



CITY COUNCIL  
ATLANTA, GEORGIA

03-0-0937  
Z-03-43

A SUBSTITUTE ORDINANCE

BY: ZONING COMMITTEE

AN ORDINANCE TO AMEND THE SIGN ORDINANCE OF THE CITY OF ATLANTA SO AS TO PROVIDE FOR A DEFINITE TIME PERIOD OF THIRTY DAYS IN WHICH TO GRANT OR DENY AN APPLICATION FOR A SIGN PERMIT; TO PROVIDE THAT THE REQUESTED SIGN CAN BE POSTED IF THE APPLICATION IS NOT DENIED WITHIN THAT TIME PERIOD; TO PROVIDE FOR A DEFINITE TIME PERIOD OF SIXTY DAYS IN WHICH AN APPEAL OF THE DENIAL OF A SIGN PERMIT MUST BE DECIDED; TO PROVIDE THAT THE REQUESTED SIGN CAN BE POSTED IF THE APPEAL IS NOT DECIDED WITHIN THAT TIME; TO REMOVE ANY POSSIBLE REFERENCE TO CONTENT FROM THE DEFINITION OF FLAGS; TO REMOVE ANY POSSIBLE REFERENCE TO CONTENT FROM THE DEFINITION OF PUBLIC ART AND TO RECODIFY THAT SECTION; TO REDEFINE THE DEFINITION OF A CHANGING SIGN SO AS TO EXCLUDE SIGNS THAT CHANGE NO MORE FREQUENTLY THAN ONCE EVERY TWENTY-FOUR HOURS; TO ALLOW CHANGING SIGNS IN INDUSTRIAL DISTRICTS; AND FOR OTHER PURPOSES

WHEREAS, the Sign Ordinance of the City of Atlanta, codified as Section 16-28A.001, et seq. of the Land Development Code was enacted in 1994;

WHEREAS, a case styled Granite State Outdoor Advertising, Inc. v. City of Atlanta, Georgia, Civil Action File No. 1;02-CV-3455-ODE has recently been filed against the City in the United States District Court for the Northern District of Georgia challenging the constitutionality of some of the provisions of the Sign Ordinance;

WHEREAS, if the challenge to the lack of a definitive time period in which to grant a requested sign permit and the lack of a definitive period in which to decide the appeal from the denial of a sign permit is successful, it could cause the entire Sign Ordinance of the City of Atlanta to be stricken resulting in a period of time in which there would be no regulations in the City controlling the number, type, size and location of signs;

WHEREAS, the Law Department has determined that there is the possibility that recent case law could support a ruling that the lack of a definitive time period in the Sign Ordinance is an unconstitutional violation of the First Amendment to the United States Constitution and this could result in the entire ordinance being stricken;

WHEREAS, it is in the best interest of the City of Atlanta to amend the Sign Ordinance to correct this possible constitutional deficiency;

WHEREAS, it is desirable to make certain changes to definitions of flags so as to remove any language that may be considered content based;

WHEREAS, it is desirable to change the general regulations so as to remove any language that may be considered content based when approving public art and to remove that section from the



sign ordinance in order to allow it to be severed without affecting the rest of the Sign Ordinance should a court find it to be unconstitutional;

WHEREAS, the definition of a changing sign should be amended so as to exclude signs that change no more than once every twenty-four (24) hours and they should be permitted in industrial zoned districts;

NOW THEREFORE BE AND IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA AS FOLLOWS:

Section 1. Section 16-28A.013(b)(2) is hereby amended by striking the first sentence which reads as follows:

(2) Applications for signs permits shall be examined within a reasonable time after filing.

and replaced with the following language:

(2) All applications for sign permits shall be either issued or denied within thirty (30) days of their submission. If the sign permit is neither issued nor denied within this time period, the applicant may post the requested sign as if the application had been granted. The director is authorized, however, upon determination that the sign is not in compliance with these regulations, to take the appropriate action necessary to cause it to come into compliance.

Section 2. A new Section 16-28A.013(b)(3) shall be added to read as follows:

All appeals from the grant or denial of a sign permit application shall be taken in accordance with Section 16-30.010 of this part. Notwithstanding any other provision of this part, any such appeal shall be decided by the Board of Zoning Adjustment within sixty (60) days of the initial filing of the appeal. If the Board of Zoning Adjustment fails to grant or deny the appeal within this time, the applicant may erect the requested sign as if the application had been granted. The director is authorized, however, upon action by the Board of Zoning Adjustment, to take the appropriate action necessary to cause the sign to come into compliance with that decision.

Section 3. Subsection 16-28A.007(v) is hereby amended by adding the following subsections:

(5) The content of the message to be conveyed shall not be considered.

(6) Whenever in these regulations a certificate of appropriateness is required for a sign, the certificate shall be granted or denied within thirty (30) days from the filing of the initial application. If the certificate is not granted or denied within that time period, the applicant may proceed as if the certificate had been granted. Provided, however, if the commission subsequently takes action on the certificate, the director is authorized to take the appropriate action necessary to cause the sign to come into compliance with that decision.

