

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **ZONING ORDINANCE TEXT AMENDMENT.** Amendments to Article V, Section 44.1 of the New Haven Zoning Ordinance to eliminate Mini-Panel and Poster signs as permitted uses in the City of New Haven. (Alder Richard Furlow)

REPORT: 1544-08

ADVICE: Approval

BACKGROUND

Existing Section 44.1 of the New Haven Zoning Ordinance (amended language attached) currently permits three general categories of off-site signage. The term off-site indicates that they are intended to advertise products, activities or businesses that are either not located on or have no direct connection to the property upon which the sign is located.

Bulletin or Spectacular signs, otherwise known as billboards are large (900sf max) signs limited to the vicinity of and directed towards either I-91 or I-95. Poster signs are smaller (300sf max) signs that are permitted in BA, BB, BE, IL and IH Districts. Mini-panel signs are small signs (24sf max) that appear to be limited to street furniture such as bus shelters or benches.

This current proposal would eliminate any reference to both Poster and Mini-panel signs from the New Haven Zoning Ordinance.

PUBLIC HEARING

A public hearing was held on May 16, 2018. Four members of the public, including applicant, Alder Richard Furlow, spoke in support of the amendment. Alder Furlow brought forth to the Commissioners several photos of an existing Mini-Panel that was recently permitted and installed on Whalley Avenue. The photos showed the digital sign illuminated during the daytime and at night. The Alder expressed concern regarding the safety of the panel in a neighborhood and a city that are densely populated. City transcripts of the hearing are also available at the City Plan Department and online.

PLANNING CONSIDERATIONS

In respect to poster signs, the Commission believes that not only are there issues concerning the manner in which such signage is currently regulated but also with the idea that such signage is of any benefit to or necessary for the general welfare of the community at all. Currently these signs are permitted by right on any of the districts listed above. Other than maximum size and height, required setbacks from PARK districts, National Register Historic Districts, or from each other there is little in the way of meaningful regulation. There is no limit to the number of signs on such a property, they are not regulated with any consideration of the amount of on-site signage that may also be present on the site, and there are no regulations concerning distance or visibility from residential areas. Considering the proximity of BA districts, in particular, to residential areas it is clear to the Commission that neighborhood quality of life may be substantively impacted by such signs.

Looking beyond the issue of how poster signage is currently regulated, however, the Commission finds little evidence for the permitting of such signage in the city. In many of the areas in which it is permitted it would add to the visual clutter that, due to rather permissive regulations governing on-site signage, is already an issue on many city streets. In addition to the aesthetic aspect of such "over signage" there are also safety-related concerns about such a condition. Furthermore, it can reduce the effectiveness of on-site signage in a given area. On this basis it is difficult for the Commission to believe that any public need is met through the use of such signage, or, more importantly, that any such need will go unmet if this proposal is enacted.

It may be argued that the income derived by a property owner for installing or allowing for the installation of such signage represents a reasonable and necessary degree of opportunity for such property owners. In response, the Commission would point out that in fact in the past ten years the City Plan Department staff is aware of fewer than a half dozen of legal installations of such signs, a clear indication of the idea that no such need really exists. While that may in fact be seen as reason not to amend the current regulations, a recent poster sign installation is evidence of the potentially problematic nature of this use even in limited form.

Mini-panel signage is not something that that the City Plan Department has had any occasion to permit over the last ten years. While seemingly of little significance or impact, the Commission does nonetheless see a major flaw with current regulations. While there are any number of technical limitations in the existing language for these signs, what is more significant is that while it seems intended to apply only to signage within the public right-of-way, it in fact does not.

From a regulatory perspective, the Commission sees two issues. First, it is difficult for the Commission to believe that this signage is appropriate on private property in any zoning district with only Special Exception approval. In fact, the vague wording of the language would allow for virtually any type of off-site signage of up to 24 sf on any property in any district as long as it is part of a “publicly approved program”, of which the meaning is unclear.

Of greater concern to the Commission is the idea that this type of signage is most likely to appear in areas within the public right of way. The Commission is aware of the fact that the zoning ordinance has little authority over what is allowed within the public right of way. This type of signage along with the “street furniture” that it is typically part of, are regulated in the Code of General Ordinances rather by the Zoning Ordinance. Elimination of this type of signage from the Zoning Ordinance will eliminate the prospect of conflict between the two ordinances and will ensure that this type of use will be subject to its appropriate regulatory path.

