

**FIRCREST CITY COUNCIL
STUDY SESSION AGENDA**

**MONDAY, AUGUST 19, 2024
6:00 P.M.**

**COUNCIL CHAMBERS
FIRCREST CITY HALL, 115 RAMSDELL STREET**

	Pg. #
1. Call to Order	
2. Pledge of Allegiance	
3. Roll Call	
4. Agenda Modifications	
5. <u>Hanover Group Project Overview</u>	2
6. <u>Vehicle Pursuit Policy Discussion</u>	25
7. <u>Sign Code Discussion</u>	67

The public is invited to listen to the meeting via Zoom utilizing the below call-in information:

Zoom Meeting Details:

Dial-in Information: 1-253-215-8782 Webinar ID: 885 3802 7612 Password: 771679

FIRCREST CITY COUNCIL AGENDA SUMMARY

NEW BUSINESS: **Hanover Group Project Overview**
ITEM: **5**
DATE: **August 19, 2024**
FROM: **Mark Newman, Community Development Director**

RECOMMENDED MOTION: **None. Discussion only.**

SUMMARY: Representatives from the Hanover Group will provide an overview of their proposed mixed-use development project on Mildred Street.

ATTACHMENTS: [Hanover Group Presentation](#)

Hanover Fircrest

Study Session | August 19th, 2024



Hanover Company Overview



Family owned and
operated firm founded
in 1982



Vertically integrated with more
than 10 divisions in-house,
including Development,
Construction, Property
Management, Landscape Design,
and Interior Design

5,645

Units currently under
construction

72.9k+

Units worth of
development
experience

36

Properties
currently
under
management

64

Projects under
development
today

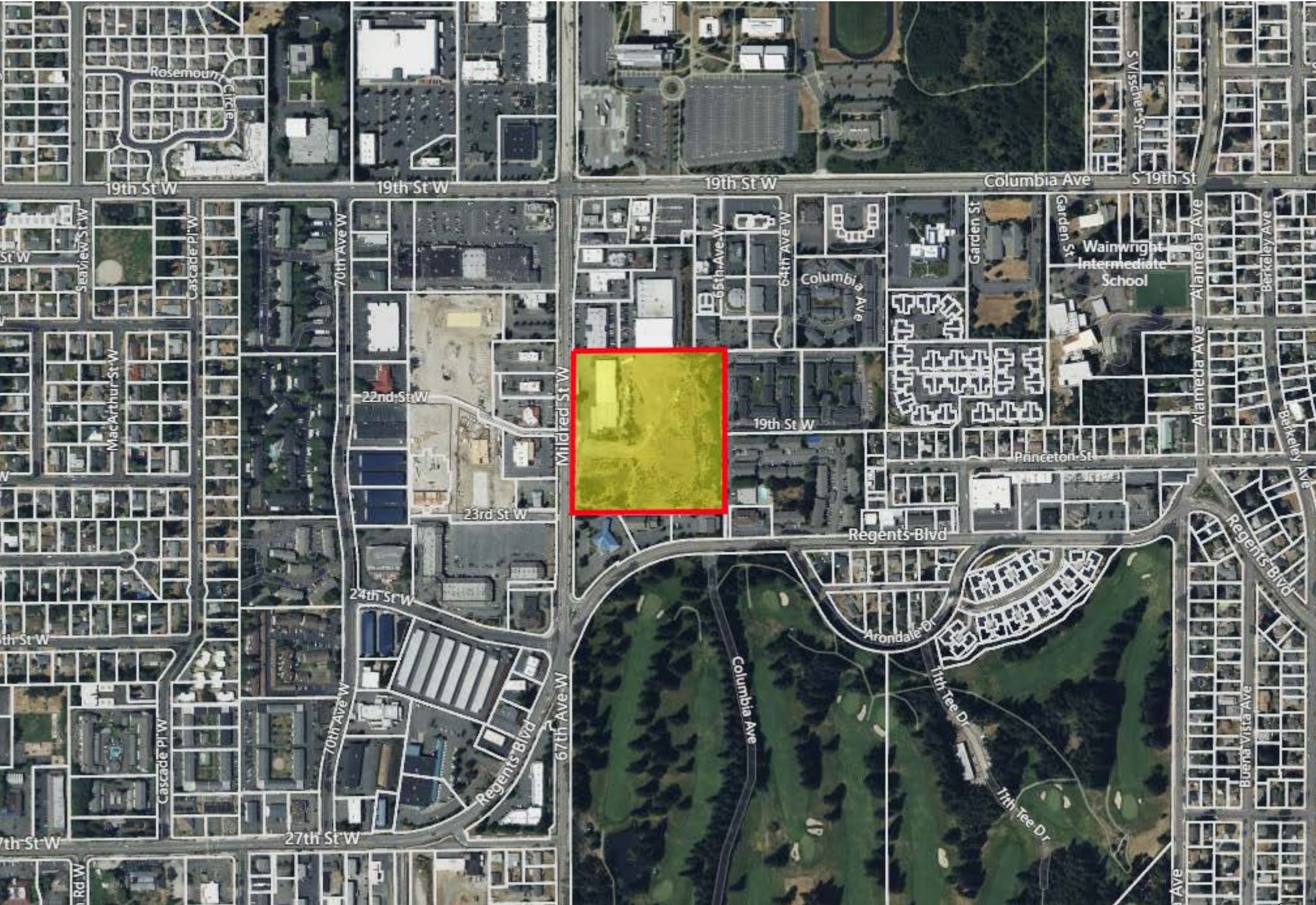
#1

Ranked property
management
company by J Turner
Research

Target Markets

Hanover seeks to develop in markets that offer strong rent growth potential and institutional investor interest. Limiting geographic focus to target markets enables Hanover to minimize execution risk through market knowledge gained through market experience.

Site Location



Preliminary Site Plan



Preliminary Program

- Five, 5-story buildings plus leasing office/clubhouse
- 322 total multifamily units:
 - » 47% one-bedroom units
 - » 46% two-bedroom units
 - » 7% three-bedroom units
- 442 total parking spaces (1.37 spaces per unit), including:
 - » 29 detached garages
 - » 413 carport and surface spaces
- Approx. 4,300 square feet of commercial space
 - » 50% traditional retail
 - » 50% retail or office suites



Additional Project Information

- Project Amenities:
 - » Club House
 - » Pool
 - » Fitness Center
 - » Outdoor Seating, Fire Pit, TV Wall, BBQs
 - » Pet Relief Area
 - » Pet Wash Station
- Open Space (private & shared / common):
 - » Required: 57,273 square feet
 - » Provided: 64,946 square feet
- Estimated Fees Generated by Project: \$2,000,000+
 - » Exclusive of future property taxes
 - » No MFTE requested

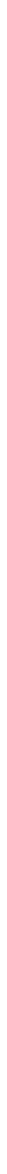


Preliminary Rendering



Mixed-Use Building with Ground Floor Commercial Space

Preliminary Rendering



Building Exterior

Preliminary Rendering



Club House

Preliminary Rendering



Project Entry from Mildred

Preliminary Elevations



Front Elevation - Buildings 2, 3, 5



Rear Elevation - Buildings 2, 3, 5



EXT. FINISH LEGEND	
EF1	BRICK VENEER
EF2	FIBER CEMENT LAP SIDING 01 (WHITE)
EF3a	FIBER CEMENT PANEL 01 (WHITE)
EF3b	FIBER CEMENT PANEL 02 (MED GRAY)
EF3c	FIBER CEMENT PANEL 03 (DARK GRAY)
EF4a	FC BOARD & BATTEN SIDING 01 (BLUE)

Side Elevation - Buildings 2, 3, 5

Preliminary Elevations



Front Elevation – Building 1



Side Elevation – Building 1



Rear Elevation – Building 1



Side Elevation – Building 1

EXT. FINISH LEGEND	
EF1	BRICK VENEER
EF2	FIBER CEMENT LAP SIDING 01 (WHITE)
EF3a	FIBER CEMENT PANEL 01 (WHITE)
EF3b	FIBER CEMENT PANEL 02 (MED GRAY)
EF3c	FIBER CEMENT PANEL 03 (DARK GRAY)
EF4a	FC BOARD & BATTEN SIDING 01 (BLUE)

Preliminary Elevations



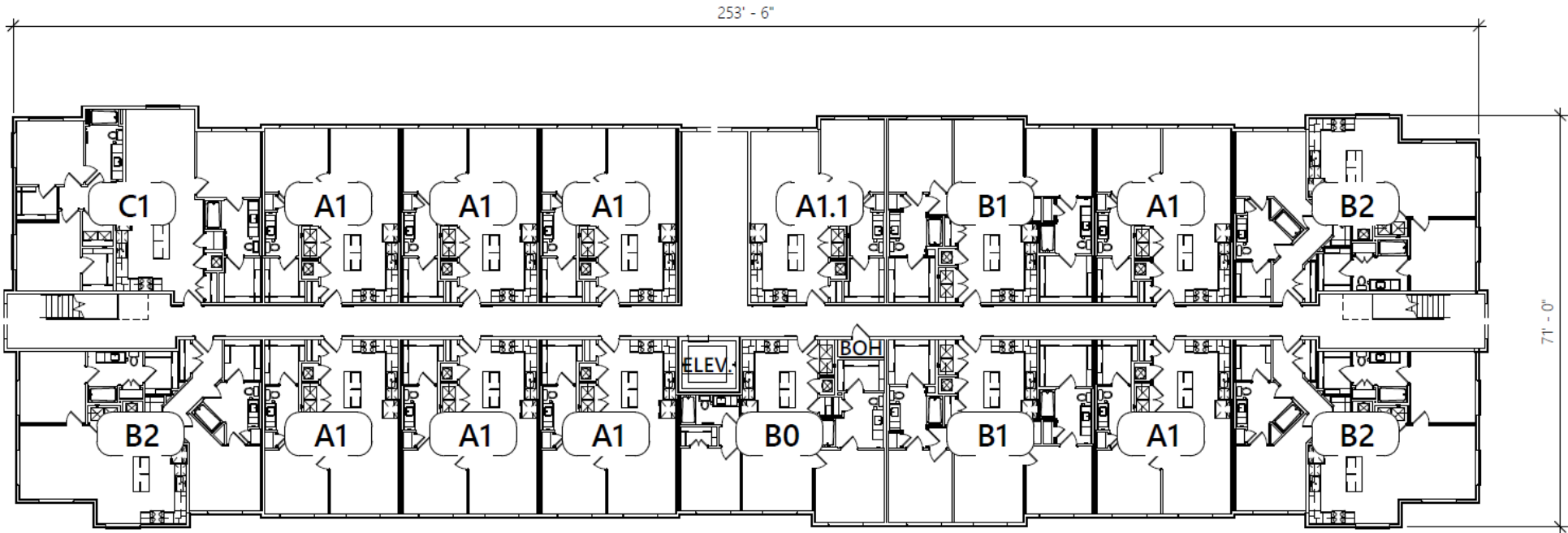
Front / Rear Elevation – Building 4



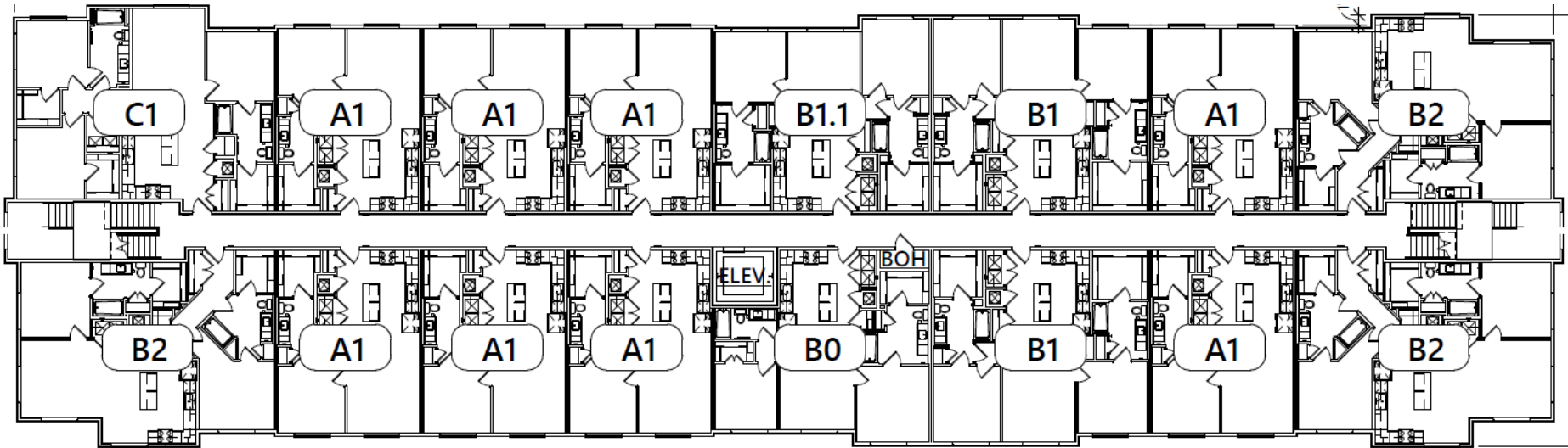
Side Elevation – Building 4

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EF3c	FIBER CEMENT PANEL 03 (DARK GRAY)
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Building Floor Plans

