- 1) Needed because in many cases permanent signage cannot be adequately seen due to distance from right-of-way or visual obstructions exist.

In the proposed sign ordinance, Section 2408.B. Sign Area Increases allows for relief from such situations by permitting increases in permanent sign area. Such relief would be reviewed and granted by the Zoning Administrator for sign area increases up to 50 percent of that otherwise allowed. Requests for increases over 50 percent would be reviewed and granted by the Planning Commission. In all cases the applicant would have to demonstrate that conditions exist which make allowable signage unreadable from the adjoining roadway rather than merely desiring more advertising area. Therefore, if such a situation in fact exists, portable signs would not be necessary. Furthermore, the proposed ordinance guarantees at least 32 square feet to each tenant of a shopping center regardless of his store frontage and regardless of the total signage displayed.

- 2) Used because they are the only signage small businesses can afford.

Based on current rental charges for portable signs, small businesses would be better off to install legal permanent signage. At the rental cost of \$936 per 6-month period and utilizing a portable sign for the maximum periods allowed, a business would spend in 3-1/2 years more on rent than it would cost to install comparable permanent signage even if a loan had to be taken to finance it. In addition, he would enjoy continuous use of the sign for those 42 months and thereafter rather than only 24 months, the sign would be up permanently at no additional expense, and an

Costs for Renting a 60 Square Foot Portable Sign
Versus Cost of Installing Comparable Permanent Readerboard

<u>Portable</u>	<u>Permanent</u>
\$936/6 months @ 5% annual inflation for 4 6-month periods: \$4,634.28 over 42 months	\$3,000 financed at 12.5% for same 42-month period: \$3,719.10
YIELD = Use of sign for 24 months; zero "equity"	YIELD: \$315.18 savings, con- tinuous use of sign; 100% "equity"

In the case of a newly opening business which has not had time to install permanent signage, the proposed ordinance allows the use of legal forms of temporary signage.

• Further Endorsement of Proposed Ordinance

The Virginia Peninsula Economic Development Council has endorsed the elimination of portable signs by joining the Peninsula Chamber of Commerce in adopting the "Model for Local Governments: Objectives and Strategies for Use in Improving the Visual Environment of the Peninsula."

• Portable Signs Prohibited Elsewhere

The following localities prohibit portable signs:

Virginia

Fairfax County
Virginia Beach*
Fredericksburg
Poquoson

Williamsburg
James City County
York County⁽¹⁾
Chesapeake⁽²⁾*

North Carolina

Raleigh*
Charlotte*

Maryland

Annapolis
Baltimore
Prince Georges County

(1) Present ordinance allows portable sign if it is the only free-standing sign. Proposed ordinance prohibits in all cases.

(2) Allows for grand opening only; only for 30 days

*Identified in VPEDC's "Competitive Factors Study" as competitors to Peninsula.

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Page 3

II. Billboards

• Revenue to Newport News

Creative Displays which owns over 90 percent of the billboards in Newport News paid only \$2,418.05 in Newport News taxes in FY84 ... \$2,127.65 in business equipment tax for the billboards and \$214.80 in real property tax for the two sites they own.

• Counter Proposal by Outdoor Advertising Industry

The outdoor advertising-sign industry represented by Mr. Robert Freeman presented an abstract of local codes regulating billboards and a counter proposal for Newport News. Attached is a copy of Mr. Freeman's abstract with additional information in italics to help make a better comparison. You will note that Mr. Freeman presented a counter proposal to the Newport News Planning Commission in November 1983 (shown in the last column) which was used by the Planning Commission as a basis for the compromise which was forwarded to City Council. You will also note that his counter proposal to City Council (shown in the next to last column) favors the billboard industry even more than the earlier counter proposal to the Planning Commission.

• Net Effects of Proposed Ordinance on Existing Billboards

The following is a breakdown of the impact of the proposed sign ordinance on billboards in place as of September 1983 when the survey was taken. A map locating these billboards is also attached for your information.

Billboards to be Grandfathered

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
I-64	3	6	M2
39th & Roanoke	1	1	M2
39th & Chestnut	1	4	M2
Jefferson & Mercury	1	2	M1
Jefferson & Main	1	1	C2
Jefferson & McLawhorne	1	1	C2-A
Darwick & O'Hara	1	4	M1
Darwick & Hilltop	2	4	R2-C or M2
Darwick & Denbigh Park	1	2	C2
Darwick & Mercury	1	2	C2-A
	13	27	

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Page 4

Additional Billboards Which May be Grandfathered,
Pending VDH&T Determination of Visibility from I-664

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
Jefferson & 41st	1	1	C2-A
Jefferson & 42nd	3	4	C2-A
Jefferson & 43rd	2	4	C2-A
27th between Jefferson & Terminal	1	2	C2
	<u>8</u>	<u>11</u>	
 TOTAL POSSIBLE UNDER GRANDFATHER CLAUSE SEPTEMBER 1983	 <u>21</u>	 <u>38</u>	

Any additional billboards erected before adoption of the ordinance may also be grandfathered depending on their location.

Billboards to be Removed or Relocated
Due to I-664 Construction

(Relocated billboards may be grandfathered under the proposed ordinance if they are relocated before adoption of the ordinance)

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th between Terminal & Jefferson	1	2	M1
Jefferson & 39th	1	4	M2
Jefferson & 40th	1	2	C2-A
Terminal & 26th	1	2	M2
Terminal & 31st	1	2	M2
Terminal & 33rd	1	2	M2
Terminal & 34th	2	4	M2
	<u>8</u>	<u>18</u>	

Billboards to be Removed Under the Proposed Ordinance

<u>Location</u>	<u>No. of Structures</u>	<u>No. of Faces</u>	<u>Zoning</u>
25th & Pear	1	1	C2-A
25th & Maple	1	1	C2-A
25th & Buxton	1	1	C2-A
25th & Marshall	1	1	C2-A
27th & Wickham	1	2	R2-C
27th & Buxton	1	2	R2-C
28th & Chestnut	1	2	C2-A
Jefferson & 30th	1	1	C2-A
Jefferson & 44th	1	1	C2-A
Jefferson & 72nd	2	2	C2-A
Jefferson & I-64	1	1	M2
Warwick & 34th	1	2	M2
	17	17	

• **Billboards Prohibited Elsewhere**

A brief survey turned up the following localities which do not allow billboards. This is by no means a comprehensive listing.

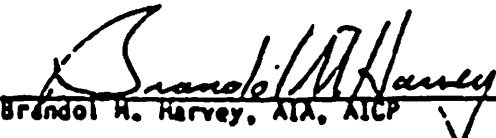
Virginia

York County
James City County
Williamsburg
Charlottesville

Maryland

Annapolis

In addition, Norfolk and Virginia Beach allow billboards only on certain roadways and then only by Special Use Permit.


Brandol M. Harvey, AIA, AICP

kmo

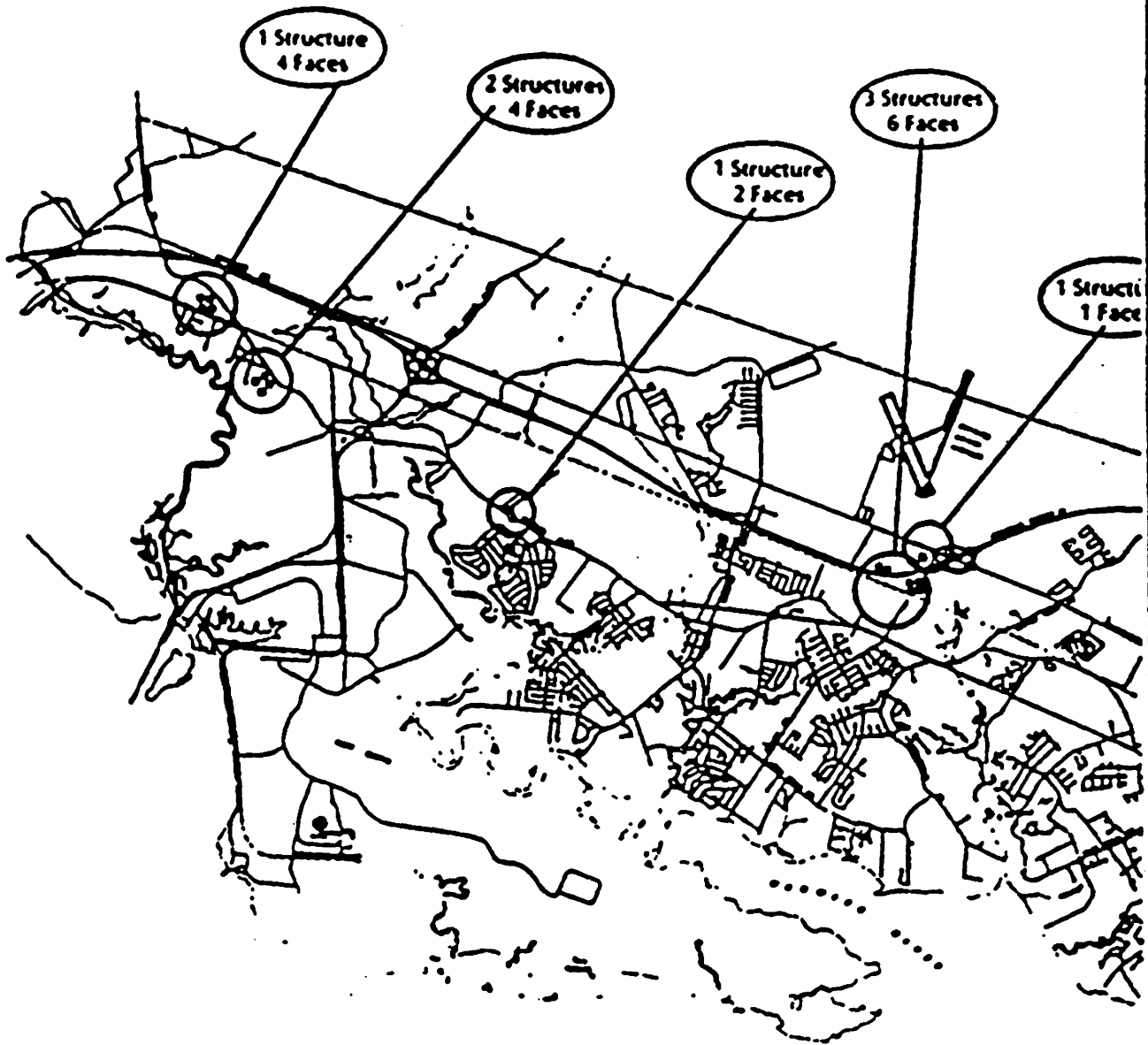
Attachments

**ABSTRACTS OF LOCAL CODES
Billboard Advertising
(as presented to City Council July 1964 with annotations by the Planning Department)**

	ROSFORD (1964) Proposed by City Planning Commission)	PORTSMOUTH (Adopted 9/63)	VIRGINIA BEACH	CHESAPEAKE (Adopted 10/63)	NEWPORT NEWS (Proposed by Advertising Industry 7/64)	NEWPORT NEWS (Proposed by Advertising Industry 11/63)
<i>300 ft</i> Max. Area	672-750 sq. ft.	672 sq. ft. (M1,M2) 300 sq. ft. (C2)	600 sq. ft.	750 sq. ft.	750 sq. ft. (M1,M2, C2,C2-A)	700 sq. ft. (M1,M2) 300 sq. ft. (C2,C2-A)
Height	24 ft.	30 ft. (M1,M2) 24 ft. (C2)	24 ft. with extension to 40 ft.	40 ft.	40 ft. (M1,M2,C2-A) 24 ft. (C2)	40 ft. (M1,M2) 24 ft. (C2,C2-A)
Spacing	500 ft.	500 ft.	500 ft.	1000 ft.	1000 ft.	1000 ft.
Setback from R.O.W.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
Allowed Zones	C2,C3 M1,M2,M3 (allowed only on certain streets)	C2 (only on undeveloped property) M1,M2,M3-1B	B2,1-1 1-2 (only where undeveloped) (allowed only on certain streets)	B2,B3 M1,M2 NO	M1,M2 C2,C2-A	M1,M2 C2,C2-A
Distance from Residential	500 ft.	None 25' from any property line regardless of district	200 ft. (removed if developed)	None 50' from property line regardless of district	250 ft.	250 ft.

The following are some of the localities which do not allow billboards; any existing are non-conforming:

- Williamsburg
- James City County
- York County
- Charlottesville



BILLBOARD LOCATION SURVEY SEPTEMBER 1983

■ = ONE BILLBOARD FACE

279



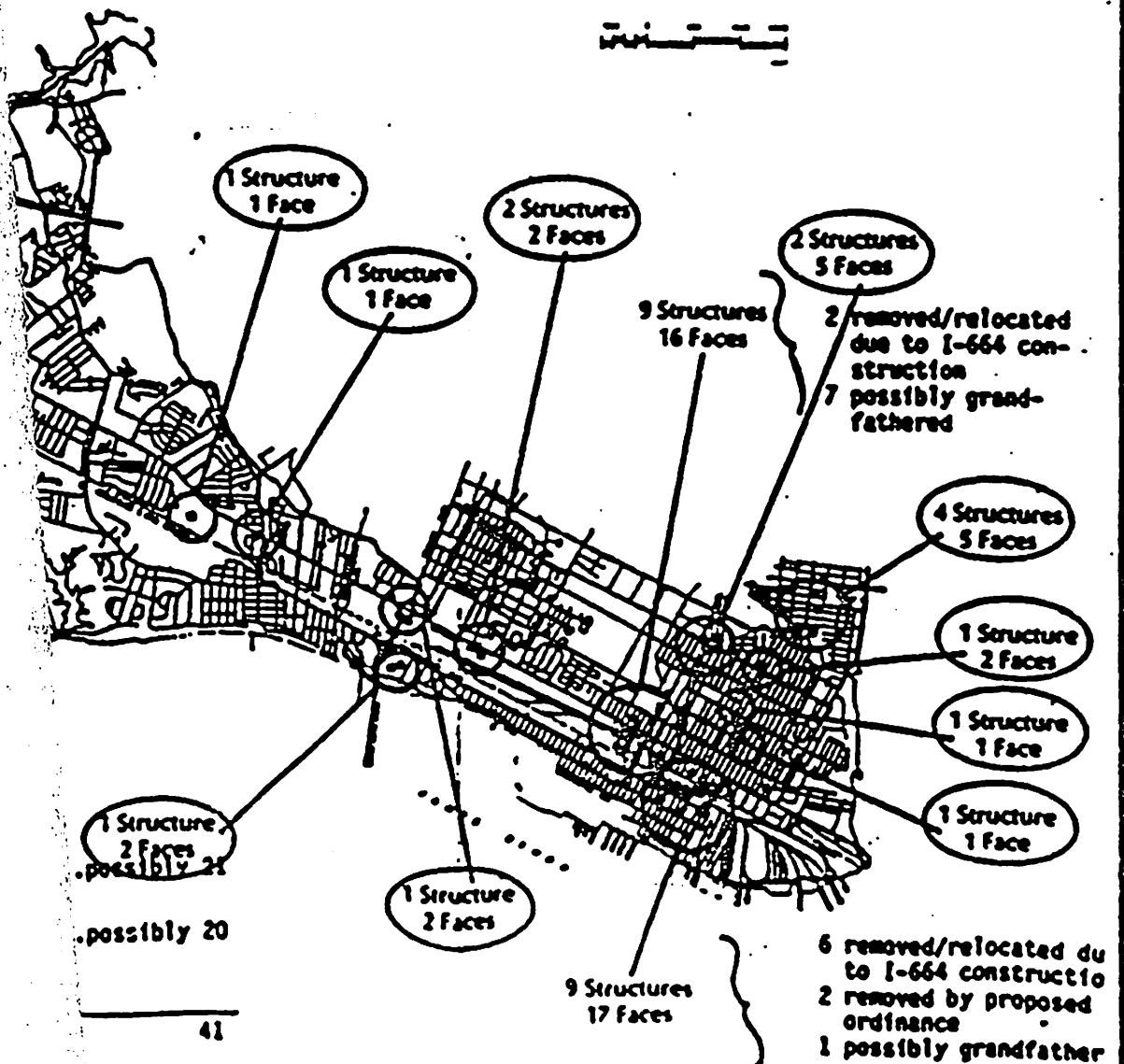
Grandfathered

Removed according to
proposed ordinance

To be removed/relocated
due to I-664 construction

TOTAL IN SUR

NEWPORT NEWS, VIRGINIA DEPARTMENT OF CITY PLANNING





NEWPORT NEWS CITY PLANNING COMMISSION

8400 WASHINGTON AVENUE
NEWPORT NEWS, VIRGINIA 23607

7 719

W. VINCENT CONWAY, JR.

CHAIRMAN

MARTHA M. FIELD
VICE CHAIRMAN

804/247-8761

September 1, 1983

MEMORANDUM

TO: Honorable Members of the Newport News City Council

SUBJECT: Proposed Sign Ordinance

As you may be aware, the Sign Ordinance Subcommittee of the Planning Commission has spent the past five months studying and preparing a revised Sign Ordinance. The Subcommittee had the following composition of Planning Commissioners and advisory representatives of interested groups:

Planning Commission Members

Mr. W. Vincent Conway, Jr., Chairman
Mr. Donald Hyatt
Mr. Dean Short
Mrs. Penny Taylor

Advisory Members

Mr. Charles Alexander - Department of Codes Compliance
Mr. Fred Calhoun (rep. Lloyd Jobson) - Sign Industry
Ms. Judith Davis - Former Planning Commissioner
Ms. Sue Hogue - Clean Community Coordinator
Mr. David Peebles - VPEDC

In addition, representatives from special interests groups, including outdoor advertising and temporary signs, attended and participated in the review meetings. Ample time was allotted for discussion of various concerns, special interests and individual positions.

As a result of the Subcommittee's work, a proposed new Sign Ordinance has been recommended for the Commission's review. Enclosed for your review is a summary of the proposed Ordinance and its potential implications for a better, more visually aesthetic environment within the City. Some of the positions taken are consistent with other ordinances operating in James City County, Virginia Beach, and Williamsburg.

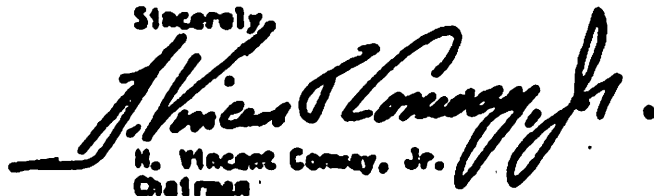
A work session has been conducted by the full Commission on the Ordinance and a subsequent public hearing has been scheduled on

MEMORANDUM
Page 2

September 21, 1983, at 2:00 p.m. in Council Chambers. I am hopeful that the Commission will be able to make a recommendation on the Ordinance sometime in mid-to-late October. Consequently, I would request your consideration of having a joint work session and/or bus tour of the City prior to any Council scheduled public hearing on the matter. The purpose of this would be to allow thorough discussion of the Commission's recommendation and time to address any concerns and questions the Council may have. In its deliberations, the Commission will strive to present a more effective, equitable and understandable Sign Ordinance for your final disposition. The founding concepts of the draft Ordinance are: 1) that every business should be treated equitably by sign regulations that are clearly understood, 2) public safety is of paramount concern, and 3) an appropriate and well designed Ordinance will result in more effective signage as well as a more positive visual environment.

If additional information is needed or discussion of my request is desired, I am available at your convenience.

Sincerely,



H. Vincent Conway, Jr.
Chairman

HVC, Jr:SPH:kas

SUMMARY OF PROPOSED SIGN ORDINANCE

It has been determined that Newport News suffers from a negative visual image and an excessive number of signs, leading to traffic hazards and an overall reduction in the effectiveness of signage. To the outside observer, the City appears ugly and therefore unattractive as a possible new location for industry, business or home. The regulations proposed in the new Ordinance, however, recognize the need for commercial communication and are intended to provide for safe, effective signage throughout Newport News.

The present Sign Ordinance currently is contained entirely in the City's Zoning Ordinance and regulates the size, number and placement of signs within each zoning district. The proposed Ordinance will have two sections--one in the Zoning Ordinance for regulations applicable to particular zoning districts and an addition to Chapter 13, Building Regulations of the City Code, for regulations that are applicable to the entire City, irrespective of zoning districts.

• ACCUMULATIVE SIGN AREA

The present Sign Ordinance is rather ambiguous as to what signs are counted toward the total allowable sign area. The new Ordinance proposes that all permanent signs, whether internal or external displays, which are legible from the public right-of-way shall be regulated. Those signs which are not legible from the public right-of-way or are not intended to be permanent will not be regulated.

This concept does not alter the intent of the Ordinance. Instead, it clarifies the intent that messages intended to be read from the right-of-way or which draw attention to activities on that property are signs that most affect the public at large and should be counted toward the total sign area.

• OFF-PREMISE ADVERTISING

Presently, off-premise advertising, in the form of any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured or furnished at the property on which the sign is located, is allowed in all industrial zoning districts, up to a maximum of 300 sq. ft. per parcel. Since the total allowable sign area in industrial zones is 300 sq. ft., off-premise structures use the sign area that is (or will be) needed by the on-premise use. Therefore, to alleviate the problem of excessive sign area and to encourage the use of signs to identify a property rather than strictly advertise a product, off-premise advertising will be prohibited throughout the City, irrespective of zoning districts. This section of the sign regulations will be placed in the City Code, Chapter 13, so as to avoid the issue of nonconformity. All off-premise advertising will become illegal 91 days after adoption of the Ordinance and must be removed.

7 772

SUMMARY OF PROPOSED SIGN ORDINANCE
Page 2

• TEMPORARY AND PORTABLE SIGNS

Similar to the existing Ordinance, the new Ordinance prescribes signs which are explicitly "exempted" as well as "prohibited." The regulations regarding these signs have been placed in Chapter 13 of the Code rather than the Zoning Ordinance because they apply to the entire City and not to individual zoning districts. Unless explicitly permitted under the "exempted sign" section of the proposed Ordinance, temporary signs of any nature will not be permitted to extend beyond the exterior wall of any building. Because they are temporary, these signs are not counted toward the accumulative sign area. However, because of potential safety hazards, portable signs which are trailer mounted or otherwise designed to be relocated will be prohibited in any zoning district, regardless of the "exempted sign" section, as is presently done in James City County and Virginia Beach. The reasoning for this prohibition is that it has been determined that this form of advertising is not only unsightly to the community and effectively provides continuous additional sign area over the maximum permitted per lot, but can also be hazardous to the public safety. In many cases, the portable signs are not installed in a manner that meets the safety standards of the building code--they are not securely anchored nor properly wired, resulting in damages from wind-blown signs and electrical hazards.

• SHOPPING CENTERS AND HIGH-RISE BUILDINGS

Under the present Ordinance, shopping centers and high-rise towers (ten stories or more) are allocated sign area only according to their street frontage. The proposed Ordinance recognizes the additional sign area required by these uses and has relaxed the regulations. Shopping centers will now be allowed identification ground signs according to their street frontage and individual store identification signs based on store frontage inside the shopping center. A minimum of 32 sq. ft. per shop will be guaranteed, even if a tenant has less than 32 linear feet of shop frontage. In the case of high-rise buildings, an additional square foot of sign area per linear foot of street frontage will be permitted.

• ADJUSTMENTS IN SIGN REGULATIONS

Presently there are two legislative processes for relief in terms of sign area, and height and placement over the public right-of-way. Special Exceptions and Conditional Use Permits. In order to provide more consistency in the granting of such relief, the proposed Ordinance would make adjustments in the regulations on an administrative matter. The Zoning Administrator would have authority to grant waivers, up to an ordained maximum, when specific criteria were evidenced. The applicant would have the right to appeal the decision of the Zoning Administrator to the Board of Zoning Appeals on the basis of an alleged administrative error. In this circumstance, the complainant(s) would bear the burden of proof of the error before any relief could be provided by the Board.

SUMMARY OF PROPOSED SIGN ORDINANCE
Page 3

• **DISTRICT STANDARDS**

The sign area, height and location standards for the individual zoning districts remain basically unchanged. The major difference is that the proposed Ordinance provides a clarification of the standards by explicit written standards to replace the existing chart and footnote format. It is felt that the old format has been misinterpreted by administrators and property owners and that written standards will alleviate much of the confusion and inconsistency that resulted from the complicated old format.

The regulations proposed in the new Ordinance are intended to provide Newport News with safe, effective signage. The City does not propose to control the copy of signs nor their design, except as this pertains to size and building code requirements.

CITY OF NEWPORT NEWS

August 14, 1984

To: The Honorable City Council
From: City Manager
Subject: Potential Placement of Billboards

In response to a request from Councilman Hogge, the Planning Department has attempted to analyze the impact of varying the spacing requirements for billboards from what is now in the proposed sign ordinance. The results of this analysis may be found on the attached chart. The spacing standards have been applied to existing conditions on both I-64 and the planned I-664 segment to show the differing impact of the various alternatives. In reviewing this information, it is evident that the standard involving the distance from a residential zone is the most important determinant in the number of billboards which may be constructed. I should caution that this information on the potential number of new billboards is not exact at this point since it had to be computed from a large scale map. It also assumes no change in the existing zoning districts which surround the I-64 and I-664 corridors.


Robert T. Williams

RTW:RWH:kds

Attachment

IMPACT OF SPACING ON POTENTIAL BILLBOARD INSTALLATION

<u>Alternatives</u>	<u>Standards</u>	<u>No. of New Billboards I-64</u>	<u>No. of New Billboards I-664</u>
1. Current Ordinance Proposal	<ul style="list-style-type: none"> • 2000' apart • 2000' from residential zone • 500' from interchange 	0*	0**
2. Alternative A	<ul style="list-style-type: none"> • 1000' apart • 2000' from residential zone • 500' from interchange 	0	0
3. Alternative B	<ul style="list-style-type: none"> • 2000' apart • 1000' from residential zone • 500' from interchange 	2	4
4. Alternative C	<ul style="list-style-type: none"> • 1000' apart • 1000' from residential zone - 750' 500' • 500' from interchange 	2	5 6
5. Alternative D	<ul style="list-style-type: none"> • 1000' apart • 500' from residential zone • 500' from interchange 	12	13
6. Alternative E (Similar to Advertising Industry Proposal in 7/84)	<ul style="list-style-type: none"> • 1000' apart • 250' from residential zone • 500' from interchange 	34	24

*Three billboards would be grandfathered under proposed ordinance.

**Billboards prohibited entirely on I-664 under proposed ordinance.

CITY OF NEWPORT NEWS

July 9, 1984

16 1017

To: The Honorable City Council
From: City Clerk
Subject: Portable Signs

A Ms. Wilma Charles of Video and Computer Center, 14501 Warwick Boulevard, called to advise that she didn't think every store should have a portable sign. There should be some restrictions. However, this was an effective and efficient means of advertising for a small business.