FINDINGS

Section(s) 181 and 182 of the Charter of the City of New Haven requires the following finding:
The City Plan Commission finds that the proposed text amendments comply with Sections 181 and 182 of the Charter of the City of New Haven in that they are (i) uniform for all properties in the city, (ii) made in accordance with the comprehensive plan, (iii) designed to lessen congestion in the streets, secure safety from fire, panic and other dangers, promote health and the general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate the adequate provisions for transportation, water, sewerage, parks and other public requirements, and (iv) made with reasonable consideration as to the character and quality of life in all portions of the city and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

Section 64(d) (2) of the New Haven Zoning Ordinance requires that the City Plan Commission take into consideration in evaluating any amendment to the Zoning Ordinance:

A. Errors in the existing ordinance, changes that have taken place in the city and in patterns of construction and land use, the supply of land and its peculiar suitability for various purposes, the effect of a map change on the surrounding area, the purposes of zoning and the comprehensive plan of the City of New Haven;

The applicant has demonstrated to the Commission, as described above, that current regulations are not only unnecessary but have the potential to significantly impact the appearance, safety and economic viability of areas in which they are currently permitted as well nearby residential areas.

B. Whether some other method or procedure under the zoning ordinance is more appropriate;
The Commission has been provided with evidence of the need to remove regulations permitting poster and mini-panel signage from the New Haven Zoning Ordinance as discussed earlier in this report.

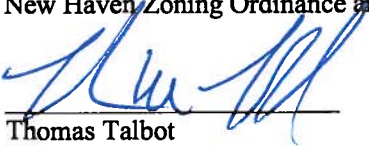
C. In the case of a map change, the size of the area involved. As a general policy, the City Plan Commission shall not consider favorably any petition which would result in a total contiguous area (separated only by streets and excluding the area of streets) of less than two acres in the case of a residence district, less than one acre in the case of a Business District, or less than four acres in the case of an Industrial District.

Not Applicable

RECOMMENDATIONS

Based on all the above, it is the determination of the Commission that the text amendments are in full compliance with the standards and requirements of Section(s) 181 and 182 of the Charter of the City of New Haven and Section 62(d)(2) of the New Haven Zoning Ordinance and should be approved.

ADOPTED: May 16, 2018
Leslie Radcliffe
Vice Chair

ATTEST: 
Thomas Talbot
Deputy Director, Zoning

3/12/18

**Proposed Zoning Regulation Text Amendments Section 44.1
Elimination of Mini Panel and Poster signs as permitted uses in the City of New Haven
Deleted Language in Cross Through
New Language Underlined**

Section 44.1. - Off premises signs.

Statement of purpose. The purpose of these sign regulations is to:

- Encourage the effective use of signs as a means of communication in the city; and
- Maintain and enhance the aesthetic environment and New Haven's ability to attract sources of economic development and growth; and
- Improve pedestrian and traffic safety; and
- Minimize the possible adverse effect of signs on nearby public and private property; and
- Enable the fair and consistent enforcement of these sign restrictions.

It is recognized that signs perform important functions in identifying businesses and in general advertising. It has been determined that without adequate controls the number of signs in New Haven may become excessive and unduly distracting to motorists and pedestrians, negatively affect views and vistas, including those from and of important geographic landmarks or landmark structures, and reduce the effectiveness of signs needed to direct the public.

It is hereby found and declared that the signs of lesser importance in occupying limited public views available to people within New Haven are those that convey messages for products, services, events, persons, institutions or businesses other than on the premises where the sign is located, or for the sale or rental of such premises. These regulations are also determined to be the minimum necessary to achieve these purposes.

(a) *Definitions.*

OUTDOOR ADVERTISING SIGN: See sign, off premises.

SIGN, OFF PREMISES: A *sign* which directs attention to a business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises upon which *sign* is located, or to which is affixed, and which is sold, offered or conducted on such premises only incidentally if at all. Commonly, but not limited to, standardized steel structures that carry messages.

Included in this category are the following *off premises sign* types:

MINI-PANEL: An *off premises sign* oriented to a local street, generally 3 feet x 5 feet, typically located on street furniture such as bus shelters or benches that are part of a city-wide system.

POSTER: An *off premises sign* oriented to a local street, generally 12 feet x 25 feet.

BULLETIN: An *off premises sign* oriented to a limited access highway, generally 18 feet x 48 feet and externally lit.

SPECTACULAR: An *off premises sign* oriented to a limited access highway, generally 18 feet x 48 feet and internally lit.