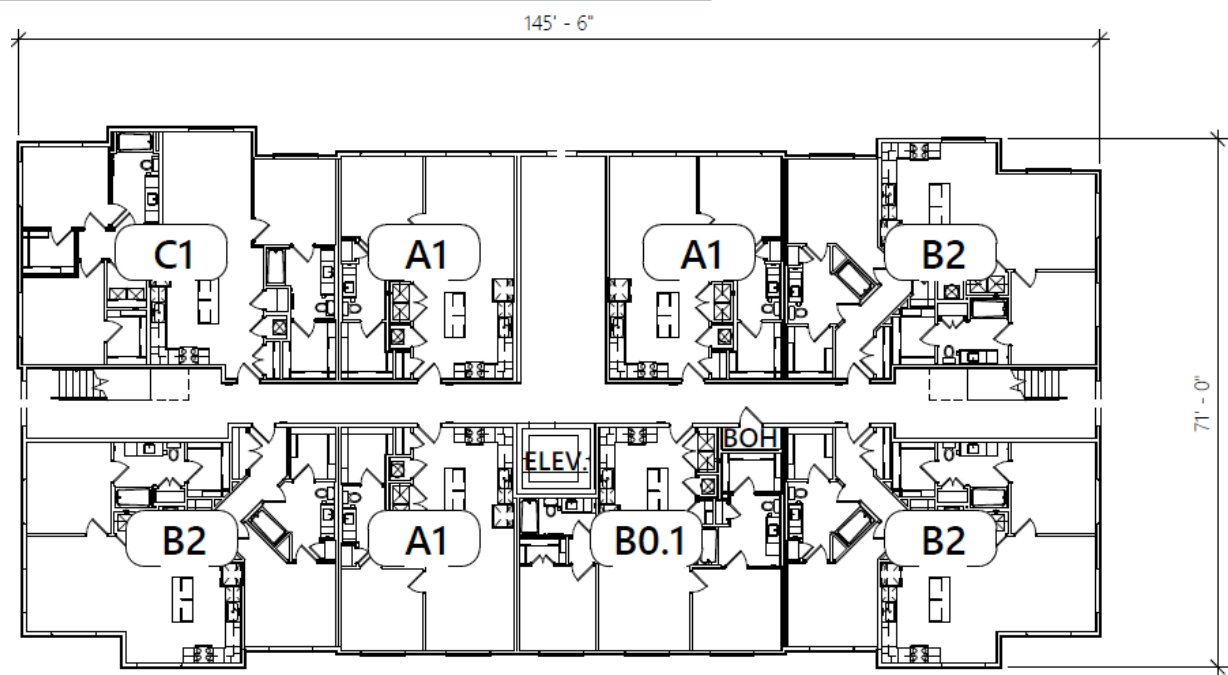


Buildings 2, 3, 5 – Ground Floor Plan

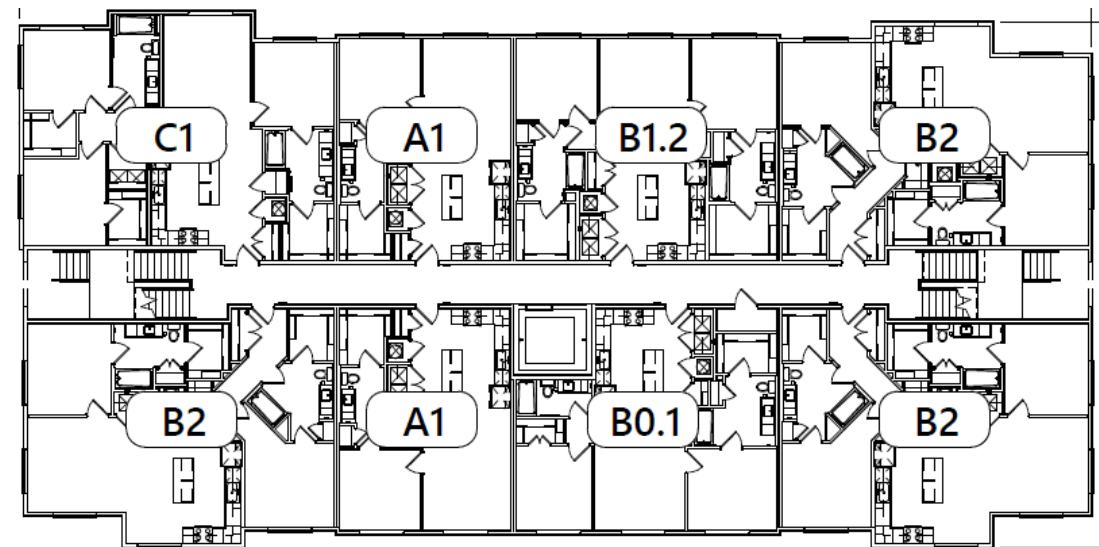


Buildings 2, 3, 5 – Levels 2 - 5 Floor Plan

Building Floor Plans

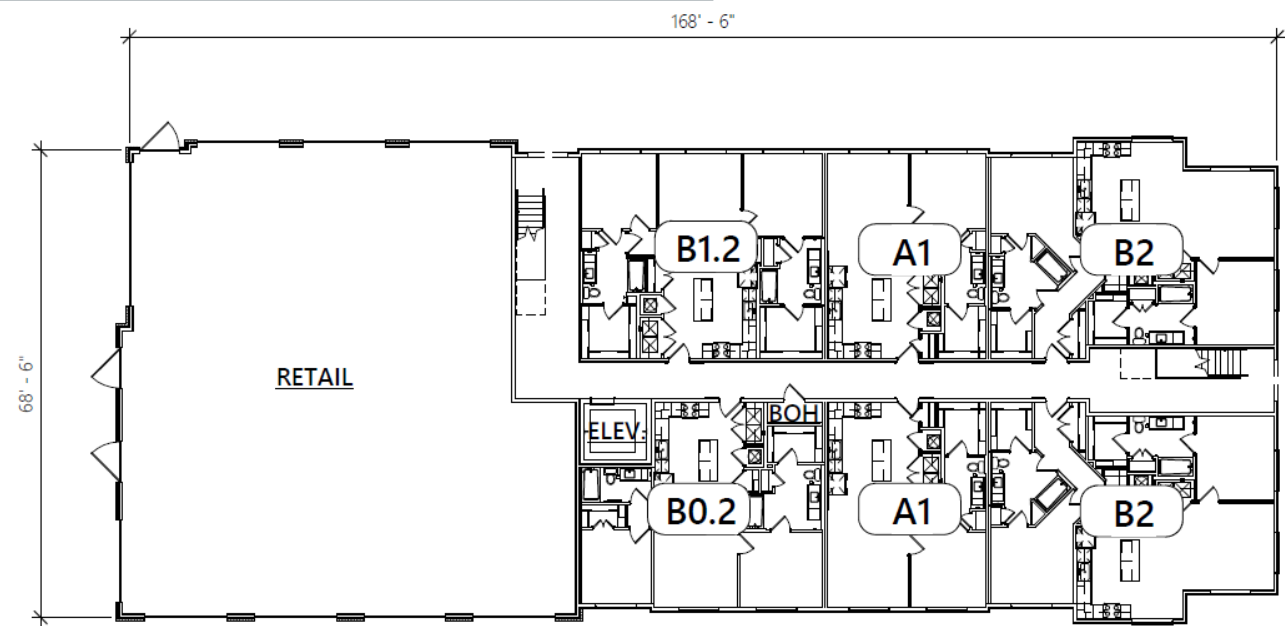


Building 4 – Ground Floor Plan

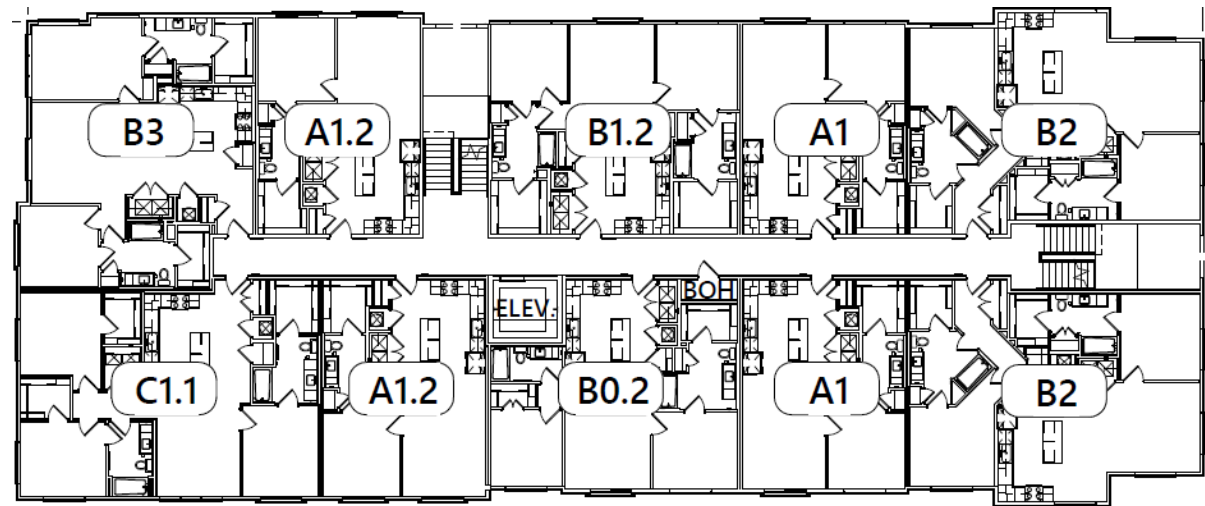


Building 4 – Levels 2 - 5 Floor Plan

Building Floor Plans



Building 1 – Levels 1 - 2 Floor Plan



Building 1 – Levels 3 - 5 Floor Plan

Interior Amenities



Lobby



Club Room



Conference Room



Fitness Center

Exterior Amenities



Fire Pit



Dog Park



Resort-Style Pool



Covered Patio

Unit Finishes



Bathroom with Walk-In Closet



Gourmet Kitchen

Requested Form-Based Code (FBC) Amendments

- Remove street grid requirement
- Allow 5-story buildings on MUN zoned (eastern) portion of site
- Allow surface parking for project
- Shift “Shopfront Overlay” commercial requirement from 22nd St. to NW corner of site



THANK
YOU!

FIRCREST CITY COUNCIL AGENDA SUMMARY

NEW BUSINESS: Vehicle Pursuit Policy Discussion
ITEM: 6
DATE: August 19, 2024
FROM: Ronald Schaub, Chief of Police

RECOMMENDED MOTION: None. Discussion only.

SUMMARY: The purpose of tonight’s discussion is to seek input from the Council on the Fircrest Police Department’s vehicle pursuit policy.

Outlined below are the recommended adjustments to the City’s vehicle pursuit policy to ensure alignment with recent updates to Washington State law. The proposed changes aim to balance public safety, law enforcement effectiveness, and legal compliance.

Key Points:

Alignment with State Law: Washington State has updated its vehicle pursuit regulations to prioritize public safety and reduce the risks associated with high-speed chases. The proposed policy revision ensures that the city's guidelines mirror these state mandates, particularly in limiting pursuits to situations involving violent crimes, DUI, or imminent threats to public safety.

Pursuit Authorization: The new policy will require officers to obtain supervisory approval before initiating a pursuit, except in circumstances where immediate action is necessary to prevent serious harm. This measure is intended to enhance oversight and reduce the likelihood of unnecessary or high-risk pursuits.

Use of Alternative Tactics: The updated policy emphasizes using alternative strategies, such as surveillance and coordinated containment, before engaging in direct pursuit. This approach aims to apprehend suspects while minimizing the dangers associated with high-speed chases.

Training and Compliance: Officers will receive updated training on the revised pursuit policy, ensuring they understand the legal requirements and best practices for managing vehicle pursuits. Ongoing compliance monitoring will be implemented to ensure adherence to the new guidelines.

Supervisory Oversight: The new policy mandates real-time supervisory oversight of all vehicle pursuits except for a “Dangerous Felony.” Supervisors must assess the risks and benefits of continuing a pursuit, provide guidance, and decide whether to terminate the pursuit if it becomes too dangerous. This oversight is crucial in ensuring that pursuits are conducted safely and in accordance with legal standards.

Conclusion: Adopting these changes will bring the City’s vehicle pursuit policy fully compliant with Washington State law, enhancing public safety and reducing liability risks. This policy revision reflects a commitment to responsible policing while maintaining the ability to address serious criminal activity effectively.

ATTACHMENTS: [Vehicle Pursuit Policy – Recommended Modified Lexipol Policy](#)
[Vehicle Pursuit Policy – Standard Lexipol Policy](#)
[Visual Pursuits Matrix](#)
[Previous Pursuit Policy](#)

Vehicle Pursuits

307.1 PURPOSE AND SCOPE

Best Practice

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects.

307.1.1 DEFINITIONS

Best Practice

Definitions related to this policy include:

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more pursuing vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Blocking is not a moving or stationary roadblock.

Boxing-in - A tactic designed to stop a suspect's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention Technique (PIT) - A low-speed maneuver designed to cause the suspect vehicle to spin out, stall, and come to a stop.

Ramming - The deliberate act of contacting a suspect's vehicle with another law enforcement vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing a law enforcement vehicle or other immovable object in the path of the suspect's vehicle.

Terminate - To discontinue a pursuit or stop chasing fleeing vehicles.

Tire deflation device - A device designed to puncture the tires of the pursued vehicle.

Trail - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

Vehicle pursuit - An attempt by a uniformed officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

Vehicle Pursuits

307.2 POLICY

Best Practice

It is the policy of this department to weigh the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

307.3 OFFICER RESPONSIBILITIES

State

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by law.

Officers shall drive with due regard for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (RCW 46.61.035):

- (a) Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
- (b) Exceed the speed limit.
- (c) Disregard regulations governing parking, direction of movement or turning in specified directions.

307.3.1 WHEN TO INITIATE A PURSUIT

State MODIFIED

Officers are not authorized to initiate a pursuit unless the following criteria exists (RCW 10.116.060):

- (a) When reasonable suspicion exists to believe that a person has committed or is committing:
 - 1. A “Dangerous Felony” means a serious felony crime against a person or the community. This includes the following:
 - Murder
 - Felony Sexual Assault
 - Felony Assault (including Vehicular Assault)
 - Kidnapping
 - Robbery
 - Arson or Bombing (of an occupied structure)
 - Burglary
 - 2. A felony crime (not listed under “Dangerous Felonies”) or non-felony crime against a person, occurring under extraordinary circumstances and where there is an imminent and/or ongoing threat to persons or the community; or
 - 3. Driving under the influence (DUI) offense under RCW 46.61.502, and there are previously observed factors and/or dangerous driving that poses an imminent threat to the safety of others.

Vehicle Pursuits

- (b) The pursuit is necessary for the purpose of identifying or apprehending the person.
- (c) The person poses a threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicle pursuit under the circumstances
 - 1. Due to our staff size being fewer than 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.
 - 2. If SS911 cannot contact a supervisor within a reasonable amount of time, the officer will reevaluate the need to pursue. Officers must carefully weigh the severity of the crime against the public safety necessity for initiating or continuing a pursuit.
 - 3. The Fircrest Police Department will only engage in a vehicle pursuit for "Dangerous Felony" crimes without a supervisor actively monitoring the pursuit. With supervisory approval, the crimes listed under provisions 1,2 or 3 may be pursued.

307.3.2 VEHICLE PURSUIT FACTORS

State

Factors that shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit include but are not limited to (RCW 10.116.060):

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.
- (d) The pursuing officers' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (e) Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (f) Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (g) The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.

Vehicle Pursuits

- (h) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., minors, passengers, co-offenders, hostages).
- (k) The availability of other resources, such as air support assistance.
- (l) Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

307.3.3 WHEN TO TERMINATE A PURSUIT

Best Practice

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

When a supervisor directs the pursuit to be terminated, officers will immediately terminate the pursuit.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- (a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (e) Hazards to uninvolved bystanders or motorists.
- (f) The danger that the continued pursuit poses to the public, the officers or the suspect, balanced against the risk of allowing the suspect to remain at large.

Vehicle Pursuits

- (g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- (h) Extended pursuits of violators for misdemeanors not involving violence or weapons (independent of the pursuit) are generally discouraged.

307.4 PURSUIT VEHICLES

Best Practice **MODIFIED**

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever practicable.

The number of vehicles involved will vary with the circumstances.

An officer or supervisor may request that additional vehicles join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the number of suspects. All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the pursuit termination point at legal speeds, following the appropriate rules of the road.

307.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Best Practice

Officers operating vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing

vehicles as long as the vehicle is operated in compliance with all traffic laws. Those officers should discontinue such support immediately upon arrival of a sufficient number of authorized emergency police department vehicles or any air support.

307.4.2 PRIMARY PURSUIT VEHICLE RESPONSIBILITIES

State **MODIFIED**

The initial pursuing officer will be designated as the primary pursuit vehicle and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to themselves or others.

The primary pursuing officer shall notify a supervisor immediately upon initiating a vehicle pursuit. The officer and the supervisor shall consider alternatives to initiating a vehicle pursuit as well as safety considerations (RCW 10.116.060).

If a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

Vehicle Pursuits

The primary pursuing officer shall notify the dispatcher, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

- (a) The location, direction of travel, and estimated speed of the suspect's vehicle.
- (b) The description of the suspect's vehicle including the license plate number, if known.
- (c) The reason for the pursuit.
- (d) The use of firearms, threat of force, violence, injuries, hostages, or other unusual hazards.
- (e) The number of occupants and identity or description.
- (f) The weather, road, and traffic conditions.
- (g) The need for any additional resources or equipment.
- (h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

307.4.3 SECONDARY PURSUIT VEHICLE RESPONSIBILITIES

Best Practice

The second officer in the pursuit will be designated as the secondary pursuit vehicle and is responsible for:

- (a) Immediately notifying the dispatcher of his/her entry into the pursuit.
- (b) Remaining a safe distance behind the primary pursuit vehicle unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting information that the primary pursuing officer is unable to provide.
- (d) Broadcasting the progress of the pursuit, updating known or critical information and providing changes in the pursuit, unless the situation indicates otherwise.
- (e) Identifying the need for additional resources or equipment as appropriate.
- (f) Serving as backup to the primary pursuing officer once the suspect has been stopped.

307.5 PURSUIT DRIVING

Best Practice

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are

Vehicle Pursuits

tactics for officers who are involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to unusual maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available officers not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing officers should exercise due caution and slow down as may be necessary when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving the wrong direction on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
 - 1. Request assistance from available air support.
 - 2. Maintain visual contact with the pursued vehicle by paralleling the vehicle while driving on the correct side of the roadway.
 - 3. Request other officers to observe exits available to the suspect.
- (d) Notify the Washington State Patrol or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other pursuing vehicles unless the situation indicates otherwise or they are requested to do so by the pursuing officer and with a clear understanding of the maneuver process between the involved officers.

307.5.1 PURSUIT TRAILING

Best Practice

In the event that initial pursuing officers relinquish control of the pursuit to another agency, the initial officers may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect and reporting the incident.

307.5.2 AIR SUPPORT ASSISTANCE

Best Practice

When available, air support assistance should be requested. Once the air support crew has established visual contact with the pursued vehicle, they should assume communication control over the pursuit. The primary and secondary ground pursuit vehicles, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants their continued close proximity and/or involvement in the pursuit.

The air support crew should coordinate the activities of resources on the ground, report progress of the pursuit, and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. If officers on the

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ground are not within visual contact of the pursued vehicle and the air support crew determines that it is unsafe to continue the pursuit, the air support crew should recommend terminating the pursuit.

307.5.3 OFFICERS NOT INVOLVED IN THE PURSUIT

Best Practice

Officers who are not involved in the pursuit should remain in their assigned areas, should not parallel the pursuit route and should not become involved with the pursuit unless directed otherwise by a supervisor. Uninvolved officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Those officers should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or if the suspect intentionally tries to ram the police department vehicle.

Non-pursuing members needed at the pursuit termination point should respond in a nonemergency manner, observing the rules of the road.

The primary pursuit vehicle, secondary pursuit vehicle and supervisor vehicle should be the only vehicles operating under emergency conditions (emergency lights and siren) unless other officers are assigned to the pursuit.

307.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

Best Practice

MODIFIED

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department (RCW 10.116.060).

The field supervisor of the officer initiating the pursuit will be responsible for:

- (a) Immediately notifying involved officers and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit. This is to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required law enforcement vehicles are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the field supervisor's judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that the Shift Sergeant is notified of the pursuit, as soon as practicable.

Fircrest Police Department

Policy Manual

Vehicle Pursuits

- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (j) Controlling and managing Fircrest Police Department officers when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit as required.

307.6.1 SHIFT SERGEANT RESPONSIBILITIES

Best Practice

Upon becoming aware that a pursuit has been initiated, the Shift Sergeant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Shift Sergeant has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command.