Ben Berry
Ben Berry

4. The uses of such buildings or structures shall conform to the regulations of the district in which they are located whenever they are enlarged, extended, reconstructed or structurally altered, except as provided elsewhere in this article.

Sec. 2302. [Repealed by Ordinance No. 1660, § 1.]

Sec. 2303. Reconstruction.

In the event that all or a part of a nonconforming use is destroyed by fire or act of God, the use may be reconstructed providing:

1. Reconstruction be limited to uses destroyed by fire or act of God and shall not exceed the degree of nonconformity which existed prior to such destruction; and
2. All yards, height and other applicable dimensional regulations of the district in which the use is located shall be observed; and
3. Any reconstruction shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded; and
4. Construction shall begin within one year of the date the nonconforming use was destroyed by fire or act of God. (Ord. No. 2236, § 1)

ARTICLE XXIV. SIGN REGULATIONS*

Sec. 2401. Generally.

It shall be the purpose of this article to provide for and regulate the use of outdoor displays in order to clearly index the environment in such a manner as to facilitate an easy,

*Cross reference—Liability insurance for signs overhanging public right-of-way, § 38-23.

safe and pleasant communication between people and their environment. To this purpose it is the intent of these regulations to authorize the use of outdoor displays which are:

1. Compatible with their surroundings.
2. Appropriate to the type of activities to which they pertain.
3. Express the identity of individual proprietors or of the community as a whole.
4. Legible in the circumstances in which they are seen. (Ord. No. 1818, § 1)

Sec. 2402. Definitions.

For the purpose of this article certain words and terms are herewith defined as follows:

1. *Advertising sign*: An outdoor display which:
 - (a) Is located elsewhere than upon the same premises as the profession, business, commodity, service or activity to which such display draws attention; or
 - (b) Any motor vehicle, as defined by state law, which has been altered, painted, or modified as to produce the effect of an outdoor display; provided, however, that trailers are excluded herefrom. This provision is not intended to prevent the painting of a company or business name on a bona fide business vehicle; or
 - (c) Any outdoor display which illustrates or draws attention to a single product not unique to an individual business, profession, or attraction in such a manner so that the space allocated to the illustration or attention to that single product represents fifty (50) percent of the total display area.
2. *Display area*: That portion of an outdoor display countable for determining compliance with district regulations of accumulative display area and defined as the

area of the rectangle, triangle, circle or combinations thereof that will enclose the outdoor display including background. Supports, braces, and other structural elements shall not be included unless they are designed as an integral part of the display for the purpose of illustration or attraction.

8. *Exempted sign:* The following specific outdoor displays shall be exempted from zoning regulations:

- (a) Bulletin boards for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
- (b) Nameplates denoting the name of public or institutional buildings.
- (c) Memorial signs or tablets when cut into a masonry surface or constructed of bronze or other non-combustible material.
- (d) Traffic or other municipal signs, including legal notices, railroad crossing signs, and temporary emergency signs.
- (e) Signs denoting the names of residential developments when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
- (f) Signs denoting the name of the developers of a subdivision or the name of the architect, engineer, or contractor of a tract, building, or structure being developed under construction when erected temporarily. Such signs shall be removed at the completion of said development or construction, and limited to a maximum area of thirty-two (32) square feet.
- (g) Real estate signs advertising the sale of the premises upon which such sign is located provided such

signs are limited to a total area of six (6) square feet for residential properties; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one parcel.

- (h) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- (i) Signs attached to or displayed on public transportation vehicles.
- (j) Political signs located on sites which are used for campaign headquarters for political campaigns shall be exempt from height, area, type and location restrictions that may otherwise apply to the district in which the campaign headquarters is located. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the zoning administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period, only.
- (k) Signs denoting the revivals or other normal activities of bona fide religious organizations when such signs are:
 - (1) Located on the site of such organization.
 - (2) Limited to two (2) signs of not more than thirty-two (32) square feet.
- (l) Signs commonly known as menu boards which are either freestanding or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in

a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one (1) menu board per site.

- (m) Portable real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (i) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - (b) The sign is located only at intersections where a turning movement is indicated.
 - (c) There may be no more than two (2) signs at any one (1) intersection.
 - (d) Express permission has been obtained from all adjacent property owners.
 - (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sunup to sundown.
 - (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
 - (ii) Signs displayed in violation of the provisions of this section shall be confiscated by the city.
 - (iii) Persons causing open house signs to be placed on city rights-of-way shall provide the city with evidence of a five hundred thousand dollar (\$500,000.00) general liability insurance policy with the City named as an additional insured before display of signs may be permitted.

4. *Outdoor display:* A letter, figure, character, mark, plan, point, marquee, sign, design poster, pictorial,

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picture, stroke, strip, line, trade mark, reading matter, or illuminated surface which is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, persons, firm, corporation, public performance, article, machine or merchandise, whatsoever, which shall be displayed in any manner out of doors.

5. *Sign*: An outdoor display attached to or painted on a building, structure or natural geographic feature or in any manner represented on any real or personal property. The following classifications of signs shall be as defined in chapter XXIII of the Building Code for the City of Newport News as amended, except as may be set forth below:*

(a) Spectacular sign.

(b) Ground sign.

(c) Roof sign.

(d) Wall sign.

(e) Projection sign.

(f) Marquee sign.

(g) Shingle sign: A projection or wall sign not over six (6) square feet in area, constructed of metal or other noncombustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.

6. *Temporary signs*: Outdoor displays such as lights, flags, pennants, "A" frames, and other nonpermanent displays intended to call attention to, advertise or promote sales, special events, openings, or similar events. The outdoor display of merchandise shall be considered

*Editor's note—This reference is to the prior building code of the city. For the definition of signs in the current building code, see § 201.0 of the BOCA Basic Building Code, which is adopted by § 13-23 of this Code. Also, see article 14 of the BOCA Basic Building Code.

a temporary sign when such display is intended to advertise or call attention to such merchandise rather than the normal storage of such merchandise as otherwise permitted by this ordinance. Provided, however, that the display of merchandise for advertising purposes shall be permitted in any commercial or manufacturing zoning district when such display is limited to:

- (a) A product normally offered for sale or manufactured by the establishment located on the parcel on which the product is displayed.
- (b) Not more than two (2) of any model, type, size, or uniquely different item of merchandise.
- (c) A total ground area of not more than twenty-five (25) percent of the permitted sign area for that parcel.

The display of motor vehicles or similar items that by reason of size or volume are normally stored on an open lot shall be excluded from any restrictions on display of merchandise for advertising.

There shall be no exemptions from the following requirements:

- (1) One temporary sign per five hundred (500) feet of street frontage shall be permitted in a shopping center, provided however, that there shall be no more than two (2) signs per shopping center and that the signs shall be no less than five hundred (500) feet apart.
- (2) Only one temporary sign shall be permitted per business not located in a shopping center.
- (3) Outside storage of temporary signs shall be allowed in any commercial or industrial zoning district provided, however, that such storage is screened or buffered from general public view. (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2643-80; Ord. No. 2984-82)

Sec. 2403. Relationship to Building Code.

The provisions of this article are intended to supplement the sign regulations of the Building Code of the City of Newport News by specifying the type, size, and location of signs permitted in each zoning district. In the event this ordinance imposes regulations more restricting than said code, the regulations of this ordinance shall prevail. (Ord. No. 1818, § 1)

Cross reference—Building code, § 13-21 et seq.

Sec. 2404. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as part of the national system of interstate and defense highways, no sign shall be erected except in conformance with [title 33,] chapter 7, sections 33.1-351 to 33.1-381, Code of Virginia, entitled "Outdoor Advertising in Sight of Public Highways," notwithstanding that this regulation shall not include any provision of the state law which exempts property located in commercial or industrial zones within the corporate limits of Newport News; and provided further, that all applicable requirements of the sign ordinance are met. (Ord. No. 1818, § 1)

Sec. 2405. Nonconforming outdoor displays.

1. Any permanent outdoor display existing on the effective date of this ordinance and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

- (a) Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this ordinance.
- (b) For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
- (c) No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this ordinance.

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2. Existing trailer-mounted signs licensed at the date of passage of this ordinance may be located within a commercial district of the city, provided that no flashing lights or flashing lighting effect is used. (Ord. No. 1818, § 1; Ord. No. 2134-78)

Sec. 2406. General regulations.

1. *Temporary signs:* Temporary signs, in addition to permanent signs otherwise authorized by this ordinance, are permitted:

- (1) In any residential zoning district when authorized by the board of zoning appeals as a special exception in conformance with the conditions specified in article XXVII of this ordinance, or,
- ✓(2) [In] any commercial or manufacturing zoning district when installed under a permit issued by the sign inspector for the city in compliance with the following conditions:
 - ✓(a) No temporary sign shall be installed, permitted or located on any given parcel of land for more than one hundred eighty (180) days per calendar year.
 - ✓(b) The use of such temporary sign shall be limited to advertising, promoting or calling attention to special events, openings, sales or similar occurrences.
 - ✓(c) The area of such temporary signs shall not exceed twenty-five (25) percent of the allowable sign area for that specific parcel or where merchandise is displayed by a temporary permit the total ground area covered shall not exceed twenty-five (25) percent of the allowable sign area; provided, however, that this provision shall not be applied to reduce the minimum allowable sign area on an individual lot to less than sixty (60) square feet.
 - (d) Pennants, flags, and lights, but excluding flashing lights, shall be authorized by such permit and

shall be excluded from the area restriction when such items carry no written or illustrated advertising copy.

✓(e) Yard and height requirements of the appropriate zoning district shall apply to any temporary sign authorized by this section.

(f) A new sign shall not hereafter be erected, constructed, altered or maintained except as herein provided and until after a permit has been issued in the division of city planning and any required insurance shall have been filed in accordance with section 38-23 of this Code.

✓(g) A violation of any provision of this section shall constitute a class 3 misdemeanor.

2. *Flashing lights:* No outdoor displays utilizing flashing lights or lighting effects simulating motion shall be permitted.

(a) Provided, however, that messages on changing message signs which do not change more frequently than once every ten (10) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.

(b) Provided further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.

3. *Animated displays:* No outdoor display utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical or wind-blown, shall be permitted in any required front yard or building setback area except:

(a) When located in the DB District.

(b) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.

4. *Removal of signs:* All copy and sign structures shall be removed from the premises of vacated businesses within ninety (90) days from the date of vacation. Removal of political signs shall be in accordance with the provisions of this ordinance as set forth in section 2402, subsection 3, subsection (j). (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2541-79; Ord. No. 2716-81)

Sec. 2407. Zoning district regulations.

The height, area, type and location of signs permitted in each zoning district within the city shall be in accordance with the following table:

ZONING DISTRICTS

		R1 R1-A R1-B R1-C	R2-A R2-AM R2-B	R2-C R2-D	C1	C2	C2-A	DB	RD-1	M1 M2
Sign Type	Exempt									
	Temporary (1)									
	Shingle									
	Marquee									
	Projection									
	Wall									
	Roof									
	Ground									
	Advertising									
Spectacular										
Sign Area Permitted (Sq. Ft.) (2)		NA	NA	0.75	0.75	1.00	1.00	1.50	1.00	1.00
Max. Total Area Per Parcel (Sq. Ft.) (6) (7)		12	24	75	150	150	150	100	100	300
Sign Weight (Feet)		6	6	16	16(3)	24(3)	40	40	24	40
Setbacks (Feet) (8)	Front			25	25	25(4)	10(4)	0(5)	25	0
	Side			10	10	5	0	0	10	0

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- (1) When erected in compliance with section 2406 of this ordinance.
 - (2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.
 - (3) Fifty (50) percent increase in height may be granted by board of zoning appeals.
 - (4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.
 - (5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.
 - (6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.
 - (7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:
 - (a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and
 - (b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.
- Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.
- (8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:
 - (a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(Ord. No. 1818, § 1; Ord. No. 2434-78)

ORDINANCE NO. 3211-84

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

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Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

nations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Section 24A04. Relationship to building regulations.

The provisions of this Article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Article imposes regulations more restrictive than said Code, the regulations of this Article shall prevail.

Section 24A05. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as a part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled, "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City sign regulations are met.

Section 24A06. Nonconforming signs.

Any permanent legal sign existing on the effective date of this Article and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

1. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
2. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
3. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Code.

Section 24A07. Zoning district regulations.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

1. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Multi-family residential districts: R2-A, R2-AM.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
3. Multi-family residential districts: R2-B, R2-C, R2-D.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - (c) Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.
4. Commercial zoning districts: C2, C2-A.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
 - (c) For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, shall seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
 - (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Section 24A08.
 - (e) Free-standing identification signs shall maintain the following setbacks:
 - (1) In a C2 district: twenty-five (25) foot front yard and five (5) foot side yard.
 - (2) In a C2-A district: ten (10) foot front yard and zero (0) foot side yard.

- (3) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

5. **Downtown business district: DB.** The purpose of this section is to regulate signage consistent with proposed and existing development within the downtown business district and generally known as Newport Centre in conformity with the provisions of the Newport Centre Urban Design Plan.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of Three hundred (300) square feet of sign area per lot.
- (c) For corner lots with multiple street frontages, the number of signs and sign area shall be determined according to individual street frontages. In no case shall the sign area exceed three hundred (300) square feet per lot.
- (d) There shall be no front or sign yard setbacks required in the DBC sectors. Projecting signs that may extend over the public right-of-way shall be authorized by the Zoning Administrator if the criteria as established in Section 24A08 have been met.
- (e) Wall signs above the first story shall be limited to one building identification sign per parcel except when the combined building frontage exceeds one hundred (100) feet in length, an additional identification sign shall be allowed per one hundred (100) linear feet.
- (f) Ground signs ten (10) square feet or more in area shall be required to have a minimum of five (5) square feet of landscaped ground area at the sign base for every one (1) square foot of sign area. Ground signs of less than ten (10) square feet shall have a minimum of twenty (20) square feet of landscaped ground area. Any courtyard or plaza required under Section 2624 may apply this required open space for this purpose.
- (g) Any ground sign within the DBC sectors shall be limited to twenty-four (24) square feet in sign area and twelve (12) feet in height.
- (h) When projecting signs are limited to two (2) square feet, they are not counted against the total per parcel. Any individual sign over two (2) square feet will be counted toward the total sign allotment in its entirety. A twelve (12) foot clearance shall be maintained from the bottom of the projecting sign to the ground.
- (i) Projecting signs, marquees, and window graphics shall be located below the second floor level and shall not exceed twenty-four (24) feet in height nor in any case extend over five (5) feet into the right-of-way.
- (j) Retail uses adjacent to, with access from, a public courtyard or plaza shall receive a 1:1 ratio of sign area to store frontage.

6. Industrial zoning districts: M1, M2.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
- (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
- (e) There shall be no front or side yard setbacks required in this district.

7. Supplemental sign regulations.

- (a) For commercial high rise buildings of seven (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street; provided such additional area is not constructed as a free-standing sign.
- (b) Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (1) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (2) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
- (c) The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (1) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (2) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

Section 24A08. Adjustments in sign regulations.

The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and

enforce and carry out all provisions of this Article, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

1. **Sign height:** The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

2. **Sign area increases:** The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed fifty percent (50%) of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above fifty percent (50%).

- 3. Signs over public rights-of-way: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-way whenever all of the following conditions are present:

- (a) That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
- (b) That the location, clearance, and construction of the sign are sufficient to insure public safety.
- (c) That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

- 4. Sign area increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in the DBC sectors for increased sign area for building identification signs whenever all of the following conditions are present:

- (a) A permanent visual obstruction exists, such as, but not limited to, adjacent buildings or bridges;
- (b) The sign is oriented to and is primarily intended to be visible to the I-664 right-of-way;
- (c) Such adjustment would be consistent with other businesses in the DBC sectors; and
- (d) Such adjustment would be consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum increase to exceed fifty percent (50%) of the total allowable sign area per lot.

- 5. Sign height increases - DB/Newport Centre: The Zoning Administrator shall authorize an exception in any DBC sector of an increase in ground sign height whenever all of the following conditions are present:

- (a) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges or other factors exist which make the allowable sign height inadequate to permit visibility from the adjoining roadway.

- (b) Consistent with general traffic safety in the general area.

(c) Notwithstanding, said exception shall not authorize a maximum increase to exceed twenty-four (24) feet in height.

Sponsor:

J. H. Hogg

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

James C. Patten
Mayor

Tested:

Bernard D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogg, Rattley, Ritchie, Brown

Nays: None

Excused: Patten

Abstention: Keator (Has financial interest in a sign company)

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,

Plaintiff,

v.

In Chancery No. 14759-FB

CITY OF NEWPORT NEWS,
VIRGINIA, et al.,

Defendants.

STIPULATIONS SUBJECT TO OBJECTION
BY DEFENDANTS AS TO ADMISSIBILITY

Adams Outdoor Advertising ("Adams"), the City of Newport News, Virginia (the "City") and Charles Alexander ("Alexander"), by their respective counsel, have agreed to the following Stipulation of Fact for the purpose of this case only and it will not be binding upon any party hereto in any other proceeding. The City and Alexander, although stipulating to the facts contained herein, have raised an objection to the admissibility of those facts in this case and that objection must be ruled upon prior to admission into evidence of this Stipulation of Fact.

The Newport News Engineering Department's Traffic Engineering Division (the "Traffic Division") was responsible for traffic signals, traffic signs, pavement markings, parking restrictions, street lighting, study of accidents, and related matters in the City. Prior to enactment of the

Ordinance, neither the City Council, the Newport News Planning Commission, the sign ordinance subcommittee, or any other division/department of the City requested input from the Traffic Division regarding need for the Ordinance nor was any study requested or made regarding traffic safety as it related to billboards in the City. The Traffic Division, in conjunction with its study of traffic accidents in the City is not aware of any traffic accidents that have been related to billboards or that have required removal of a billboard in the City.

The Traffic Division is also not aware of any occasion on which one of Adams' billboards has prevented City or State traffic signs from being readable because generally billboards, such as those owned by Adams, are not located in the right-of-way adjacent to a street or highway, which is where traffic signs are normally located.

Alexander, the Assistant Director of Codes Compliance for the City of Newport News states that Adams' billboards are well maintained and he has had no complaints to indicate that they are a traffic hazard. He is also unaware of any data suggesting that billboards have caused traffic accidents or traffic safety problems in the City.

Adams
Adams Outdoor Advertising

Samuel A. Wall
Counsel for City of Newport
News, Virginia, and Charles
Alexander

Stipulation #3
3/16/47
A. J. Jones
1. J. Jones

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V I R G I N I A:

IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,

Plaintiff,

v.

CITY OF NEWPORT NEWS, VIRGINIA,
et al.,

Defendants.

IN CHANCERY NO.
14759-FB

TRANSCRIPT OF TRIAL PROCEEDINGS

Newport News, Virginia

March 16, 1987

Before:

The Honorable Fred W. Bateman, Chief Judge

Appearances:

KAUFMAN & CANOLES

By: HUNTER W. SIMS, JR., ESQUIRE
ALBERT H. POOLE, ESQUIRE
Counsel for the Plaintiff

LEONARD A. WALLIN, II, ESQUIRE
Assistant City Attorney

I N D E X

<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Phillip M. Lomax	15	48	51	--
Robert Macchia	57	--	--	--
Lillian DeVenny	65	--	--	--

E X H I B I T S

<u>Number</u>	<u>Marked</u>	<u>Rec'd.</u>
Plaintiff's Exhibit A	14	14
Plaintiff's Exhibit B	14	14
Plaintiff's Exhibit C	29	29
Plaintiff's Exhibit D	30	37
Plaintiff's Exhibit E	36	36
Plaintiff's Exhibit F	48	48

1 THE CLERK: Chancery number 14759, Adams
2 Outdoor Advertising versus City of Newport News, Virginia
3 and Charles --

4 THE COURT: That's been amended, Mr. Clerk.
5 Notice for that in the file.

6 THE CLERK: And Charles Alexander. Is the
7 Plaintiff ready?

8 MR. SIMS: We're ready, Your Honor.

9 THE CLERK: Are the Defendants ready?

10 MR. WALLIN: We're ready, Your Honor.

11 THE COURT: You wish to make an opening
12 statement?

13 MR. SIMS: Your Honor, I'll make a brief
14 opening statement.

15 THE COURT: Mind telling me who you are, sir?

16 MR. SIMS: Yes, sir. My name is Hunter Sims,
17 and I'm with Kaufman and Canoles, and I, along with Bert
18 Poole, represent the Plaintiff, Adams Outdoor.

19 We have worked out some stipulation of fact
20 with respect to this matter, and, in addition, we desire
21 to put on some evidence. Mr. Poole has worked out the
22 stipulation with the City Attorney's office, and I will
23 defer to him about that.

24 After the evidence is put on, both sides
25 would like an opportunity to file briefs in the matter on

1 a fairly short briefing schedule, if that's agreeable
2 with Your Honor. We could have that brief filed, our
3 opening brief, say, within 15 days I think we could set a
4 schedule up about that, and Mr. Wallin can respond, and
5 we'd like to have an opportunity to do that but we're
6 here today for the presentation of the evidence by
7 stipulation and by oral evidence taken in the matter.

8 Basically the case involves a challenge by
9 Adams to the two ordinances enacted by the city on August
10 14, 1984. Basically the ordinances purport to eliminate
11 off-premises advertising in the City of Newport News not
12 only prospectively with regard to new billboards which
13 would be put up but also the ordinance attempting to
14 eliminate existing billboards without the payment of just
15 compensation.

16 Our view is that the ordinances are illegal
17 and unconstitutional for a number of reasons. Number one,
18 under Metro Media v. City of San Diego, we do not think
19 that the ordinances meet the constitutional test under
20 the first amendment. Specifically Metro Media v.
21 City of San Diego the Supreme Court said that if an
22 ordinance prefers commercial over non-commercial speech
23 then that ordinance violates the first amendment. The
24 Supreme Court of the United States explained in Metro
25 Media that commercial speech does not enjoy as great a

1 degree of protection as non-commercial speech under the
2 first amendment although commercial speech does enjoy
3 some degree of protection, but because commercial speech
4 does not enjoy as high a degree of protection as
5 non-commercial speech an ordinance cannot prefer
6 commercial over non-commercial speech. For that reason
7 the ordinance in the City of San Diego, Metro Media case
8 was struck down as unconstitutional in violation of the
9 first amendment.

10 We feel that we have the same situation in
11 the Newport News ordinance, that it, in some
12 circumstances, prefers commercial speech over
13 non-commercial speech. Secondly, we say that the statute --

14 THE COURT: Doesn't it in fact prefer to
15 have no speech, that is, either commercial or
16 non-commercial? In other words, aren't they -- their
17 motives directed towards elimination of the sign
18 regardless of what it has on it?

19 MR. SIMS: Well, it's not content specific,
20 that's correct, but it eliminates commercial and
21 non-commercial, you're correct, but where it violates
22 Metro Media is in the exceptions. If you look at the
23 exceptions, the exceptions allow some commercial speech
24 and in that instance, in those exceptions, it prefers
25 commercial speech over non-commercial speech and,

1 therefore, violates Metro Media v. City of San Diego.

2 That's exactly the same problem pointed out by the
3 Supreme Court of the United States in Metro Media, that,
4 because of the exceptions, some commercial speech is
5 preferred.

6 Now, we also say that this is not a proper
7 use of police power to eliminate these signs. Thirdly,
8 we say that the city's attempt to eliminate the signs
9 without just compensation is a taking of private property
10 without just compensation cannot be done under the Fifth
11 Amendment. Additionally, we say that under 15.1-486 of
12 the Code of Virginia, the enabling statute, this is
13 clearly a zoning statute, and under 15.1-495, the
14 existing signs are grandfathered and the city cannot
15 eliminate these signs, all of which were erected prior to
16 the passage of the ordinance and all in accordance with
17 all rules, regulations, laws, and other ordinances. They
18 cannot eliminate these because of the grandfather status
19 unless they pay just compensation.

20 THE COURT: How long do you think you could
21 keep the signs up under your theory of the case, in
22 infinitum?

23 MR. SIMS: Under the grandfather statute, I
24 think they can be kept up until they fall into a state of
25 disrepair, and I think the grandfather statutes say you

1 can do maintenance but you can't do more than 50 percent
2 is the way most of the grandfather statutes work. I
3 think they come under the grandfather statute, and
4 whatever they would provide as far as how long the
5 existing signs can remain would control.

6 THE COURT: All right.

7 MR. SIMS: But that's basically the case,
8 Your Honor, and, after Mr. Wallin gives his opening, Mr.
9 Poole, I think, can explain the stipulations along with
10 Mr. Wallin, and then we will present our testimony.

11 THE COURT: All right. Thank you, Mr. Sims.
12 Mr. Wallin, you wish to address the Court?

13 MR. WALLIN: Yes, sir. Our theory, of
14 course, Your Honor, because the Plaintiff in this case
15 asks for a declaration that certain ordinances affecting
16 the display of signs within the City of Newport News are
17 unlawful, the city's position is actually fairly simple
18 and basic. It essentially is that ordinances or laws
19 adopted by local legislative body are presumptively
20 constitutional and lawful, and it is the city's position
21 no evidence that will be presented today will cause the
22 Court to question that presumptive constitutionality or
23 legality under any of the separate counts that have been
24 listed by the Plaintiffs in this case.

25 We, of course, don't believe that there is

1 any preference given to non-commercial over commercial --
2 commercial over non-commercial speech. We think that the
3 err in approaching this case, one of them is the
4 assumption the only way to regulate signs is through a
5 zoning ordinance. We think that is not the case and,
6 therefore, the arguments related to zoning issues will
7 fail before the Court because we believe that there is a
8 lawful and constitutional mechanism to regulate signs
9 outside of the zoning ordinance.

10 We think we can establish for the Court
11 there is no compensation issue at all so that the bottom
12 line position of the city is that none of these counts,
13 when considered in light of the evidence that will be
14 before the Court in terms of the stipulation or the oral
15 evidence that will be presented today, will establish
16 that there's any constitutional problem of any magnitude
17 with the ordinances that have been adopted by City
18 Council.

19 THE COURT: All right. Thank you, sir.
20 With respect to the stipulation, have you put that in
21 writing or do you want to simply dictate it to the court
22 reporter?

23 MR. POOLE: Your Honor, we have put the
24 stipulation of facts in writing, and it has various
25 exhibits attached thereto. In fact, we have a

1 stipulation of facts with attached exhibits. We have a
2 stipulation as to admissibility of those documents, and
3 then we have a third matter that's also in writing which
4 is a stipulation of facts to which the city desires to
5 put forth an objection as to admissibility, so we've got
6 it all covered from various directions, Your Honor.