(b) *Off premises signs.* *Off premises signs*, commonly referred to as outdoor advertising, advertising billboard, billboard, mini-panel, poster, bulletin, or spectacular signs, which advertise products or businesses not connected with the site or building on which they are located, are deemed to constitute a separate use. The widespread display of *off premises signs* is deemed to be inappropriate to the character and sound development of the City of New Haven. Such signs shall be allowed only as follows:

(1) *Locations permitted.*

a. *Mini-panel.* By special exception within any zoning district, but only as part of a publicly approved program, and subject to the additional standards of § 44(1)(e) and § 63(d) of this ordinance.

b. *Poster.* BA, BB, BE, IL and IH districts.

c. *Bulletin or spectacular.* These signs, oriented to a limited access highway within a BA, BB, BE, IL or IH district, shall be permitted as shown on a map entitled *Bulletin and Spectacular Sign Zoning Map Overlay District*, on file with the City Clerk and the City Plan Department.

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Table 44.1. SUMMARY OF *OFF PREMISES SIGN* DEVELOPMENT STANDARDS.

Off Premises Signs, By Type	Maximum Sign Area (Sq. Ft.)	Typical Height x Width (in Feet)	Maximum Height (In Feet)	Minimum Spacing ¹	Permitted Locations
Mini-Panel	24	3 x 5	40	NA	Special exception in all zones
Poster	300	12 x 25	20	200 feet ¹	BA, BB, BE, IL, IH
Bulletin or spectacular	900	18 x 48	30	1,500 feet ¹	BA, BB, BE, IL, IH

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¹ Height above local street.

² Height above limited access highway to which the sign is oriented.

³ Minimum linear spacing in feet between *off premises signs* on the same side of the limited access highway within the Bulletin and Spectacular Sign Zoning Map Overlay District.

⁴ Within the Bulletin and Spectacular Sign Zoning Map Overlay District only.

(2) *Locations prohibited for off premises signs.*

- a. Within any Residence District (RS-1, RS-2, RM-1, RM-2, RH-1, RH-2, RO) or the BA-1, BC, BD, BD-1, or BD-3 Business Districts.
- b. On the roof of any *building* more than two stories in height, whether the *building* is in use or not.
- c. Directly painted on a wall of any *building*.
- d. On or over a public right-of-way or public property.
- e. In or within 250 feet of any PARK district; or
- f. In or within 250 feet of any National Register Historic District or local historic district.

~~(3) Locations prohibited for off Premises signs~~

~~a.g. Within 1,500 feet of another *bulletin* or *spectacular sign*, measured from the closest points between such signs on the same side of a limited access highway oriented to the same travel direction; or~~

~~b.h. State Route 15 (SR-15); or~~

~~e.i. Interstate 95 (I-95) from Howard Avenue easterly to Water Street; or~~

~~d.j. Interstate 91 (I-91) northbound side from Quinnipac River to Foxon Boulevard (SR-80).~~

~~(4) Additional locations prohibited for posters only.~~

~~a. Within 200 feet of another *off premises sign* oriented to the same travel direction.~~

(54)

Height restrictions. The permitted maximum height shall be calculated from the crown of the local street or limited access highway to which the *off premises sign* is oriented, to the top of the sign, with the maximum height restricted as follows:

~~a. Ten feet for *mini-panels*.~~

~~b. Twenty feet for *posters*.~~

~~e.a. Thirty feet for *bulletins and spectaculars*.~~

(65)

Design restrictions. Off premises signs shall not contain any of the following:

- a. Moving parts; or
- b. Appendages, cut-out letters of figures that exceed 20 percent of the permitted *off premises sign* area or that protrude more than 12 inches beyond the flat surface of the sign face; or
- c. Lights that flash, shimmer, glitter or lights that give the appearance of flashing, shimmering or glittering. Exceptions to this restriction include time, temperature and smog index units, provided the frequency of change is more than a five-second interval; or
- d. Walls or screens at the base of the *off premises sign* which create a hazard to public safety or provide an attractive nuisance; or
- e. Copy which simulates any traffic sign in a manner which confuses the public; or
- f. Devices which emit audible sound, odor or particulate matter.

(7)

Performance standards. No *off premises sign* shall be erected unless it complies with the structural requirement of the Connecticut State *building* Code, as may be amended from time to time, and with the performance standards below.