The Shift Sergeant shall review all pertinent reports for content and forward them to the Patrol Sergeant.

307.7 DISPATCH

Best Practice

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved officers should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

307.7.1 RESPONSIBILITIES

Best Practice

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

- (a) Clearing the radio channel of nonemergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Shift Sergeant as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

307.8 LOSS OF PURSUED VEHICLE

Best Practice

Vehicle Pursuits

When the pursued vehicle is lost, the involved officers should broadcast pertinent information to assist other officers in locating the vehicle. The primary pursuing officer or supervisor will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

307.9 INTERJURISDICTIONAL CONSIDERATIONS

Best Practice **MODIFIED**

When a pursuit enters another agency's jurisdiction, the primary pursuing officer or supervisor, considering the distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether to request the other agency to assume the pursuit.

Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary pursuing officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether the jurisdiction is expected to assist.

Fircrest officers generally refrain from becoming involved in an outside agency pursuit unless there is an articulable officer safety need, such as the officer being alone. Once the officer safety concern is resolved, our officers should terminate their direct involvement unless a supervisor approves it. Fircrest officers may use tire deflation devices to terminate inter-jurisdictional pursuits in or near Fircrest.

307.9.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Best Practice

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Fircrest Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation.

The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports.

The roles and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local law enforcement agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

Vehicle Pursuits

307.9.2 PURSUITS EXTENDING INTO THIS JURISDICTION

Best Practice **MODIFIED**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Officers from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single vehicle from the initiating agency is in pursuit. Under this circumstance, an officer from this department may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of the Fircrest Police Department, the supervisor should consider:

- (a) The public's safety within this jurisdiction.
- (b) The safety of the pursuing officers.
- (c) Whether the circumstances are serious enough to continue the pursuit.
- (d) Whether there is adequate staffing to continue the pursuit.
- (e) The ability to maintain the pursuit.

As soon as practicable Shift Sergeant should review a request for assistance from another agency. The Shift Sergeant, after considering the above factors, may decline to assist in or assume the other agency's pursuit.

Assistance to a pursuing agency by officers of this department will conclude at the City limits, provided that the pursuing agency has sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that the termination point of a pursuit from another agency is within this jurisdiction, officers shall provide appropriate assistance including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

307.10 PURSUIT INTERVENTION

Best Practice

Pursuit intervention is an attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT, ramming or roadblock procedures.

307.10.1 WHEN USE IS AUTHORIZED

State

As soon as practicable after initiating a pursuit, the primary pursuing officer and supervisor, if available, shall develop a plan for the termination of the pursuit using available intervention options (RCW 10.116.060).

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In deciding whether to use intervention tactics, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers, and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

307.10.2 USE OF FIREARMS

Best Practice

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon (see the Use of Force Policy).

307.10.3 INTERVENTION STANDARDS

Best Practice

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to policies guiding such use. Officers shall consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to the public's safety, and when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this intervention tactic should only be employed by properly trained officers and after giving consideration to the following:
 - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers, or others.
 - 2. All other reasonable intervention tactics have failed or reasonably appear ineffective.
 - 3. Employing the blocking or vehicle intercept maneuver does not unreasonably increase the risk of danger to those involved or the public.
 - 4. The suspect vehicle is stopped or traveling at a low speed.
 - 5. Only law enforcement vehicles should be used in this tactic.
- (b) The PIT is limited to use by properly trained officers with the approval of a supervisor and upon assessment of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public, and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at

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the officer's disposal have been exhausted or would not be effective, and immediate control is necessary. Ramming should be reserved for situations where there does not appear to be another reasonable alternative method. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:

1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner or using the vehicle as a weapon.
- (d) Boxing-in a suspect vehicle should only be attempted upon approval by a supervisor. The use of such a tactic must be carefully coordinated with all involved vehicles, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public, and occupants of the pursued vehicle. Officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (e) Tire deflation devices should be deployed only after notification of pursuing officers and the supervisor of the intent and location of the intended deployment, and in a manner that:
1. Should reasonably only affect the pursued vehicle.
 2. Provides the deploying officer adequate cover and escape from intentional or unintentional exposure to the approaching vehicle.
 3. Takes into account the limitations of such devices as well as the potential risk to officers, the public, and occupants of the pursued vehicle.
 4. Takes into account whether the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor. If roadblocks are deployed, it should only be done under extraordinary conditions when all other reasonable intervention tactics have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers, or the public.

307.11 CAPTURE OF SUSPECTS

Best Practice

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

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Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspect following the pursuit. Officers should consider the safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspect.

307.12 REPORTING REQUIREMENTS

Best Practice

All appropriate reports shall be completed to comply with appropriate laws and policies or procedures.

- (a) The primary pursuing officer shall complete appropriate crime/arrest reports.
- (b) The primary pursuing officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining the available information, the involved, or if unavailable, on-duty field supervisor shall promptly complete a supervisor's log or interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:
 - 1. Date and time of the pursuit.
 - 2. Initial reason and circumstances surrounding the pursuit.
 - 3. Length of pursuit in distance and time, including the starting and termination points.
 - 4. Involved vehicles and officers.
 - 5. Alleged offenses.
 - 6. Whether a suspect was apprehended, as well as the means and methods used.
 - (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
 - 7. Arrestee information, if applicable.
 - 8. Any injuries and/or medical treatment.
 - 9. Any property or equipment damage.
 - 10. Name of supervisor at the scene or who handled the incident.
 - 11. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs, and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign the completion of a post-pursuit review, as appropriate.
- (e) Annually, the Chief of Police shall direct a documented management review and analysis of department vehicle pursuits to minimally address policy (including suitability and compliance), procedure, training, and/or personnel issues that are identified during the review process. The Chief of Police shall review and approve the

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final report.

307.13 REGULAR AND PERIODIC PURSUIT TRAINING

State

In addition to initial and supplementary training on pursuits, all officers will participate, no less than annually, in regular and periodic training addressing this policy and the importance of vehicle safety and protecting the public. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

All officers engaging in vehicle pursuits shall have completed an emergency vehicle operator course, refresher training in emergency vehicle operation within two years prior to the pursuit, and be certified in at least one pursuit intervention option (RCW 10.116.060).

307.14 POLICY REVIEW

Best Practice

Officers of this department shall certify in writing that they have received, read and understand this policy initially, upon any amendments and whenever training on the policy is provided.

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307.1 PURPOSE AND SCOPE

Best Practice

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved officers, the public, and fleeing suspects.

307.1.1 DEFINITIONS

Best Practice

Definitions related to this policy include:

Blocking or vehicle intercept - A slow-speed coordinated maneuver where two or more pursuing vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop. The goal is containment and preventing a pursuit. Blocking is not a moving or stationary roadblock.

Boxing-in - A tactic designed to stop a suspect's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention Technique (PIT) - A low-speed maneuver designed to cause the suspect vehicle to spin out, stall, and come to a stop.

Ramming - The deliberate act of contacting a suspect's vehicle with another law enforcement vehicle to functionally damage or otherwise force the suspect's vehicle to stop.

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing a law enforcement vehicle or other immovable object in the path of the suspect's vehicle.

Terminate - To discontinue a pursuit or stop chasing fleeing vehicles.

Tire deflation device - A device designed to puncture the tires of the pursued vehicle.

Trail - Following the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit.

Vehicle pursuit - An attempt by a uniformed officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

307.2 POLICY

Best Practice

Vehicle Pursuits

It is the policy of this department to weigh the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

307.3 OFFICER RESPONSIBILITIES

State

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by law.

Officers shall drive with due regard for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (RCW 46.61.035):

- (a) Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
- (b) Exceed the speed limit.
- (c) Disregard regulations governing parking, direction of movement or turning in specified directions.

307.3.1 WHEN TO INITIATE A PURSUIT

State

MODIFIED

Officers are not authorized to initiate a pursuit unless the following criteria exists (RCW 10.116.060):

- (a) When reasonable suspicion exists to believe that a person has violated the law.
- (b) The pursuit is necessary for the purpose of identifying or apprehending the person.
- (c) The person poses a threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicle pursuit under the circumstances
 - 1. Due to our staff size being fewer than 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.
 - 2. If SS911 cannot contact a supervisor within a reasonable amount of time, the officer will reevaluate the need to pursue. Officers must carefully weigh the severity of the crime against the public safety necessity for initiating or continuing a pursuit.
 - 3. Generally, the Fircrest Police Department should refrain from engaging in pursuits for non-felony crimes (excluding DV or DUI misdemeanors) without a supervisor's approval and actively monitoring the pursuit.

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307.3.2 VEHICLE PURSUIT FACTORS

State

Factors that shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit include but are not limited to (RCW 10.116.060):

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists, and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.
- (d) The pursuing officers' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (e) Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.
- (f) Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (g) The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
- (h) Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., minors, passengers, co-offenders, hostages).
- (k) The availability of other resources, such as air support assistance.
- (l) Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

307.3.3 WHEN TO TERMINATE A PURSUIT

Best Practice

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

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When a supervisor directs the pursuit to be terminated, officers will immediately terminate the pursuit.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- (a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (e) Hazards to uninvolved bystanders or motorists.
- (f) The danger that the continued pursuit poses to the public, the officers or the suspect, balanced against the risk of allowing the suspect to remain at large.
- (g) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- (h) Extended pursuits of violators for misdemeanors not involving violence or weapons (independent of the pursuit) are generally discouraged.

307.4 PURSUIT VEHICLES

Best Practice **MODIFIED**

When involved in a pursuit, unmarked police department emergency vehicles should be replaced by marked emergency vehicles whenever practicable.

The number of vehicles involved will vary with the circumstances.

An officer or supervisor may request that additional vehicles join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the number of suspects. All other officers shall stay out of the pursuit but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the pursuit termination point at legal speeds, following the appropriate rules of the road.

307.4.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Best Practice

Officers operating vehicles not equipped with emergency lights and siren are prohibited from initiating or joining in any pursuit. Officers in such vehicles may provide support to pursuing

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vehicles as long as the vehicle is operated in compliance with all traffic laws. Those officers should discontinue such support immediately upon arrival of a sufficient number of authorized emergency police department vehicles or any air support.

307.4.2 PRIMARY PURSUIT VEHICLE RESPONSIBILITIES

State **MODIFIED**

The initial pursuing officer will be designated as the primary pursuit vehicle and will be responsible for the conduct of the pursuit unless the officer is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to themselves or others.

The primary pursuing officer shall notify a supervisor immediately upon initiating a vehicle pursuit. The officer and the supervisor shall consider alternatives to initiating a vehicle pursuit as well as safety considerations (RCW 10.116.060).

If a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

The primary pursuing officer shall notify the dispatcher, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

- (a) The location, direction of travel, and estimated speed of the suspect's vehicle.
- (b) The description of the suspect's vehicle including the license plate number, if known.
- (c) The reason for the pursuit.
- (d) The use of firearms, threat of force, violence, injuries, hostages, or other unusual hazards.
- (e) The number of occupants and identity or description.
- (f) The weather, road, and traffic conditions.
- (g) The need for any additional resources or equipment.
- (h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.

307.4.3 SECONDARY PURSUIT VEHICLE RESPONSIBILITIES

Best Practice

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The second officer in the pursuit will be designated as the secondary pursuit vehicle and is responsible for:

- (a) Immediately notifying the dispatcher of his/her entry into the pursuit.
- (b) Remaining a safe distance behind the primary pursuit vehicle unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting information that the primary pursuing officer is unable to provide.
- (d) Broadcasting the progress of the pursuit, updating known or critical information and providing changes in the pursuit, unless the situation indicates otherwise.
- (e) Identifying the need for additional resources or equipment as appropriate.
- (f) Serving as backup to the primary pursuing officer once the suspect has been stopped.

307.5 PURSUIT DRIVING

Best Practice

The decision to use specific driving tactics requires the same assessment of the factors the officer considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for officers who are involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to unusual maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available officers not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing officers should exercise due caution and slow down as may be necessary when proceeding through controlled intersections.
- (c) As a general rule, officers should not pursue a vehicle driving the wrong direction on a roadway, highway or freeway. In the event the pursued vehicle does so, the following tactics should be considered:
 - 1. Request assistance from available air support.
 - 2. Maintain visual contact with the pursued vehicle by paralleling the vehicle while driving on the correct side of the roadway.
 - 3. Request other officers to observe exits available to the suspect.
- (d) Notify the Washington State Patrol or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other pursuing vehicles unless the situation indicates otherwise or they are requested to do so by the pursuing officer and with a clear understanding of the maneuver process between the involved officers.

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307.5.1 PURSUIT TRAILING

Best Practice

In the event that initial pursuing officers relinquish control of the pursuit to another agency, the initial officers may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspect and reporting the incident.

307.5.2 AIR SUPPORT ASSISTANCE

Best Practice

When available, air support assistance should be requested. Once the air support crew has established visual contact with the pursued vehicle, they should assume communication control over the pursuit. The primary and secondary ground pursuit vehicles, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants their continued close proximity and/or involvement in the pursuit.

The air support crew should coordinate the activities of resources on the ground, report progress of the pursuit, and provide officers and supervisors with details of upcoming traffic congestion, road hazards or other pertinent information to evaluate whether to continue the pursuit. If officers on the ground are not within visual contact of the pursued vehicle and the air support crew determines that it is unsafe to continue the pursuit, the air support crew should recommend terminating the pursuit.

307.5.3 OFFICERS NOT INVOLVED IN THE PURSUIT

Best Practice

Officers who are not involved in the pursuit should remain in their assigned areas, should not parallel the pursuit route and should not become involved with the pursuit unless directed otherwise by a supervisor. Uninvolved officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public. Those officers should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or if the suspect intentionally tries to ram the police department vehicle.

Non-pursuing members needed at the pursuit termination point should respond in a nonemergency manner, observing the rules of the road.

The primary pursuit vehicle, secondary pursuit vehicle and supervisor vehicle should be the only vehicles operating under emergency conditions (emergency lights and siren) unless other officers are assigned to the pursuit.

307.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

Best Practice **MODIFIED**

Available supervisory and management control will be exercised over all vehicle pursuits involving officers from this department (RCW 10.116.060).

The field supervisor of the officer initiating the pursuit will be responsible for:

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- (a) Immediately notifying involved officers and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit. This is to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required law enforcement vehicles are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the field supervisor's judgment, it is not justified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that the Shift Sergeant is notified of the pursuit, as soon as practicable.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this department.
- (j) Controlling and managing Fircrest Police Department officers when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit as required.

307.6.1 SHIFT SERGEANT RESPONSIBILITIES

Best Practice

Upon becoming aware that a pursuit has been initiated, the Shift Sergeant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Shift Sergeant has the final responsibility for the coordination, control and termination of a vehicle pursuit and shall be in overall command.

The Shift Sergeant shall review all pertinent reports for content and forward them to the Patrol Sergeant.

307.7 DISPATCH

Best Practice

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or dispatcher. If the pursuit leaves the jurisdiction of this department or such is imminent, involved officers should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

307.7.1 RESPONSIBILITIES

Best Practice

Vehicle Pursuits

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

- (a) Clearing the radio channel of nonemergency traffic.
- (b) Coordinating pursuit communications of the involved officers.
- (c) Broadcasting pursuit updates as well as other pertinent information as necessary.
- (d) Ensuring that a field supervisor is notified of the pursuit.
- (e) Notifying and coordinating with other involved or affected agencies as practicable.
- (f) Notifying the Shift Sergeant as soon as practicable.
- (g) Assigning an incident number and logging all pursuit activities.

307.8 LOSS OF PURSUED VEHICLE

Best Practice

When the pursued vehicle is lost, the involved officers should broadcast pertinent information to assist other officers in locating the vehicle. The primary pursuing officer or supervisor will be responsible for coordinating any further search for either the pursued vehicle or suspects fleeing on foot.

307.9 INTERJURISDICTIONAL CONSIDERATIONS

Best Practice MODIFIED

When a pursuit enters another agency's jurisdiction, the primary pursuing officer or supervisor, considering the distance traveled, unfamiliarity with the area, and other pertinent facts, should determine whether to request the other agency to assume the pursuit.

Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary pursuing officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether the jurisdiction is expected to assist.

Fircrest officers generally refrain from becoming involved in an outside agency pursuit unless there is an articulable officer safety need, such as the officer being alone. Once the officer safety concern is resolved, our officers should terminate their direct involvement unless a supervisor approves it. Fircrest officers may use tire deflation devices to terminate inter-jurisdictional pursuits in or near Fircrest.

307.9.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Best Practice

Officers will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Fircrest Police Department is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved officers may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation.

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The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports.

The roles and responsibilities of officers at the termination point of a pursuit initiated by this department shall be coordinated with appropriate consideration of the needs of the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. Because of communication limitations between local law enforcement agencies, a request for another agency's assistance will mean that its personnel will assume responsibility for the pursuit. For the same reasons, when a pursuit leaves another jurisdiction and a request for assistance is made to this department, the other agency should relinquish control.