7 THE COURT: You're Mr. Poole, I take it?

8 MR. POOLE: That's correct, Your Honor.

9 THE COURT: Mr. Poole, how do you wish to
10 get that in the record? The undisputed stipulations, I
11 assume, you could simply lodge with the clerk right now,
12 and --

13 MR. POOLE: I would like to do that.

14 THE COURT: The Court would direct they be
15 made part of the record, and a stipulation agreed to by
16 the parties, and then you can take the disputed one up
17 during the course of your -- or put your evidence on
18 first, if you wish, and then take up the stipulation, the
19 one which you are not agreed on. I don't know how you
20 wish to handle that.

21 Mr. Sims, I guess you're in charge of your
22 case. Do you wish to put on any evidence first or do you
23 wish to put on the evidence with respect to stipulation?

24 MR. SIMS: Your Honor, what we would like to
25 do, we have a stipulation with regard to what was

1 presented to city council for its consideration, and I
2 believe that comes in without any objection. Then we
3 have another stipulation of facts without objection.
4 Then what we have in dispute is a stipulation of certain
5 facts which are not in dispute but the admissibility of
6 those facts is in dispute, and what we would like to do
7 is present --

8 THE COURT: That isn't much of a stipulation,
9 is it? I mean, you have to be either vow you stipulate
10 certain things exist. If you don't agree, then you put
11 your evidence on and note your appropriate exceptions to
12 it. Now, maybe you can prepare a memorandum that you
13 feel that X, Y, Z evidence is admissible. You object to
14 it, and the Court will rule on it as it would any
15 objections that are made. I don't think you ought to
16 call it a stipulation.

17 MR. WALLIN: Perhaps we named it improperly,
18 Your Honor, but the essence we discussed over the last
19 couple of weeks is that one way or the other I believe
20 that the Plaintiff in this case would attempt, if you
21 denied it on admissibility grounds, to proffer that
22 evidence and make it a part of the record, and there's no
23 question about the information that's contained in that
24 document and its accuracy.

25 THE COURT: If you agree to the contentions

1 that Mr. Sims is making, and you simply object to it, if
2 you put that in writing, I will take it -- I will assume
3 you're not going to ask for a decision on this today, and
4 the Court probably would not, even after hearing the
5 evidence -- the Court can make a determination as it goes
6 along whether that's admissible. If you got it all
7 written up, fine.

8 MR. WALLIN: I do not have a written motion
9 but I can make that a part of the writings that we do
10 subsequent to today.

11 THE COURT: All right. That will be fine.
12 Then, in that case, Mr. Sims, go ahead and call your
13 witnesses and have them sworn and we'll hear your
14 evidence.

15 MR. SIMS: Your Honor, before I do that --

16 THE COURT: What do you wish to do?

17 MR. SIMS: What I would like to do is
18 present to the Court, for filing, the three documents.
19 The first is a stipulation as to admissible documents
20 which has been signed by counsel, and the stipulation is
21 written out. The documents are attached.

22 THE COURT: The Court will accept the
23 stipulation.

24 MR. SIMS: The second is the stipulation of
25 fact. These are the facts to which there is no objection

1 entitled --

2 THE COURT: Stipulation as to fact.

3 MR. SIMS: The third is stipulation subject
4 to objection by Defendants as to admissibility which sets
5 forth the facts and sets forth the city agrees they are
6 the facts but preserves --

7 THE COURT: Let's call that evidentiary
8 dispute.

9 MR. SIMS: We've labeled it stipulation
10 subject to objection by Defendants as to admissibility.

11 THE COURT: Add on that evidence in
12 evidentiary dispute.

13 MR. SIMS: Your Honor, the two ordinances in
14 question, which are described in the stipulations, I
15 would also put in.

16 THE COURT: The Court will take judicial
17 notice of those. I assume you're talking about Section
18 13 -- Section 13-336 and those sections pertinent
19 following thereto of the Newport News City Code of which
20 you're talking about. If so, I can take judicial notice
21 of those.

22 MR. SIMS: Yes, sir. We have no problem
23 with the Court taking judicial notice of that. The only
24 reason we put them in, there are some laws at that point
25 in time says you couldn't take judicial notice of city

1 ordinances but, if the city has no objection, we would
2 proffer them.

3 THE COURT: I think that's been changed but
4 you handle that anyway you want to. It's not going to
5 hurt anything to doubly emerse it.

6 MR. SIMS: Well, overkill is the bane of
7 trial lawyers' existence, I'm afraid. Additionally, we
8 have --

9 THE COURT: For the record, I will accept
10 that. You can mark it as Exhibit A and B. Have you
11 observed it, Mr. Wallin, and have no objection?

12 MR. WALLIN: I have no objection.

13 THE COURT: As a correct copy of the
14 ordinance? If you have not otherwise marked exhibits,
15 Mr. Clerk, mark that beginning either numerically,
16 alphabetically, and mark them in sequence.

17 MR. SIMS: Your Honor, also, we would feel
18 that the record should reflect the old sign regulation be
19 put into the record as well which I have here.

20 THE COURT: If there's no objection, the old --

21 MR. WALLIN: There is none.

22 THE COURT: The old regulation will be
23 marked as exhibit whatever, the next one in sequence.

24 (Plaintiff's Exhibit A was marked
25 and received in evidence.)

1 MR. SIMS: And then the other one is just
2 the current ordinance.

3 THE COURT: That was the typewritten
4 ordinance printed in the Code?

5 MR. SIMS: Yes, sir.

6 (Plaintiff's Exhibit B was marked
7 and received in evidence.)

8 THE COURT: That will be marked as the next
9 exhibit in sequence there being no objection by the City
10 Attorney.

11 MR. SIMS: Just so that I understand, on the
12 stipulation subject to objection for admissibility by the
13 city, I think we agreed it's not necessary to put these
14 facts on by testimony. These would be the facts if you
15 ruled that this was admissible and, if not, then we would --

16 THE COURT: I understand the City Attorney
17 agrees those are the facts but disputes they are
18 admissible.

19 MR. WALLIN: Yes, sir.

20 MR. SIMS: Exactly.

21 THE COURT: We're taking it as an
22 evidenciary dispute, and I would consider it just as if a
23 witness has testified to that before the Court and that
24 Mr. Wallin made an objection.

25 Anything further?

1 MR. SIMS: I'm ready to start the evidence.
2 There's one thing --

3 THE COURT: Let's call your witnesses and
4 have them sworn.

5 MR. SIMS: Mr. Lomax. Your Honor, if you'll
6 indulge me for one minute, we've got a map.

7 THE COURT: You may continue.

8
9 PHILLIP M. LOMAX,
10 called as a witness, having been
11 first duly sworn, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SIMS:

15 Q. State your name for the record, sir.

16 A. Phillip M. Lomax.

17 Q. And where do you reside, Mr. Lomax?

18 A. 453 Woodards Ford Road in the City of
19 Chesapeake.

20 Q. How are you employed?

21 A. I'm president/general manager of Adams
22 Outdoor Advertising.

23 Q. And what is the business of Adams Outdoor
24 Advertising?

25 A. We are in the outdoor advertising business.

1 THE COURT: What was the name of your
2 company, sir?

3 THE WITNESS: Adams Outdoor.

4 BY MR. SIMS:

5 Q. And, basically, does that consist of
6 off-premises billboard signs?

7 A. That's correct.

8 Q. How long have you been in the outdoor
9 advertising business?

10 A. Almost 16 years.

11 Q. And how old are you?

12 A. Forty-three.

13 Q. Would you tell us your experience, training,
14 and background in outdoor advertising?

15 A. I began in 1971 with Turner Advertising.
16 Spent two and a half years with them, and then I spent
17 approximately 13 years with Creative Displays, and then a
18 little over a year ago came with Adams Outdoor through
19 acquisition.

20 Q. Was Turner in the outdoor advertising
21 business?

22 A. Yes.

23 Q. What did you do with them specifically?

24 A. I was basically in sales and leasing.

25 Q. You would sell space, and what would you do

1 with leasing?

2 A. Also acquired leases for site leases, for
3 billboards.

4 Q. And, after you were with Turner, what did
5 you do with Creative?

6 A. Started with them in sales, and after a year
7 became assistant manager with them, and then three years
8 after that became general manager of Covington, Kentucky
9 and moved to that market in 1978.

10 Q. And, after that, what did you do?

11 A. In 1983 I came back to the Tidewater area as
12 general manager of Creative Displays of Norfolk and
13 stayed in that capacity for two years until we sold the
14 market in January of 1986.

15 Q. To whom?

16 A. To Adams.

17 Q. And what do you do with Adams?

18 A. I'm president and general manager of Adams.

19 Q. As general manager, both with Creative and
20 Adams, and also with Turner, what were your exact duties?

21 A. To oversee all the aspects of the business:
22 Sales, leasing, instruction, totally oversee the entire
23 thing.

24 Q. And have you received any special training,
25 gone to seminars or any such educational programs for

1 outdoor advertising?

2 A. Yes. Almost 16 years I've been in the
3 business I've been to numerous sales meetings, seminars,
4 conventions, number of different things, state
5 association meetings.

6 Q. And what was the subject matter of those
7 seminars and meetings and sessions?

8 A. Generally outdoor advertising.

9 Q. All aspects of it?

10 A. Yes.

11 Q. Are you a member of any local, state or
12 national trade organization?

13 A. Yes. Adams Outdoor Advertising belongs to
14 the Outdoor Advertising Association of the State of
15 Virginia. We also are members of the OAAA, which is the
16 Outdoor Advertising Association of America, and also the
17 National Institute of Outdoor Advertising.

18 Q. When you were with Creative Displays before
19 it was bought out by Adams, did Creative do business in
20 the City of Newport News, Virginia?

21 A. Yes.

22 Q. Describe what that business was.

23 A. We were in the outdoor advertising which
24 consists of selling advertising space on structures that
25 we own. Some of those structures are located on property

1 that we own. Other structures are located on land that
2 we lease. It involves selling commercial advertising
3 plus, from time to time, displaying non-commercial in the
4 form of public service ads for the community.

5 Q. Is non-commercial advertising sold from time
6 to time?

7 A. Yes. From time to time it is.

8 Q. Now --

9 THE COURT: What would you consider
10 non-commercial?

11 THE WITNESS: Something such as the Red
12 Cross, Mothers Against Drunk Drivers, Statue of Liberty
13 Fund. We do a lot of national public service. Food
14 Stamps.

15 THE COURT: You don't think those are
16 commercial? I assume you don't. Go ahead.

17 BY MR. SIMS:

18 Q. Let's go back for a minute now. You said
19 the structures were on land. How does Adams and how did
20 Creative, before Adams, obtain the land to place a
21 structure on?

22 A. The process is to first acquire a lease with
23 a landowner and then to go through the proper channels
24 with the city and the state, when we're located on an
25 artery that is controlled by the state, to get the proper

1 permits from the city or the state or both, and then,
2 after we have the proper building permits, to erect the
3 structure.

4 Q. Now, tell us about how -- how many
5 structures are there in Newport News?

6 A. Forty.

7 Q. And how many faces are there on each
8 structure?

9 A. Some structures have one. Others have two.
10 There's a total of, I believe, 55 faces.

11 Q. So some structures could have just one face
12 or sign on it, and some structures could have two or more;
13 is that correct?

14 A. That's correct.

15 Q. Now, were these structure permits and et
16 cetera obtained for these structures prior to August 14,
17 1984 when the new ordinances were established?

18 A. Yes.

19 Q. And would you describe the structures to the
20 Court?

21 A. A standardized structure such as that you
22 will see in the City of Newport News is 12 by 25 feet in
23 size. They are built in two different ways. One, the
24 older method, is on I beams using 10 or 12 inch I beams.
25 The newer method we've used in recent years is with the

1 single pole, what we call uni-pole structure, which only
2 has one upright to it. Most of them are -- depending on
3 the height of them, what have you, depends upon how much
4 of a foundation you have to have but generally they go
5 about five or six to eight feet in the ground. Then the
6 concrete is poured in right around the beam or the
7 upright.

8 Q. In the ground?

9 A. Yes.

10 Q. Concrete's in the ground?

11 A. Right. Exactly. And then, of course, the
12 structure is built from the beams or the single pole,
13 whichever may be the case, you know, above the ground.

14 Q. You said 12 to 15 inch I beams. Do you mean
15 in width?

16 A. Yes. Uh-huh.

17 Q. How many I beams are typically found in a
18 sign which has I beams as opposed to a single pole?

19 A. Two.

20 Q. Now, how wide is the single pole type sign,
21 the pole itself?

22 A. It's generally about -- I think it's about
23 24 inches, about two feet in diameter.

24 THE COURT: Can you tell me where one of
25 those signs are located?

1 THE WITNESS: The single pole? We have
2 one on Denbigh Boulevard there where Denbigh Boulevard
3 crosses over I-64. Then we have a couple up in the Lee
4 Hall area. There's one at the traffic circle of
5 Jefferson/Mercury right there where the traffic cricle
6 was reconstructed. There's one there.

7 THE COURT: Is that over on the side that
8 Phillips is?

9 THE WITNESS: Yes, sir.

10 THE COURT: Go ahead, sir.

11 BY MR. SIMS:

12 Q. You said the single pole or I beams are sunk
13 five to six feet in the ground and then surrounded by
14 concrete in the ground; is that correct?

15 A. Yes.

16 Q. How far do the poles, single pole or I beams,
17 go?

18 A. Depending upon, you know, what the ordinance
19 was at the time they were built, generally I think the
20 height now is 24 feet. There's one structure I can think
21 of that's higher but I think was built prior to the
22 existing ordinance.

23 Q. Once you have either the single pole or the
24 I beams up, how do you form the rest of the structure?

25 A. That's done with what we call stringers

1 where the stringer is put between two I beams and then
2 the face of the sign is actually hung right on the
3 stringers themselves.

4 Q. The stringers, then, would be horizontal
5 metal beams?

6 A. That's correct.

7 Q. And how wide are they, approximately?

8 A. Two to three inches.

9 Q. And how many stringers would typically be on
10 one structure?

11 A. Two.

12 Q. And then a face is placed on the stringers?

13 A. Right.

14 Q. What is the face made of?

15 A. Metal.

16 Q. And then is something placed on the face?

17 A. Yes. When the advertising is displayed,
18 it's either posted or painted on the face of the sign.

19 Q. If we painted would be, what, to have an
20 artist actually paint the sign?

21 A. Yes, sir. Sign painter would do that.

22 Q. If it's posted, how is that done?

23 A. It's put up basically the same way
24 wallpaper is. It's posted in sheets.

25 Q. If the -- what happens if the advertisement

1 is changed?

2 A. It's either -- the existing copy is either
3 painted over or posted over. In other words, you can
4 post directly over an old poster up to about five or six
5 times and then the face of the sign has to be scraped
6 down to bare metal again to keep it looking good.

7 Q. Are any of Adams' signs located in any
8 public right-of-way?

9 A. No.

10 Q. Do any of them block any traffic signs, the
11 view of any intersection from the roadway?

12 A. No.

13 Q. Are any of the signs lit in anyway?

14 A. Yes. The majority of them are illuminated
15 either by overhead lighting or underneath lighting. If
16 it's overhead, it's of the florescent type which is
17 oriented to shine directly onto the face of the sign.
18 The underneath lighting, which has been used as the
19 halogen type lighting, which is from the bottom, which
20 shines directly up onto the face of the sign.

21 Q. Do any of your signs have light directed
22 anywhere other than at the sign itself?

23 A. No.

24 Q. Do any of the signs have any light directed
25 toward any roadway?

1 A. No.

2 Q. The way you described the signs, I take it
3 they are fixed structures; is that correct?

4 A. That's correct.

5 Q. Do any of your structures have flashing
6 lights or any of them animated or moving in anyway?

7 A. No.

8 Q. Generally, when a message is placed on the
9 structure, how is that message designed with regard to
10 what I would call readability?

11 A. We try -- and our business is best to keep
12 the wordage to a minimum for readability. Our suggestion
13 is five to seven words. Obviously there are some
14 advertisers who end up with eight or nine or maybe 10 but
15 we try to encourage them to use a minimum amount of
16 wordage on a billboard.

17 Q. Why is that?

18 A. For readability and legibility of it so that
19 it can be seen just in a glance.

20 Q. Are you looking for any time frame under
21 which one of your signs can be read?

22 A. One to two seconds.

23 Q. And why is that?

24 THE COURT: 55 mile speed limit.

25 Go ahead.

1 THE WITNESS: Yes, sir.

2 BY MR. SIMS:

3 Q. Now, I believe you said earlier that you
4 either sell or donate the space to advertisers for fixed
5 periods of time; is that correct?

6 A. That's correct.

7 Q. I take it one of the reasons you change a
8 copy is when somebody's time has been used up for
9 whatever time they've bought the space; is that correct?

10 A. That's correct.

11 Q. Now, do you sell space for commercial
12 purposes?

13 A. Yes.

14 Q. Do you sell space for non-commercial
15 purposes?

16 A. Yes.

17 Q. Do you donate any space?

18 A. Yes.

19 Q. For what purposes?

20 A. The donated space is generally for public
21 service, for non-commercial type of a message.

22 Q. I now am going to show you two groups of
23 photographs that has already been viewed by the City
24 Attorney's office.

25 MR. SIMS: I would like to, for simplicity,

1 mark, as a package, as two different exhibits, one group
2 of photographs as a package as one exhibit and then
3 another group of photographs as a package as a second
4 exhibit.

5 THE COURT: Show him the first one, and
6 identify that, and I'll admit it, and show him the second,
7 and identify that.

8 BY MR. SIMS:

9 Q. I show you one stack of photographs and ask
10 you to look through that.

11 A. (Witness complied.)

12 Q. Have you had an opportunity to review the
13 first package?

14 A. Yes.

15 Q. And do you recognize those photographs?

16 A. Yes.

17 Q. Who took those photographs?

18 A. I did.

19 Q. And what are they photographs of?

20 A. With the exception of two of them, all of
21 them are what's considered on-premise signs.

22 Q. In what city?

23 A. In the City of Newport News.

24 Q. And you said you took the photographs; is
25 that correct?

1 there being no objection.

2 THE CLERK: Plaintiff's C.

3 (Plaintiff's Exhibit C was marked
4 and received in evidence.)

5 THE COURT: See he gets the first two in
6 order, Mr. Sims.

7 MR. SIMS: Yes, sir. The first two on the
8 top depicting the off-premises sign.

9 THE COURT: Staple them together and mark
10 them as one exhibit.

11 MR. SIMS: Your Honor, a staple won't do it,
12 so we're putting a big alligator clip on it. This has
13 been marked Exhibit C; is that correct?

14 THE CLERK: Yes.

15 BY MR. SIMS:

16 Q. Now, Mr. Lomax, with the exception of the
17 top two signs, what was the purpose of photographing the
18 remaining signs?

19 A. To show the number of existing on-premise
20 signs in the city.

21 Q. On-premise -- just examples of them?

22 A. Yes.

23 Q. And was a count of certain on-premises
24 commercial signs undertaken by Adams, under your
25 direction, in certain portions of the City of Newport

1 News?

2 A. Yes.

3 Q. Would you tell us the result of that?

4 A. We, employees of our company, in the lease
5 department counted the signs on the five major arteries
6 of the City of Newport News, those arteries being
7 Jefferson Avenue, Warwick Boulevard, Mercury Boulevard,
8 J. Clyde Morris Boulevard, and Denbigh Boulevard. We
9 have a -- do you want it by streets?

10 Q. Yes, sir. Let me ask you this: Referring
11 now to the large map we have which we can call
12 Plaintiff's Exhibit D, are you familiar with this map?

13 A. Yes.

14 (Plaintiff's Exhibit D was
15 marked.)

16 BY MR. SIMS:

17 Q. What is it a map of?

18 A. The City of Newport News. It's an actual
19 zoning map of the city.

20 Q. Showing the various zoning areas?

21 A. Correct.

22 Q. And have you or anyone else made any marks
23 on this map?

24 A. Yes, I have.

25 Q. And what does the yellow designate?

1 A. The yellow shows the streets where we
2 counted the signs on five main arteries.

3 Q. Would you tell us, now, what number of
4 on-premises commercial signs were counted on the various
5 streets designated in the yellow?

6 A. On Jefferson Avenue itself, which we counted
7 19 miles of signs, there was a total of 1,154 on-premise
8 signs. On Warwick Boulevard, which was the same length,
9 19 miles, we counted a total of 1,215 signs. On Mercury
10 Boulevard, which was three-tenths of a mile in the City
11 of Newport News, we counted 47 signs, on-premise signs.
12 On J. Clyde Morris Boulevard, which was for three miles,
13 we counted 229 signs, on-premise signs.

14 THE COURT: How many?

15 THE WITNESS: 229. On Denbigh Boulevard,
16 for five miles on Denbigh Boulevard, we counted 176
17 on-premise signs. The total of these five arteries is
18 2,821 on-premise signs in the City of Newport News.

19 BY MR. SIMS:

20 Q. Were these commercial signs?

21 A. Yes.

22 Q. Now, did you undertake to count any other
23 signs in the city other than the ones you've told us
24 about?

25 A. No. We just took those five arteries.

1 Q. Does the yellow indicate the portions of the
2 thoroughfares you've described where the signs were
3 counted?

4 A. Yes.

5 Q. So there are portions on, say, Warwick
6 Boulevard you didn't count, and that's not marked in
7 yellow; is that correct?

8 A. No. Warwick Boulevard we counted from the
9 very beginning downtown all the way to the north end.

10 Q. I picked the wrong example. What I'm trying
11 to make sure for the record is, when you marked, in
12 yellow, a certain thoroughfare, did you mark the entire
13 thoroughfare whether you counted a portion of it or not
14 or only the portion counted?

15 A. Just the portion that was counted.

16 Q. Now, I notice there are also some red dots
17 on Exhibit D. Would you describe to us what those are?

18 A. Those red dots indicate the outdoor
19 advertising structures that we own in the City of Newport
20 News.

21 Q. And are the dots located at the places where
22 the signs are in fact located?

23 A. Yes, sir.

24 Q. Are these the signs that you had previously
25 told us, the 40 structures and 58 faces?

1 A. That's correct.

2 THE COURT: You use the word own. Are you
3 using that in the context with lease? You own the land
4 on which the signs are or you simply own the signs?

5 THE WITNESS: In all cases we own the
6 structure itself. In two cases, I believe, we own the
7 actual property.

8 THE COURT: Primarily the property was zoned
9 to someone else and you lease it?

10 THE WITNESS: That's correct. We lease it.

11 THE COURT: When you use the word own, you
12 mean you own the sign?

13 THE WITNESS: Yes, sir.

14 THE COURT: Go ahead, sir.

15 BY MR. SIMS:

16 Q. Now, I take it, as a good businessman,
17 you're familiar with your competition, the other people
18 who have an outdoor advertising business of off-premises
19 signs in the City of Newport News; is that correct?

20 A. Yes.

21 Q. How many other outdoor off-premises signs
22 are there other than the ones owned by Adams?

23 A. There's three.

24 Q. How many faces on those three structures?
25 Do you know?

1 A. Six.

2 Q. Now, referring you back to Exhibit C depicting
3 the commercial on-premises signs, are they photographs of
4 all the signs that you counted or just a random sample of
5 some of the signs?

6 A. This is just a random sample.

7 Q. Now, you previously told us about the
8 readability of your signs. What is the readability of
9 the on-premises commercial signs depicted in Exhibit C?

10 A. Because of so many shapes and sizes and
11 configurations, some of them are very difficult to read.
12 Our business being a standardized business, you know, we
13 have one size basically, and when you've got something
14 such as commercial signs, on-premise signs, of different
15 shapes and sizes, what have you, it makes it very, very
16 difficult to read.

17 Q. Is the size of the letters on the message in
18 any standard size on the on-premises commercial signs?

19 A. There's no standard size. There's many,
20 many different combinations but, the biggest part,
21 they're smaller because of the type of sign. The smaller --
22 you'll see through this or some signs may advertise as
23 many as 14 different businesses on one on-premise
24 commercial sign.

25 Q. In those on-premises commercial signs, does

1 there appear to be any standardization of the number of
2 words per sign?

3 A. No.

4 Q. What is the readability of those on-premises
5 commercial signs?

6 A. Some of them, when you've got something, say,
7 such as a 7-Eleven, it's very visible because you
8 recognize it, but others of them are where you have maybe
9 a combination of businesses on one sign makes it very,
10 very difficult, to, you know, read the business just
11 because of the number of businesses advertised on it.

12 Q. Let's go back for a minute to Adams' signs.
13 Is there any program of maintenance and inspection by
14 Adams of its signs?

15 A. Most definitely. We have a -- we have one
16 man who does nothing but rider illumination, checking for
17 lights being off every night. He rides the entire market
18 within a week's time. Then we also have bill posters who
19 go out and post the signs, so they are seeing them at
20 least once a month, but there is a check on all of them
21 from time to time by all of our personnel.

22 Q. Are they maintained in good condition, and
23 are they structurally sound?

24 A. Yes.

25 Q. Has Adams and Creative, prior thereto, ever

1 received any complaints concerning the signs causing any
2 accidents, traffic safety problems?

3 A. No, sir.

4 Q. Other than to change the copy, have any of
5 these structures changed at all from before the
6 ordinances were passed on August 14, 1984 and after the
7 ordinances were passed?

8 A. No. Nothing other than just general
9 maintenance itself.

10 Q. I now show you a package of photographs and
11 ask you to inspect those and see if you recognize them.

12 A. (Witness complied.)

13 Q. Do you recognize that package?

14 A. Yes.

15 Q. Who took those photographs?

16 A. Our lease representative, man named Mike
17 Drewry.

18 Q. Do you recognize the photographs as being
19 accurate photographs of Adams' signs?

20 A. Yes.

21 Q. In the City of Newport News?

22 A. Yes.

23 MR. SIMS: Exhibit E, Your Honor.

24 (Plaintiff's Exhibit E was marked
25 and received in evidence.)

1 BY MR. SIMS:

2 Q. When were they taken, Mr. Lomax?

3 A. They were taken one day last week. Tuesday,
4 I think, the 14th.

5 THE COURT: The 10th.

6 MR. SIMS: The 10th. Before I forget, Your
7 Honor, I would move for admission of Exhibit D which is
8 the large map.

9 THE COURT: If there's no objection, will be
10 admitted.

11 (Plaintiff's Exhibit D was
12 received in evidence.)

