

EXECUTIVE SUMMARY

Street Graphics and the Law is a new edition of an innovative and effective system for regulations for on-premise signs. Introductory chapters explain concepts behind the system, including best practice standards developed by the United States Sign Council that specify how signs should be displayed. A Street Graphics Model Ordinance provides the text of regulations, with commentary, that translates these concepts into workable format. This report also examines the legal issues in regulating street graphics, including nonconforming uses and issues under the free speech clause of the federal constitution.

AN INTRODUCTION TO STREET GRAPHICS

This new edition of Street Graphics and the Law updates earlier editions and offers new guidance on emerging issues such as the regulation of electronic signs and the control of illumination. The primary function of on-premise street graphics is to index the environment—that is, to tell people where they can find what. This report presents a street graphics system and a Street Graphics Model Ordinance that allow street graphics to serve this function by contributing to effective communication between people and an environment that is aesthetically pleasing and that contributes to traffic safety. Street Graphics, the original edition of this report, introduced for the first time the concept that signage on ground graphics on streets and highways should be based on legibility.

THE STREET GRAPHICS CONCEPT AND SYSTEM

The basic function of all street graphics is to index the environment by communicating a message to the observer. The system for regulating street graphics proposed here is based on three elements: (1) the regulatory issues the system must address, (2) the built environment in which street graphics are displayed, and (3) the regulatory framework that governs their display. Several issues are key to street graphics. Allowable land uses as defined by the zoning ordinance are the first consideration in drafting a street graphics system. Design is also a key issue, and the regulations in the Street Graphics Model Ordinance encourage good design by providing the essential regulatory framework within which communities can consider design. Balance is an important factor in a street graphics system. For street graphics to communicate effectively, they must neither be too large nor too small, neither too numerous nor absent altogether, neither too garish nor too bland. Landscaping is another important element that affects the visual quality of a street graphics display. Finally, “driver information overload,” is an important concern, and the model ordinance encourages businesses

to limit the amount of copy on a sign in order to encourage good sign design.

The following five criteria determine the effectiveness of a street graphic within the commercial development context in which it will be displayed:

1. **Is the street graphic expressive of the identity of the business?** A street graphic originates with the business it identifies. A street graphics system should give a business the freedom to express its personality and clearly identify the goods or services it is offering.
2. **Is the street graphic appropriate for the business it identifies?** A business should be easily distinguishable just by the style of the signs that announce it. Creative use of color, lighting, and materials in sign design and fabrication can contribute to quick and easy identification and sorting out of a function or activity.
3. **Is the street graphic compatible with the visual character of the surrounding area?** Street graphics can be displayed so that they are the hallmark of a community, giving it a distinctive appearance and reinforcing the character of the place. A community may also want to recognize the distinctive character of special areas in the community that required their own special set of street graphics regulations. These can include architectural, historic, and scenic areas; commercial areas; and urban places of special character, such as town centers.
4. **Is the street graphic legible under the circumstances in which it is seen?** The effectiveness of any street graphic is a function of dynamic visual acuity—how people see when they are in motion—which depends on driver speed and orientation, letter height, and other factors.
5. **Is the street graphic likely to distract drivers to a dangerous degree?** Traffic safety is an important justification for a street graphics ordinance under the U.S. Constitution, including its free speech clause. Although the empirical evidence of a causal connection between differences in street graphics and driver distraction is generally not conclusive, studies and other professional

work can assist communities to create a street graphics system that addresses concerns about dangerous levels of driver distraction.

Developing a street graphics system that can take all of these issues and factors into account requires decisions on a number of options to determine how the street graphics system will be implemented. The key elements are performance standards or a set of regulations that include area, height, and spacing requirements that are optimal for sign legibility. This comprehensive street graphics system is conceived and derived from the function of perception and based on visual performance standards. It is intended to stimulate variety and high-quality design that provides effective communication for each enterprise and reinforces a sense of place. It also is flexible and easy to administer.

The street graphics system has three elements:

1. Performance standards for street graphics, including ground, wall, projecting, and special graphics
2. The opportunity to designate Areas of Special Character within which a community can adopt specially tailored regulations for street graphics
3. The opportunity to approve Programs for Graphics that contains specially tailored regulations for a business or group of businesses

UNITED STATES SIGN COUNCIL BEST PRACTICE STANDARDS FOR ON-PREMISE SIGNS

Since 1996 the United States Sign Council Foundation— together with traffic engineers, human factors researchers, and statistical analysts of the Pennsylvania Transportation Institute at Pennsylvania State University—has published a series of research studies. The results from this work provide a body of work for understanding the ways in which motorists receive and respond to the information content of private, roadside sign systems. This research gives designers and regulators of signs insight into the legibility, size, and placement characteristics necessary for effective roadside communication. Other researchers—including teams studying the impact of sign systems serving the needs of an aging population on traffic safety—have arrived at conclusions similar to the sign legibility and placement parameters that emerged from the work of the Pennsylvania State University researchers.

The viewing of a roadside sign by a motorist involves a complex series of sequentially occurring events, both mental and physical. Research has now been able to quantify the viewing process, such that measurement of the time necessary for a motorist to view and react to a roadside sign, while driving at a specified rate of speed, can be calculated. Using this time frame, or Viewer Reaction Time, and the amount of distance from the sign represented by that time frame, the optimal sign size required to transmit the message and allow sufficient time for detection, comprehension, and maneuvering can be calculated reliably. Standards are also provided for sign height.