307.9.2 PURSUITS EXTENDING INTO THIS JURISDICTION

Best Practice **MODIFIED**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Officers from this department should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single vehicle from the initiating agency is in pursuit. Under this circumstance, an officer from this department may, with supervisor approval, immediately join the pursuit until sufficient vehicles from the initiating agency join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

When a request is made for this department to assist or take over a pursuit that has entered the jurisdiction of the Fircrest Police Department, the supervisor should consider:

- (a) The public's safety within this jurisdiction.
- (b) The safety of the pursuing officers.
- (c) Whether the circumstances are serious enough to continue the pursuit.
- (d) Whether there is adequate staffing to continue the pursuit.
- (e) The ability to maintain the pursuit.

As soon as practicable Shift Sergeant should review a request for assistance from another agency. The Shift Sergeant, after considering the above factors, may decline to assist in or assume the other agency's pursuit.

Assistance to a pursuing agency by officers of this department will conclude at the City limits, provided that the pursuing agency has sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

In the event that the termination point of a pursuit from another agency is within this jurisdiction, officers shall provide appropriate assistance including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

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307.10 PURSUIT INTERVENTION

Best Practice

Pursuit intervention is an attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT, ramming or roadblock procedures.

307.10.1 WHEN USE IS AUTHORIZED

State

As soon as practicable after initiating a pursuit, the primary pursuing officer and supervisor, if available, shall develop a plan for the termination of the pursuit using available intervention options (RCW 10.116.060).

In deciding whether to use intervention tactics, officers/supervisors should balance the risk of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers, and persons in or on the pursued vehicle. With this in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances apparent to the officer at the time of the decision.

307.10.2 USE OF FIREARMS

Best Practice

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of deadly force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon (see the Use of Force Policy).

307.10.3 INTERVENTION STANDARDS

Best Practice

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and are subject to policies guiding such use. Officers shall consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to the public's safety, and when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this intervention tactic should only be employed by properly trained officers and after giving consideration to the following:
 - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risk of injury or death to occupants of the suspect vehicle, officers, or others.

Vehicle Pursuits

2. All other reasonable intervention tactics have failed or reasonably appear ineffective.
 3. Employing the blocking or vehicle intercept maneuver does not unreasonably increase the risk of danger to those involved or the public.
 4. The suspect vehicle is stopped or traveling at a low speed.
 5. Only law enforcement vehicles should be used in this tactic.
- (b) The PIT is limited to use by properly trained officers with the approval of a supervisor and upon assessment of the circumstances and conditions presented at the time, including the potential for risk of injury to officers, the public, and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted or would not be effective, and immediate control is necessary. Ramming should be reserved for situations where there does not appear to be another reasonable alternative method. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized. When ramming is used as a means to stop a fleeing vehicle, the following factors should be present:
1. The suspect is an actual or suspected felon, who reasonably appears to represent a serious threat to the public if not apprehended.
 2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner or using the vehicle as a weapon.
- (d) Boxing-in a suspect vehicle should only be attempted upon approval by a supervisor. The use of such a tactic must be carefully coordinated with all involved vehicles, taking into consideration the circumstances and conditions apparent at the time, as well as the potential risk of injury to officers, the public, and occupants of the pursued vehicle. Officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (e) Tire deflation devices should be deployed only after notification of pursuing officers and the supervisor of the intent and location of the intended deployment, and in a manner that:
1. Should reasonably only affect the pursued vehicle.
 2. Provides the deploying officer adequate cover and escape from intentional or unintentional exposure to the approaching vehicle.
 3. Takes into account the limitations of such devices as well as the potential risk to officers, the public, and occupants of the pursued vehicle.
 4. Takes into account whether the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks

Vehicle Pursuits

in the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor. If roadblocks are deployed, it should only be done under extraordinary conditions when all other reasonable intervention tactics have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers, or the public.

307.11 CAPTURE OF SUSPECTS

Best Practice

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Unless relieved by a supervisor, the primary pursuing officer should coordinate efforts to apprehend the suspect following the pursuit. Officers should consider the safety of the public and the involved officers when formulating plans for setting up perimeters or for containing and capturing the suspect.

307.12 REPORTING REQUIREMENTS

Best Practice

All appropriate reports shall be completed to comply with appropriate laws and policies or procedures.

- (a) The primary pursuing officer shall complete appropriate crime/arrest reports.
- (b) The primary pursuing officer or supervisor shall complete the appropriate pursuit report.
- (c) After first obtaining the available information, the involved, or if unavailable, on-duty field supervisor shall promptly complete a supervisor's log or interoffice memorandum, briefly summarizing the pursuit to the Chief of Police or the authorized designee. This log or memorandum should include, at a minimum:
 1. Date and time of the pursuit.
 2. Initial reason and circumstances surrounding the pursuit.
 3. Length of pursuit in distance and time, including the starting and termination points.
 4. Involved vehicles and officers.
 5. Alleged offenses.
 6. Whether a suspect was apprehended, as well as the means and methods used.
 - (a) Any use of force shall be reported and documented in compliance with the Use of Force Policy.
 7. Arrestee information, if applicable.
 8. Any injuries and/or medical treatment.

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9. Any property or equipment damage.
 10. Name of supervisor at the scene or who handled the incident.
 11. A preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.
- (d) After receiving copies of reports, logs, and other pertinent information, the Chief of Police or the authorized designee shall conduct or assign the completion of a post-pursuit review, as appropriate.
- (e) Annually, the Chief of Police shall direct a documented management review and analysis of department vehicle pursuits to minimally address policy (including suitability and compliance), procedure, training, and/or personnel issues that are identified during the review process. The Chief of Police shall review and approve the final report.

307.13 REGULAR AND PERIODIC PURSUIT TRAINING

State

In addition to initial and supplementary training on pursuits, all officers will participate, no less than annually, in regular and periodic training addressing this policy and the importance of vehicle safety and protecting the public. Training will include recognition of the need to balance the known offense and the need for immediate capture against the risks to officers and others.

All officers engaging in vehicle pursuits shall have completed an emergency vehicle operator course, refresher training in emergency vehicle operation within two years prior to the pursuit, and be certified in at least one pursuit intervention option (RCW 10.116.060).

307.14 POLICY REVIEW

Best Practice

Officers of this department shall certify in writing that they have received, read and understand this policy initially, upon any amendments and whenever training on the policy is provided.

PURSUITS MATRIX

For illustrative purposes only

		RISK FACTORS	
		LOW	HIGH
CRIMINAL OFFENSE	Felonies involving physical harm to a person	May pursue if pursuit is not more dangerous than offense, continue to assess	May pursue if pursuit is not more dangerous than offense, continue to assess
	Any other felony offense and Mandatory Arrest Offenses	May pursue if pursuit is not more dangerous than offense, continue to assess	Pursuit not authorized
	Other criminal offenses	May pursue if pursuit is not more dangerous than offense and ONLY to determine if other factors are presents	Pursuit not authorized

“Notwithstanding any other provision of this section, a vehicular pursuit that poses a greater public safety risk than the public safety risk of failing to apprehend or identify the person must be immediately terminated, without exception.”

High Risk Factors “including, but not limited to”:

- locations with a high density of intersecting streets such as in an urban area
- use of an unmarked law enforcement vehicle as the primary vehicle in the pursuit
- poor weather conditions
- significant pedestrian traffic
- congested vehicle traffic
- speeds of at least twice the posted speed limit
- nearby school zones
- no supervisor is available

Low Risk Factors “including, but not limited to”:

- locations with a low density of intersecting streets such as in suburban or rural areas
- use of a marked law enforcement vehicle as the primary vehicle in the pursuit
- clear weather conditions
- light or no pedestrian traffic
- light or no vehicle traffic
- speeds of less than 20 miles per hour over the posted speed limit
- a supervisor is immediately involved.

CHAPTER 9.00.00

USE OF VEHICLES

9.00.00

USE OF VEHICLES

Officers have the responsibility to operate their vehicles in a safe and skillful manner. When responding to emergency situations or when in pursuit of violators, officers will comply with all applicable department procedures and regulations. In these situations, an officer's first concern should be the safety of the public.

9.01.00 RESPONSE TO ROUTINE AND EMERGENCY SITUATIONS

The first and most important function of the individual officer is to give aid at times of emergency. Because of this task, we in law enforcement are granted privileges and responsibilities beyond the average citizen. It is recognized that it is our primary responsibility to arrive safely at the scene of a call for help and that emergency driving for whatever purpose must not endanger the safety of other road users. The apprehension of wrong doers must remain a secondary consideration to both public and officer safety.

9.01.01

APPLICABLE LAWS

(A) RCW 46.61.035 - exempts emergency vehicles from certain traffic laws under specific circumstances and subject to certain conditions on the use of emergency lights and siren.

(B) RCW 46.61.210 - requires all drivers to yield to emergency traffic that makes use of audible and visual signals, or, in the case of police vehicles, audible signals only. There is **NO** statutory requirement to yield to a vehicle using only visual signals.

9.01.02

POLICY STATEMENT

This document will provide officers of the Fircrest Police Department with standardized guidelines for the appropriate method of vehicle response to dispatched details. In addition to these guidelines, each officer should take into consideration such things as traffic, weather conditions, vehicle condition, and the officer's own driving ability. This policy should not be construed so as to relieve the individual officer of his/her responsibility to drive with regard to lives and property of others as required by state law.

9.01.03

TERMINOLOGY

The following designation terminology is established as a general guideline as to the seriousness level of emergency response. Routine, priority and emergency are internal descriptions only, identifying three levels of activity that generally describe increasingly serious events and the progressive necessity for an officer to arrive as safely and quickly as possible.

The emergency operation of a vehicle, regardless of the seriousness of the event, is simply in two modes:

Non-Emergency "run" - abide by all the rules of the road.

Emergency "run" - utilize audible or audible and visual signals (per RCW 46.61.035 & 210).

9.01.04 ROUTINE RESPONSES - NORMAL DRIVING TIME

The officer should respond following normal posted speed limits with regard to all traffic laws and regulations. This response should be utilized in all details of an "occurred prior" nature or such details as citizen or business assists or "in custody" situations where the offender is not causing problems.

9.01.05 PRIORITY RESPONSES - RESPOND AS SOON AS POSSIBLE

The officer may exceed the posted speed limit and shall utilize emergency siren or siren and lights to facilitate moving through traffic or crossing an intersection against the lights. Officers shall utilize extreme caution when violating traffic regulations. Emergency equipment shall be activated when violating traffic regulations. When responding to in-progress property crime such as alarms (including banks), suspicious circumstances of an in-progress nature, the siren or other identifying equipment may be discontinued so as not to alert suspects. Extreme caution must be exercised when de-activating audible equipment. A priority response is less than a full emergency response, but at a risk level greater than normal driving time.

9.01.06

EMERGENCY RESPONSES

FULL CODE "LIGHTS AND SIREN" EMERGENCY RESPONSE

The officer shall utilize both lights and siren in an effort to reach the scene as soon as possible. This type of response should only be utilized in life threatening situations such as an "officer needs help", "CPR in progress", injury

or unknown injury traffic accidents, and crimes against persons where a weapon is being utilized.

9.01.07

NOTIFICATION OF DISPATCH

Any officer who activates emergency equipment and operates his/her vehicle in a manner fitting conditions which constitute an "emergency run" and driving that continuously exceeds the "rules of the road" in response shall be required to alert dispatch upon initiating the response. The alert shall contain, at a minimum, the language "Priority from (unit location)" or another clear and understood transmission alerting all of the emergency run.

Such an announcement shall alert radio for coordinating other, off-frequency, emergency vehicles and alert multiple Fircrest units and supervision who is making an emergency run and from where.

Such an announcement is not required if an officer is exercising the occasional use of emergency equipment to safely clear a delaying intersection, or to clear restrictive traffic, but not operating at speeds exceeding the speed limit and likely to endanger the officer, public at large, or other emergency vehicles.

Under conditions of a criminal pursuit, the announcement of a pursuit shall substitute for an emergency run alert.

As the emergency vehicle response has such a great potential for injury and property damage, officers are encouraged to announce their response under any use of emergency equipment and are required to announce under emergency response conditions.

9.01.08

SUPERVISORY MONITORING

The supervisor monitoring emergency response activity shall coordinate the number of responding units and intervene when in his/her opinion the directed response needs to be escalated or downgraded for reasons of officer and/or public safety.

9.01.09

FURTHER RESTRICTIONS GOVERNING RESPONSES

(A) Except when in immediate pursuit, the maximum speed at which vehicles will be operated in response to any incident is 15 miles per hour over the posted speed limit.

(B) Except when in immediate pursuit, patrol vehicles will comply with traffic control devices. Vehicles will not enter intersections against traffic control

devices without coming to a stop and clearing the intersection before proceeding.

(C) The first vehicle ordered to the scene of an accident or emergency will be the only vehicle to run under emergency conditions. If, in the opinion of the first officer to arrive, more help is needed, he/she will request aid and also state if it is of an emergency nature.

9.01.10 SAFETY RESTRAINING DEVICES

In compliance with Washington State Law, and in accordance with the Fircrest Police Department's need to set an example of compliance with all laws, the following will be department rules and regulations with regard to the use of seat belts while operating city vehicles.

9.01.11 COMMISSIONED AND CIVILIAN USE

All commissioned and non-commissioned personnel will wear seat belts while operating and/or riding in city-owned vehicles.

(A) This will also apply to civilians participating in a ride-a-long program.

(B) If an officer's safety is clearly jeopardized by the wearing of a seat belt in a specific instance, the officer is exempted from this requirement for that instance only.

9.01.12 TRANSPORTING PRISONERS

Fircrest Police Officers will seat belt prisoners into a car or prisoner van when transporting them. The department recognizes that officer safety is paramount. Exceptions to this may include combative prisoners whose violent actions make it impossible and/or unsafe for an officer to secure a prisoner.

9.01.13 EXCEPTIONS

(A) Vehicles in which seat belts are not installed.

(B) Physical or medical exemption granted.

9.02.00 VEHICULAR PURSUITS

Personal and public safety is a prime responsibility of the Fircrest Police Department. The department recognizes its responsibilities in apprehending offenders, but is also aware that accidents are likely to occur during police pursuits. Therefore, it is of paramount importance that each officer weigh the

seriousness of the offense committed against the danger to the officer and others during a pursuit.

A vehicular pursuit is defined as an active attempt by a law enforcement officer on duty in a patrol vehicle to apprehend one or more occupants in a moving motor vehicle, provided the driver of such vehicle is aware of the attempt and is resisting apprehension by maintaining or increasing the speed of the vehicle or is ignoring the law enforcement officer's attempt to stop the vehicle.

Attempting to elude a pursuing police vehicle is a Class C felony.

When a violation occurs (traffic, criminal, misdemeanor, or felony), the decision to pursue or to continue the pursuit must be made by the officer involved. The officer must consider the nature of the offense, time of day, weather and traffic conditions, geographic location, familiarity with the area, and the actions of the driver.

9.02.01 DECIDING WHETHER TO ENTER INTO OR TERMINATE A PURSUIT

A law enforcement officer has the authority, at all times, to attempt to stop any persons suspected of having committed any criminal offense or traffic violation. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the pursuit. The officer's decision to enter the pursuit should always be undertaken with an awareness of the degree of risk to which the law-enforcement officer and others are exposed. The officer must weigh the need for immediate apprehension against the risk created by the pursuit.

(A) Authorization to pursue

A law enforcement officer may pursue only:

1. When the officer reasonably believes that the violator poses an immediate threat to the safety of the public or officers other than from the pursuit.
2. After considering the following factors, the officer reasonably believes that the need for immediate apprehension outweighs the danger to the public and officers created by the pursuit:
 - a. The seriousness of the offense causing the officer to attempt apprehension.
 - b. Likelihood of successful apprehension.

- c. Whether the identity of the violator is known to the point where later apprehension is possible.
- d. The degree of risk created by the pursuit (surrounding environment, road conditions, weather, characteristics of the driver, etc).
- e. The capabilities of the officer and his/her equipment.

(B) Terminating the pursuit.

The pursuing officer shall terminate the pursuit:

1. If the officer reasonably believes that the danger to the pursuing officer(s) or the public outweighs the necessity for immediate apprehension of the violator.
2. If instructed to do so by a supervisor.
3. If the violator's identity is established to the point where later apprehension is highly probable, and where there is no immediate threat, other than the pursuit itself, to the safety of the public or officers.
4. If the pursued vehicle's location is no longer known or the distance between the pursuing vehicles and the violator's vehicle becomes so great that further pursuit is futile.
5. If there is a person injured during the pursuit and no other law enforcement or medical personnel are able to render assistance.

9.02.02 IMMEDIATE DUTIES OF THE PURSUING OFFICER

Upon commencement of a pursuit, the pursuing officer will immediately activate emergency lights and audible device.

The pursuing officer will notify communications of the following:

1. The pursuit
2. Roadway(s) and direction(s) of travel
3. Speeds attained
4. Violations or crimes committed
5. Fleeing vehicle's description and other, appropriate available information.

9.02.03

VEHICULAR PURSUIT RESTRICTIONS

No more than two police vehicles (primary and secondary unit) shall become directly involved in a pursuit unless otherwise specifically directed by a supervisor.