13 BY MR. SIMS:

14 Q. With regard to Exhibit D, do they depict
15 typical signs of Adams of basically non-commercial
16 advertising?

17 A. Yes.

18 Q. And would those non-commercial
19 advertisements be the same or very similar to ones prior
20 to the enactment of these ordinances in August of 1984?

21 A. Very similar, yes.

22 Q. Now, going back just for one second, the
23 Exhibit C --

24 MR. SIMS: Your Honor, I misspoke. I think
25 the map is Exhibit D. I referred to it as C.

1 THE COURT: Change that, court reporter, to
2 Exhibit D instead of C, the map as exhibit.

3 BY MR. SIMS:

4 Q. The package of photographs of on-premise
5 commercial signs, would they be typical of on-premise
6 commercial signs in the City of Newport News prior to the
7 enactment of ordinances in August of 1984?

8 A. Yes.

9 Q. Now, would you describe to us the
10 photographs and package E, Exhibit E?

11 A. These signs are all of public service, what
12 we consider public service type accounts. One category
13 here is the Statue of Liberty. Another one is for Food
14 Stamps. Another one is for seatbelts, and the fourth one
15 in here that's different is the Girl Scout cookies.

16 Q. Do you charge for that particular type of
17 advertising?

18 A. Only occasionally. We charge a posting fee,
19 a very minimal fee. Occasionally, when funds are not
20 available, we will waive that fee.

21 Q. Of those signs you've just described to us
22 in the Exhibit E, was there any charge for any of those?

23 A. No.

24 Q. Now, would you describe for us some other
25 typical non-commercial signs that have been donated and

1 erected by Adams Outdoor or its successor, predecessor,
2 Creative Displays from time to time both prior to and
3 subject to the passing of these ordinances?

4 A. We have donated such things as to the Red
5 Cross.

6 Q. For what?

7 A. For blood banks, for blood drives, any
8 number of different things that the Red Cross, you know,
9 promotes.

10 Q. Would that typically be a sign which says
11 Red Cross needs blood, give at the blood bank at another
12 location other than where the sign is?

13 A. Yes.

14 Q. What else?

15 A. The Leukemia Foundation. We've done some of
16 that over the years for cancer drives.

17 Q. How about POWs and MIAs?

18 A. Yes.

19 Q. United Way?

20 A. Yes.

21 Q. Mothers Against Drunk Driving?

22 A. Yes.

23 Q. Have you done anything with U. S. Savings
24 Bonds?

25 A. Yes.

1 Q. What do they typically say?

2 A. Just promoting purchase of U. S. Savings
3 Bonds.

4 Q. At a location other than where the sign is?

5 A. Yes.

6 Q. Now, how about anti-drug campaigns?

7 A. Yes.

8 Q. Would they be other similar non-commercial
9 uses for the signs?

10 A. Yes.

11 Q. Now, from time to time have the signs been
12 used for conveying political messages?

13 A. Yes.

14 Q. Would these be for candidates' headquarters
15 or sites at the site of the sign or at some other site?

16 A. Some other place.

17 THE COURT: You're out of the free category
18 now.

19 THE WITNESS: Yes, sir.

20 THE COURT: Go ahead.

21 BY MR. SIMS:

22 Q. Have any members of the City Council of the
23 City of Newport News availed themselves of these signs,
24 your signs, for political advertisement?

25 A. Over the years, yes.

1 Q. Can you think of any who are now on council
2 or who were at the time this ordinance was passed?

3 A. If I'm not mistaken, and this may have been
4 before I returned from Kentucky in '83, but I believe
5 Major Richard used some signs.

6 THE COURT: Did he vote against you on this
7 ordinance?

8 MR. SIMS: I think it was unanimous, Your
9 Honor.

10 THE COURT: That's what I was thinking. Go
11 ahead. He's not your friend, though?

12 BY MR. SIMS:

13 Q. Prior to and subsequent to the passage of
14 the ordinances, were the messages at all times lawful and
15 not misleading?

16 A. Yes.

17 Q. And at anytime were the messages lewd or
18 profane or vulgar?

19 A. No.

20 Q. Once this ordinance was passed, what, if any,
21 action did the City of Newport News take?

22 A. After six months, six months after the
23 ordinance was passed, the city began to contact
24 landowners who we leased property from and notify them
25 basically that they were in violation of the ordinance.

1 Q. And was there a request that the signs be
2 removed?

3 A. Yes.

4 Q. What action did you take as a result of that?

5 A. At that point's time is when we filed suit.

6 Q. If the signs are removed pursuant to the
7 ordinance as it's written, what effect will that have an
8 on the business of Adams in Newport News?

9 A. It will put us out of business in the City
10 of Newport News.

11 Q. What effect would that have on the ability
12 of -- well, let me back up. Why is that?

13 A. Simply because it would not allow us to sell
14 advertising space, you know, to clients in the city or
15 that wanted to advertise in the city. We could not exist
16 through displaying only public service.

17 Q. Is that because you basically don't charge
18 for that?

19 A. That's correct.

20 Q. Are there, in your opinion, any alternative
21 methods of conveying the messages, both commercial and
22 non-commercial, conveyed by Adams in its outdoor
23 advertising?

24 A. No, simply because most of what you see here
25 is of the standardized nature. In other words, the same

1 design that you would see displayed in the City of
2 Newport News may be displayed in Los Angeles or Chicago
3 or any number of different cities across the country
4 because they are standardized signs.

5 Q. What does the typical cost of outdoor
6 advertising through, say, your company, another owner of
7 billboards, compare to a newspaper advertising or radio
8 or television advertising?

9 A. The barometer that is used to measure that
10 is generally cost per thousand, and it's a known fact
11 throughout the advertising industry that of the four
12 major media, newspaper, radio, TV, and outdoor, that
13 outdoor is the less of the four. In other words, the
14 cost is less per thousand to advertise on our media than
15 it is the other three.

16 Q. Is there any particular segment that outdoor
17 advertising reaches that, say, newspaper, radio or TV
18 would not reach?

19 A. Outdoor advertising has the ability to
20 localize your advertising to a particular area whereas
21 the other media do not. You've got a certain amount of
22 waste incurred with other media simply because if you buy,
23 for instance, a radio spot to reach the people in Newport
24 News and may go all over the Tidewater area, so there is
25 a wasting incurred with that whereas, with our media, we

1 can go right to the market.

2 Q. As far as availability to, say, a new
3 business, a small business, is there any difference
4 between outdoor advertising and radio, television, and
5 newspapers?

6 A. I'm not sure I understand.

7 Q. As far as cost is concerned?

8 A. Cost to a new business?

9 Q. Yes.

10 A. No.

11 THE COURT: Primarily a new business would
12 benefit, would it, by which you identify?

13 THE WITNESS: Yes, sir.

14 BY MR. SIMS:

15 Q. Now, what occurs with the State of Virginia,
16 Virginia Department of Highways and Transportation, when
17 one of your structures is in a right-of-way for new roads
18 they're going to build?

19 A. The state will take it through condemnation.

20 Q. Your structure?

21 A. Yes.

22 Q. And pay you for that?

23 A. Yes.

24 Q. Now, are you familiar with any commercial
25 signs in right-of-ways or near interstate or other

1 roadways that are sanctioned by the Commonwealth of
2 Virginia?

3 A. Yes. The state has a logo system which they
4 use basically on the interstate system.

5 Q. I now hand you another package of
6 photographs, and also a schematic drawing, and ask you to
7 inspect that, please.

8 A. (Witness complied.)

9 MR. WALLIN: Your Honor, I'm going to object
10 to the admissibility of these documents. I'm not sure
11 what relevance pictures of things controlled by the State
12 Highway Department or a special law of the Commonwealth
13 of Virginia has to do with the city's ordinance.

14 THE COURT: What's your purpose, Mr. Sims?

15 MR. SIMS: To the extent they try to
16 maintain these signs are nuisances. I think it's
17 relevant to show the State of Virginia has, by its own
18 policy, erected, in right-of-ways along interstates,
19 commercial signage showing drivers that the next exit you
20 can eat at a McDonald's or Bojangles, a Shoney's, and get
21 gasoline, and various other things, and all of these
22 signs have logos on them, Econo-Lodge, Holiday Inn.

23 THE COURT: How would that affect the City
24 of Newport News?

25 MR. SIMS: I believe it's relevant on the

1 issue of whether or not off-premises commercial
2 advertising is a nuisance. If that's a contention of the
3 city, that it is in fact a nuisance, it would go to that
4 issue, I believe.

5 MR. WALLIN: Sir, we never made the
6 contention it was a nuisance. That petition is placed in
7 the complaint in this case but, to my knowledge, there is
8 nothing that would indicate that was in fact the case.
9 Apparently the legal position taken by the Plaintiff in
10 this case is that we couldn't regulate the signs unless
11 we regulated them under some power involving public or
12 private nuisances, and I don't think that's legally
13 accurate, and that's certainly not the approach taken.

14 THE COURT: I'm going to sustain your
15 objection to this. I don't think they are even
16 comparable signs and, besides, they're not off-premises.
17 They're on easements that's owned by the Highway
18 Department or property owned by the Highway Department,
19 so they are certainly not off-premises but they're not --
20 they're so dissimilar to the 12 by 25 foot signs this
21 gentleman is talking about that I don't think it would be
22 of any value whatever to the Court that insisting it make
23 a decision whether you call them nuisances or whatever
24 identifications, whatever you have, so I'm going to
25 sustain the objection. You can note your exception.

1 MR. SIMS: Your Honor, if it's the position
2 of the city that they're not contending those signs are
3 nuisances, I won't even worry about a proffer for the
4 record. That would be the only purpose.

5 THE COURT: You handle it anyway you want to.
6 You wish to proffer it for the record, you may do so.

7 MR. SIMS: Mr. Wallin, is that the city's
8 position, you're not contending these signs are nuisances?

9 MR. WALLIN: There's no indication, to my
10 knowledge, we've made that contention.

11 MR. SIMS: All right. I will then withdraw
12 the evidence, Your Honor.

13 THE COURT: Be marked refused. Would you
14 retrieve the exhibits he has on the desk and give them to
15 the clerk, please?

16 MR. SIMS: Yes, sir.

17 BY MR. SIMS:

18 Q. Mr. Lomax, I hand you one more photograph
19 and ask you can you identify that as a photograph of
20 Creative's, now Adams', sign in the City of Newport News,
21 Virginia?

22 A. Yes.

23 Q. When was that taken?

24 A. August of 1984.

25 Q. And would that be a typical sign of U. S.

1 advertising for the buying of U. S. Savings Bonds?

2 A. Yes.

3 MR. SIMS: Your Honor, if we could move to
4 introduce this as E -- I mean, F. I'm sorry.

5 THE COURT: No objection. Be admitted.

6 (Plaintiff's Exhibit F was marked
7 and received in evidence.)

8 BY MR. SIMS:

9 Q. Mr. Lomax, are any of the things, whether
10 commercial or non-commercial, advertised on Adams' boards,
11 previously Creative's boards, before and after the
12 ordinance was passed offered on the same premises where
13 the structure is located?

14 A. No.

15 Q. They're all offered at some other premises?

16 A. Right.

17 MR. SIMS: No further questions, Your Honor.

18 THE COURT: Cross-examine, Mr. Wallin.

19 MR. WALLIN: I just have a couple questions,
20 Your Honor.

21

22 CROSS-EXAMINATION

23 BY MR. WALLIN:

24 Q. Mr. Lomax, what kind of permits are required
25 before you can place a billboard?

1 A. In the City of Newport News?

2 Q. Yes.

3 A. Generally a building permit.

4 Q. Do you have to get an electrical permit at
5 times?

6 A. Yes.

7 Q. Isn't it true that the structures you are
8 using as billboards, that those structures are movable?

9 A. Are they movable?

10 Q. Yes.

11 A. Are you asking can they be taken down?

12 Q. Yes.

13 A. Yes.

14 Q. So those billboards can in fact be taken
15 from place to place?

16 A. No, sir.

17 Q. When --

18 A. Because, when you take a structure down,
19 you've got six or seven feet of steel in the ground.
20 You're going to lose that when you cut that I beam off,
21 and I guess indeed you would be asking the same thing
22 could you take a house down and reassemble it somewhere.

23 Q. Is it possible to place that same structure
24 on another site with a little -- with some other support
25 mechanism?

1 A. You couldn't take it down without losing the
2 value of the structure that is there but part of it could
3 be salvaged.

4 Q. You testified that there weren't any
5 alternate methods to convey certain messages which were
6 contained on billboards. Are you saying there's no other
7 way to advertise, if you want to use that description,
8 Red Cross blood drives?

9 A. Not with the posters the Red Cross furnishes
10 us, no.

11 Q. I'm not sure I understand the answer. Are
12 you saying that there is some special value to the
13 particular type of sign that is contained on the
14 billboard, the message that's contained on the billboard,
15 so that it's more valuable than doing the same message on
16 a radio station or a TV station?

17 A. Is it more valuable?

18 Q. Right.

19 A. We think it is because it's, you know, reaching
20 a lot more people.

21 Q. Isn't what you're really saying is that, in
22 your judgment at least, it's cheaper to convey certain of
23 those messages but that's not the only way they can be
24 conveyed?

25 A. I don't guess it's the only way it can be

1 conveyed but in that format it's the only way it can be
2 conveyed.

3 Q. All right. I think I understand that.

4 MR. WALLIN: I have no other questions,
5 Judge.

6 THE COURT: Anything further, sir?

7

8 REDIRECT EXAMINATION

9 BY MR. SIMS:

10 Q. Mr. Lomax, with regard to the questions
11 concerning moving or removing these structures, to do
12 that would the beams which you testified are sunk five or
13 six feet down in the ground and then surrounded with a
14 concrete footing, both beams have to be actually severed
15 or cut off?

16 A. Yes.

17 Q. And what would that do to the sign if that
18 were done?

19 A. It would take away from the value of what
20 the structure is there.

21 Q. Thank you.

22

23 BY THE COURT:

24 Q. Were you aware that the city was opposing an
25 ordinance of this type?

1 A. We were working with the city but we did not
2 know exactly what the end result would be.

3 Q. Well, granted, but, number one, you were
4 aware it went before the Planning Commission, they spent
5 almost a year studying this, and you and your
6 counterparts had ample opportunity to put your efforts in
7 or at least to express yourselves to the Planning
8 Commission, were you not?

9 A. Yes, sir.

10 Q. You had equal opportunity to express your
11 views to the city?

12 A. Yes, sir.

13 Q. As I recall, they vacillated a right good
14 while before they finally bit the bullet; isn't that
15 correct?

16 A. Yes, sir.

17 Q. So I take by that you were fully informed
18 and not taken by any surprise, whatever?

19 A. We were taken by surprise to the extent it
20 went to --

21 Q. Adverse judgment to your interest? You were
22 surprised in not only that but depressed too, I would
23 imagine.

24 A. Yes, sir.

25 Q. Discounting that, sir, what I'm getting at,

1 you had full opportunity, you and your counterparts, to
2 express your views as to the pluses and minus of your
3 particular problem and also the economic problem that you
4 were confronted with, so insofar as that phase of this
5 case is concerned, there -- I'm asking this question if I
6 might elaborate a bit.

7 There has been some suggestion here that, by
8 virtue of subpoena and certain records, the council did
9 not consider everything they should consider. Now, in
10 light of that assertion or implication, to say the least,
11 I'm asking you if you did not have, you and your
12 counterparts -- and I speak of you generically. You may
13 have been somewhere else but there must have been a
14 general manager here of your particular company. You
15 were aware of all the hearings before the commission,
16 that is, the Planning Commission; You were aware of all
17 the hearings before City Council, and you were
18 represented at those hearings; is that not correct?

19 A. Yes, sir.

20 THE COURT: Gentlemen, in view of that
21 statement, I don't think it is necessary to put on any
22 evidence whatever as to what kinds were considered. If
23 this gentleman was there with other citizens, and had an
24 ample opportunity to express himself to the council and
25 bring forth presumably everything beneficial to him and

1 harmful, there's certainly no need for this court to go
2 back over that regime again.

3 MR. SIMS: Your Honor, the reason that we
4 have proposed through the stipulation as to what council
5 considered is not necessarily on the issue of whether or
6 not there was opportunity for hearing and proper notice.

7 THE COURT: So long as he had a notice, it
8 doesn't make any difference what the city did. They're
9 expected to be arbitrary. It's a legislative body. Once
10 they have got the information, they can be arbitrary
11 insofar as you or I may be concerned. They can do
12 whatever they wish insofar as they stay within the bounds,
13 and, granted, you are arguing constitutionality and some
14 other facets here, but insofar as the per se action of
15 the council, I don't think this court needs to get in
16 this at all, and I'm not going to do it, and you can take
17 exception right now.

18 He's answered all the questions that
19 satisfied the Court, and I'm not going through that
20 rigmarole. Whatever the council did, they did, and it's
21 a matter of record, and I'm certainly not going to pass
22 judgment on whether or not they properly considered it or
23 didn't do it. I know that, while it's not in evidence
24 here, that this matter hung on, according to the press,
25 for almost two years, maybe over two years, so I'm not

1 going back into that, any kind of council hearing on this.

2 MR. SIMS: Your Honor, we would note our
3 objection for the record for that, and I would only add
4 that one of our purposes in Metro Media v. City of San
5 Diego, there's language which indicates that the city may
6 find, under the police power, a necessity to regulate
7 boards if there's some -- billboards if there's some
8 reasonable connection established by evidence of traffic
9 safety hazard, and so the purpose in putting this on is
10 to show what the council considered and to also show what
11 they did not consider in traffic safety.

12 THE COURT: The preamble to the bill itself
13 in Section 13-335 states what the council's basis for
14 determination was.

15 MR. SIMS: I understand.

16 THE COURT: They have stated it in the
17 record as to what it was. That's it, and that's
18 presumptively what they did, and what the Court's saying
19 is that I'm not going back -- I know you're not going to
20 do this -- and bring each individual council member in
21 here and ask them what they did in the first place. With
22 no disrespect to council at all, they remember the
23 discussion that went on to this, it would be most unusual,
24 and I'd be highly suspicious other than the fact it was a
25 very difficult thing, and the council recognized many,

1 many hardships that would be caused by this, and the
2 Planning Commission certainly studied, went over it from
3 time to time, so you take exception to it, and I'm just
4 not going into that part of it.

5 MR. SIMS: Just for the record, there is
6 language in Metro Media v. City of San Diego.

7 THE COURT: I'm going to surely read that
8 but don't go back and tell me. You might prejudice me if
9 you tell me what it says before I read it. I'm going to
10 have to read it. Make your objection but let's kind of
11 move along on this. I'll have to read that case for sure.

12 Anything further on cross-examination?

13 MR. WALLIN: No, Your Honor.

14 THE COURT: May this witness be excused?

15 MR. SIMS: Yes, sir.

16 THE COURT: Thank you, sir. You can have a
17 seat in the courtroom.

18 (The witness was excused.)

19 THE COURT: Call your next witness.

20 MR. POOLE: Next witness, Your Honor, will
21 be Robert Macchia.

22 THE COURT: Come forward and be sworn, sir.
23
24
25

1 ROBERT MACCHIA,
2 called as a witness, having been
3 first duly sworn, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. POOLE:

7 Q. Will you state your name, please?

8 A. My name is Robert Macchia.

9 Q. And what is your --

10 THE COURT: How do you spell the last name?

11 THE WITNESS: Spelled M-a-c-c-h-i-a.

12 BY MR. POOLE:

13 Q. And where do you live, Mr. Macchia?

14 A. Excuse me. I'm fighting a little bit of
15 cold. 1424 Avalon Road in Chesapeake, Virginia.

16 Q. Who do you work for, Mr. Macchia?

17 A. I work for the U. S. treasury Department,
18 Savings Bonds Division.

19 Q. In conjunction with the Savings Bonds
20 Division, what involvement do you have in trying to
21 market or sell savings bonds to the public?

22 A. Could you repeat the question, please?

23 Q. In relation to working with the Savings
24 Bonds Department, what do you do as far as trying to
25 market or sell savings bonds to the public?

1 A. My basic concern on my job is to sell
2 savings bonds, and I think to sell them in any means I
3 can, so even this appearance here is helping me because
4 people hear about savings bonds. Basically what I do,
5 though, is I attempt to promote payroll savings plan at
6 certain companies throughout, as many companies I can get
7 to do it in Southeastern Virginia, and I also am charged
8 with trying to get public service advertising in our --
9 for our cause.

10 Q. And your area of coverage includes Newport
11 News, does it not?

12 A. Yes.

13 Q. Your offices themselves are located in the
14 City of Norfolk?

15 A. That's correct.

16 Q. What mediums do you actually use to try to
17 reach the public regarding savings bonds?

18 A. We try to go for all of them, TV, radio,
19 newspaper, billboards or outdoor advertising. We feel
20 that any kind of advertising is good advertising. We
21 have no quantifiable data to prove that anyone is better
22 than the other. We don't have any quantifiable data to
23 prove how much any particular type of advertising does
24 for us.

25 Q. You have worked with Creative Displays, now

1 Adams Advertising, in the City of Newport News and
2 elsewhere throughout Tidewater?

3 A. Yes. Yes, I have.

4 Q. What has that involved?

5 A. I have a relationship with the people there
6 I guess. Four years ago, when I started here in this
7 area, I came to Creative and explained what we were
8 looking for and how it's beneficial to the whole country
9 if you give us some public service advertising for
10 savings bonds.

11 Q. Have they been cooperative in that regard?

12 A. Yes, they have been.

13 Q. What sort of costs are involved to your
14 Savings Bonds Department in trying to advertise through
15 the billboards?

16 A. We don't have any cost. Since 1941, the
17 inception of the savings bonds program, we have relied on
18 the private sector to do all our advertising. We have
19 not paid any money to Creative or any other advertiser
20 for doing any of this. I might also add that we weren't
21 even being charged, I believe, to produce the ads at one
22 point. Now we have an agency that produces ads for us
23 and, in turn, we give to the different types of media in
24 order to put them on.

25 Q. So in fact they were helping you by even

1 producing the ads for you?

2 A. Not Creative, no. Other -- I think the Ad
3 Council. We worked with the Ad Council at one point to
4 produce ads. I don't know exactly how that worked. Now
5 we have an advertising agency that produces ads, and then
6 we get these ads and give them on over to the different
7 media outlets and ask them to do them for us.

8 Q. Creative, and now Adams, have allowed you,
9 then, to use board space free of charge in the City of
10 Newport News over periods of time to advertise U. S.
11 Savings Bonds?

12 A. I know of at least a few times they've given
13 us outdoor advertising and absolutely positive that in
14 the whole Hampton Roads area I've seen many, many outdoor
15 advertisements.

16 Q. That's all been through Creative that you've
17 done that?

18 A. Yes.

19 Q. And have you found this to be effective or
20 helpful in trying to reach the public to make them aware
21 of savings bonds?

22 A. Again, there's no quantifiable data on that
23 but --

24 THE COURT: It's for free. You wouldn't
25 have to make any study of it anyway, would you?

1 THE WITNESS: As far as highway --

2 BY MR. POOLE:

3 Q. You don't have any complaints with results
4 it's getting you?

5 A. I tell you, quite frankly, no.

6 Q. Fair to say you'd be glad to take any board
7 that Creative or Adams would offer you to advertise on?

8 A. Indeed I would.

9 Q. Have you run into problems with the
10 newspapers in the City of Newport News as far as getting
11 public service space?

12 A. Well, on our particular job I have
13 colleagues around the nation. There's only about 150 of
14 us. We have all run into problems with the print media
15 more than we have with others. We have not been as
16 successful with the print media. In particular, in
17 newspaper there is a policy at the Daily Press/Times
18 Herald which has been reaffirmed now by the purchase of
19 the Tribune company there is no public service
20 advertising, so we are batting zero. I am batting zero
21 so far with the newspapers.

22 THE COURT: Write a story for you once in a
23 while, don't they?

24 THE WITNESS: Yes, sir.

25 THE COURT: I don't own any stock in Daily

1 Press either but you get a freebie or two out of them.

2 THE WITNESS: I'm not here at all to take
3 sides with any issue or anything because I have to work
4 with them. I work closely with the City of Newport News
5 as well as far as savings bonds goes. I wanted to point
6 out that I would, of course, love any public service
7 advertising that anybody could give us including the
8 Daily Press/Times Herald.

9 BY MR. POOLE:

10 Q. As far as the Newport News market is
11 concerned, though, the Daily Press and the Times Herald
12 that you're talking about is the only daily newspaper
13 that covers this market that you're aware of, isn't it?

14 A. Yes. I know the Virginian Pilot is
15 generally for the south side of Hampton Roads, so I would
16 agree with that.

17 Q. When you're talking about the Daily Press
18 and the Times Herald, that is your newspaper source that
19 you would normally have for the City of Newport News or
20 City of Hampton?

21 A. Yes.

22 Q. Now, with radio, what -- isn't the problem
23 you've run in with that you have no control over when
24 these public service announcements might be made
25 concerning savings bonds?

1 A. Yes. Well, I just don't know when they'd
2 air them. I'm not -- again, that's not a criticism. I
3 don't care if it's aired at 3 o'clock in the morning.
4 Like I said earlier, any advertising is good advertising,
5 but I would prefer, of course, 5:30 drive home time to
6 hear some savings bonds ads but, of course, I don't want
7 to get too greedy.

8 Q. Television was the other media you indicated
9 that you used. Isn't there a lot of competition for
10 those public service spots?

11 A. Indeed there is. You know, this is a -- I
12 believe TV is probably the best mode that I would like to
13 advertise. If I got all my advertisers together and they
14 decided, Well, we'll let the TV guys do it this year, I'd
15 be very pleased. TV, I believe, probably reaches just
16 about everybody. Everybody watches TV at one time or
17 another during the day. However, as far as giving public
18 service advertising, we do have two of the three main or
19 the network affiliates in Hampton Roads area do do public
20 service advertising. I've seen it myself but I stay up
21 late at night.

22 Q. The number of slots is quite limited?

23 A. Yes. TV advertising, I guess, is probably
24 pretty expensive, so we're limited as to how much public
25 service advertising. I again want to point out whatever

1 they do I'm happy with.

2

3 BY THE COURT:

4 Q. You get more free advertising just before
5 they come up for renewal of their charter?

6 A. I have no --

7 Q. Make all the advertising available for
8 observation, certain ads. You do get some next to the
9 6 o'clock news and early morning news? You do get some
10 spots along those lines about that time of the year,
11 don't you?

12 A. I've never seen them anytime of the year but
13 they're on prime time but my point again is that I like
14 TV advertising. It's very effective for us, we believe.
15 Again, no data proves that but it's not as available as
16 some other forms of media.