- a. *Maintenance.* All *off premises signs* and components thereof shall be maintained in good repair and in a safe, neat and clean condition.
- b. *Unsafe off premises signs.* The Building Official may cause to have removed or repaired immediately without written notice any *off premises sign* which, in his or her opinion, has become insecure, in danger of falling, or otherwise unsafe, and as such, presents an immediate threat to public safety. If such action is necessary to render an *off premises sign* safe, the cost of emergency removal or repair shall be at the expense of the owner or lessee thereof.
- c. *Abandoned off premises signs.* Any *off premises sign* located on property which becomes vacant and is unoccupied for a period of two years or more shall be deemed abandoned. An abandoned *off premises sign* shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the *off premises sign*, the zoning enforcement officer shall give the owner written notice to remove it within 15 days. Upon failure to comply with this notice, the zoning enforcement officer may initiate such action as may be necessary to gain compliance with the provisions herein.
- d. *Lighting.* All external lighting shall be indirect and shall be directed onto the display surface only. Direct glare shall not shine onto adjacent properties or public areas. All service wiring in excess of 250 feet length for *bulletin* and *spectacular signs* shall be underground.
- e. *Clearance.* *Off premises signs* projecting over a driveway or driving aisle shall have a minimum clearance of 16 feet between the lowest point of the *off premises sign* and driveway grade and over a pedestrian walkway a minimum clearance of eight feet six inches (8'-6") between the lowest point of the *off premises sign* and the walkway grade.

(c) *Variances.* In any case where special circumstances concerning the character, arrangement or location of structures warrant a modification of the standards of this § 44.1, regarding size, placement or height of *off premises signs*, the board of zoning appeals shall have the power to permit such modification by *variance* under § 63(c) of this ordinance, if the same has met the standards enumerated within § 44.1.(c) will produce

a substantially better design and further the purposes of this section. Variances shall require written findings by the board of zoning appeals as outlined in § 44.1(c)(2) below.

(1) Variances from § 44.1(b)(2) are strictly prohibited.

(2) Variance review standards.

a. In addition to the required findings of § 63(c), the board of zoning appeals shall make a written finding that the variance(s) requested:

1. Will not have a negative effect on views or vistas, including those from or of Downtown, Long Wharf, New Haven Harbor, East Rock, West Rock, or the Quinnipiac River (Oyster Village).
2. Will not result in visual clutter from an undue concentration of *on premises* and/or *off premises signs*.
3. Will be in keeping with the scale and massing of nearby structures, signs and/or geographical features.
4. Will not require substantial alteration of the existing tree canopy in the area of the *off premises sign* or removal or trimming of trees to achieve a clear view of the sign.

(3) Supplementary application standards for *bulletin and spectacular signs*.

a. A plan and section at a scale of one inch equals 40 feet (or larger), prepared by a Connecticut licensed surveyor, showing the approaches to the *bulletin or spectacular sign* location and the following shall be submitted:

1. The ground elevation at the base of the bulletin or spectacular sign structure; and
2. The highway elevation at the crown of the limited access highway in the travel direction at the point closest to the proposed *off premises sign* location; and
3. The highway elevation at 1,500 and 500 foot linear intervals from the point described immediately above; and
4. The location of any significant (8 inch caliper or larger) trees on the proposed *off premises sign* site which are to be trimmed or removed.
5. The location of any *off premises sign* (s) within 1,500 feet of the proposed location.

b. If the board deems it necessary to adequately evaluate the proposal, photos and/or a videotape showing the travel approach to the proposed location which show the following may be required to be submitted: .

1. A flag shall be posted showing the height of the bottom and top of the proposed billboard panel; and
2. Flags shall be staked at the limited access highway edge at the 1,500-foot and 500-foot distances from the proposed billboard location at the points delineated in the plan of § 44.1(c)(3)a. above.

(d)

Overall sign plans. The City Plan Commission shall have the authority to approve an overall sign plan for off-premises way-finding signs, separately or in conjunction with such a plan for on-premises signs pursuant to section 44, for any hospital or medical institution in the Business D-2 District. In approving an overall sign plan, the City Plan Commission may lessen the requirements of this section regarding size, area, placement, height or lighting as necessary for clear identification of patient care services and functions that directly support those services. The City Plan Commission shall not lessen the requirements of section 44.1(b)(2)(b) through (f) but may lessen the requirements of section 44.1(b)(2)(a) so long as the proposed off-premises sign is located on property owned by one of the participants in the overall sign plan.