The police motorcycle will not participate in a pursuit unless extraordinary circumstances are present. If the motorcycle is involved in a pursuit, the motorcycle officer shall cease pursuit altogether when a marked police vehicle becomes involved.

Unmarked police vehicles will not participate in vehicular pursuits.

Upon approaching an intersection controlled by traffic signals or signs, or any other location at which there is a substantially increased likelihood of collision, an officer involved in a pursuit shall, prior to entering the intersection, reduce the vehicle's speed and control the vehicle in a reasonable effort to avoid a collision with another vehicle or a pedestrian. The officer shall observe that the way is clear before proceeding through the intersection.

"Boxing" is the intentional surrounding of a violator's vehicle with patrol vehicles, which are then slowed to a stop along with the suspect's vehicle. Due to limited areas within the city limits where there is adequate room for such a tactic, boxing is not authorized.

9.02.04

ROLE OF THE SUPERVISOR

The supervisor has complete authority over the pursuit.

The supervisor shall make a reasonable effort to ensure, for the duration of the pursuit, that this policy and agency procedures are followed by all involved officers.

The supervisor may order a pursuit terminated at any time.

9.02.05

ROLE OF POLICE COMMUNICATIONS

Upon being informed of a pursuit in progress, communications will:

1. Notify other units and agencies on the air of the pursuit in progress and the stopping charge.
2. Make a reasonable effort to notify the supervisor of a pursuit in progress.
3. If unable to locate the supervisor, notify the Chief.

9.02.06**INTER-JURISDICTION PURSUITS**

Unless help is specifically requested, the broadcast of the chase to a supporting agency will be for information only. If assistance is required, other officers and/or agencies will be notified.

When the pursuit extends into another jurisdiction, the pursuing officer(s) shall turn over the pursuit to a local officer(s) as soon as possible and will return to normal patrol.

When the pursuit is relinquished, the agency to which it was relinquished will have full control over all aspects of the pursuit.

If an apprehension is made or the violator is identified, appropriate charges will be filed in the court of jurisdiction by the officer who originally initiated the stop.

It is the policy of this department not to become involved in pursuits initiated by another agency unless specifically requested to do so by that agency.

Fircrest units will not leave the city to become involved in pursuits requested or initiated by another agency, nor will they pursue beyond the Fircrest city limits if the pursuit enters the city.

9.02.07**PURSUIT REPORTING AND REVIEW**

All officers who operate law enforcement vehicles involved in vehicular pursuits, and all supervisors who supervise officers involved in vehicular pursuits, are required to file a pursuit incident report.

Pursuit incident reports are to be reviewed by the Chief. Upon review, the Chief may call for a critique of the pursuit. Incident reports, reviews, and critiques will be filed separately.

9.02.08**INVESTIGATION OF PURSUIT**

When officers are involved in a pursuit that results in death or serious injury to anyone, the Chief shall ensure a thorough investigation of the pursuit is conducted. The Traffic Investigation Division of the Washington State Patrol shall be utilized to assist with the investigation.

Within seven working days following the completion of the investigations, the Chief shall appoint a Fleet Safety Review Board to review the pursuit. The Board shall submit a written report of its findings and the investigative file to the Chief. The report should include information indicating whether or not officers and supervisors adhered to policy and training.

9.02.09 NO DEPARTMENTAL SANCTIONS WHEN DECIDING NOT TO PURSUE

Because the decision to terminate a pursuit may be the most intelligent course of action, officers and supervisors will not be censured if they decide not to enter into a pursuit, or if they decide to terminate the pursuit.

9.02.10 TRAINING

All officers shall receive regular in-service training in vehicular pursuit.

Vehicular pursuit training shall include knowledge of applicable statutes, familiarization with statewide pursuit policy, applicable departmental procedures and policy, and decision making skills.

9.03.00 ROADBLOCKS

A roadblock is a barricade using vehicles or other obstructions across a roadway set up to stop or prevent the escape of a fleeing vehicle. The Fircrest Police Department will not employ roadblocks as a tactic for apprehension.

9.04.00 VEHICLE RAMMING - DEADLY FORCE

Intentional ramming of a vehicle being pursued is discouraged and will be considered the use of deadly force. The guidelines set forth in RCW 9A.16 will apply.

9.05.00 MOTORCYCLE PROGRAM

The purpose of this policy is to establish a clear set of guidelines by which employees of the Fircrest Police Department shall operate under in regard to the safe and effective operation of the departmental motorcycle. The police motorcycle is a specialized tool in the area of traffic law enforcement and public education. The motorcycle can be effective in high traffic or heavily congested areas, but safety must never be overlooked by the operator. There are definite assets as well as liabilities to the use of this specialized tool and both need to be understood by the motorcycle officer for his/her safety as well as the safety of the public. An additional facet of the motorcycle program is to generate public interest, education and support. The operator should recognize this and use it to his/her advantage in selling safety and developing rapport with the public.

9.05.01 QUALIFICATIONS AND APPOINTMENT PROCEDURE

The Chief of Police shall, at his/her discretion, make a written request that an officer be appointed to the status of motorcycle officer as needed. Officers will

FIRCREST CITY COUNCIL AGENDA SUMMARY

NEW BUSINESS: Temporary Sign Code – Law, Interpretation of Existing Code, and Future Plans

ITEM: 7

DATE: August 19, 2024

FROM: Mark Newman, Community Development Director
Dawn Masko, City Manager
Joanna Eide, City Attorney

RECOMMENDED MOTION: None – Study Session for Information Only

BACKGROUND:

The City of Fircrest’s sign code was last updated in 2017. These updates came in the wake of United States Supreme Court decision *Reed v. Town of Gilbert*, 575 U.S. 155 (2015). The U.S. Supreme Court’s decision in *Reed* resulted in many local governments changing their sign codes as it held that content-based regulation of signs was unconstitutional, meaning sign codes that regulated signs differently based on the messaging they depicted violated the First Amendment. There have been some decisions that have provided clarification to this to a degree, and *Reed* does not apply to commercial speech, which enjoys less protection under the First Amendment than non-commercial speech. Strict adherence to content-neutral regulation, focusing only on the “time, place, and manner” of the speech for non-commercial temporary signs at residences, is essentially required in order for a regulation to survive “strict scrutiny” applied to restrictions on non-commercial speech. This led to local governments focusing on the size, location (to a degree), and number of signs to achieve the government interests of public safety, aesthetics, and more.

Examples of a content-neutral, “time, place, and manner” approach to temporary, non-commercial sign regulation include:

- Location
- Number of signs, dimensions/square footage, or a combination
- Structure of the sign or material/composition, or whether it has moving parts
- Condition of the sign – whether broken, dilapidated, etc.
- Whether it contains lighting or is lit up, or is a static or changing message (e.g. electronic reader board)
- Permanence or the sign structure vs. portability of the sign structure

For political and other non-commercial temporary signs specifically, *Reed* has to be reconciled with *Collier v. Tacoma*, 121 Wn.2d 737 (1993) decision from the Washington State Supreme Court. The Court in *Collier* held that a limitation on political signs until 60 days prior to an election was unconstitutional but also held that the parking strip area of a public right-of-way (between public streets and public sidewalks) is a traditional public forum where political signs must be allowed. For this reason, in Washington, all non-commercial signs should be allowed in these areas, and the Fircrest sign code currently complies with this requirement.

However, temporary signs may be prohibited in areas of the right-of-way that could cause public safety concerns (medians, sidewalks, roundabouts/traffic circles, etc.), and local governments generally do not allow temporary signs in parking strip areas in front of or adjacent to public property to ensure it does not appear that the government is endorsing any one idea, ideology, candidate, or ballot measure over another. This restriction is also generally applied to all public property consistent with the prohibitions in RCW 42.17A.555, which prohibits the use of public facilities to support or oppose a candidate or ballot measure.

For historical context, materials related to the 2017 sign code update are attached. According to the agenda summaries and minutes, the primary focus of the discussions was on non-conforming signs and portable signs for businesses. Due to the large size and duplicative information of the Council packet materials from 2017, only the following documents are attached as 2017 sign code update information. However, the complete packet materials are available upon request.

- May 23, 2017 Council Agenda Summary and Sign Code Update Comparison Chart
- June 13, 2017 Council Agenda Summary and Ordinance (track-changes version)

The purpose of the temporary sign code discussion is to review the provisions outlined in Fircrest Municipal Code (FMC) [22.26.021](#), discuss recent changes in interpretation, and explore potential modifications to provide greater flexibility for residents if desired by the Council. Potential modifications could include content-neutral adjustments to limitations on the number of signs, size, materials, total square feet, etc.

Although the initial plan was to update the sign code this year, competing priorities and employee turnover have caused delays as we manage workload for Comprehensive Planning, middle housing changes resulting from the passage of HB 1110, larger projects, and overall City responsibilities. Staff intends to present a sign code update to the Council in 2025. However, based on the outcome of tonight's discussion, the Council may direct drafting changes to specific portions of the sign code at this time to be presented to the Council at a regular meeting. Alternatively, the Council may consider drafting and potential adoption of a resolution to clarify its interpretation of the sign code, should it choose to do so.

ATTACHMENTS: [Fircrest Municipal Code 22.26.021 – Temporary Signs Sign Code Interpretation – October 25, 2023, E-mail 2017 Sign Code Update Information](#)

22.26.021 Temporary signs.

- (a) No Permit Required. No sign permit is required for temporary signs.
- (b) Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated or creates a public nuisance. Signs installed for periods exceeding 180 days shall be modified to meet the applicable standards for permanent (nontemporary) signs or be removed.
- (c) Materials. Temporary signs must be made of nondurable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foam core board, vinyl canvas or vinyl mesh products of less than 20-ounce fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers, and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this chapter.
- (d) Location.
- (1) City Property (Excluding City Right-of-Way). Temporary signs on city-owned property excluding city right-of-way are allowed only in conjunction with an approved special event permit.
- (2) City Right-of-Way Outside of the Roadway. Temporary signs on city right-of-way placed outside of the roadway must comply with the following requirements:
- (A) Placement. Allowed only between the property line and the back of the nearest curb, or where no curb exists, between the property line and the nearest edge of the pavement. Signs may not be placed on traffic islands, or on sidewalks, driveways or other paved areas designed for pedestrian or vehicular use, or as conditioned in a right-of-way use permit.
- (B) Approval of Abutting Owner. Approval of the abutting owner is required.
- (C) Type. Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a right-of-way use permit.
- (D) Area and Height. Maximum four square feet in area and three feet in height.
- (E) Dilapidated or Nuisance Signs. Any temporary sign in the right-of-way that is dilapidated or a nuisance shall be removed by the person responsible for placement of the sign.
- (F) Other Signs. The city may allow other signs in city right-of-way with a right-of-way use permit.
- (3) Residential. Temporary signs may be placed in Group 2 (residential) in accordance with the requirements of this section and the following:

(A) Window Signs. Maximum one temporary window sign per residential unit, not to exceed four square feet in area.

(B) Freestanding Signs (Includes Pole-Mounted, Stake-Mounted and Portable Signs). Maximum six square feet in area and four feet in height. Spacing shall be no closer than 100 feet apart on a property frontage.

(C) Surface-Mounted Signs. Maximum one surface-mounted sign, not to exceed two square feet in area. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.

(4) Nonresidential. Temporary signs may be placed in Group 1 (nonresidential/noncommercial) and Group 3 (commercial) in accordance with the requirements of this section and the following:

(A) Window Signs. Maximum four square feet or 10 percent of the area of the window in which they are placed, whichever is greater.

(B) Freestanding Signs (Including Pole-Mounted, Stake-Mounted and Portable Signs). Maximum eight square feet in area and four feet in height. Spacing shall be no closer than 100 feet apart on a property frontage.

(C) Surface-Mounted Signs. Maximum 32 square feet in area. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements. (Ord. 1598 § 21, 2017).

From: [Dawn Masko](#)
To: [All City Councilmembers](#)
Cc: [Mark Newman](#)
Subject: Temporary Sign Code Update
Date: Wednesday, October 25, 2023 11:32:00 PM

Good evening. As you are aware, sign code issues have continued to consume quite a bit of staff time, including Community Development Director Mark Newman. Mark began an in-depth look at our temporary sign code provisions as our resident technical expert and provided some great insight into how it has been interpreted.

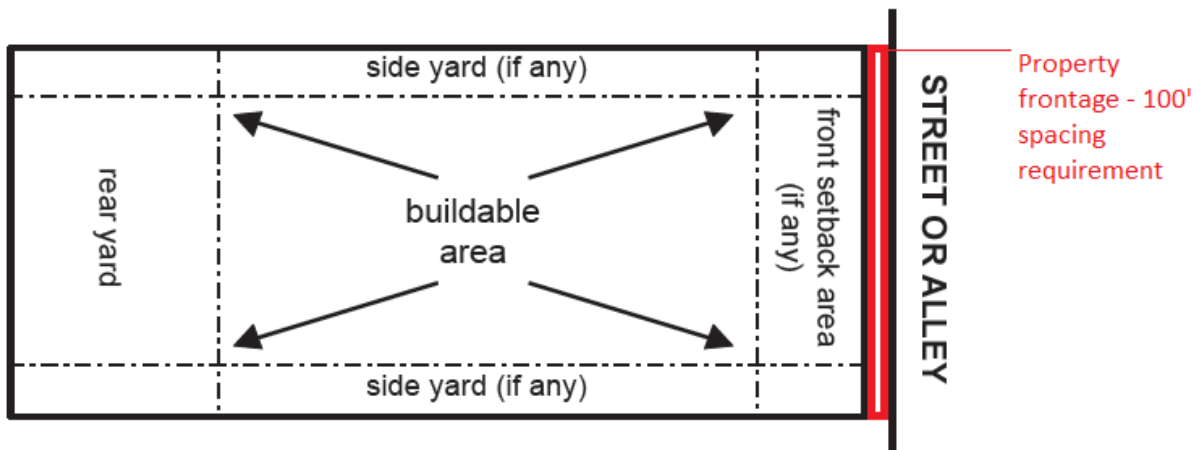
Upon reviewing the residential temporary sign code, he believes the 100-foot spacing requirement only applies to the street/property frontage.

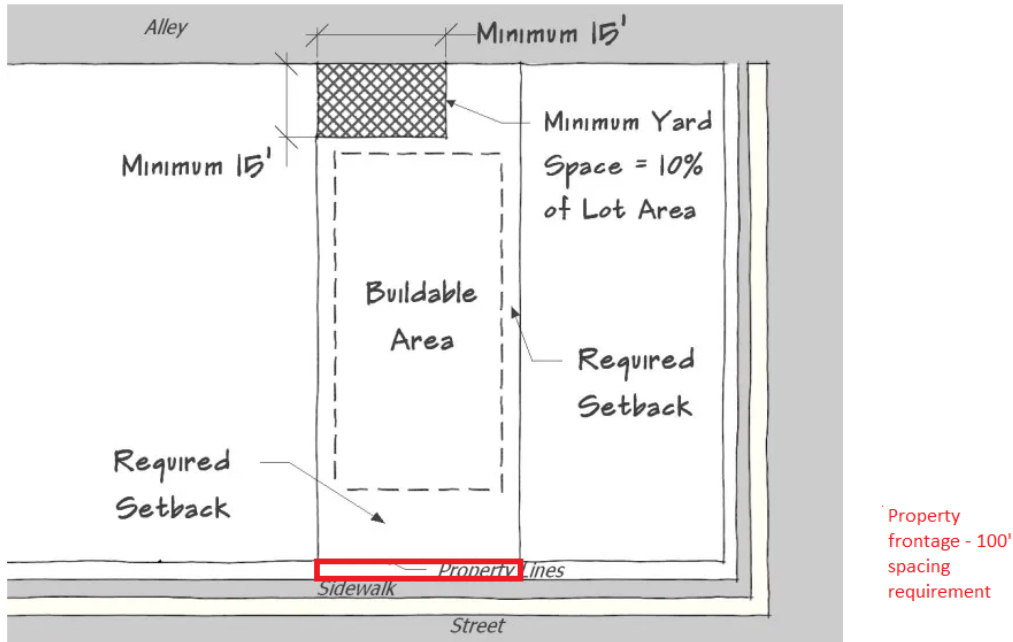
22.26.021(d)(3)(B) Freestanding Signs. (Includes Pole-Mounted, Stake-Mounted and Portable Signs.) Maximum six square feet in area and four feet in height. **Spacing shall be no closer than 100 feet apart on a property frontage.**

Per FMC 22.98.299: "Frontage" means the property line of an individual lot, tract, or parcel that abuts a public or private street right-of-way, excluding alleys and private driveways. Given how frontage is defined in our code and given that the sign code states, "Spacing shall be no closer than 100 feet apart on a property frontage", our City Attorney Bob Zeinemann agrees with Mark on his code interpretation. Bob had initially been using a different legal interpretation of our code but believes Mark's interpretation is as good, if not better.

Given this recent development, as long as temporary signs are set back from the property line of an individual lot that abuts a street, i.e., not on the "frontage," the freestanding sign spacing requirement of 100 feet does not apply. Residents can achieve compliance with our sign code by simply keeping one temporary sign within the property (street) frontage area and relocating the rest of them outside of the property (street) frontage area.