17 BY MR. POOLE:

18 Q. Effectively would it be fair to say if
19 billboards were not available as a medium to advertise
20 savings bonds in the City of Newport News the realities
21 of the situation would be that you are confined, of the
22 major mediums, more to radio and television and that
23 there is a great deal of competition for television and
24 again no control as to when the spots would air?

25 A. Yes. I would say that I certainly would

1 love to continue my relationship with Creative, now Adams,
2 in getting public service advertising because, as I said
3 earlier, any advertising is good, and, if you eliminate
4 one or two or three, obviously we'd get heard of less.

5 MR. POOLE: I don't have any other questions.
6 Thank you.

7 THE COURT: Anything from the city?

8 MR. WALLIN: I have no questions, Your Honor.

9 THE COURT: Thank you, sir. Have a seat in
10 the courtroom.

11 (The witness was excused.)

12 THE COURT: Call your next witness.

13 MR. POOLE: We call Lillian DeVenny, Your
14 Honor.

15
16 LILLIAN DeVENNY,
17 called as a witness, having been
18 first duly sworn, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. POOLE:

22 Q. Will you state your name, please?

23 A. Yes. It's Lillian DeVenny.

24 Q. Where do you live, Miss DeVenny?

25 A. I live in Virginia Beach.

1 THE COURT: How do you spell your last name?

2 THE WITNESS: D-e-V-e-n-n-y.

3 BY MR. POOLE:

4 Q. What do you do for a living, Mrs. DeVenny?

5 A. My husband and I are in business in Virginia
6 Beach.

7 Q. Are you also involved in some public service
8 type organizations?

9 A. Indeed I am. I'm the board chairman of
10 Virginians Opposing Drunk Drivers. I'm one of the
11 mothers that fight the drunk driving cause.

12 Q. Essentially how does that organization
13 operate? What does it do?

14 A. We are an SCC registered non-stop, non-profit
15 corporation, and our objective is to raise the awarenesss
16 of the public to the dangers of drinking and driving, and
17 our goal is to save lives through strong deterrence of
18 intoxicated driving not only from alcohol but alcohol and
19 other drugs.

20 Q. In reaching that goal, getting to the public,
21 and getting your message to the public, what sort of
22 budget or funds do you have available, as an organization,
23 to go about that process?

24 A. We have no funds for advertising in anyway.
25 We are a shoestring budget organization. We have 20

1 chapters in the State of Virginia, and we have run the
2 state on less than \$10,000 each year since 1981.

3 Q. Then how do you actually accomplish your
4 purpose advertisingwise to reach the public? What
5 mediums do you use and how?

6 A. Well, we've used all forms of the media. Of
7 course, the newspapers, and the radio, television, and
8 the billboard industry has been most cooperative in
9 helping us get messages to the public.

10 Q. I believe your organization has worked
11 specifically with Adams Outdoor in the form of Creative
12 Displays, has it not?

13 A. Yes, and in 1982 I was chairman of the
14 Virginia Beach Task Force on Drunk Driving, and, of
15 course, still held my position with Virginians Opposing
16 Drunk Driving, and we went to Creative Displays and
17 talked with them about a campaign on drunk driving. They
18 did one campaign in 1982 called Friends Don't Let Friends
19 Drive Drunk, and I believe there was something like 37
20 billboards displayed.

21 Q. Were those throughout Tidewater?

22 A. Yes, they were, and in 1983 we worked on the
23 Report All Intoxicated Drivers campaign which later did
24 go statewide. There were about 100 billboard signs at
25 the cost of something like 37,000 put up through the

1 areas where Creative has territory.

2 Q. Would that have included the City of Newport
3 News?

4 A. Yes, it did as a matter of fact.

5 Q. You're indicating you believe about 35 to
6 \$37,000 worth of board space was donated for this
7 campaign?

8 A. Yes, it was, and I believe they also donated
9 10 billboards to the Division of Motor Vehicles at a cost
10 of something like 4,000, so that would be a total of
11 about 41,000 on that one campaign.

12 Q. You indicated that you use all mediums that
13 you can find that will, of course, give you space. Is
14 there any particular benefit or reason that your
15 organization particularly likes to use billboards as
16 opposed to the other mediums?

17 A. Yes, there is. You probably are aware that
18 the 16 through 24 age group is one of the groups targeted
19 because they make up only 20 percent of the driving
20 population but yet it's stated nationwide that they are
21 involved in 40 percent of the alcohol-related crashes, so
22 we want to reach that particular segment of the
23 population, and, having a young son myself, we realize
24 that they seldom read the newspapers. They do watch
25 television, but it's the shows they select, so we felt

1 there was no better way to reach this target group than
2 when they're out cruising in their automobiles, and they
3 do go out cruising an awful lot.

4 THE COURT: How about rock and roll music?

5 THE WITNESS: Yes, sir. That's the other
6 way I was going to say we reach them. We have called and
7 worked closely with the broadcasters, particularly radio
8 station WNOR, with the rock music, so they are the two.
9 They're in their automobiles cruising. You see the
10 billboards and they listen to the radio.

11 BY MR. POOLE:

12 Q. So what would be the effect, then, on your
13 ability to convey the message to your targeted group if
14 billboards were not available in the City of Newport News?

15 A. Well, it would be difficult to reach them.
16 They don't normally come to our table in shopping centers,
17 and they don't come out to the churches or wherever we
18 might have our display, so I think we would lose a great
19 deal in not being able to reach this target group of our
20 young people, and we do lose a disproportionate share of
21 the young people in alcohol-related crashes.

22 Q. I believe you have also had involvement
23 through the Newport News Police Department or members of
24 that Police Department in this organization?

25 A. Well, yes. Of course, I talked with various

1 members including former chief of police in regard to the
2 operation RAID and other matters. When I was the
3 chairman of the Regional Task Force on Drunk Driving,
4 which encompassed the whole area, this was through the
5 Tidewater -- I'm sorry. It was through the Southeastern
6 Planning Commission. We did have a representative from
7 the Police Department here in Newport News on that
8 particular task force.

9 MR. POOLE: Thank you. I don't have any
10 other questions.

11 THE COURT: Mr. Wallin.

12 MR. WALLIN: I have no questions, Your Honor.

13 THE COURT: Thank you, ma'am. You may have
14 a seat.

15 (The witness was excused.)

16 THE COURT: Next witness.

17 MR. SIMS: We have no further evidence, Your
18 Honor.

19 THE COURT: You wish to put on any evidence?

20 MR. WALLIN: No, Your Honor. For purposes
21 of the record strictly, I'd like to make a motion to
22 strike the Plaintiff's evidence in this case. I think
23 these issues will be briefed and more clearly explained
24 perhaps but it's the position of the city that in none of
25 these counts has Plaintiff succeeded in presenting a

1 prima facie case, that, as a consequence of that, after
2 careful analysis of the evidence that the Court would go
3 through when it reads our briefs and reviews the evidence,
4 that it will determine that our motion to strike is
5 well-taken.

6 THE COURT: I'm going to overrule it now.

7 MR. SIMS: Your Honor, as far as briefing
8 schedule is concerned, I would suggest that we will file
9 our opening brief by the 31st of March, which is in 15
10 days. It's a Tuesday. Mr. Wallin can respond by the 15th
11 of April, assuming he has his taxes done, and then we
12 will, if permissible, be able to file any rebuttal by
13 Monday, the 27th of April.

14 THE COURT: City have any objection to that
15 schedule?

16 MR. WALLIN: No, sir, I don't.

17 THE COURT: All right. The Court will
18 direct the briefing to be on the schedule announced by
19 Mr. Sims. The Plaintiff will have briefs available to
20 the Court by 31 March. Defendant will have until 18th of
21 April to -- wait a minute. 18th of April is on a
22 Saturday.

23 MR. SIMS: 15th, Your Honor.

24 THE COURT: 15th of April to respond, and
25 you will have any follow-ups and conclude your briefing

1 response by April 27.

2 MR. SIMS: Your Honor, I have asked the
3 court reporter to prepare the record and file the
4 original with the Court by this Friday. Do you want --
5 we would like to have oral argument as well. Would it be
6 convenient to schedule that now or should we wait until
7 after the briefs are filed?

8 THE COURT: Why don't you wait until after
9 the briefs are filed? I don't know that there would be
10 anymore dates available or, if you prefer, you can check
11 with my secretary and get a date now, but when we -- once
12 I have read the briefs, and have that before me, I'm
13 going to limit your argument to not more than one hour to
14 each side. You can't get it all in one hour, why, I've
15 got the wrong issue before me here, so, if you set it,
16 set it for a period of not more than two hours.

17 MR. SIMS: That would be fine, Your Honor.
18 I would like to have it set -- I want to give you plenty
19 of time but fairly close in time to the filing of the
20 last brief so it doesn't get too stale in our minds.

21 THE COURT: Well, there is one person who
22 keeps the docket up, Mrs. Murphy. I found earlier in
23 this game two people can't. You talk with her and set it
24 for docket call. That's the only time she'll let me fool
25 with the docket.

1 MR. SIMS: I think we'll go see her right
2 now.

3 THE COURT: She'll get you straight on that.

4 Anything further, gentlemen? If not, court
5 will await your briefs, and I will hopefully get to read
6 all of the citations and authority. The only one, I take
7 it, that is of any magnitude is this San Diego case; is
8 that right?

9 MR. SIMS: Your Honor, there is the City of
10 San Diego -- Metro Media, City of San Diego which is a
11 seminal case, I guess. The Law Reviews like to use that
12 word but there's a follow-up case, Los Angeles v. Taxpayers
13 for Vincent, which I don't think is on point but it is
14 the successor. Supreme Court of the United States case.

15 THE COURT: The two real issues in this case
16 is taking property without due process of the law, and
17 the other one is the first amendment argument as to the
18 meritalization?

19 MR. SIMS: The vested rights of Virginia
20 statute interfolds with taking --

21 THE COURT: Under Title 15. It should be or
22 your argument is you're grandfathered in those. Really,
23 three essential things in the cases. I see it right now
24 unless you wake me up.

25 MR. SIMS: There is a case involving

1 portable billboard signs, ones on wheels that go around.

2 THE COURT: I think you got a little
3 different animal in that. It may be germane but it seems
4 to me you got a little different category.

5 MR. SIMS: I think it is too, Judge. I just
6 mention that to you.

7 THE COURT: All right. Thank you, gentlemen.
8 Call you next case, Mr. Clerk.

9
10 (Whereupon, the trial was concluded.)
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C E R T I F I C A T E

COMMONWEALTH OF VIRGINIA

CITY OF NORFOLK, to wit:

I, Penny J. Commander, Court Reporter, do hereby certify that the foregoing pages are a true and correct transcript of my Stenotype notes of the proceedings had at the time and place in the caption mentioned.

This 20th day of March,
1987.

Penny J. Commander
Court Reporter

M E M O R A N D U M

Chancery No. 14759-FB

Adams Outdoor Advertising v. City of Newport News, et al

The Court has examined the pleadings, reviewed counsel's briefs, notes on counsel's arguments, supplementary materials including Jackson v. City of Charlottesville, and counsel's respective comments thereon.

Briefly, the plaintiff is the owner of some thirty-eight off-premises billboards situated in Newport News, which are used for a variety of commercial and noncommercial advertising purposes. The structures are usually 12' x 25', located on private property, and affixed to the ground by supports buried in 5' to 6' of subterranean concrete foundations. The billboards are constructed after obtaining appropriate permits/licenses from the City and complying with attending rules and regulations applicable to such construction. They are deemed, by the City, to be business equipment and are assessed as personal property and taxed as such under Section 58.1-3503(17) of the 1950 Code of Virginia, as amended.

The facts on which the issues, in the above-styled matter, are framed are suitably covered in stipulations one and two, making it unnecessary to repeat them here. At the trial the plaintiff offered testimony from three witnesses - i.e., Phil M. Lomax, President and General Manager of Adams Outdoor Advertising, who provided exhibits in the form of photographs of various advertising throughout the City; Robert Macchia, of the United States Treasury Department, Savings Bond Division; and Lillian DeVenney,

Board Chairman of Virginians Opposing Drunk Drivers. Witnesses Macchia and DeVenney verified the fact that their organizations were accorded free public service advertising on the plaintiff's billboards from time to time. They also admitted that they obtained such public service outlets from other media, such as newspapers, radio and television.

The plaintiff, by its amended bill of complaint, seeks to have this Court declare Newport News Ordinance 3213-84 (Codified as Section 13-335, et seq) unconstitutional. The plaintiff contends that the ordinance is unconstitutional on its face because it constitutes an unlawful infringement upon freedom of speech; an unconstitutional and improper exercise of police power; impairment of vested rights, and a denial of just compensation for property taken.

The plaintiff principally relies on Metromedia, Inc. v. City of San Diego, 453 U.S. 490, and the more recent United States District Court case Jackson v. Charlottesville.

Metromedia, supra, involves a zoning ordinance permitting on-site commercial signs but forbidding other commercial and noncommercial communications using fixed purpose signs, unless permitted by one of several exceptions noted in the ordinance. The suit was brought by companies engaging in outdoor advertising, seeking to enjoin the enforcement of the ordinance. The Trial Court held that the ordinance was an unconstitutional exercise of police power and an abridgment of First Amendment rights. The Intermediate Court affirmed on the unconstitutional exercise of police power and did not reach the constitutional question. The Supreme Court

of California reversed the Lower Court, holding that the two purposes of the ordinance, i.e., to eliminate hazards to pedestrians and motorists, and to preserve and improve appearance of the City, were within the City's legitimate interest and proper application of municipal authority over zoning and land use for the purpose of promoting public safety and welfare. (emphasis added) On appeal to the United States Supreme Court, the decision of the California Court was reversed and the case was remanded. The Justices were unable to agree on a majority opinion. Four of the Justices, forming a plurality, expressed the view that while the ordinance, insofar as it regulated commercial speech, met constitutional requirements established for determining the validity of governmental regulations of commercial speech, but that the ordinance was not constitutional on its face because it reached too far in the realm of protected speech by distinguishing through the use of its statutory exceptions.

I am of the opinion that the defendant may utilize zoning or its police power (either or both) in regulating the use and non-use of property under its jurisdiction.

I am of the further opinion that the specific findings made by the Newport News City Council, which are presumed to be correct, are sufficient to establish a basis for the ordinance, which implements a substantial governmental interest and directly advances that interest and reaches no further than is necessary to accomplish its objective.

Such an ordinance may validly distinguish between on-site and off-site commercial billboard advertising and ban the latter in furtherance of the municipality's stated interest in traffic

safety and aesthetics so long as it does not, at the same time, ban noncommercial advertising that provides a higher standard of First Amendment protection. The Court is of the opinion that the Newport News ordinance only seeks to regulate the time, place and manner of advertising rather than its content. Time, place and manner restrictions are permissible if "they are justified without reference to the content of the regulated speech - - serve a significant governmental interest, and leave open ample alternative channels for communication of the information". Evidence in this case indicated there were alternate channels for communication of the noncommercial information through other media sources such as the newspaper, radio and television.

I am of the opinion that the Newport News ordinance is not unconstitutional on its face; that it is not an improper exercise of police power.


The evidence is undisputed that the plaintiff complied with the defendant's permit requirements and that its status was recognized by the defendant, evidenced by issuing license, enforcing standards of construction and taxing. These circumstances, and the other facts presented, fall short of evidence sufficient to conclude that the plaintiff has vested rights.

I am of the opinion that if the City has "taken" the plaintiff's property, the plaintiff should be compensated. The burden of proving such property interest and value thereof is the burden of the plaintiff. Generally, the term "take" or "taken" implies, at the very minimum, a change of possession. This does not mean that there has to be an entry nor does it eliminate the possibility that imposed conditions could be so burdensome as to

constitute an outright taking of property within the meaning of the Fourteenth Amendment of the U. S. Constitution. The relationship between the plaintiff and the property owner appears to be that of landlord and tenant for the limited purpose of displaying the plaintiff's signs. The signs, considered as business equipment and assessed as personal property by the City, are movable. This being true, the plaintiff may remove his property when the City imposes its sign regulation without being entitled to compensation just as any tenant would do after his lease or right to occupancy had expired. Thus, under these circumstances, I find that the plaintiff's property has not been "taken" in the sense that this term is used in direct or inverse condemnation proceedings.

The matters taken under advisement, by order of February 5, 1986, have now been resolved in this Memorandum.

The relief sought by the plaintiff is denied. Counsel for the defendant is to prepare a sketch decree consistent with the foregoing, circulate for appropriate endorsement, and forward to the Court for entry.


Fred W. Bateman, Judge

June 19, 1987

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,)	
)	
Plaintiff,)	
)	
v.)	In Chancery
)	No. 14759-FB
CITY OF NEWPORT NEWS, VIRGINIA,)	
<u>et al.</u> ,)	
)	
Defendants.)	

FINAL JUDGMENT ORDER

This cause came on to be heard upon the pleadings, proceedings and orders formally had; upon the testimony of witnesses, exhibits, stipulations and evidence introduced on behalf of the plaintiff and defendants heard by the Court ore tenus on the 16th day of March 1987; upon the memoranda of authorities and oral argument submitted on behalf of plaintiff and defendants; and upon the motion for rehearing submitted by the plaintiff.

UPON CONSIDERATION WHEREOF, it appearing to the Court that the relief sought by the plaintiff in its Amended Bill of Complaint should be denied for the reasons stated in the written opinion of the Court filed among the papers in this cause of action; and further, that plaintiff's motion for rehearing should be denied, it is therefore,

ADJUDGED, ORDERED and DECREED that the relief sought by plaintiff in its Amended Bill of Complaint and Motion for

Rehearing is DENIED, plaintiff's Amended Bill of Complaint is hereby DISMISSED, and judgment is hereby entered for the defendants, to which action of the Court the plaintiff objects. It is further

ADJUDGED, ORDERED and DECREED that the transcript of the trial proceedings on the 16th day of March 1987, which transcript has previously been filed in the Clerk's Office, is hereby made a part of the record. It is further

ADJUDGED, ORDERED and DECREED that execution of the judgment and award is hereby SUSPENDED for a period of thirty (30) days after the entry of this order to enable plaintiff to file a notice of appeal to the Supreme Court of Virginia. ~~If~~ the plaintiff files a timely notice of appeal, then execution of the judgment and award shall remain suspended until this judgment becomes final on appeal. At the request of the plaintiff, and with the consent of the City of Newport News, and pursuant to an agreement between the parties that the City of Newport News will not seek to execute the judgment, in whole or in part, during the pendency of the appeal in this matter, the plaintiff shall not be required to file a bond to suspend the execution of the judgment and award during the pendency of the appeal in this matter.

ENTER: 11-5-87

Richard J. Gorman
Judge

I ask for this:

Demond A. Wall, p.d.

Seen and objected to:

Jim D. L. Jr., p.q.

Linda Westray

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

ADAMS OUTDOOR ADVERTISING,)	
)	
Plaintiff,)	
)	
v.)	In Chancery
)	No. 14759-FB
CITY OF NEWPORT NEWS, VIRGINIA,)	
<u>et al.</u> ,)	
)	
Defendants.)	

NOTICE OF APPEAL

NOW COMES the plaintiff, Adams Outdoor Advertising, by counsel pursuant to Rule 5:9 of the Rules of the Supreme Court of Virginia, and hereby gives notice of appeal to the Supreme Court of Virginia from the Final Judgment Order of the Honorable Fred W. Bateman, Judge of the Circuit Court of the City of Newport News, entered on November 5, 1987.

The transcript of the trial proceedings and testimony along with other incidents of trial, and the transcripts of proceedings held in this case will be filed in the office of the Clerk of the trial court.

ADAMS OUTDOOR ADVERTISING

By 
Of Counsel

Hunter W. Sims, Jr.
KAUFMAN & CANOLES, P.C.
P.O. Box 3037
Norfolk, VA 23514-3037

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of November 1987
a true copy of the foregoing was mailed first class, postage
prepaid, to Leonard A. Wallin, II, Esquire, Office of the
City Attorney, 2400 Washington Avenue, Newport News, Virginia
23607.

A handwritten signature in dark ink, appearing to read "H. Sims", is written over a horizontal line.

ASSIGNMENT OF ERROR

Adams Outdoor Advertising ("Adams") respectfully submits that the trial court erred in holding that the Newport News City Ordinance No. 1335, et seq.: (1) is a constitutional time, manner and place regulation of speech which does not infringe upon the First Amendment freedom of speech; (2) is a valid and constitutional exercise of police power; (3) does not impair any vested rights of Adams; and (4) does not constitute a constitutional taking for which just compensation was required.

4. The uses of such buildings or structures shall conform to the regulations of the district in which they are located whenever they are enlarged, extended, reconstructed or structurally altered, except as provided elsewhere in this article.

Sec. 2302. [Repealed by Ordinance No. 1660, § 1.]

Sec. 2303. Reconstruction.

In the event that all or a part of a nonconforming use is destroyed by fire or act of God, the use may be reconstructed providing:

1. Reconstruction be limited to uses destroyed by fire or act of God and shall not exceed the degree of nonconformity which existed prior to such destruction; and
2. All yards, height and other applicable dimensional regulations of the district in which the use is located shall be observed; and
3. Any reconstruction shall be limited to the same premises on which the use existed at the time it became nonconforming; provided, that in no case shall the nonconforming use be expanded; and
4. Construction shall begin within one year of the date the nonconforming use was destroyed by fire or act of God. (Ord. No. 2236, § 1)

ARTICLE XXIV. SIGN REGULATIONS*

Sec. 2401. Generally.

It shall be the purpose of this article to provide for and regulate the use of outdoor displays in order to clearly index the environment in such a manner as to facilitate an easy,

*Cross reference—Liability insurance for signs overhanging public right-of-way, § 38-23.

safe and pleasant communication between people and their environment. To this purpose it is the intent of these regulations to authorize the use of outdoor displays which are:

1. Compatible with their surroundings.
2. Appropriate to the type of activities to which they pertain.
3. Express the identity of individual proprietors or of the community as a whole.
4. Legible in the circumstances in which they are seen.
(Ord. No. 1818, § 1)

Sec. 2402. Definitions.

For the purpose of this article certain words and terms are herewith defined as follows:

1. *Advertising sign*: An outdoor display which:
 - (a) Is located elsewhere than upon the same premises as the profession, business, commodity, service or activity to which such display draws attention; or
 - (b) Any motor vehicle, as defined by state law, which has been altered, painted, or modified as to produce the effect of an outdoor display; provided, however, that trailers are excluded herefrom. This provision is not intended to prevent the painting of a company or business name on a bona fide business vehicle; or
 - (c) Any outdoor display which illustrates or draws attention to a single product not unique to an individual business, profession, or attraction in such a manner so that the space allocated to the illustration or attention to that single product represents fifty (50) percent of the total display area.
2. *Display area*: That portion of an outdoor display countable for determining compliance with district regulations of accumulative display area and defined as the

area of the rectangle, triangle, circle or combinations thereof that will enclose the outdoor display including background. Supports, braces, and other structural elements shall not be included unless they are designed as an integral part of the display for the purpose of illustration or attraction.

3. *Exempted sign:* The following specific outdoor displays shall be exempted from zoning regulations:
- (a) Bulletin boards for a church or other place of worship or for a public building, when located on the same premises as the building to which they refer.
 - (b) Nameplates denoting the name of public or institutional buildings.
 - (c) Memorial signs or tablets when cut into a masonry surface or constructed of bronze or other non-combustible material.
 - (d) Traffic or other municipal signs, including legal notices, railroad crossing signs, and temporary emergency signs.
 - (e) Signs denoting the names of residential developments when erected permanently as markers at the entrance to such residential development and denoting the name of the residential development only.
 - (f) Signs denoting the name of the developers of a subdivision or the name of the architect, engineer, or contractor of a tract, building, or structure being developed under construction when erected temporarily. Such signs shall be removed at the completion of said development or construction, and limited to a maximum area of thirty-two (32) square feet.
 - (g) Real estate signs advertising the sale of the premises upon which such sign is located provided such

signs are limited to a total area of six (6) square feet for residential properties; and sixteen (16) square feet for commercial and industrial properties having a frontage of one hundred (100) feet or more. Not more than two (2) such signs shall be located on any one parcel.

- (h) Professional nameplates when attached to buildings and not exceeding two (2) square feet in area.
- (i) Signs attached to or displayed on public transportation vehicles.
- (j) Political signs located on sites which are used for campaign headquarters for political campaigns shall be exempt from height, area, type and location restrictions that may otherwise apply to the district in which the campaign headquarters is located. All political signs shall be removed within ten (10) days from the date of the election. Upon written application to and approval by the zoning administrator, the period for removal may be extended, for good cause shown, for an additional ten (10) day period, only.
- (k) Signs denoting the revivals or other normal activities of bona fide religious organizations when such signs are:
 - (1) Located on the site of such organization.
 - (2) Limited to two (2) signs of not more than thirty-two (32) square feet.
- (l) Signs commonly known as menu boards which are either freestanding or affixed wall signs designed as an outdoor means to communicate orders for food and beverages contained within the business structure itself, which are not legible from any public right-of-way and which provide on-site information for drive-in service and not additional advertisement; provided that they do not exceed sixteen (16) square feet when located in

a front yard or a side yard and twenty-four (24) square feet when located in a rear yard; provided further that there be no more than one (1) menu board per site.

- (m) Portable real estate "open house" signs in public rights-of-way located in residential zoning districts only, directing the public to residential units for sale provided:
 - (i) Such signs do not exceed three (3) square feet in area or be over three (3) feet in height and provided they are displayed in the following manner:
 - (a) No sign may be placed in the median or on an area paved for vehicular or pedestrian traffic.
 - (b) The sign is located only at intersections where a turning movement is indicated.
 - (c) There may be no more than two (2) signs at any one (1) intersection.
 - (d) Express permission has been obtained from all adjacent property owners.
 - (e) The sign shall be located off the roadway so as not to endanger, impede the flow or interfere with the view of vehicular or pedestrian traffic and shall not be displayed when the house is not open for public viewing.
 - (f) The sign shall only be displayed on Saturdays, Sundays and state and federally observed holidays from sunup to sundown.
 - (g) Copy shall be limited to "Open House" with directional arrow, and a maximum of one (1) square foot to identify the owner of the sign.
 - (ii) Signs displayed in violation of the provisions of this section shall be confiscated by the city.
 - (iii) Persons causing open house signs to be placed on city rights-of-way shall provide the city with evidence of a five hundred thousand dollar (\$500,000.00) general liability insurance policy with the City named as an additional insured before display of signs may be permitted.

- 4. *Outdoor display:* A letter, figure, character, mark, plan, point, marquee, sign, design poster, pictorial,

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picture, stroke, strip, line, trade mark, reading matter, or illuminated surface which is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, persons, firm, corporation, public performance, article, machine or merchandise, whatsoever, which shall be displayed in any manner out of doors.