The standards also provide for parallel sign legibility and letter height. Parallel signs are often referred to as wall signs, building signs, and façade signs and denote on-premise signs that are affixed to a building structure. They are typically presented in an orientation that is parallel to the roadway and the driver's line of sight, instead of perpendicular to it.

STREET GRAPHIC TYPES AND HOW THEY ARE DISPLAYED

There are two basic types of street graphics: freestanding ground graphics or graphics attached to buildings. Graphics attached to buildings include wall graphics, roof graphics, projecting graphics, and awnings. Regulations based on traffic speed and legibility can specify the size, height, and spacing between ground graphics. Regulations for wall graphics can provide a signable area for walls that will allow for graphics displays that are both proportionate to a building and based on traffic speed and legibility. This is a more satisfactory way of regulating wall graphics than basing the signable wall area on lineal front footage, an approach that is common in many sign ordinances. Regulations can be presented in text or table formats.

Digital signs require special treatment. The best digital display element of the street graphics policy for any particular community will often reflect the degree of risk-aversion, and aesthetic and policy preferences, of the elected and appointed officials. Whether and how to regulate digital signs are discretionary choices. Those choices should be made in light of safety, aesthetics, planning, and other policy considerations. Regulators should consider factors such as dwell time and sequential messaging.

Much of the character of an establishment, a street, a place, a neighborhood, or a community is expressed by de-

sign factors that include color, illumination, and movement. The style and subtle useful enhancement of street graphic communication to a large extent are determined by these design elements. When coordinated to help achieve recognition of distinct types of activities, control of these design elements of street graphics can be very helpful in indexing the environment and can make significant contributions to the visual character of a place.

STREET GRAPHICS MODEL ORDINANCE

This report contains the text of a Street Graphics Model Ordinance that applies to commercial uses. It is a revision of the model ordinance in the last edition of Street Graphics and the Law, which the American Planning Association published in 2004, and it retains the format of that model. It is not a one-size-fits-all set of regulations. Communities will need to decide which recommendations they can use and which they need to adapt to local conditions. The model ordinance is limited to street graphics displayed by commercial uses. Communities will need to incorporate its provisions for commercial uses into the sign regulations that are part of their zoning ordinance and their comprehensive sign ordinance, which includes additional regulations for political and other signs.

Counties and municipalities of all sizes have adopted all or part of the Street Graphics Model Ordinance, and how a community uses the model ordinance may depend on its size. Smaller communities with limited commercial areas may decide their signage problems can be handled adequately by a set of regulations for each graphic. Larger communities may have areas of special character that require special attention, or they may want to provide for design review. The model ordinance contains recommendations for these alternatives.

STREET GRAPHICS AND LEGAL ISSUES

Communities must consider a number of legal issues when they adopt a sign ordinance modeled on the Street Graphics Model Ordinance. They include a reliance on aesthetics as the constitutional basis for sign regulation, the constitutionality of sign regulation as applied, and the validity of distinctions between different kinds of signs. They must also consider restrictions that apply to company logos and

trademarks. Traffic safety is another important government interest that can support the constitutionality of sign ordinances. Although signs do not create traffic safety problems by their mere presence on a street or highway, the design and placement of signs are important factors in improving traffic safety. This report also reviews state court cases where plaintiffs challenged on-premise sign regulations like those contained in the Street Graphics Model Ordinance. Most courts have relied on the usual justifications for aesthetic regulation to uphold on-premise sign regulations included in the ordinance. Design review is also a consideration as are the requirements for billboard regulation in the federal Highway Beautification Act.

The constitutional basis for the Street Graphics Model Ordinance is reasonably secure, as many states hold that aesthetics alone is a sufficient basis for sign regulation. Even in the minority of states holding that aesthetics may be only one factor, other factors such as the improvement of traffic safety will usually support the constitutionality of the ordinance. The courts have approved regulations usually adopted for on-premise signs, such size, height, setback, and spacing regulations. They have also approved ordinances that provide different regulations for on-premise signs than for off-premise signs. Design review procedures in sign ordinances can present problems if design standards are not carefully drawn, but courts uphold standards that are drafted to provide reasonable guidance for design review decisions.

Street-graphics laws, like other forms of land-use regulations, are usually subject to the nonconforming use doctrine, in ways that can make it difficult to apply updated laws to existing street graphics. Nonconforming signs can present a difficult problem for a street graphics program, but an effective program for the removal of nonconforming is essential. Nonconforming signs should be inventoried and registered, and the decision on what signs will be designated as nonconforming should be carefully made.

The removal of nonconforming signs through amortization is a possibility in many states, though state legislation adopted to comply with the Federal Highway Beautification Act may prohibit the amortization of nonconforming on-premise signs as well as billboards, even if these signs are not located on federal highways. Alternate methods of removing nonconforming signs, such as a determined program to remove abandoned signs, can also help remedy the nonconforming sign problem.

Information conveyed by signs is free speech protected by the free speech clause. Because sign ordinances regulate signs

and the information they display, courts must determine whether they violate the free speech clause of the federal constitution. This report provides a primer on how to protect a Street Graphics ordinance against attack under the free speech clause and includes a review of the Supreme Court cases and guidance on how a sign ordinance should be drafted, with references to the Street Graphics Model Ordinance.