Mark has provided some helpful diagrams to illustrate what this means. The street frontage is the area from the front property line to the City right-of-way. Below are example diagrams of property frontage shown in red where temporary signs have the 100-foot spacing requirement. Anything outside of that area does not have the 100-foot spacing requirement, and there are no limits on the number of signs. Please keep in mind. All other size and placement requirements of the code still apply.





We will be sending letters to properties who are currently in “active” status with code compliance concerns, informing them of the new interpretation and what they need to do to be in compliance with our sign code ordinance. We are also drafting a letter to be sent to all others who have been sent code compliance letters regarding sign code violations so that they are aware of the new interpretation as well. This letter will be used as a basis for other public outreach to make our residents aware.

This was great staff work on Mark’s part. It is unfortunate that the code was not interpreted this way months ago. Please let me know if you have any questions or concerns. --Dawn

Disclaimer: This email is considered a public record and may be subject to public disclosure under RCW 42.56

FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: June 13, 2017

SUBJECT: Amendments to FMC 22.26 Sign Regulations and FMC 22.98 Definitions, and Repeal of FMC 22.64.041 Signage

FROM: Angelie Stahlnecker, Planning/Building Administrator

Reviewed by: _____City Manager _____Finance Director _____City Attorney

RECOMMENDED MOTION: Motion was tabled at the May 23, 2017 meeting

PROPOSAL:

The City of Fircrest proposes to update the City's sign regulations by amending Chapter 22.26 Sign Regulations and Chapter 22.98 Definitions, and by repealing FMC 22.64.041 Signage.

Based on the discussion and direction provided at the May 23, 2017 City Council meeting, staff has prepared an alternative ordinance. The proposed amendments are redlined in Attachment 1 and include:

- Adding language to 22.26.008 *Nonconforming signs* to differentiate between signage for individual businesses or tenants and signage for multi-tenant centers
- Adding language to exempt monument signs and wall signs legally established after February 5, 2003 (the previously adopted sign code) from the requirements of chapter 22.26.008 *Nonconforming signs* when the business and/or parcel ownership changes.
- Replacing language in 22.26.024(b) *Window Signs - Area* to set a maximum of 4 square feet or 10 percent of the window area, whichever is greater. It includes language which allows the 10 percent to apply to window units (a grouping of windows separated by a *substantial* architecture element). It also excludes some businesses in the CMU if located 150' from a street and providing commercial services (versus retail).
- Existing window signage would be included under the nonconforming signs section.
- Change the spacing between portable signs [22.26.018(g)(4) *Portable Signs*] from 50' to 40'. This would allow 6 portable (A-frame, sandwich board signs). Attachment 2 gives a visual of 40' separation and 30' separation. 30' would allow 7 signs, but may appear more cluttered.
- Portable signs (versus temporary signs) would require a permit application.

HISTORY:

The City prepared an Environmental Checklist and issued a Determination of Nonsignificance (DNS) for the proposed critical areas amendments with a 14-day comment/appeal period that ended on January 25, 2017. The City did not receive any comments or notice of appeal. The City submitted a Notice of Proposed Amendment to the Washington State Department of Commerce on January 11, 2017. The mandatory 60-day state agency comment period ended on March 13, 2017 and no comments were received.

The Planning Commission held study sessions on November 11, 2016, December 12, 2016, and January 3, 2017. After notifying 242 commercial property and business owners, the Planning

Commission conducted a public hearing on February 7, 2017 to solicit public comment on the proposed amendments to the City's sign regulations. After considering comment, the Commission continued its deliberations on the proposal to the March 7, 2017 meeting where it approved a recommendation to the City Council by a vote of 5-0.

The City Council held a public hearing on April 11, 2017. On May 23, 2017, the City Council tabled the motion after requesting staff prepare an alternate ordinance.

ADVANTAGES:

The amendments are intended to:

- Respond to Reed v. Town of Gilbert by achieving content neutrality;
- Improve code clarity and simplify administration;
- Achieve more attractive and effective signage per community character and economic development goals; and
- Provide greater flexibility for commercial property owners and tenants with respect to sign types, sizes and locations that may be permitted.

DISADVANTAGES:

The amendments may:

- Increase the number of existing signs that would become legally nonconforming due to a decrease in maximum allowable height and/or revised design standards;
- Increase costs for taller freestanding (monument) signs due to more substantial framing requirements. This would not apply to signs six feet or less in height.

FISCAL IMPACT:

None.

ALTERNATIVES:

None.

Attachments:

1. Alternative Ordinance (redlined)
2. Portable Signs – Separation Map

**CITY OF FIRCREST
ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF FIRCREST, WASHINGTON, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.001, AMENDING ORDINANCE 1473 SECTION 1 AND FMC 22.26.002, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.003, AMENDING ORDINANCE 1473 SECTION 2 AND FMC 22.26.004, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.005, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.006, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.007, AMENDING ORDINANCE 1490 SECTION 1 AND FMC 22.26.008, AMENDING ORDINANCE 1473 SECTION 3 AND FMC 22.26.009, AMENDING ORDINANCE 1490 SECTION 2 AND FMC 22.26.0010, AMENDING ORDINANCE 1533 SECTION 1 AND FMC 22.26.0011, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.012, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.013, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.014, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.015, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.016, AMENDING ORDINANCE 1322 SECTION 1 (PART) AND FMC 22.26.017, ADDING NEW SECTION FMC 22.26.018, ADDING NEW SECTION FMC 22.26.019, ADDING NEW SECTION FMC 22.26.020, ADDING NEW SECTION FMC 22.26.021, ADDING NEW SECTION FMC 22.26.022, ADDING NEW SECTION FMC 22.26.023, ADDING NEW SECTION FMC 22.26.024, ADDING NEW SECTION FMC 22.26.025, ADDING NEW SECTION FMC 22.26.026, ADDING NEW SECTION FMC 22.26.027, REPEALING ORDINANCE 1322 SECTION 4 AND FMC 22.64.041, ADDING NEW SECTION FMC 22.98.114.1, ADDING NEW SECTION FMC 22.98.114.2, ADDING NEW SECTION FMC 22.98.114.3, ADDING NEW SECTION FMC 22.98.114.4, ADDING NEW SECTION FMC 22.98.286.1, ADDING NEW SECTION FMC 22.98.286.2, AMENDING ORDINANCE 1375 SECTION 9 AND FMC 22.98.299, ADDING NEW SECTION FMC 22.98.322, ADDING NEW SECTION FMC 22.98.332, ADDING NEW SECTION FMC 22.98.437.1, ADDING NEW SECTION FMC 22.98.437.2, AMENDING ORDINANCE 1322 SECTION 10 AND FMC 22.98.441, ADDING NEW SECTION FMC 22.98.441.1, ADDING NEW SECTION FMC 22.98.461, ADDING NEW SECTION FMC 22.98.467, ADDING NEW SECTION FMC 22.98.467.1, ADDING NEW SECTION FMC 22.98.469, ADDING NEW SECTION FMC 22.98.476.05, AMENDING ORDINANCE 1322 SECTION 13 AND FMC 22.98.506, ADDING NEW SECTION FMC 22.98.581, AMENDING ORDINANCE 1375 SECTION 38 AND FMC 22.98.610, AMENDING ORDINANCE 1375 SECTION 39 AND FMC 22.98.611, AMENDING ORDINANCE 1322 SECTION 21 AND FMC 22.98.648, AMENDING ORDINANCE 1322 SECTION 22 AND FMC 22.98.648.1, AMENDING ORDINANCE 1322 SECTION 23 AND FMC 22.98.648.2, AMENDING ORDINANCE 1322 SECTION 24 AND FMC 22.98.648.3, AMENDING ORDINANCE 1322 SECTION 25 AND FMC 22.98.648.4, AMENDING ORDINANCE 1322 SECTION 26 AND FMC 22.98.648.5, AMENDING ORDINANCE 1322 SECTION 27 AND FMC 22.98.648.6, AMENDING ORDINANCE 1322 SECTION 28 AND FMC 22.98.648.7, REPEALING ORDINANCE 1322 SECTION 29 AND FMC 22.64.648.8, REPEALING ORDINANCE 1322 SECTION 30 AND FMC 22.64.648.9, AMENDING ORDINANCE 1322 SECTION 31 AND FMC 22.98.648.10, AMENDING ORDINANCE 1322 SECTION 32 AND FMC 22.98.648.11,

REPEALING ORDINANCE 1322 SECTION 33 AND FMC 22.64.648.12,
AMENDING ORDINANCE 1322 SECTION 34 AND FMC 22.98.648.13,
REPEALING ORDINANCE 1322 SECTION 35 AND FMC 22.64.648.14,
AMENDING ORDINANCE 1322 SECTION 36 AND FMC 22.98.648.15,
AMENDING ORDINANCE 1322 SECTION 37 AND FMC 22.98.648.16,
AMENDING ORDINANCE 1322 SECTION 38 AND FMC 22.98.648.17,
AMENDING ORDINANCE 1322 SECTION 39 AND FMC 22.98.648.18,
AMENDING ORDINANCE 1322 SECTION 40 AND FMC 22.98.648.19,
AMENDING ORDINANCE 1322 SECTION 41 AND FMC 22.98.648.20,
AMENDING ORDINANCE 1322 SECTION 42 AND FMC 22.98.648.21,
REPEALING ORDINANCE 1322 SECTION 43 AND FMC 22.64.648.22,
AMENDING ORDINANCE 1322 SECTION 44 AND FMC 22.98.648.23,
REPEALING ORDINANCE 1322 SECTION 45 AND FMC 22.64.648.24,
REPEALING ORDINANCE 1322 SECTION 46 AND FMC 22.64.648.25,
REPEALING ORDINANCE 1322 SECTION 47 AND FMC 22.64.648.26,
AMENDING ORDINANCE 1322 SECTION 49 AND FMC 22.98.648.28,
AMENDING ORDINANCE 1322 SECTION 51 AND FMC 22.98.648.30,
AMENDING ORDINANCE 1322 SECTION 52 AND FMC 22.98.648.31,
AMENDING ORDINANCE 1322 SECTION 53 AND FMC 22.98.648.32,
AMENDING ORDINANCE 1322 SECTION 54 AND FMC 22.98.648.33,
AMENDING ORDINANCE 1322 SECTION 55 AND FMC 22.98.648.34, ADDING
NEW SECTION FMC 22.98.648.35, ADDING NEW SECTION FMC 22.98.652,
ADDING NEW SECTION FMC 22.98.658.1, AMENDING ORDINANCE 1246
SECTION 27 AND FMC 22.98.687, ADDING NEW SECTION FMC 22.98.698,
ADDING NEW SECTION FMC 22.98.715, AND ADDING NEW SECTION FMC
22.98.760

WHEREAS, on June 18, 2015, the US Supreme Court issued a decision in Reed v. Town of Gilbert, wherein the court held that a town sign code that treats various categories of signs differently based on the information they convey violates the First Amendment; and

WHEREAS, the City's special land use counsel has recommended the City amend its code to comply with the Supreme Court decision and ensure the City's regulations are content neutral; and

WHEREAS, on July 11, 2016, staff presented general information concerning Reed v. Town of Gilbert and the need for the City to review its existing sign regulations and amend them as necessary to comply with the US Supreme Court decision; and

WHEREAS, planning staff and consultant have reviewed the City's existing sign code, a Model Sign Code recently prepared by Fircrest special land use counsel, Carol Morris, and other municipal sign codes, to identify how best to respond to the US Supreme Court decision; and

WHEREAS, planning staff and consultant have identified a number of additional provisions that would benefit from updating in order to improve clarity, simplify administration, achieve more attractive and effective signage, and provide greater flexibility for property owners and tenants with respect to the sign types, sizes and locations that may be permitted; and

WHEREAS, at their regular meetings of November 1, 2016, December 6, 2016, and January 3, 2017, the Planning Commission held study sessions to review proposed amendments to the City's sign regulations and associated definitions; and

WHEREAS, the City's Responsible Official issued a proposed Preliminary Determination of Non-Significance (DNS) on January 12, 2017 with a 14-day comment period ending January 25, 2017, and no comments were received prior to the comment deadline; and

WHEREAS, the City submitted a Notice of Intent to Adopt Amendment to the Department of Commerce on January 11, 2017 to initiate a 60-day state agency review period ending March 10, 2017, and as of the date of this recommendation, had not received any comments;

WHEREAS, on January 12, 2017, a Notice of Public Hearing for the proposed amendments was published in the Tacoma Daily Index and mailed to owners of business located within Fircrest; and

WHEREAS, the Commission has held a public hearing on this proposal on February 7, 2017, considered public comment, reached consensus on revisions to the draft amendments, and has examined pertinent maps, drawings, and documents; and

WHEREAS, the Planning Commission has made the following Findings of Fact and Conclusions of Law:

(a) The proposed amendments are consistent with the goals, objectives and policies of the Comprehensive Plan. Signage installed under the amended regulations will help achieve community character goals, objectives and policies by ensuring that future signage will be attractively designed, installed and maintained. The amended regulations will help achieve economic development goals, policies and objectives as expressed in the Comprehensive Plan by supporting the development and redevelopment of neighborhood commercial areas and commercial mixed use centers that are inviting to residents, employers, employees and shoppers. Signage allowed under the proposed regulations is intended to provide sufficient visibility for land uses of all types in various locations.

(b) The amended sign code will promote, rather than detract from, the public health, safety, morals and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements. This code is intended to:

- (1) Promote and accomplish the goals, policies and objectives of the city's Comprehensive Plan and Land Development Code;
- (2) Provide minimum standards in order to safeguard life, health, property and public welfare, and promote traffic safety by controlling the design, quality of materials, construction, illumination, size, location and maintenance of sign and sign structures;
- (3) Recognize free speech rights by regulating signs in a content-neutral manner;

- (4) Promote the free flow of traffic and protect pedestrians, cyclists and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting and/or illegible signage;
- (5) Protect the beauty of the city's built environment by encouraging signs that are compatible with the architectural style, characteristics and scale of the building to which it may be attached, and to encourage signs that are compatible with adjacent buildings and businesses;
- (6) Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
- (7) Provide consistent sign design standards;
- (8) Encourage creative and innovative approaches to signage, and signs that are of a quality design, pleasing in appearance and appropriate in size, materials and illumination to the surrounding neighborhood;
- (9) Provide an improved visual environment for the citizens of and visitors to the city; and
- (10) Adopt clear, understandable regulations that enable the fair and consistent enforcement of the code.

WHEREAS, the City Council conducted a public hearing on April 11, 2017 to accept public testimony and comment on the proposed amendments;

WHEREAS, the City Council on May 23, 2017 directed staff to revise the draft amendments; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. Ordinance 1322 §1 (part) and FMC 22.26.001 are hereby amended to read as follows:

22.26.001 Intent and purpose.

(a) Intent. Signs have a strong visual impact on the character and quality of the community. As a prominent part of the scenery, they attract or repel the viewing public and affect the safety of motorists, cyclists and pedestrians. Their suitability or appropriateness helps to set the tone for a neighborhood. The city relies upon its scenery and physical beauty to attract commerce; aesthetic considerations assume economic value. It is the intent of the city, through this chapter, to protect and enhance the city's historic and residential character and its economic base through the provision of appropriate and aesthetic signage. In addition, it is the intent of the city to regulate the size, type and location of signs in order to minimize their distracting effect on drivers and thereby improve traffic and enhance pedestrian and cyclist.

(b) Purpose. The purpose of this chapter is to promote the public health, safety and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements. This chapter has also been adopted to:

- (1) Promote and accomplish the goals, policies and objectives of the city's Comprehensive Plan and Land Development Code;

- (2) Provide minimum standards in order to safeguard life, health, property and public welfare, and promote traffic safety by controlling the design, quality of materials, construction, illumination, size, location and maintenance of sign and sign structures;
- (3) Recognize free speech rights by regulating signs in a content-neutral manner;
- (4) Promote the free flow of traffic and protect pedestrians, cyclists and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting and/or illegible signage;
- (5) Protect the beauty of the city's built environment by encouraging signs that are compatible with the architectural style, characteristics and scale of the building to which it may be attached, and to encourage signs that are compatible with adjacent buildings and businesses;
- (6) Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
- (7) Provide consistent sign design standards;
- (8) Encourage creative and innovative approaches to signage, and signs that are of a quality design, pleasing in appearance and appropriate in size, materials and illumination to the surrounding neighborhood;
- (9) Provide an improved visual environment for the citizens of and visitors to the city; and
- (10) Adopt clear, understandable regulations that enable the fair and consistent enforcement of this chapter.

Section 2. Ordinance 1473 §1 and FMC 22.26.002 are hereby amended to read as follows:

22.26.002 Applicability and interpretation.

This chapter applies to all signs as defined in Chapter 22.98 FMC, within the city that are visible from any street, sidewalk or public place, regardless of the type or nature. This chapter is not intended to, and shall not be interpreted to, restrict speech on the basis of its content, viewpoint, or message. Any classification of signs in this chapter that purports to permit speech by reason of the type of sign, identity of the sign user or otherwise, shall be interpreted to allow commercial or non-commercial speech on the sign. No part of this chapter shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this chapter is ambiguous, the term shall be interpreted not to regulate speech on the basis of the content of the message.