5. *Sign*: An outdoor display attached to or painted on a building, structure or natural geographic feature or in any manner represented on any real or personal property. The following classifications of signs shall be as defined in chapter XXIII of the Building Code for the City of Newport News as amended, except as may be set forth below:*

- (a) Spectacular sign.
- (b) Ground sign.
- (c) Roof sign.
- (d) Wall sign.
- (e) Projection sign.
- (f) Marquee sign.

- (g) *Shingle sign*: A projection or wall sign not over six (6) square feet in area, constructed of metal or other noncombustible material attached securely to a building and not projecting more than twenty-four (24) inches over public property.

6. *Temporary signs*: Outdoor displays such as lights, flags, pennants, "A" frames, and other nonpermanent displays intended to call attention to, advertise or promote sales, special events, openings, or similar events. The outdoor display of merchandise shall be considered

*Editor's note—This reference is to the prior building code of the city. For the definition of signs in the current building code, see § 201.0 of the BOCA Basic Building Code, which is adopted by § 13-23 of this Code. Also, see article 14 of the BOCA Basic Building Code.

a temporary sign when such display is intended to advertise or call attention to such merchandise rather than the normal storage of such merchandise as otherwise permitted by this ordinance. Provided, however, that the display of merchandise for advertising purposes shall be permitted in any commercial or manufacturing zoning district when such display is limited to:

- (a) A product normally offered for sale or manufactured by the establishment located on the parcel on which the product is displayed.
- (b) Not more than two (2) of any model, type, size, or uniquely different item of merchandise.
- (c) A total ground area of not more than twenty-five (25) percent of the permitted sign area for that parcel.

The display of motor vehicles or similar items that by reason of size or volume are normally stored on an open lot shall be excluded from any restrictions on display of merchandise for advertising.

There shall be no exemptions from the following requirements:

- (1) One temporary sign per five hundred (500) feet of street frontage shall be permitted in a shopping center, provided however, that there shall be no more than two (2) signs per shopping center and that the signs shall be no less than five hundred (500) feet apart.
- (2) Only one temporary sign shall be permitted per business not located in a shopping center.
- (3) Outside storage of temporary signs shall be allowed in any commercial or industrial zoning district provided, however, that such storage is screened or buffered from general public view. (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2643-80; Ord. No. 2984-82)

Sec. 2403. Relationship to Building Code.

The provisions of this article are intended to supplement the sign regulations of the Building Code of the City of Newport News by specifying the type, size, and location of signs permitted in each zoning district. In the event this ordinance imposes regulations more restricting than said code, the regulations of this ordinance shall prevail. (Ord. No. 1818, § 1)

Cross reference—Building code, § 13-21 et seq.

Sec. 2404. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as part of the national system of interstate and defense highways, no sign shall be erected except in conformance with [title 33,] chapter 7, sections 33.1-351 to 33.1-381, Code of Virginia, entitled "Outdoor Advertising in Sight of Public Highways," notwithstanding that this regulation shall not include any provision of the state law which exempts property located in commercial or industrial zones within the corporate limits of Newport News; and provided further, that all applicable requirements of the sign ordinance are met. (Ord. No. 1818, § 1)

Sec. 2405. Nonconforming outdoor displays.

1. Any permanent outdoor display existing on the effective date of this ordinance and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

- (a) Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this ordinance.
- (b) For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
- (c) No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this ordinance.

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2. Existing trailer-mounted signs licensed at the date of passage of this ordinance may be located within a commercial district of the city, provided that no flashing lights or flashing lighting effect is used. (Ord. No. 1818, § 1; Ord. No. 2134-78)

Sec. 2406. General regulations.

1. *Temporary signs:* Temporary signs, in addition to permanent signs otherwise authorized by this ordinance, are permitted:

- (1) In any residential zoning district when authorized by the board of zoning appeals as a special exception in conformance with the conditions specified in article XXVII of this ordinance, or,
- ✓(2) [In] any commercial or manufacturing zoning district when installed under a permit issued by the sign inspector for the city in compliance with the following conditions:
 - ✓(a) No temporary sign shall be installed, permitted or located on any given parcel of land for more than one hundred eighty (180) days per calendar year.
 - ✓(b) The use of such temporary sign shall be limited to advertising, promoting or calling attention to special events, openings, sales or similar occurrences.
 - ✓(c) The area of such temporary signs shall not exceed twenty-five (25) percent of the allowable sign area for that specific parcel or where merchandise is displayed by a temporary permit the total ground area covered shall not exceed twenty-five (25) percent of the allowable sign area; provided, however, that this provision shall not be applied to reduce the minimum allowable sign area on an individual lot to less than sixty (60) square feet.
 - (d) Pennants, flags, and lights, but excluding flashing lights, shall be authorized by such permit and

shall be excluded from the area restriction when such items carry no written or illustrated advertising copy.

✓(e) Yard and height requirements of the appropriate zoning district shall apply to any temporary sign authorized by this section.

(f) A new sign shall not hereafter be erected, constructed, altered or maintained except as herein provided and until after a permit has been issued in the division of city planning and any required insurance shall have been filed in accordance with section 38-23 of this Code.

✓(g) A violation of any provision of this section shall constitute a class 3 misdemeanor.

2. *Flashing lights:* No outdoor displays utilizing flashing lights or lighting effects simulating motion shall be permitted.

(a) Provided, however, that messages on changing message signs which do not change more frequently than once every ten (10) seconds shall be permitted. For the purposes of this section, a message sign is a sign having a message which changes periodically.

(b) Provided further, however, that this provision shall not apply to street clocks or time/temperature displays when changes in lighting occur only to indicate the change in time and/or temperature.

3. *Animated displays:* No outdoor display utilizing any form of movement including, but not restricted to, animation, revolution, vertical or horizontal motion, whether mechanical or wind-blown, shall be permitted in any required front yard or building setback area except:

(a) When located in the DB District.

(b) Revolving signs located on a corner lot when the angular motion does not exceed fifteen (15) revolutions per minute and the revolving sign serves in lieu of separate signs on each street frontage.

4. *Removal of signs:* All copy and sign structures shall be removed from the premises of vacated businesses within ninety (90) days from the date of vacation. Removal of political signs shall be in accordance with the provisions of this ordinance as set forth in section 2402, subsection 3, subsection (j). (Ord. No. 1818, § 1; Ord. No. 2434-78; Ord. No. 2541-79; Ord. No. 2716-81)

Sec. 2407. Zoning district regulations.

The height, area, type and location of signs permitted in each zoning district within the city shall be in accordance with the following table:

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ZONING DISTRICTS

		R1 R1-A R1-B R1-C	R2-A R2-AM R2-B	R2-C R2-D	C1	C2	C2-A	DB	RD-1	M1 M2
Sign Type	Exempt									
	Temporary (1)									
	Shingle									
	Marquee									
	Projection									
	Wall									
	Roof									
	Ground									
	Advertising									
	Spectacular									
Sign Area Permitted (Sq. Ft.) (2)		NA	NA	0.75	0.75	1.00	1.00	1.50	1.00	1.00
Max. Total Area Per Parcel (Sq. Ft.) (6) (7)		12	24	75	150	150	150	100	100	300
Sign Weight (Feet)		6	6	16	16(8)	24(8)	40	40	24	40
Setbacks (Feet) (8)	Front			25	25	25(4)	10(4)	0(8)	25	0
	Side			10	10	5	0	0	10	0

- (1) When erected in compliance with section 2406 of this ordinance.
 - (2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.
 - (3) Fifty (50) percent increase in height may be granted by board of zoning appeals.
 - (4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.
 - (5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.
 - (6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.
 - (7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:
 - (a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and
 - (b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.
- Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.
- (8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:
 - (a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(Ord. No. 1818, § 1; Ord. No. 2434-78)

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

Supp. No. 1

3240

- (1) When erected in compliance with section 2406 of this ordinance.
- (2) Square feet of sign area per linear foot of lot frontage. For lots of one hundred fifty (150) feet or less of street frontage, combine total street frontages and allow seventy-five (75) percent of the total. This does not apply to lots with over one hundred fifty (150) feet of street frontage.
- (3) Fifty (50) percent increase in height may be granted by board of zoning appeals.
- (4) Signs may intrude into required front yard when sign area is reduced five (5) percent for each ten (10) percent intrusion into required yard.
- (5) Sign may extend over right-of-way when authorized as a special exception by board of zoning appeals.
- (6) "Nonadvertising" signs necessary to denoting information pertaining to direction, safety and messages required by law such as building numbers or identification or traffic controls shall not be measured against permitted sign area. Directional signs of two (2) square feet or less of sign area will not be included in computation of total sign area. Directional signs over two (2) square feet will be computed in the total sign area.
- (7) Shopping centers consisting of three (3) acres and not less than five (5) stores may increase the permitted sign area one (1) square foot for each lineal foot of store frontage located within the center when:
- (a) The additional sign area is located not closer than one hundred (100) feet of any public right-of-way, and
 - (b) The additional sign area shall not be constructed to increase more than one (1) free standing ground sign.
- Lots having street frontage in excess of five hundred (500) feet on any single street may, for the purpose of determining the number of ground signs and maximum total sign area, be considered as multiple parcels with maximum frontage of five hundred (500) feet each.
- (8) For any major thoroughfare listed in article XXII, section 2208, the special building setbacks therein shall apply to the specific major thoroughfares listed in lieu of those shown in this table, except as modified below:
- (a) In the C2-A zoning district the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (b) In the DB, M1 or M2 district the special setback as applied to signs may be reduced by twenty-five (25) feet.

(Ord. No. 1818, § 1; Ord. No. 2434-78)

ORDINANCE NO. 3211-84

AN ORDINANCE TO AMEND AND REORDAIN APPENDIX A. ZONING ORDINANCE OF THE CODE OF THE CITY OF NEWPORT NEWS BY ADDING THERETO A NEW ARTICLE, NAMELY ARTICLE XXIVA, REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

BE IT ORDAINED by the Council of the City of Newport News:

That Appendix A. Zoning Ordinance, of the Code of the City of Newport News be, and the same hereby is, amended and reordained by adding thereto a new Article, namely Article XXIVA, Regulation of Placement, Number and Physical Dimensions of Signs by Zoning District, to provide as follows:

ARTICLE XXIVA. REGULATION OF PLACEMENT, NUMBER AND PHYSICAL DIMENSIONS OF SIGNS BY ZONING DISTRICT.

Section 24A01. Generally (purpose).

The purpose of this Article is to regulate the placement, number, and physical dimensions of signs within different zoning districts in the city. To this purpose, it is the intent of these regulations to authorize the use of signs which provide easy and safe communication between people and their environment; to recognize commercial communication of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through consistent enforcement.

The intent of this Article shall be accomplished by the regulation of the display, erection, and use of signs. The use of signs is regulated according to zoning districts and the placement and physical dimensions are regulated primarily by the length of street frontage. All signs designed to remain in place shall require applicable permits issued by the Department of Codes Compliance.

Section 24A02. Scope.

This Article shall regulate signs of a commercial nature which are legible from any vehicular public right-of-way. It shall not regulate official traffic or other municipal signs; the copy and message of signs; signs not legible from a public right-of-way; window merchandise displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government, or noncommercial organizations; gravestones; religious symbols for noncommercial purposes; commemorative plaques; the display of street numbers; signs attached to or displayed on public transportation vehicles; or any display or construction not defined herein as a sign.

Section 24A03. Definitions.

For the purpose of this Article, the following definitions shall apply:

Accumulative Sign Area: Any sign that is intended to remain in place which is legible from the public vehicular right-of-way shall be counted into the total allowable sign area per lot.

Allowable Sign Area: That portion of a sign countable for determining compliance with district regulation of accumulative area and defined as the area of a rectangle, triangle, circle or combi-

nations thereof that will enclose the sign areas including background. Supports, braces, and other structure elements shall not be included unless they are designed as an integral part of the sign for the purpose of illustration or attraction.

Sign: Any structure, wall, or other object used for the display of any message, including but not limited to any device, structure, fixture, or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

Section 24A04. Relationship to building regulations.

The provisions of this Article are intended to supplement the sign requirements of the Building Regulations of the City Code (Chapter 13) by specifying the size, height, and location of signs permitted in each zoning district. In the event this Article imposes regulations more restrictive than said Code, the regulations of this Article shall prevail.

Section 24A05. Provisions applicable to interstate highways.

Within six hundred and sixty (660) feet of the right-of-way of any highway within the City of Newport News classified as a part of the national system of interstate and defense highways, no sign shall be erected except in conformance with (Title 33), Chapter 7, Sections 33.1-351 to 33.1-381, Code of Virginia, entitled, "Outdoor Advertising in Sight of Public Highways". However, no city sign permit and/or building permit shall be issued until such time as written evidence of state approval is presented to the local official; and provided further, that all applicable requirements of the City sign regulations are met.

Section 24A06. Nonconforming signs.

Any permanent legal sign existing on the effective date of this Article and in conformance with the locational, area, dimensional and structural requirements of the sign control regulations in effect at the time of its erection may continue to exist as a nonconforming outdoor display, provided that:

1. Any damaged or destroyed nonconforming sign requiring repairs valued at fifty (50) percent of its initial cost shall be removed or brought into conformity with this Ordinance.
2. For the purpose of this section, a nonconforming sign shall be considered an accessory to the use that existed at the time the sign became nonconforming. Should such use cease to exist or change to the point of requiring modification valued in excess of one hundred dollars (\$100.00) to the sign, such nonconforming sign shall be removed or brought into conformance.
3. No nonconforming sign shall be altered, modified or changed to cause the sign to exceed the degree of nonconformity that existed at the time it became nonconforming. This shall not be construed to prohibit normal maintenance as required elsewhere in this Code.

Section 24A07. Zoning district regulations.

The height, area, and location of signs permitted in each zoning district within the City shall be in accordance with the following regulations:

1. Single-family residential districts: R1, R1-A, R1-B, R1-C: Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
2. Multi-family residential districts: R2-A, R2-AM.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, signs shall not exceed twenty-four (24) square feet in sign area, and free-standing signs shall not exceed six (6) feet in height above grade.
3. Multi-family residential districts: R2-B, R2-C, R2-D.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of seventy-five (75) square feet per lot.
 - (c) Free-standing identification signs shall not exceed a height of sixteen (16) feet and shall maintain a twenty-five (25) foot front yard setback and a ten (10) foot side yard setback.
4. Commercial zoning districts: C2, C2-A.
 - (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
 - (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of one hundred fifty (150) square feet per lot.
 - (c) For corner lots having street frontage of one hundred fifty (150) feet or less on any single street, shall seventy-five (75) percent of the total combined street frontages shall be permitted. In no case shall sign area exceed one hundred fifty (150) square feet per lot.
 - (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of twenty-four (24) feet in a C2 district and forty (40) feet in a C2-A district. An increase in height may be granted by the Zoning Administrator in a C2 district if evidence can be shown that the criteria as established in Section 24A08.
 - (e) Free-standing identification signs shall maintain the following setbacks:
 - (1) In a C2 district: twenty-five (25) foot front yard
Five (5) foot side yard
 - (2) In a C2-A district: ten (10) foot front yard
zero (0) foot side yard

- (3) Signs may intrude into the required front yard when sign area is reduced ten (10) percent for each ten (10) percent intrusion into the required yard.

5. **Downtown business district: DB.** The purpose of this section is to regulate signage consistent with proposed and existing development within the downtown business district and generally known as Newport Centre in conformity with the provisions of the Newport Centre Urban Design Plan.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots with multiple street frontages, the number of signs and sign area shall be determined according to individual street frontages. In no case shall the sign area exceed three hundred (300) square feet per lot.
- (d) There shall be no front or sign yard setbacks required in the DBC sectors. Projecting signs that may extend over the public right-of-way shall be authorized by the Zoning Administrator if the criteria as established in Section 24408 have been met.
- (e) Wall signs above the first story shall be limited to one building identification sign per parcel except when the combined building frontage exceeds one hundred (100) feet in length, an additional identification sign shall be allowed per one hundred (100) linear feet.
- (f) Ground signs ten (10) square feet or more in area shall be required to have a minimum of five (5) square feet of landscaped ground area at the sign base for every one (1) square foot of sign area. Ground signs of less than ten (10) square feet shall have a minimum of twenty (20) square feet of landscaped ground area. Any courtyard or plaza required under Section 2624 may apply this required open space for this purpose.
- (g) Any ground sign within the DBC sectors shall be limited to twenty-four (24) square feet in sign area and twelve (12) feet in height.
- (h) When projecting signs are limited to two (2) square feet, they are not counted against the total per parcel. Any individual sign over two (2) square feet will be counted toward the total sign allotment in its entirety. A twelve (12) foot clearance shall be maintained from the bottom of the projecting sign to the ground.
- (i) Projecting signs, marquees, and window graphics shall be located below the second floor level and shall not exceed twenty-four (24) feet in height nor in any case extend over five (5) feet into the right-of-way.
- (j) Retail uses adjacent to, with access from, a public courtyard or plaza shall receive a 1:1 ratio of sign area to store frontage.

6. Industrial zoning districts: M1, M2.

- (a) Exempted signs as defined in Chapter 13, Building Regulations of the City Code.
- (b) Unless otherwise permitted in this Article, the maximum permitted sign area shall be based on a ratio of one (1) square foot of sign area per one (1) linear foot of street frontage on a public street not to exceed a maximum total of three hundred (300) square feet of sign area per lot.
- (c) For corner lots having street frontage of three hundred (300) feet or less on any single street, seventy-five (75) percent of total combined street frontages shall be permitted. In no case shall sign area exceed three hundred (300) square feet per lot.
- (d) There shall be one (1) free-standing identification sign permitted per lot not to exceed a height of forty (40) feet.
- (e) There shall be no front or side yard setbacks required in this district.

7. Supplemental sign regulations.

- (a) For commercial high rise buildings of seven (7) stories or more above grade, allowable sign area may be increased one (1) square foot for each linear foot of building frontage on a public street; provided such additional area is not constructed as a free-standing sign.
- (b) Shopping centers consisting of two (2) acres or more and not less than three (3) stores may have:
 - (1) One (1) free-standing sign, which identifies the shopping center only, per major street frontage, except that no more than two (2) free-standing identification signs will be permitted for each shopping center. Each free-standing identification sign may include a readerboard with changeable copy.
 - (2) One (1) square foot of sign area for each linear foot of individual store frontage located within the center; provided a minimum sign area of thirty-two (32) square feet may be permitted when individual store frontage is less than thirty-two (32) linear feet.
- (c) The special building setbacks listed in Article XXII, Section 2208, shall apply to the specific major thoroughfares listed in lieu of district requirements, except as modified below:
 - (1) In the C2 and C2-A zoning district, the special setback as applied to signs may be reduced by fifteen (15) feet.
 - (2) In the M1 or M2 district, the special setback as applied to signs may be reduced by twenty-five (25) feet.

Section 24A08. Adjustments in sign regulations.

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The City Zoning Administrator or his designated representative is authorized to approve applications for all sign permits and

enforce and carry out all provisions of this Article, both in letter and in spirit. The Zoning Administrator is authorized to promulgate regulations and procedures consistent with this function. To this purpose, the Zoning Administrator is also authorized to make adjustments in the sign regulations when satisfactory evidence is presented to vary the following regulations by exception:

1. Sign height: The Zoning Administrator shall authorize an exception in any C2 zoning district of an increase in height of signs whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:
 - (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
 - (b) The location of entrance way(s) in relation to business.
 - (c) A change in traffic patterns.
 - (d) The distance from road rights-of-way.
 - (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum height to exceed forty (40) feet.

2. Sign area increases: The Zoning Administrator or the Planning Commission, in the manner set forth below, shall authorize an exception in any C2, C2-A, M1 or M2 zoning district for increased sign area whenever it is demonstrated that one of the following would impose conditions which would make commercial signs unreadable from the adjoining roadway:

- (a) Unusual topography such as, but not limited to, separation of grade or substantial vegetation.
- (b) The location of entrance way(s) in relation to business.
- (c) A change in traffic patterns.
- (d) The distance from road rights-of-way.
- (e) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges, or utility lines.

It is further provided that the requested exception shall be:

- (a) Consistent with other businesses in the general area;
- (b) Not within two hundred (200) feet fronting a residential zoning district; and
- (c) Consistent with general traffic safety in the general area.

The Zoning Administrator shall be authorized to approve increases not to exceed fifty percent (50%) of the total allowable sign area per lot. The Planning Commission shall be responsible for review and approval of requests for sign area increases above fifty percent (50%).

3. Signs over public rights-of-way: The Zoning Administrator shall authorize as an exception in the DB zoning district signs located over public rights-of-way whenever all of the following conditions are present:

- (a) That signs as otherwise permitted are inadequate for identification purposes and the use of space over the public right-of-way is in the public interest as opposed to an individual benefit.
- (b) That the location, clearance, and construction of the sign are sufficient to insure public safety.
- (c) That the property owner has provided a bond or evidence of liability insurance approved by the city attorney as sufficient and adequate to indemnify and save harmless the City from any liability that may result from the use of said sign.

4. Sign area increases - DB/Hawport Centre: The Zoning Administrator shall authorize an exception in the DBC sectors for increased sign area for building identification signs whenever all of the following conditions are present:

- (a) A permanent visual obstruction exists, such as, but not limited to, adjacent buildings or bridges;
- (b) The sign is oriented to and is primarily intended to be visible to the I-664 right-of-way;
- (c) Such adjustment would be consistent with other businesses in the DBC sectors; and
- (d) Such adjustment would be consistent with general traffic safety in the general area.

Notwithstanding, said exception shall not authorize a maximum increase to exceed fifty percent (50%) of the total allowable sign area per lot.

5. Sign height increases - DB/Hawport Centre: The Zoning Administrator shall authorize an exception in any DBC sector of an increase in ground sign height whenever all of the following conditions are present:

- (a) A permanent physical obstruction, such as, but not limited to, adjacent buildings or bridges or other factors exist which make the allowable sign height inadequate to permit visibility from the adjoining roadway.
- (b) Consistent with general traffic safety in the general area.

(c) Notwithstanding, said exception shall not authorize a maximum increase to exceed twenty-four (24) feet in height.

Sponsor:

J. H. Hogg, Jr.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS AUGUST 14, 1984

Countersigned:

Mayor

James C. Patton

Tested:

Bernice D. Berry
City Clerk

Roll Call Vote Resulted as Follows:

Ayes: Fitzgerald, Hogg, Rattley, Ritchie, Brown

Nays: None

Excused: Patton

Abstention: Keator (Has financial interest in a sign company)