(7) Any appeal from any decision made on the issuance or denial of a certificate shall be granted or denied within sixty (60) days of the initial filing of the appeal. If the appeal is not granted or denied within this time period, the applicant may proceed as if the appeal was



decided in his favor. Provided, however, if action is subsequently taken on the appeal, the director is authorized to take the appropriate action necessary to cause the sign to come into compliance with that decision.

Section 4. The definition of a flag as contained in Section 16-28A.004 which reads as follows is deleted in its entirety:

*Flag:* A sign consisting of any fabric containing distinctive colors, patterns, or symbols, used solely as a symbol of a government or any other entity or organization.

and replaced with the following definition:

*Flag:* A sign consisting of a piece of fabric or similar material attached at one end to a pole or building and hanging freely such that it may flutter or move in the wind.

Section 5. Section 16-28A.008(4) which reads as follows is deleted in its entirety:

The following signs shall not be required to obtain a sign permit:

(4) Flags bearing no commercial message.

and replaced with the following language:

The following signs shall not be required to obtain a sign permit:

(4) Flags.

Section 6. The definition of Public Art contained in Section 16-28A.004 and the criteria for approving Public Art contained in Section 16-28A.007(q) are deleted in their entirety and recodified as new Section 16-28.025 to read as follows:

**Sec. 16-28.025. Public Art.**

Public Art is a visual, wholly noncommercial artistic expression intended and able to be viewed from a public way that meets the criteria specified herein. Public Art meeting the following criteria may be conditionally located in any district. Consistent with the purpose and intent of this sections, the Atlanta City Council may, by ordinance, approve a work of Public Art. Said approval shall not be granted unless said ordinance contains the following three preliminary certifications: (1) A certification from the director of the bureau of traffic and transportation or designee that the work will not constitute a traffic hazard or undue and dangerous distraction to motorists or pedestrians; (2) A certification from the executive director of the urban design commission or designee that the work does not contain and is not intended to convey a commercial message primarily, provided that the name of a sponsor for said work may be displayed on an adjacent plaque or similar display that is no more than two (2) square feet in area; and (3) A certification from the director of the bureau of cultural affairs or designee that the work is not inconsistent with the City of Atlanta's public art program. The council, if provided with these certifications, shall approve, conditionally or otherwise, a work of public art upon finding that it does not negatively affect the public interest related to aesthetics, additional sign clutter, and public safety. In making this



finding, the council shall consider the required certifications; the spatial relationship of the proposed art to the building or premises upon which it is located as well as the surrounding area; vehicular and pedestrian traffic safety; the existence of nearby signs; and the size, dimensions and other physical characteristics of the proposed work. In applying these criteria, the council shall in no way restrict the content or message of the proposed work.

Section 7. The definition of a Changing Sign as contained in Section 16-28A.004 is amended by adding the following sentence to the end of said definition:

A sign that changes no more frequently than once every twenty-four (24) hours shall not be considered a changing sign.

Section 8. The signs permitted in the I-1 (Light Industrial ) District is hereby amended to allow Changing Signs by amending Section 28A.010(10)g so that it reads as follows:

g. *Changing Signs:* Changing Signs shall be permitted.

Section 9. The signs permitted in the I-2 (Heavy Industrial ) District is hereby amended to allow Changing Signs by amending Section 28A.010(11)g so that it reads as follows:

g. *Changing Signs:* Changing Signs shall be permitted.

Section 10. That all ordinances or parts of ordinances in conflict with this ordinance shall be repealed.

A true copy,

*Shonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

OCT 06, 2003  
OCT 14, 2003

RCS# 5048  
10/06/03  
2:25 PM

Atlanta City Council

Regular Session

MULTIPLE

03-O-0937, 03-O-1214, 03-O-1101

ADOPT ON SUB

YEAS: 13  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	NV Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	B Boazman	NV Woolard

MULTIPLE

03-0-0937

(Do Not Write Above This Line)

AN ORDINANCE

2-03-43

BY: ZONING COMMITTEE

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ADOPTED BY

OCT 06 2003

- CONSENT REFER
- REGULAR REPORT **COUNCIL**
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 10/6/03

Referred To: ZRB + Zoning

Date Referred

Referred To:

Date Referred

Referred To:

First Reading  
 Committee Date 10/6/03  
 Chair [Signature]  
 Referred To [Signature]

20 Committee

October 14, 2003  
Chair [Signature]

Fav, Adv, Hold (see rev. side)  
 Action  
 Other  
 Subj. Matter

Members  
[Signature]  
[Signature]  
[Signature]

Refer To

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)  
 Action  
 Other

Members

Refer To

Committee

Date

Chair

Fav, Adv, Hold (see rev. side)  
 Action  
 Other

Members

Fav, Adv, Hold (see rev. side)  
 Action  
 Other

Members

Refer To

Refer To

- FINAL COUNCIL ACTION
- 2nd
  - 1st & 2nd
  - 3rd
  - Consent
  - V Vote
  - R/C Vote

CERTIFIED

OCT 06 2003

CERTIFIED

OCT 03 2003

[Signature]  
MUNICIPAL CLERK

MAYOR'S ACTION

[Signature]  
 MAYOR