Section 3. Ordinance 1322 §1 (part) and FMC 22.26.003 are hereby amended to read as follows:

22.26.003 Application procedures.

Sign permit review is classified as a Type II-A application. The processing procedures for this type of application are described in Chapters 22.05, 22.06, 22.07, 22.08, 22.09 and 22.10 FMC.

Section 4. Ordinance 1473 §2 and FMC 22.26.004 are hereby amended to read as follows:

22.26.004 Permit requirements and approval authority.

(a) No sign shall hereafter be erected, re-erected, constructed, altered, or maintained, except as provided by this chapter. A sign permit shall be obtained prior to any sign being erected, re-erected, constructed, or altered, unless said sign is exempt from the permit requirements of this chapter pursuant to FMC 22.26.025. In addition, a building permit shall be obtained prior to the installation or modification of any sign for which a building permit is required under the International Building Code. A separate permit shall be required for each non-exempt sign installed, except if a sign is part of a group of signs being installed at one time on a single supporting structure, only one permit shall be required.

(b) The director may approve, approve with conditions, modify and approve with conditions, or deny an application for a sign permit. A sign permit shall be approved when the director has determined that a proposed sign will comply with all requirements of this chapter and, when applicable, the requirements of the International Building Code.

(c) Duration of a Sign Permit. In the event that a sign permit has not been exercised and the operations authorized under the sign permit have not been completed or substantially completed within 180 days after the date of the permit, the sign permit shall be automatically null and void.

(d) Interpretation. In all applications for sign permits where a matter of interpretation arises, the most restrictive definition shall prevail.

Section 5. Ordinance 1322 §1 (part) and FMC 22.26.005 are hereby amended to read as follows:

22.26.005 Submittal requirements.

Application for a sign permit shall be submitted on forms provided by the department with the following items:

(a) Two copies of a scaled site plan showing the location of the affected lot, building(s) and sign(s);

(b) Two copies of a scaled drawing of the proposed sign or sign revision showing dimensions, area, height, structural footing details, method of attachment, type of illumination, and other construction details;

(c) Two copies of supporting documentation including material specifications, calculation for dead load and wind pressure, photographs or photo simulations of site and building marked to show where sign is proposed, and any other information required by the director to ensure compliance with applicable code requirements;

(d) Written consent of the sign owner and the owner of the building, structure, or property where the sign is to be erected;

(e) A nonrefundable filing fee in accordance with the planning services fee schedule established by council resolution;

(f) Documentation demonstrating that the sign installer has a valid Washington State contractor's license when a sign requires a building permit, unless the sign is being installed by the owner of the sign.

The director may waive submission of specific plans, specifications or supporting documentation when such information is not necessary to determine compliance with applicable code requirements.

Section 6. Ordinance 1322 §1 (part) and FMC 22.26.006 are hereby amended to read as follows:

22.26.006 Master sign plans.

(a) Before a sign permit may be issued for any commercial multi-tenant building constructed after the effective date of this chapter, or for any existing multi-tenant building whose exterior will be altered to the degree that existing signage will be replaced, a master sign plan shall be submitted to, and approved by, the city. Master sign plans shall be approved through the site plan review, development plan review, or conditional use permit process, as appropriate. Existing multi-tenant buildings may have master sign plans approved by the director in order to simplify the permitting process for individual signs at a later date. Individual buildings located within a multi-building complex may have separate master sign plans.

(b) Master sign plans shall indicate the amount, location, and type of signage allocated to each tenant space. The number of sign types, such as awning signs, cabinet signs, individual graphics, pan-channel sign graphics, sandblasted or carved wood signs, flat wood signs with hand painted or vinyl graphics, and neon signs, shall be limited to ensure visual continuity from one tenant space to the next within a building. If more than one sign type is used on a single building, the sign types shall have at least two of the following design elements in common with each other:

- (1) Common colors on the background or text;
- (2) Common lettering style;
- (3) Common size (e.g., a specified height common to each sign); or
- (4) Common materials.

(c) Criteria for Approval. All signs in the master sign plan must comply with Section 22.26.004 and meet the following criteria:

- (1) Signs shall be architecturally similar and visually related to each other through the incorporation of common design elements. Up to two sign types may be used on any one building. All sign cabinets, trim caps and all sign supports such as poles and braces shall be of a common color;
- (2) Signs shall be architecturally integrated with the buildings included in the master sign plan; and
- (3) Signs must not obscure the view of other signs that are consistent with this chapter.

Section 7. Ordinance 1322 §1 (part) and FMC 22.26.007 are hereby amended to read as follows:

22.26.007 Variances.

(a) Approval Required. A variance may be granted from the strict application of the regulations in this chapter that apply to: (1) sign placement on a parcel or building frontage; (2) sign area; or (3) sign height, as regulated in this chapter. A variance may not be granted to allow any prohibited signs as described in Section 22.26.027, or prohibited sign features, as described elsewhere in this chapter, or for any other purpose not listed in this subsection.

(b) Need for Sign Permit, Consolidation of Processing. A sign variance application may be submitted before or concurrent with the associated sign permit application. No sign permit application requiring a variance for issuance will be processed without a sign variance.

(c) A sign variance is classified as a Type III application. The processing procedures for this type of application are described in Chapters 22.05, 22.06, 22.07, 22.08, 22.09 and 22.10 FMC. In addition, a variance requested from any requirement in this chapter shall be processed in accordance with Chapter 22.74 FMC, except that the criteria for variance approval listed in FMC 22.74.003 shall not be used to determine whether a variance may be granted. Instead, a variance may only be approved if all of the following criteria are satisfied:

- (1) The request for a sign variance is due to unusual conditions pertaining to sign visibility needs for a specific building or lot;
- (2) The sign will be in keeping with the general character of the surrounding area;
- (3) The sign will not create a hazard;
- (4) The granting of the variance would not be materially detrimental to the property owners in the vicinity;
- (5) The variance sought is of minimum sign size, height, and scope to meet the conditions and needs of the applicant;
- (6) The granting of the variance would not be contrary to the objectives of the Comprehensive Plan, Title 22 Land Development, and this chapter;
- (7) The signage of the property in question cannot be adequately met under the literal interpretation and strict application of the chapter; and
- (8) The granting of the variance is necessary because of special circumstances relating to the property location, topography, shape and size, site distance and limited view to property.

(d) First Amendment Exception/Variance. Where an applicant can demonstrate that the strict application of the regulations in this chapter would violate his/her First Amendment rights, the city may grant a variance that does not conform to all of the variance criteria in subsection (c) above. However, the applicant shall submit an application that provides his/her response to each of the variance criteria in subsection (c). The city need not make findings that all of the variance criteria have been satisfied, but if not all criteria have been satisfied, the variance may only be granted to the extent reasonably necessary to protect the applicant's First Amendment rights. If a First Amendment Exception is granted, it shall be treated as an approval of a variance for purposes of this chapter.

Section 8. Ordinance 1490 §1 and FMC 22.26.008 are hereby amended to read as follows:

22.26.008 Nonconforming signs.

(a) Except for temporary signs, as defined herein, signs legally established prior to the adoption of this chapter that do not conform with the regulations provided herein with regard to type, number, size, height, illumination, location or other characteristics shall be allowed to remain as legal nonconforming signs until the sign is removed, moved or structurally or electrically changed, except such signs must be brought into conformance with this chapter:

- (1) When a building, tenant space, or property containing a legal nonconforming sign is enlarged or remodeled to a value of 25 percent or more of existing assessed valuation of real property improvements;

(2) When the use of a building, tenant space or property containing a legal nonconforming sign changes from one type of business or other tenancy to another type of business or other tenancy;

(3) When ~~a new business or other tenancy is established after~~ a building or property containing a legal nonconforming sign is vacated for a period exceeding 90 days; or

(4) When an existing business containing a legal nonconforming sign changes ownership.

Monument signs and wall signs legally established subsequent to the effective date of Ordinance 1322 (February 5, 2003) are exempt from this requirement.

(b) Nonconforming multi-tenant signs located in a multi-tenant center are not required to be brought into conformance with this chapter per subsection (a) above until:

(1) the multi-tenant center is enlarged or remodeled to a value of 25 percent or more of existing assessed valuation of real property improvements;

(2) the multi-tenant center or multi-tenant sign is vacated for a period exceeding 90 days;
or

(3) the property changes ownership. Monument signs and wall signs legally established subsequent to the effective date of Ordinance 1322 (February 5, 2003) are exempt from this requirement.

~~(bc)~~ In such cases where a nonconforming sign is moved or changed, the sign shall be treated as a new sign and subject to the requirements of this chapter. Changes to a sign face (e.g., a change in advertising copy) may be made to a nonconforming sign; provided, that such changes conform to this chapter in terms of colors, graphics, materials, illumination and other applicable standards. A sign permit for such changes must be obtained.

~~(ed)~~ Temporary signs, that do not conform with the regulations provided herein with regard to type, number, size, height, illumination, or location of signs, shall be brought into conformance with all applicable standards no later than 90 days from the effective date of the ordinance codified in this chapter.

Section 9. Ordinance 1473 §3 and FMC 22.26.009 are hereby amended to read as follows:

22.26.009 Maintenance, Removal and Enforcement.

(a) Maintenance. It is unlawful for any owner of record, lessor, lessee, manager or other person having lawful possession or control over a building, structure or parcel of land to fail to maintain any signs on the building, structure or parcel in compliance with this chapter.

(1) Sign maintenance. All signs, whether or not in existence prior to adoption of this chapter, shall be maintained. Maintenance of a sign shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and provisions of this chapter.

(2) Landscape maintenance. Required landscaped areas contained by a fixed border, curbed area or other perimeter structure shall receive regular repair and maintenance. Plant materials that do not survive after installation in required landscape areas are required to be replaced within six months of the plant's demise or within the next planting season, whichever event first occurs.

(b) Removal. Any vacant and/or unused sign support structures, angle irons, sign poles or other remnants of signs that are currently not in use, or are not proposed for immediate reuse by a sign permit application for a permitted sign, shall be removed. In addition to the remedies in Chapter 22.95, the Director shall have the authority to require the repair, maintenance or removal of any sign or sign structure that has become dilapidated or represents a hazard to the safety, health or welfare of the public, at the cost of the sign and/or property owner.

(c) Enforcement. Violations of the provisions of this chapter shall be enforced according to Chapter 22.95 FMC.

Section 10. Ordinance 1490 §2 and FMC 22.26.010 are hereby amended to read as follows:

22.26.010 Classification and regulation of signs.

(a) Classification. Signs may be classified in the following general categories:

- (1) Accessory signs;
- (2) Awning, canopy and marquee signs;
- (3) Changeable copy signs;
- (4) Digital signs;
- (5) Freestanding signs;
- (6) Portable signs;
- (7) Projecting signs;
- (8) Service island signs;
- (9) Temporary signs;
- (10) Under-canopy signs;
- (11) Wall signs; or
- (12) Window signs.

(b) Regulation. No classification of sign shall be permitted to be constructed, erected or placed on any property unless it is listed as a permitted sign within the sign group applicable to the subject property as set forth in subsection (c) of this section or listed as an exemption in FMC 22.26.025.

(c) Sign Groups. For purposes of this regulation, the various sign groups are established as follows:

- (1) Group 1: Properties located within a PROS, GC, or other nonresidential or noncommercial zoning classification; properties located within an R-4, R-4-C, R-6, R-8, R-10-TCD, R-20, R-30, or other residential zoning classification established subsequent to adoption of this chapter that are developed for nonresidential uses such as schools, churches, parks and municipal buildings or facilities;
- (2) Group 2: Residentially developed properties located within an R-4, R-4-C, R-6, R-8, R-10-TCD, R-20, R-30, or other residential zoning classification established subsequent to adoption of this chapter; and
- (3) Group 3: Properties located within an NO, NC, CMU, or other commercial or mixed use zoning classification established subsequent to adoption of this chapter.

(d) Table 1 identifies the permitted types of signs by sign group. An “X” in the table indicates that the particular type of sign is allowed in a sign group. See applicable standards in the section noted for each sign type for specific requirements and for possible exceptions to the provisions below.

Table 1

Sign Type	Sign Group		
	Group 1(Non-residential and non-commercial)	Group 2 (Residential)	Group 3 (Commercial and mixed use)
Accessory	X ¹		X
Awning, canopy and marquee	X		X
Changeable copy	X		X
Digital	X		X
Freestanding	X		X
Portable	X	X ²	X
Projecting			X
Service island			X
Temporary	X	X	X
Under-canopy			X
Wall	X	X	X
Window	X	X ²	X

¹ Excluding large accessory signs

² Temporary only

Section 11. Ordinance 1533 §1 and FMC 22.26.011 are hereby amended to read as follows:

22.26.011 Sign standards applicable to all signs.

(a) Sign Area. Sign area for all sign types is measured as follows:

- (1) Background panel or surface. Sign copy mounted, affixed or painted on a background panel or surface distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the smallest square, rectangle, parallelogram, triangle, or circle that will enclose the sign copy and the background, as shown in Figure 1.
- (2) For an irregular-shaped sign, the sign area may be calculated by combining two or more geometric shapes.

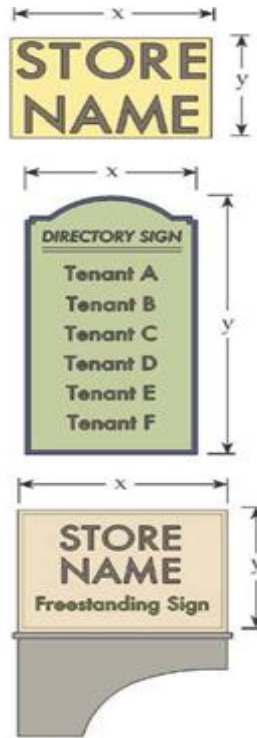


Figure 1

(2) Individual letters or graphics. Sign copy mounted as individual letters or graphics against a wall, fascia or parapet of a building or surface of another structure, that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest square, rectangle, parallelogram, triangle or circle that will enclose each word, name, sentence and complete message, and each graphic in the sign. For sign copy that has varying sizes of letters or graphics, the sign area may be calculated by combining two or more geometric shapes.

(3) Illuminated surface. Sign copy mounted, affixed or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element that contains sign copy, as shown in Figure 2. Such elements may include, but are not limited to, lit canopy fascia signs and/or interior lit awnings.

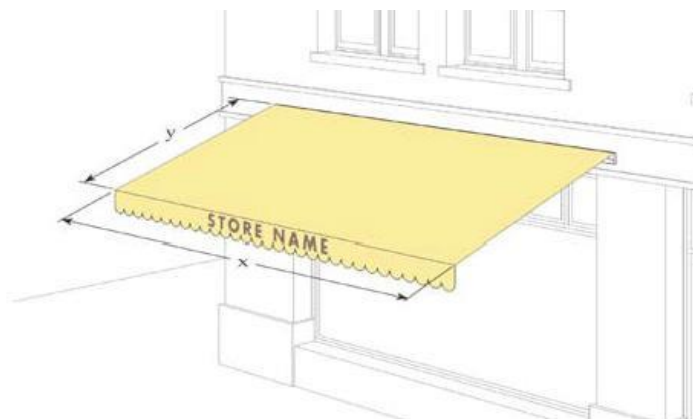


Figure 2

(4) Backlit translucent panels. Backlit translucent panels and spandrels, with or without text or graphics, are measured as the area of the height and width of any internally illuminated translucent panel, including the side panels if the structure or spandrel is greater than six inches in width.

(5) Multi-face signs. Multi-face signs, as shown in Figure 3, are measured as follows:

(A) Two face signs: If the interior angle between the two sign faces is 45 degrees or less, the sign area is of one sign face only. If the angle between the two sign faces is greater than 45 degrees, the sign area is the sum of the areas of the two sign faces;

(B) Three or four face signs: The sign area is 50 percent of the sum of the areas of all sign faces; and

(C) Spherical, free-form, sculptural or other non-planar sign area is measured as 50 percent of the sum of the areas using only the four vertical sides of the smallest four – sided polyhedron that will encompass the sign structure. Signs with greater than four polyhedron faces are prohibited.