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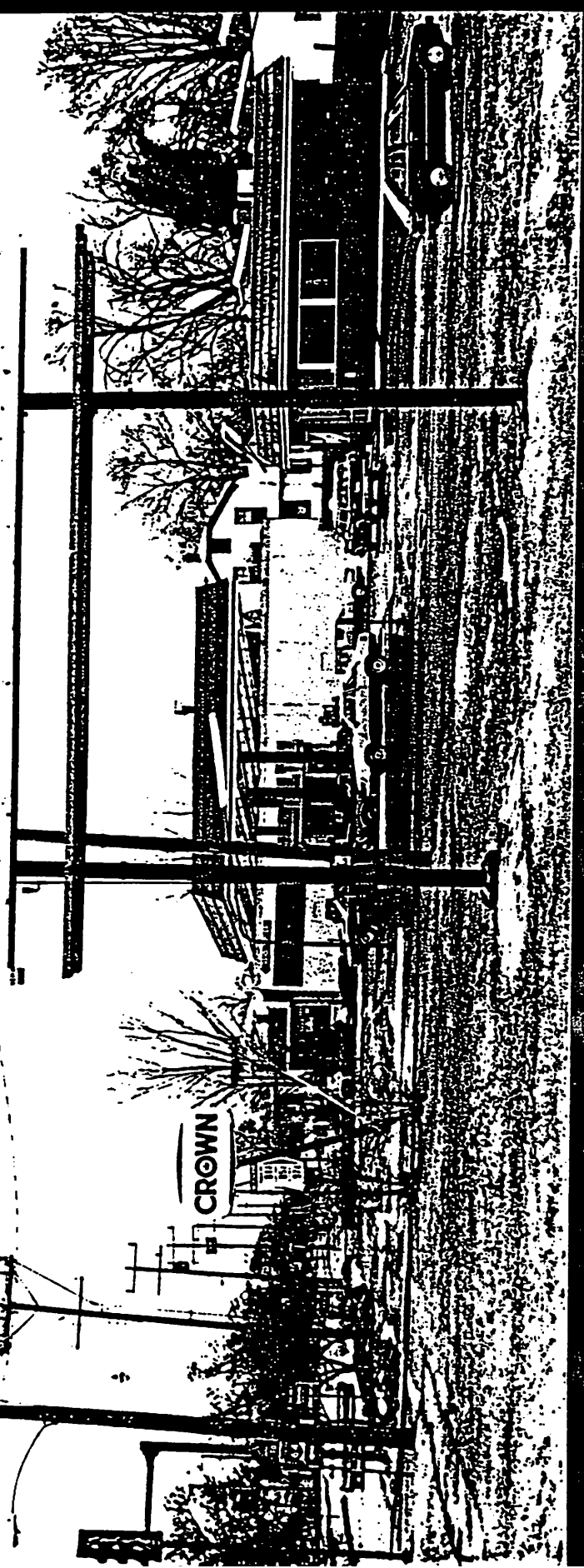
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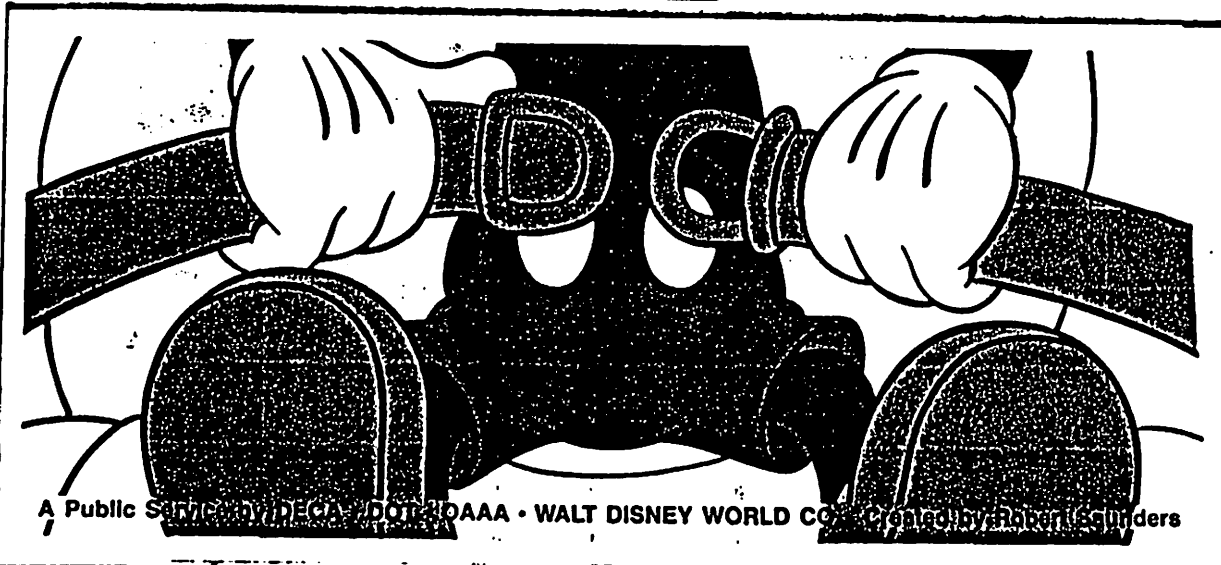
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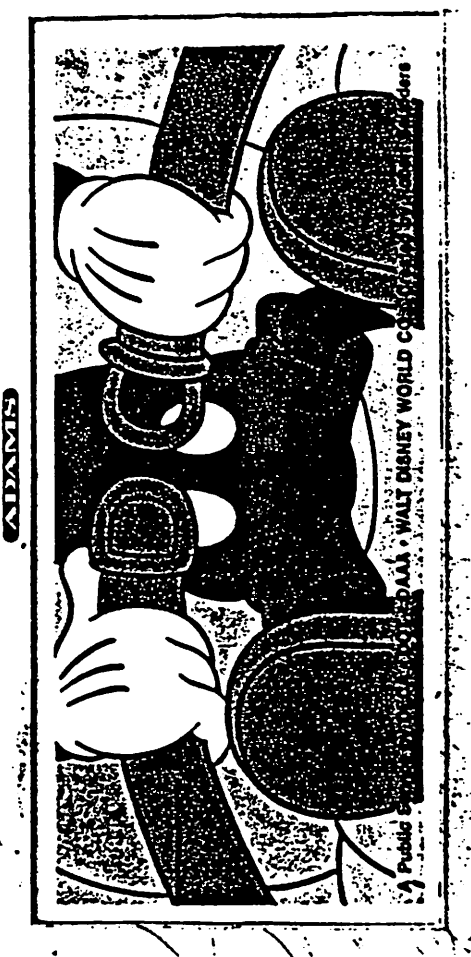
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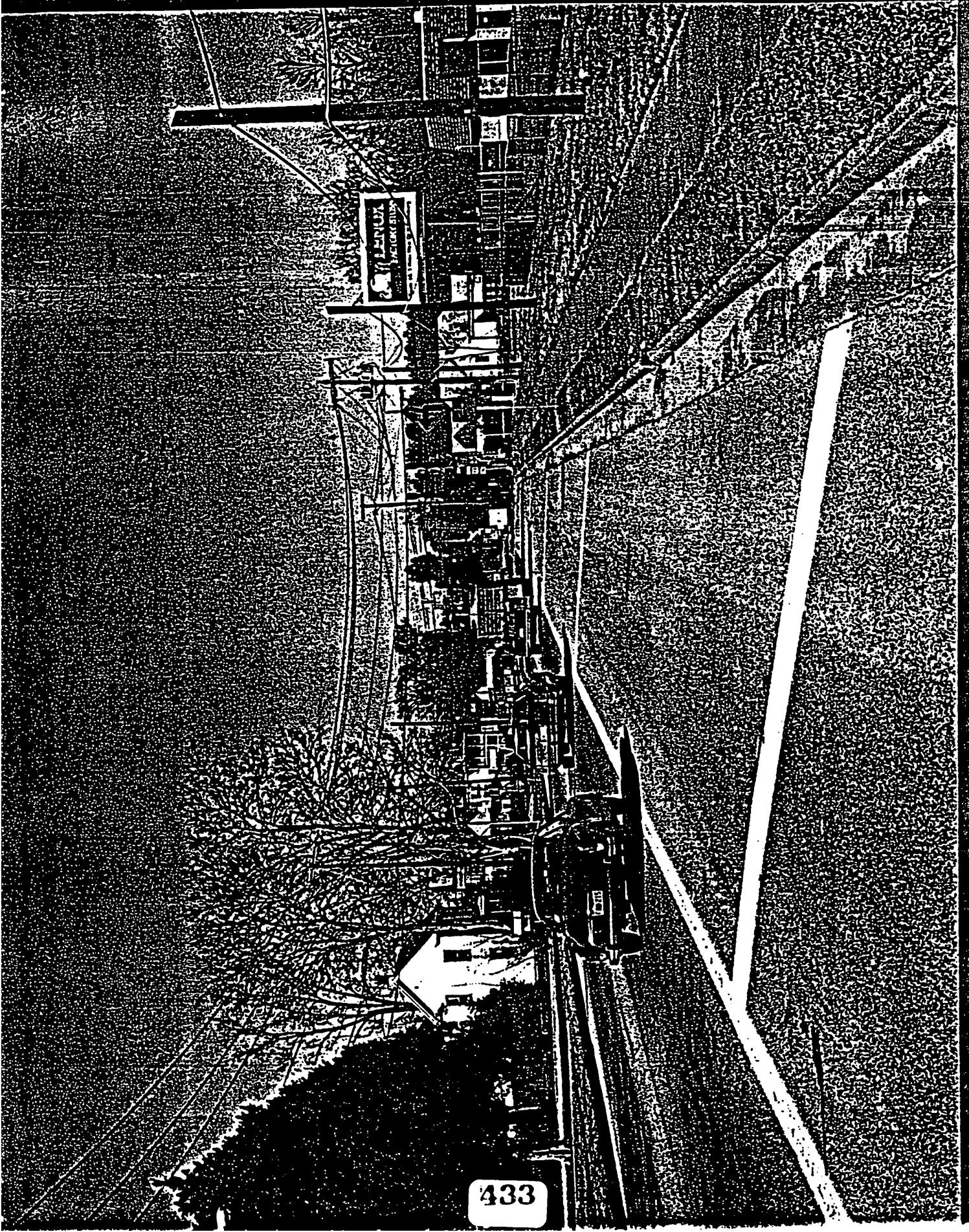
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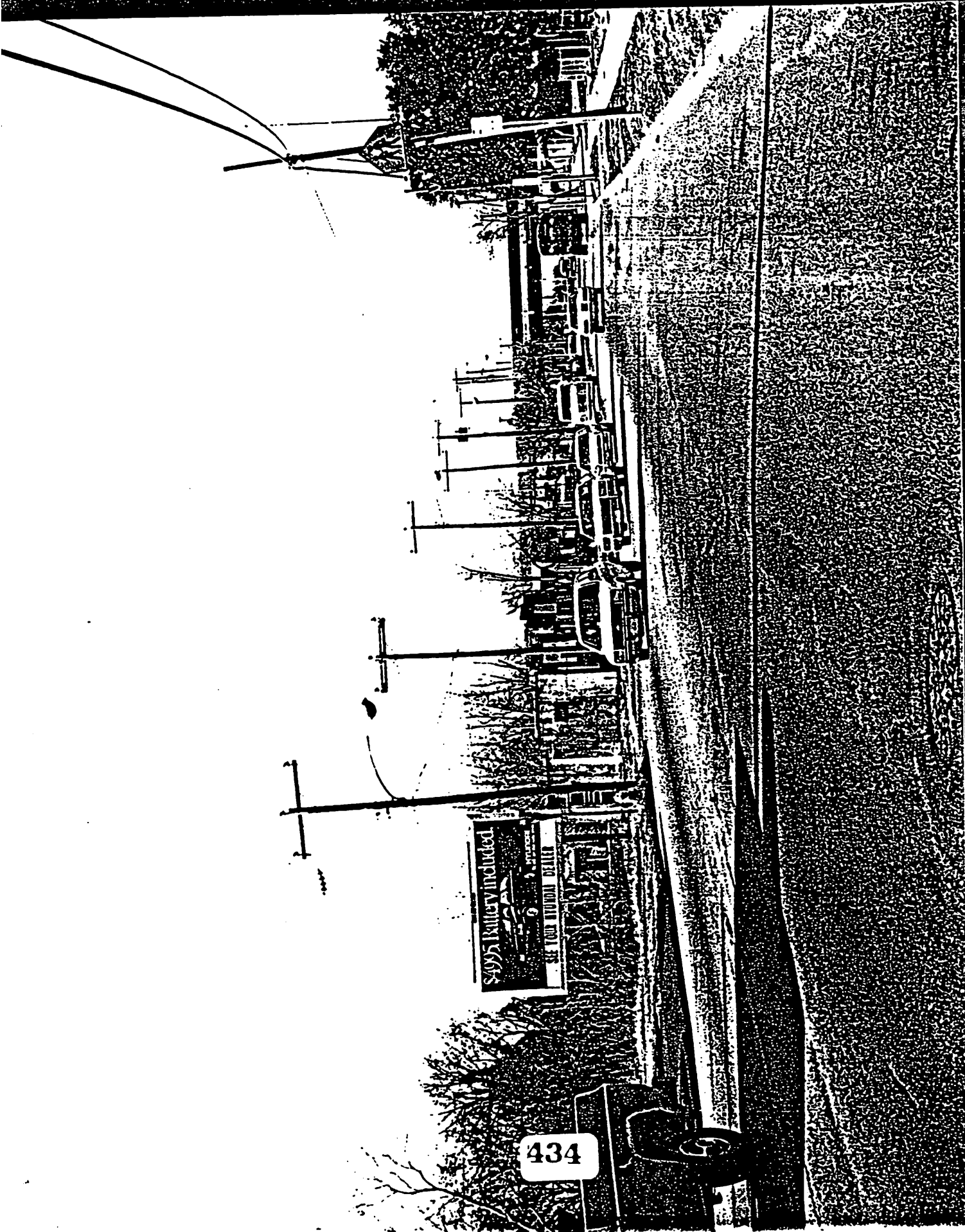
EXHIBIT D - MAP

**CANNOT BE REASONABLY REPRODUCED FOR THE PURPOSE OF THIS
APPENDIX; RETAINED IN THE CLERK'S OFFICE.**

EXHIBIT E - ADAM'S SIGNS
NEWPORT NEWS - PUBLIC SERVICE

1. - Route 60 at Ripley Street
2. - Chestnut Street and 36th Street (looking north)
3. - Jefferson Avenue at 49th Street
4. - Jefferson Avenue at 74th Street
5. - Jefferson Avenue at Randolph Street
6. - Jefferson Avenue at Warwickshire Street
7. - Jefferson Avenue at Greenwood Road
8. - 1116 Jefferson Avenue (close up)
9. - 1116 Jefferson Avenue (distance)
10. - Route 60 North of Fort Eutis Boulevard
11. - Warwick Boulevard at Colony Road (distance)
12. - Warwick Boulevard at Colony Road (close up)
13. - Warwick Boulevard at Harpersville Road
14. - Warwick Boulevard at Raleigh Road
15. - Warwick Boulevard at Raleigh Road
16. - Jefferson Avenue at Ivey Farms Road
17. - J. Clyde Morris Boulevard East of Jefferson Avenue
(Oyster Point Area)
18. - Warwick Boulevard near J. Clyde Morris Boulevard
19. - Warwick Boulevard
20. - Warwick Boulevard near J. Clyde Morris Boulevard







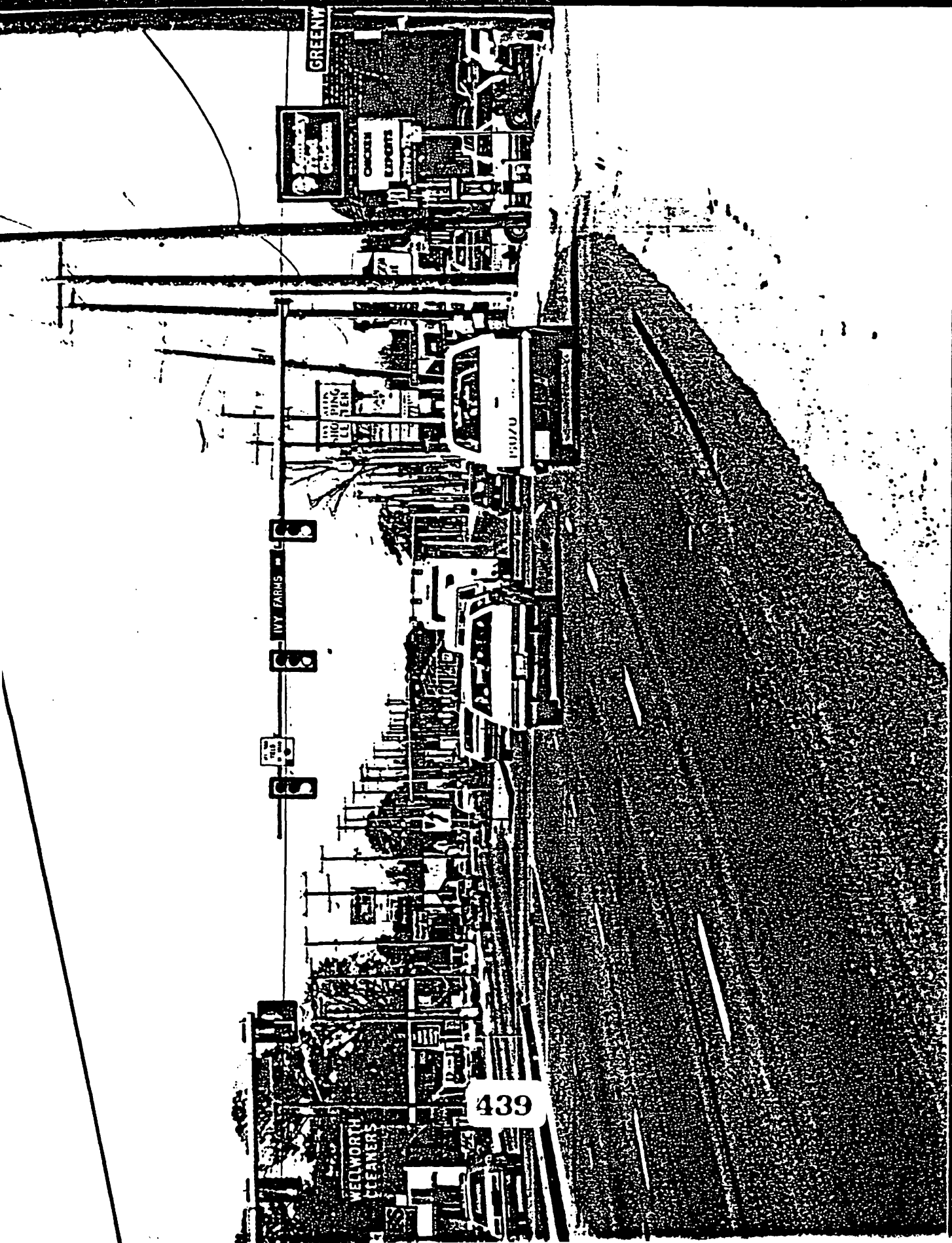


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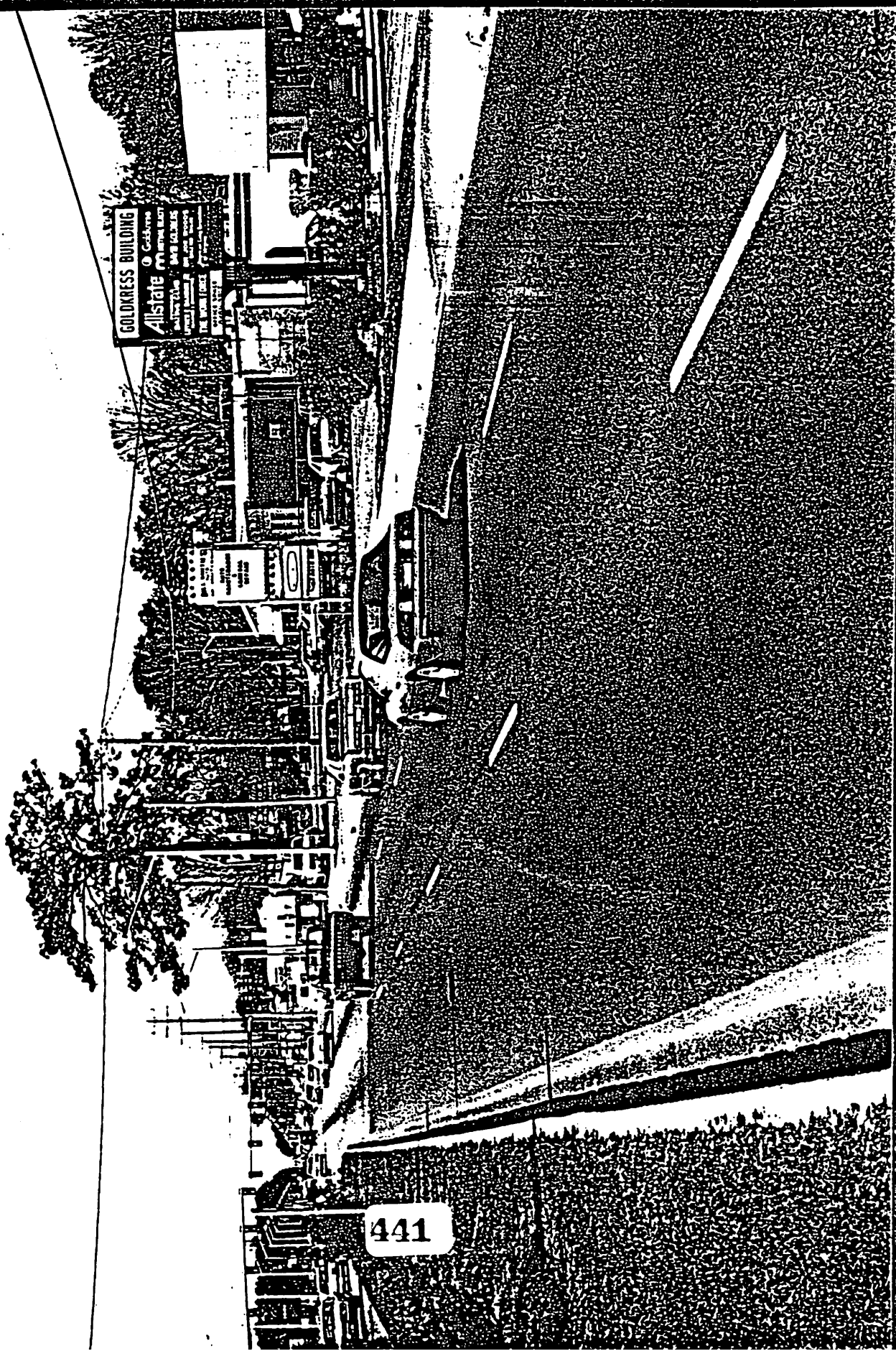
PENINSULA
DATING CLUB

LUTHER E. DAMRON, JR.
TAXATION & BOOKKEEPING

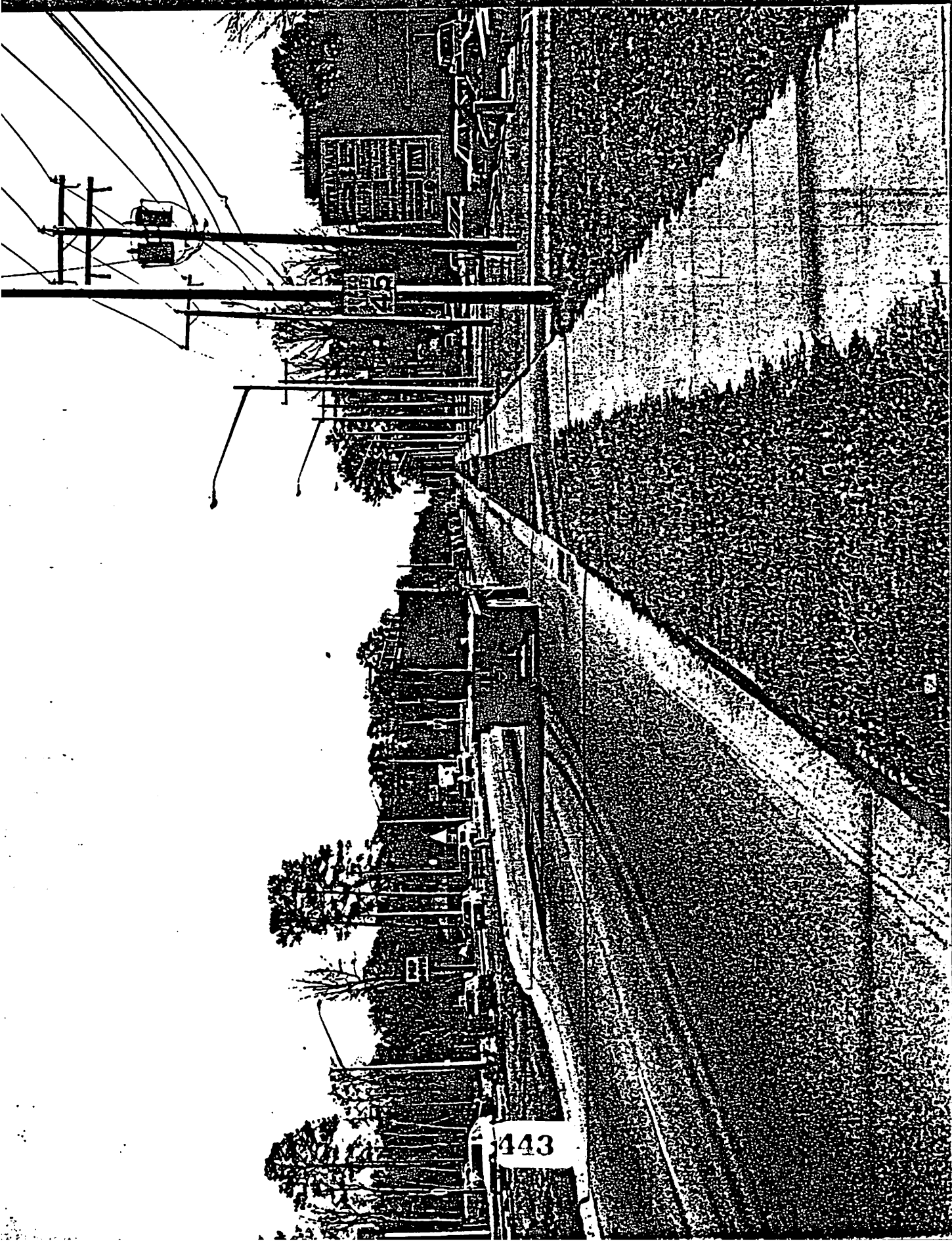
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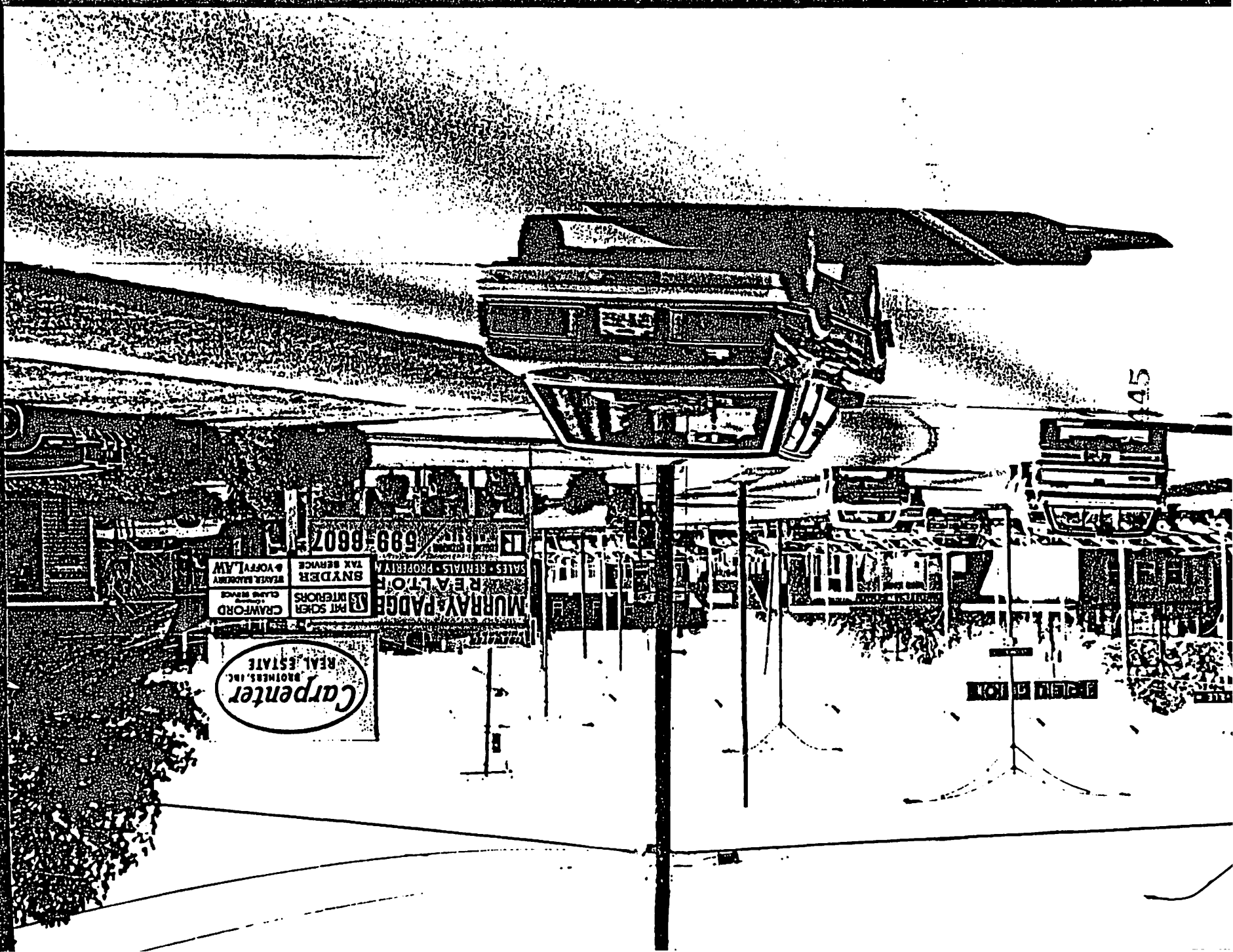
WILLIAM H. POLK, M.D.

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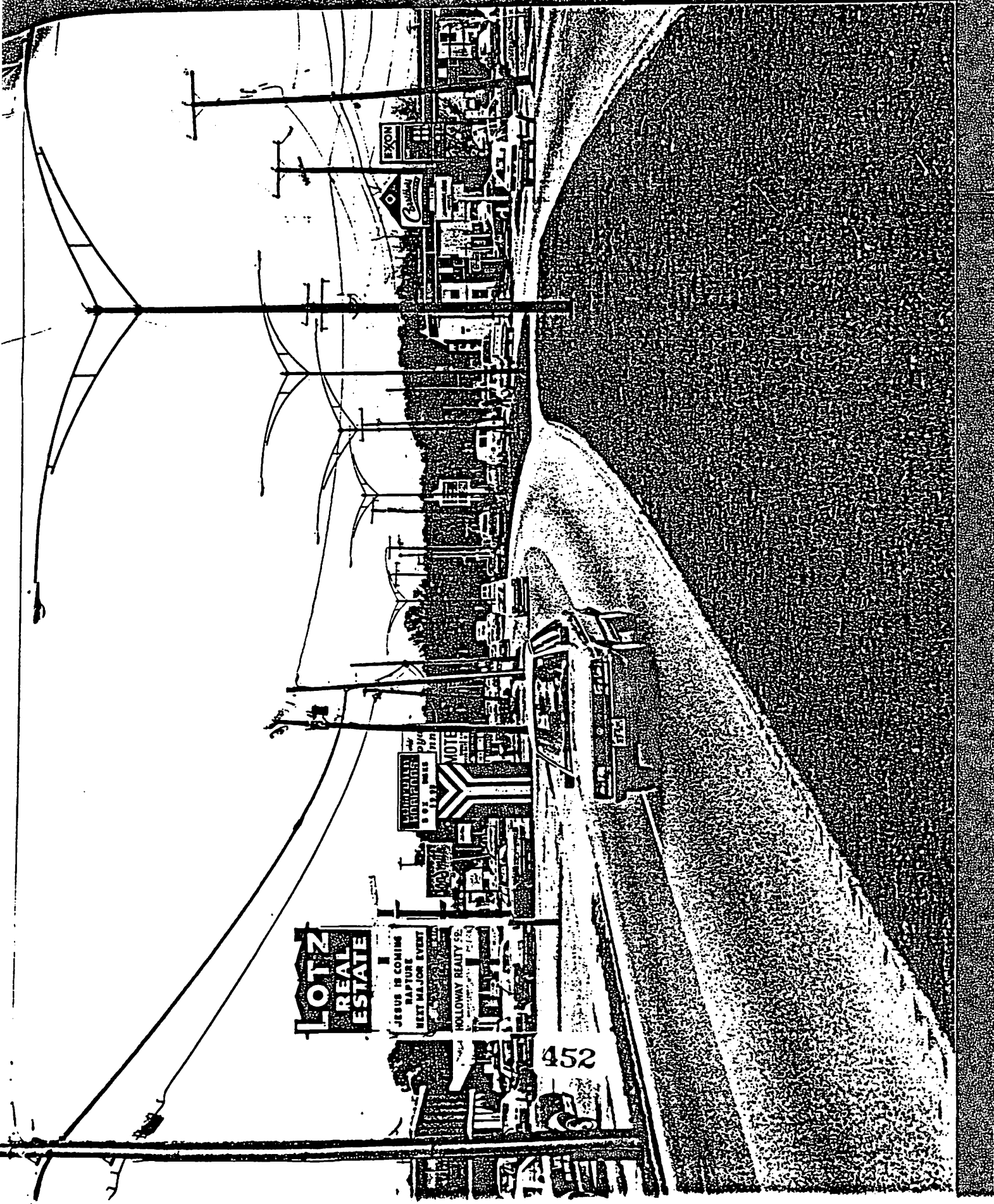
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LEVEL 1 - 1 OF 1 CASE

Wesley K. Bell, t/a Wes Outdoor Advertising Co.,
Plaintiff-Respondent, v. Township of Stafford, a
Municipality in the County of Ocean, State of New Jersey,
Defendant-Appellant, and Robert H. Mears, Construction
Official of the Township of Stafford, and The County of
Ocean, Defendants

No. A-68

Supreme Court of New Jersey

110 N.J. 384; 1988 N.J. LEXIS 42; 541 A.2d 692

Argued January 5, 1988

May 26, 1988, Decided

[*1]

On certification to the Superior Court, Appellate Division.

HANDLER, J. Chief Justice Wilentz and Justices Clifford, Pollock, O'Hern, Garibaldi, and Stein join in this opinion.

Thomas E. Monahan argued the cause for appellant (Gilmore & Monahan, attorneys; J. Mark Mutter and Charles W. Hutchinson, on the briefs).

Wesley K. Bell argued the cause for respondent, pro se.

Theodore L. Abeles submitted a brief on behalf of amicus curiae Gannett Outdoor Co., Inc. of New Jersey (Lum, Hoens, Abeles, Conant & Danzis, attorneys).

Jeffrey M. Hall and Kenneth I. Hyman submitted a brief on behalf of amicus curiae, The Outdoor Advertising Association of New Jersey (Strauss & Hall, attorneys; Mr. Hall, of counsel).

HANDLER

The opinion of the Court was delivered by HANDLER, J.

This case engenders first amendment and freedom of speech concerns arising from the efforts of a municipality to regulate through its zoning powers the use of billboards as a form of out-door advertising. The controversy arose from the Township of Stafford's ("Township" or "Stafford") enactment and enforcement of an ordinance declaring that "[b]illboards, signboards, and [*2] off-premises advertising signs and devices are prohibited within any zoning district of the Township." n1

n1 Stafford Ordinance No. 84-35 (amended by Ordinance No. 85-68, superseded by Ordinance 86-20).

Three separate billboards owned by Wesley K. Bell ("Bell"), trading as Wes Outdoor Advertising, that are located along Route 72 in the municipality have been affected by ordinance, whose constitutional validity was upheld by the

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trial court. In an unpublished per curiam opinion, the Appellate Division reversed the trial court's decision and found that the ordinance was unconstitutional. Stafford filed a petition for certification and notice of appeal. We granted certification, 108 N.J. 191 (1987), n2 and now affirm the Appellate Division's decision.

n2 During the pendency of this appeal, both parties sought to have the Court consider additional, ancillary issues. These issues, it appears, were the subject of further consideration by both the trial court and Appellate Division and remain to be heard by the trial court. Accordingly, we deny the requests of the parties to address these issues, with the exception of our treatment of the validity of Ordinance 86-20. *Infra* at n. 4 (slip op. at 6 n. 4). [*3]

I.

In its opinion, the Appellate Division provided a brief recitation of the underlying events, which suffices for our disposition of the matter.

During the latter half of the 1960's Wesley K. Bell obtained title to two plots of land located along Route 72 in Stafford identified as Block 145A, Lot 26A (Lot 26A) and Block 120, Lot 8 (Lot 8). Thereafter, Bell constructed a number of billboards on these properties. During the early 1970's the DOT [i.e., Department of Transportation] sought to condemn a portion of Lot 26A in order to widen Route 72, a State highway which passes through Stafford. Bell unsuccessfully challenged that condemnation action in the state and federal courts.

On September 30, 1983 agents of the DOT entered upon Lot 26A and cut down the billboard located thereon. At the same time, the DOT mistakenly tore down the billboard located on Lot 8 even though this land had not been condemned by the State. Bell then disassembled the billboards and removed them to his warehouse for repairs. In May 1984 Bell reconstructed the billboard on the portion of Lot 26A which the State had not taken in the condemnation proceedings, despite an order by Stafford not to do so.

On [*4] May 8, 1984 Bell entered into a contract with Lewis [sic] and Jeanne Raupp to purchase a plot of land identified as Block 158A, Lots 114 and 119 (Block 158A) which contained a billboard thereon. On May 18, 1984 Bell purchased another billboard which he intended to relocate to the property he had just purchased from the Raupps. Thereafter, he filed an application with Stafford seeking approval of the relocation.

On May 30, 1984, Stafford filed an action in the Chancery Division, claiming that Bell needed a building permit in order to maintain the billboard on Lot 26A. The judge who heard the matter held that a new building permit was required notwithstanding the fact that Bell had obtained a building permit at the time that the original billboard had been constructed on Lot 26A. During the first week of June 1984, Bell also began to reconstruct the billboard which had been improperly torn down by the DOT on Lot 8. Stafford's construction code official, Robert Mears (Mears), ordered Bell to stop work on this billboard until he obtained a building permit. Stafford then filed a second suit and the same judge again determined that a building permit was required in order to reconstruct [*5] the billboard on Lot 8.

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As a result of that litigation, Bell filed applications for building permits on Lots 26A and 8. In the meantime, Stafford had amended its Ordinance 77-22, which had regulated the use of billboards in the Township, by passing Ordinance No. 84-35, which sought to prohibit all billboards for off-premises advertising within any zoning district of the Township. On July 2, 1984 Bell received written notices denying his application for building permits on Lots 26A and 8 and his application to relocate the billboard from Block 181, Lot 4 to Block 158A, Lots 114 and 119. Among other reasons, the applications purportedly were denied because billboards were prohibited under Ordinance 84-35 within any zoning district of the municipality.

On receipt of the Township notices Bell filed a complaint in lieu of prerogative writs against the Township, which in part sought a declaratory judgment that the ordinance was unconstitutional on its face. The trial court rejected this argument but the Appellate Division reversed, ruling that the ordinance was facially unconstitutional.

Stafford contends that the Appellate Division erred in declaring the ordinance unconstitutional. The [*6] Township maintains that the appellate court should have refrained from making its determination of unconstitutionality, and instead have decided this case on nonconstitutional grounds. Specifically, the Township's alleges: (1) that Bell's billboards are not entitled to protection as non-conforming uses; (2) that the Township should not have any wrong imputed to it because of the DOT's actions; and (3) that Bell's permits could properly have been denied due to failure to timely submit a site plan.

II.

We deal first with the contention that in this case a decision on constitutional grounds would be improvident. This contention, made by the Township, invokes the doctrine of "strict necessity."

Generally, courts will adjudicate the constitutionality of legislation only if a constitutional determination is absolutely necessary to resolve a controversy between parties. This doctrine of "strict necessity," articulated by the United States Supreme Court in *Rescue Army v. Municipal Court of Los Angeles*, 331 U.S. 549, 91 L.Ed. 1666 (1947), is well-recognized. Thus, in *Donadio v. Cunningham*, 58 N.J. 309, 325-26 (1971), we acknowledged that "a court should not reach and determine [*7] a constitutional issue unless absolutely imperative in the disposition of litigation." See, e.g., *Ahto v. Weaver*, 39 N.J. 418 (1963); *State v. Salerno*, 27 N.J. 289 (1958); *American Bank & Trust Co. of Pennsylvania v. Lott*, 193 N.J. Super. 516 (App. Div. 1984), *aff'd*, 99 N.J. 32 (1985). n3

n3 Nevertheless, a court may in some cases address constitutional issues despite the absence of strict necessity for doing so. See, e.g., *Schaad v. Ocean Grove Camp Meeting Ass'n*, 72 N.J. 237 (1977), overruled on other grounds, *State v. Celmer*, 80 N.J. 405, cert. denied, 444 U.S. 951 (1979); *Winberry v. Salisbury*, 5 N.J. 240, cert. denied, 340 U.S. 877 (1950); *Public Serv. Coordinated Transp. v. Newark Elizabeth Indep. Bus Owners Ass'n*, 3 N.J. 118 (1949).

Stafford argues that the "strict necessity" principle, exemplified by *Rescue Army* and *Donadio*, precludes disposition of a case on constitutional grounds

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where there is a nonconstitutional basis available for the decision. It contends that this is such a case because the court could have upheld the Township's denial of Bell's billboard application [*8] on the basis of nonconstitutional arguments. In addition, the Township suggests that the billboard ban need not be considered to resolve the dispute between the parties. However, the Township clearly relied on the billboard-ban of its ordinance to deny Bell his building permits. Its action is squarely predicated on the validity of the ordinance. n4

n4 The original ordinance, No. 84-35, was subsequently amended by Ordinance No. 85-68 for the purpose of curing certain publication defects in 84-35 and also to incorporate 84-35 into the overall municipal zoning ordinance. Ordinance 85-68, in turn, was later replaced by Ordinance 86-20. Since "the operative terms of the ordinance[s], upon which the trial court had ruled, remained unchanged. . .," *Riggs v. Long Beach Township*, 101 N.J. 515, 524-25 (1986), rev'd on other grounds, N.J. (March 23, 1988), the existence of the latter ordinance in no way affects the merits or justifies a remand of the matter. In the interests of simplicity and clarity, we will refer to the statutory scheme in question as "the ordinance." Because the Township relied primarily on the current ordinance as a basis for its actions, the appellate court correctly applied the law that was operative at the time of its decision. See *Kruvant v. Cedar Grove*, 82 N.J. 435, 440-42 (1980). [*9]

Moreover, Bell has the standing to press this constitutional challenge. This is confirmed by the Declaratory Judgments Act, N.J.S.A. 2A:16-53, which expressly confers standing on a person whose legal rights have been affected by a municipal ordinance. Our courts have acknowledged that this Act should be liberally construed and administered in order to carry out its purpose. See *New Jersey Banker's Ass'n v. Van Riper*, 1 N.J. 193, 198 (1948); *Rego Indus., Inc. v. American Model Metals Corp.*, 91 N.J. Super. 447, 454 (App. Div. 1966). While the Act is not to be used to secure decisions that are only advisory in effect, *Civil Serv. Comm'n v. Senate of State of N.J.*, 165 N.J. Super. 144 (App. Div. 1977), certif. denied, 81 N.J. 266 (1979), it does afford expeditious relief from uncertainty with respect to rights when claims are in genuine conflict. *Hartford Acc. & Indem. Co. v. Selected Risks Indem. Co.*, 65 N.J. Super. 328 (App. Div. 1961).

In this case it is clear that an issue involving the constitutionality of the ordinance is properly presented. The case is brought by a party with standing to raise the constitutional issue in a context warranting [*10] such a decision in order fairly to resolve the legal controversy engendered by the application of the ordinance.

111.

In dealing with the merits of the constitutional issue presented, it is instructive to consider the underlying constitutional interests that are implicated. The United State Supreme Court has recognized the importance of these interests in similar contexts involving local government attempts totally to prohibit or drastically to curtail forms of free speech and expression.

In *Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 68 L.Ed. 2d 671 (1981), the Supreme Court struck down as unconstitutional a municipal zoning ordinance that prohibited all live entertainment, including nude dancing, in any establishment within the Borough of Mount Ephraim. There, Justice White, writing for the Court, articulated the standard of review to be applied where a zoning law

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infringes on a protected fundamental right, such as free speech: "it must be narrowly drawn and must further a sufficiently substantial governmental interest." Id. at 68, 68 L.Ed. 2d at 680. Thus, not only must a court assess the substantiality of the governmental interests asserted but it also must [*11] determine whether those interests could be served by means that would be less intrusive on free speech. Id. at 70, 68 L.Ed. 2d at 681.

In the same year as *Schad*, the Supreme Court, in *Metromedia, Inc. v. San Diego*, 453 U.S. 490, 69 L.Ed. 2d 800 (1981), dealt with the validity of statutory billboard prohibitions. *Metromedia* involved a San Diego ordinance that essentially prohibited "outdoor advertising display signs." Under the ordinance scheme, onsite commercial advertising was permitted, but other commercial advertising and noncommercial communications using billboards were prohibited unless included in one of twelve exceptions provided in the ordinance. Id. at 494-95, 69 L.Ed. 2d at 806-07. Appellants were companies engaged in the outdoor advertising business in San Diego who owned a substantial number of billboards located in commercial and industrial zones within the city. While the billboards were used primarily for commercial advertising, they were also used to communicate a broad range of noncommercial social and political messages. The lower courts had upheld the ordinance based on their belief that the two purposes behind it, traffic safety [*12] and aesthetics, were within the City's legitimate interests. Id. at 497, 69 L.Ed. 2d at 808. Thus the ordinance was perceived as a "proper application of municipal authority over zoning and land use for the purpose of promoting the public safety and welfare." Id. (quoting *Metromedia, Inc. v. City of San Diego*, 26 Cal. 3d 848, 858, 610 P. 2d 407, 411, 164 Cal. Rptr. 510, 514 (1980)).

The Supreme Court ruled that the ordinance was unconstitutional. In his plurality opinion, Justice White expressed the view that the ordinance, insofar as it regulated commercial speech, met constitutional guidelines established for determining governmental regulation of such speech, *in* *Metromedia*, 453 U.S. at 512, 69 L.Ed. 2d at 818, since the "common sense judgments of local lawmakers" on traffic safety and lack of a showing of an improper "ulterior motive" behind its esthetic judgments showed that the city's action did indeed directly advance these substantial interests. Id. at 509-11, 69 L.Ed. 2d at 816-17. Nevertheless, the plurality struck down the ordinance because of its restrictive impact on non-commercial speech, which, due to numerous statutory [*13] exceptions, reached too intrusively into the realm of free speech by purporting to distinguish between kinds of protected speech by reference to their content. Id. at 513-15, 69 L.Ed. 2d at 818-19. Lastly, the plurality rejected the City's argument that the ordinance was a reasonable "time, place and manner" restriction because adequate alternative channels were not available to parties wishing to express social or ideological views in an inexpensive and wide reaching manner. Id. at 515-17, 69 L.Ed. 2d at 820.

in The plurality relied on the following four-part test for use in the commercial speech context:

(1) The First Amendment protects commercial speech only if that speech concerns lawful activity and is not misleading. A restriction on otherwise protected commercial speech is valid only if it (2) seeks to implement a substantial governmental interest, (3) directly advances that interest, and (4) reaches no further than necessary to accomplish the given objective.

[*Metromedia*, 453 U.S. at 507, 69 L.Ed. at 815 (quoting *Central Hudson Gas &*

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Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557, 563-66, 65 L.Ed. 2d 341, 349-51 (1980)).]

This [*14] constitutional approach conforms to our own. One year prior to *Metromedia* and *Schad*, this Court in *State v. Miller*, supra, 83 N.J. 402, struck down a municipal sign ordinance as unconstitutional. In doing so we acknowledged that the preservation of aesthetics and property values was a legitimate goal of a municipal zoning ordinance, id. at 409. Nevertheless, we ruled that ordinances seeking to further such a goal would be subject to strict constitutional scrutiny requiring that their regulatory restrictions be closely "tied to a compelling municipal interest as well as to the uses permitted in a given zone." Id. at 414. In finding in that case that this standard had not been satisfied, we reasoned that the ordinance in question was too severe, amounting to a total ban on a form of political speech without providing an adequate alternative means of communicating. Id. at 413. Specifically, we concluded that "adequate alternative means political communication" were not available where homeowners were precluded from putting signs and posters in their yards. Ibid.

n6 The ordinance in *Miller* required permits for all signs exceeding six square feet and permitted only the following types of signs in residential zones: (1) decorative name and address plates; (2) "for sale" or "for rent" signs and signs identifying firms doing work on the premises; (3) signs maintained by the local, state or federal government; (4) identification signs for churches, schools, etc. The defendant in that case was convicted of violating the ordinance after he erected a four-by-eight-foot sign on his front yard carrying a message concerning a matter of public interest. [*15]

In applying the test for determining the constitutional validity of an enactment that restricts or impinges on freedom of speech and expression, we are mindful that ordinarily legislative enactments are presumed to be valid and the burden to prove invalidity is a heavy one. *Velmoshos v. Maren Eng'g Corp.*, 83 N.J. 282 (1980), vacated, 455 U.S. 985 (1982); *Levitt & Sons, Inc. v. Division Against Discrimination, etc.*, 31 N.J. 514, appeal dismissed, 363 U.S. 418 (1960). Municipal ordinances, like statutes, enjoy this presumption of validity. *Hutton Park Gardens v. West Orange Town Council*, 68 N.J. 543, 564 (1975); *Senate v. Mayor and Municipal Council of Clifton*, 66 N.J. 204, 219 (1974). Consistent with the judicial predisposition in favor of the validity of legislation, courts will readily impute a proper governmental purpose or interest as the object to be served by the enactment, and, if need be, infer an adequate factual basis to support legislative regulations, even in the absence of particular purposes or specific findings being expressed by the lawmakers. *Hutton Park Gardens v. West Orange Town Council*, 68 N.J. at 564-65; *Burton* [*16] v. *Sills*, 53 N.J. 86, 95 (1968).

Nevertheless, if an enactment directly impinges on a constitutionally protected right, the presumption in favor of its validity disappears. Courts are far more demanding of clarity, specificity and restrictiveness with respect to legislative enactments that have a demonstrable impact on fundamental rights. See *State v. Cameron*, 100 N.J. 586, 592 (1985); *Paton v. LaPrade*, 469 F. Supp. 773, 778 (D.N.J. 1978).

As we noted in *Zilinsky v. Zoning Bd. of Adjustment of Verona*, 105 N.J. 363 (1987), while, as a general rule, zoning ordinances do not have to articulate "tangible, specific objectives" in order to be valid, id. at 371, if an ordinance infringes on a fundamental right, "the burden is upon the

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municipality to articulate the objectives of [the] . . . ordinance." Ibid. This articulation, we stated, need not be in the ordinance itself. "[R]ather, the municipality may offer testimony at a court hearing held to decide the constitutionality of the ordinance." Ibid.; *Riggs v. Long Beach Township*, supra, N.J. at (slip op. at 17-18). Thus, an ordinance that substantially curtails freedom of [*17] expression clearly requires that the municipality shoulder the burden of proving its constitutional validity. The municipality must satisfactorily demonstrate a legitimate governmental interest that is to be served by the enactment and demonstrate a reasonable factual basis indicating that the regulation advances the governmental interest and is no more expansive than necessary in advancing that interest. See *Metromedia, Inc. v. San Diego*, supra, 453 U.S. 490, 69 L.Ed. 2d 800; *State v. Miller*, supra, 83 N.J. 402.

In this case the ordinance directly and drastically encroaches on a fundamental constitutional interest, freedom of speech and expression. It reasonably appears from the record that the curtailment effected by the ordinance would apply to both commercial forms of expression as well as noncommercial speech, which could include political expressions. See *Metromedia, Inc. v. San Diego*, supra, 453 U.S. 490, 69 L.Ed. 2d 800; *State v. Miller*, supra, 83 N.J. 402. Because noncommercial speech is implicated, the burden of overcoming the charge of constitutional invalidity is particularly strenuous. *State v. Miller*, supra [*18] , 83 N.J. 402; *Schad v. Borough of Mt. Ephraim*, supra, 452 U.S. 61, 68 L.Ed. 2d 671.

The ordinance fails to reveal either its particular governmental objectives or its factual underpinnings. As the Appellate Division noted, the record is almost completely devoid of any evidence concerning what interests of Stafford are served by the ordinance and the extent to which the ordinance has advanced those interests. Because the exercise of first amendment rights and freedom of speech are at stake, the municipality cannot seek refuge in a presumption of validity. It clearly had the burden to present and confirm those compelling legitimate governmental interests and a reasonable factual basis for its regulatory scheme in order to validate its legislative action. Its failure to do so is fatal.

We acknowledge that several possible interests can be hypothesized as objectives of the ordinance. One could be preserving aesthetics, see *Miller*, supra, 83 N.J. at 402; another, promoting traffic safety, see, e.g., *Metromedia*, supra, 453 U.S. at 507-09, 69 L.Ed. 2d at 815; *Railway Express Agency, Inc. v. New York*, 336 U.S. 106, 93 L.Ed. [*19] 2d 533 (1949). It is not the scope of a ban, or even the fact that it may be municipal-wide, that is determinative of its validity, but rather the existence of a demonstrable legitimate governmental objective genuinely served by such a ban. Thus, even if we were to assume that a legitimate interest justified some regulation of signs and billboards within Stafford, there has been no demonstration of the factual basis for this particular regulatory scheme, namely, a total municipal-wide ban. This clearly implicates an important prong in the test of constitutional validity: that this ordinance constituted the least restrictive means possible by which to serve such an interest. n7

n7 On this record Stafford itself arguably has shown that a much more narrow ordinance could have been tailored, i.e. the current ordinance, prohibiting signs even if not interfering with traffic safety, replaces one that was much more directly related to that goal. Ordinance 84-35 (which has itself been superseded, supra at n. 4 (slip op. at 6 n. 4)) repealed Ordinance 77-22,

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which, as amended by Ordinance 78-19, had read:

SIGNS -- No sign or billboard of any type shall be erected or permitted which obstructs driving vision, traffic signals, sight triangles, traffic direction, identification signs, or the sight obstruction of the traveling public to another sign or billboard on the same property or on a nearby property. [*20]

Finally, there has been no adequate showing that the ordinance left open alternative means of communication with the audience that was reached by the medium that is prohibited by the ordinance. See Miller, supra, 83 N.J. at 413. "While the First Amendment does not guarantee the right to employ every conceivable method of communication at all times and in all places, a restriction on expressive communication may be invalid if the remaining modes of communication are inadequate." City Council of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789, 812, 80 L.Ed. 2d 772, 791 (1984) (citations omitted); Metromedia, Inc., supra, 453 U.S. at 528-34, 69 L.Ed. 2d at 828-31 (Brennan, J., concurring) (expressing dissatisfaction as to whether San Diego had actually proven its contentions regarding dangers found in billboards or shown that the solution constructed was drawn in a sufficiently narrow manner). Bell submits that he has occasionally used his billboards for noncommercial purposes and that they thus constitute a means of reaching the public for groups who could not afford other methods of getting their message across. While not required to disprove [*21] this, Stafford had the burden of showing that there were reasonably equivalent forms of communication available.

In sum, the Township of Stafford has not presented adequate evidence that demonstrates its ordinance furthers a particular, substantial government interest, and that its ordinance is sufficiently narrow to further only that interest without unnecessarily restricting freedom of expression. Consequently, it has failed to demonstrate a basis for upholding the constitutionality of the ordinance.

IV.

In view of Stafford's failure to justify the passage of such a broad and encompassing ordinance that substantially curtails freedom of speech and expression, we are constrained to declare it facially unconstitutional. Zilinsky, supra. This does not mean that Stafford is incapacitated from enacting an ordinance seeking to further a proper governmental objective and suitably restricted to meet that objective and satisfy the constitutional imperatives elucidated in Schad, Metromedia, and Miller in light of the problems peculiar to that municipality. Our only determination here is that the ordinance in question facially infringes on a fundamental right without sufficient [*22] support in the record to justify its validity.

In light of this determination, we decline to address the other issues raised by the parties.

For these reasons, the judgment of the Appellate Division is therefore affirmed.

Chief Justice Wilentz and Justices Clifford, Pollock, O'Hern, Garibaldi, and Stein join in this opinion.