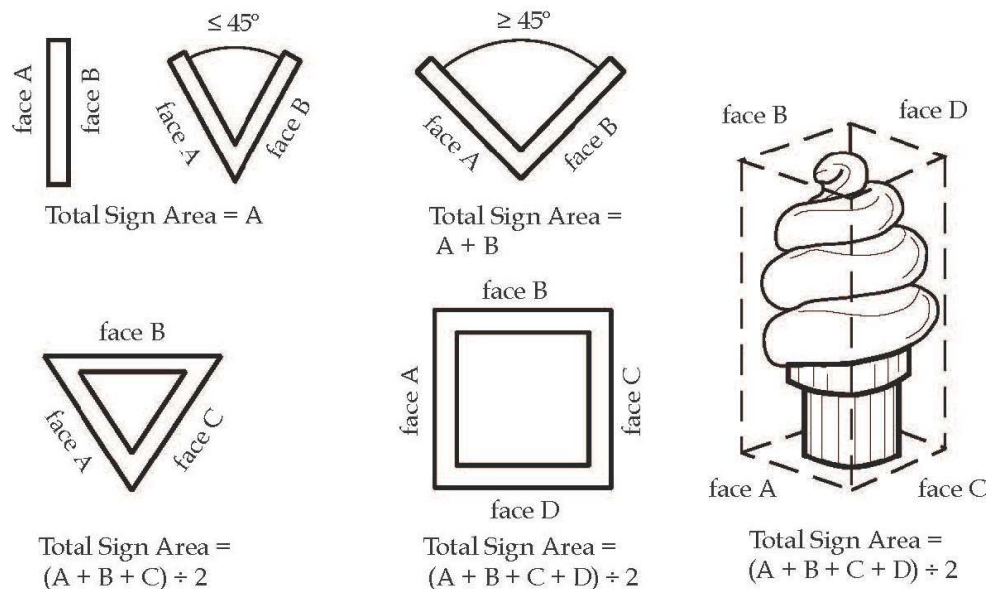


Figure 3

(b) Sign height measurement for freestanding signs. Sign height is measured as the vertical distance from natural grade at the base of a sign to the top of the sign, including the sign support structure; except that signs within 15 feet of an adjacent road may be measured as follows:

(1) If natural grade at the base of a sign is higher than the grade of the adjacent road, sign height shall be measured from the base of the sign as shown in Figure 4.

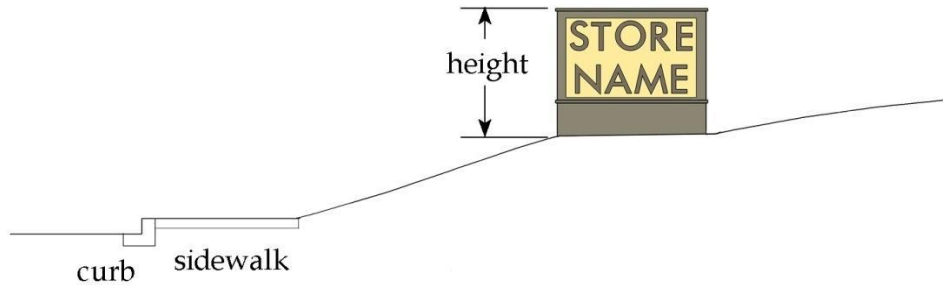


Figure 4

(2) If natural grade at the base of the sign is lower than the grade of an adjacent road, the height of the sign shall be measured from the top of curb or road-grade elevation, provided that fill is placed between the curb and the sign and extends at least five feet beyond the base of the sign in all directions, as shown in Figure 5.

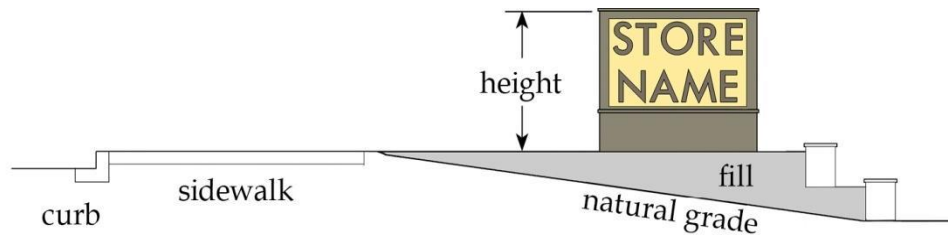


Figure 5

(c) Sign Structure and Installation.

(1) Support elements. Any angle iron, bracing, guy wires or similar features used to support a sign shall not be visible.

(2) Electrical service. When electrical service is provided to freestanding signs or landscape wall signs, all such electrical service is required to be underground and concealed. Electrical service to building mounted wall signs, including conduit, housings and wire, shall be concealed or, when necessary, painted to match the surface of the structure upon which they are mounted. A building permit (electrical) must be issued prior to the installation of any new signs requiring electrical service.

(3) Raceway cabinets. Raceway cabinets, where used as an element of building mounted wall signs, shall match the building color at the location of the building where the sign is located. Where a raceway cabinet provides a contrast background to sign copy, the colored area is considered part of the sign face and is counted in the aggregate sign area permitted for the site or business. Examples of raceway cabinets are shown in Figure 6.



Figure 6

(4) Limitation on attachments and secondary uses. All permitted sign structures and their associated landscape areas shall be kept free of supplemental attachments or secondary uses including, but not limited to, supplemental signs not part of a permitted sign, light fixture, newspaper distribution racks or trash container. The use of sign structures and associated landscape areas as bicycle racks or support structures for outdoor signs is prohibited.

(d) Sign Placement.

(1) Signs shall not be placed or erected on or over any public street, public alley, or any other public property including rights-of-way or utility easements within the corporate limits of the city, except as expressly provided for in this chapter. Any sign placed upon private property shall require the permission of the property owner.

(2) No sign shall be erected or placed in a manner that will block or impair or impede pedestrian or vehicular traffic on streets, alleys, driveways, or points of ingress-egress, or conflict with the clear vision triangle standards in FMC 22.58.005.

(3) No sign may be mounted, attached or painted on a trailer, boat or motor vehicle that is parked, stored or displayed conspicuously on private premises in a manner intended to attract the attention of the public. This excludes signs that are permanently painted or wrapped on the surface of the vehicle, or adhesive vinyl film affixed to the interior or exterior surface of a vehicle window, or signs magnetically attached to motor vehicles or rolling stock that are actively used in the daily conduct of business. However, such vehicles shall be operable and parked in a lawful or authorized manner.

Section 12. Ordinance 1322 §1 (part) and FMC 22.26.012 are hereby amended to read as follows:

22.26.012 Illumination standards.

(a) General. No temporary sign may be illuminated. No sign located in Group 2 (residential) may be illuminated. Permanent signs allowed by this chapter may be non-illuminated, or illuminated by internal light fixtures, halo illuminated, or have external indirect illumination, unless otherwise specified. All illuminated signs shall comply with the time limitations of subsection d, below.

(b) Externally illuminated signs.

(1) Except as provided in this subsection, externally illuminated signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare. Light shielding shall ensure that the lamp or light source is not

visible beyond the premises and shall further ensure that the light is contained within the sign face.

(2) A light fixture mounted above the sign face may be installed with its bottom opening tilted toward the sign face, provided:

(A) The bottom opening of the light fixture is flat (*i.e.*, it could be covered by a flat board allowing no light to escape); and

(B) The uppermost portion of the fixture's opening is located no higher than the top of the sign face, as shown in Figure 7 below. Light fixtures aimed and installed in this fashion shall be considered fully shielded.

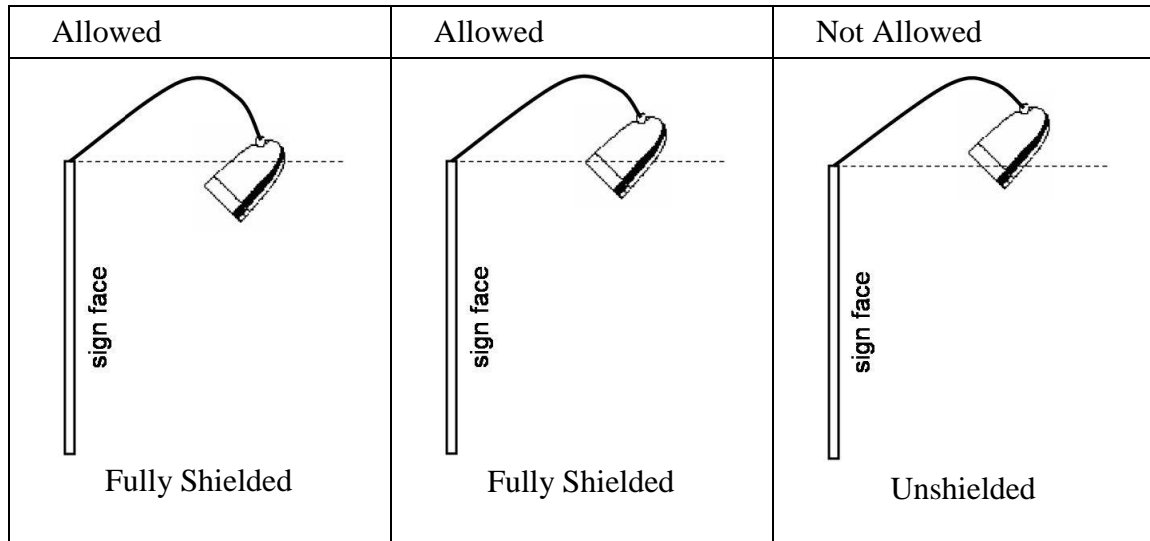


Figure 7

(c) Internally illuminated signs.

(1) This chapter provides incentives to encourage internally illuminated signs to be constructed with an opaque background and translucent text and symbols (see Section 22.26.017(f) and Section 22.26.023(a)).

(2) In no case may an internally illuminated sign or a digital sign exceed a light output of 100 nits in Group 1 (nonresidential/noncommercial) or Group 3 (non-residential) during nighttime hours.

(3) Neon sign lighting is allowed in Group 3 (non-residential) only and shall not exceed 100 nits per sign face. Neon signs with solid backgrounds are not allowed in windows in order to ensure maximum light and visibility through windows.

(d) Time limitations. All illuminated signs over three square feet in area shall be turned off by 11:00 p.m., or when the business closes, whichever is later. Signs subject to time limitations are required to have functioning and properly adjusted automatic shut-off timers.

Section 13. Ordinance 1322 §1 (part) and FMC 22.26.013 are hereby amended to read as follows:

22.26.013 Accessory signs.

(a) Accessory Signs

- (1) Number. A maximum of one sign at each vehicle point of entry or egress, not to exceed four accessory signs per site.
- (2) Design. Non-illuminated or internal illumination only. Any accessory sign with electronic display must conform to all digital sign standards in Section 22.26.016.
- (3) Sign area. Maximum area three square feet per sign.
- (4) Wall sign height and mounting. Maximum height eight feet above grade; must be mounted flat against building wall.
- (5) Freestanding sign height. Maximum height three feet above grade (see Figure 8).
- (6) Location. Accessory signs may be permitted in Group 1 (nonresidential/noncommercial) and in Group 3 (commercial).



Figure 8

(b) Drive-Through Large Accessory Signs. In addition to the accessory signs allowed for vehicle points of entry and in addition to free-standing signs otherwise allowed under Section 22.26.017, large accessory signs are allowed for each point of entry to a drive-up window, subject to the following standards:

- (1) Sign area per drive-up point of entry. Maximum 48 square feet;
- (2) Sign height. Maximum six feet, including the associated sign structure;
- (3) Orientation. Must be oriented so the sign face is not visible from the street or public-right-of way;
- (4) Screening. All sides of sign must be screened from view from the street or public right-of-way with landscaping or walls of brick, stone or siding materials that match the principal walls of the building to which the sign applies. If landscaping is used for screening, it must provide full screening at maturity and must be large enough at planting to provide at least 75 percent screening of the sign;
- (5) Audio. No sound or amplification may be emitted that is audible beyond the site; and
- (6) Location. Drive-through large accessory signs may be permitted only in Group 3 (commercial).

(c) Accessory Structure Signs. A freestanding structure housing an activity that is accessory to the principal tenant of a site in Group 3, such as an ATM kiosk, shall be permitted wall signage, provided that the total wall sign area does not exceed the maximum allowed in FMC 22.26.023 Table 3.

(d) Internal Signs.

- (1) Placement. Signs may be located on internal walkways or landscape islands provided they do not inhibit pedestrian movement along a pathway.
- (2) Sign area. Maximum 15 square feet.
- (3) Sign height. Maximum five feet.
- (4) Design. Signs shall be designed in a uniform manner (within an individual center or complex) using consistent background color and typeface colors. Dark background colors with light colored text are required. See Figure 9 for examples.
- (5) Location. Internal signs may be permitted in Group 1 (nonresidential/noncommercial) and Group 3 (commercial).



Figure 9

Section 14. Ordinance 1322 §1 (part) and FMC 22.26.014 are hereby amended to read as follows:

22.26.014 Awning, canopy and marquee signs.

(a) Awning, canopy and marquee signs may be used in place of permitted wall signs (except where otherwise specified herein), provided they comply with the following standards:

- (1) Number. One awning, canopy or marquee sign is allowed for each primary entrance to a building or tenant space. In addition, one awning, canopy or marquee sign may be allowed on a secondary entrance that faces a public street or on-site parking area. (As used in this subsection, "street" excludes alleys and service ways.) The awning, canopy or marquee sign may only be placed on the ground floor level facade of the building;
- (2) Sign Area. See Table 3 in Section 22.26.023 for maximum sign area for all awning, canopy, marquee and wall signs combined;
- (3) Sign Width. The awning, canopy, or marquee sign shall not extend horizontally a distance greater than 60 percent of the width of the awning, canopy or valance on which it is displayed;
- (4) Letter Height. The lettering height shall be proportional to the architectural features of the building and not exceed 8 inches in height. For example, it shall not be so large that it blocks windows or other significant architectural features of the building;
- (5) Placement.
 - A. An awning or canopy sign may not be mounted higher than a maximum of 25 feet above the floor level of the ground floor (see Figure 10);

- B. An awning or canopy sign shall not project above, below or beyond the edges of the face of the building wall or architectural element on which it is located;
- C. No part of the sign, as a part of, or displayed on the vertical surface of an awning or canopy, shall project beyond the edges of the awning or canopy surface on which it is displayed. If an awning or canopy is placed on multiple tenant spaces, each tenant space is permitted signage no greater than 60 percent of the width of the tenant space;
- D. Signs shall be placed on the front flap only rather than on the top-sloped awning area; and
- E. Signs shall be placed a minimum of eight feet above the sidewalk or walkway;



Figure 10

- (6) Illumination. If sign letters or logos are placed on an awning, canopy or marquee, only the face area containing the letters or logos may be illuminated. All illumination must be internal behind the surface of the awning, canopy or marquee. The sign may also be non-illuminated; and
- (7) Location. Awning, canopy and marquee signs may be permitted in Group 1 (nonresidential/ noncommercial) and Group 3 (commercial).

Section 15. Ordinance 1322 §1 (part) and FMC 22.26.015 are hereby amended to read as follows:

22.26.015 Changeable Copy Sign.

Changeable copy signs (see Figure 11) may be used in place of permitted freestanding signs and wall signs (except where otherwise specified herein), provided they comply with the following standards:

- (a) Number. A maximum of one changeable copy sign per parcel or group of parcels that form a center or complex, or other site or facility, except that additional changeable copy signs are permitted as follows:
 - (1) The additional changeable copy sign(s) must be placed at least 100 feet from abutting streets or rights-of-way; and

The additional changeable copy sign(s) must not exceed the maximum area, height, and quantity standards otherwise applicable to any free-standing or building mounted wall signs on the parcel.

- (b) Sign area. A maximum 20 percent of the allowed wall sign area or 50 percent of a free standing sign face may be changeable copy (this does not apply to signs required by law). Wall mounted changeable copy signs placed at least 100 feet from abutting streets may be a maximum of 50 percent of permitted wall sign area.
- (c) Sign height above grade. Limited to the maximum height allowed for freestanding signs and 15 feet maximum for wall signs.
- (d) Placement/Location. Allowed only as an integral part of a wall sign or a freestanding sign.



Figure 11

- (e) Illumination. Internally or indirectly illuminated, subject to the illumination standards in Section 22.26.012.
- (f) Location. Changeable copy signs may be permitted in Group 1 (nonresidential/noncommercial) and in Group 3 (commercial).

Section 16. Ordinance 1322 §1 (part) and FMC 22.26.016 are hereby amended to read as follows:

22.26.016 Digital signs.

- (a) Sign area. Maximum 16 square feet.
- (b) Density. One digital sign per parcel or group of parcels that form a center or complex, or other site or facility, with street frontage of at least 150 feet.
- (c) Luminance. Maximum 50 nits during nighttime hours.
- (d) Motion limits. No motion except for instantaneous change of message.
- (e) Hold between messages. Minimum eight seconds.
- (f) Programming: To ensure that digital signs are programmed and continue to operate according to local standards, digital signs shall be designed for local on-site control and programming.

- (g) Digital Signage Integration. Digital signage elements may be integrated into any freestanding sign or wall sign permitted in this section, provided no more than 50 percent of allowed sign copy area, not to exceed 16 square feet, may be used for digital purposes.
- (h) Location: Digital signs may be permitted in Group 1 (nonresidential/noncommercial) and in Group 3 (commercial).

Section 17. Ordinance 1322 §1 (part) and FMC 22.26.017 are hereby amended to read as follows:

22.26.017 Freestanding signs.

- (a) Number. The number of freestanding signs for single and multiple tenant uses is derived from the location and length of development site frontage as described below:
- (1) One freestanding sign for each 150 feet of site frontage up to a maximum of three freestanding signs per frontage. Flag lot sites with frontage on a public street are permitted one sign only on the frontage providing primary access to the site.
 - (2) For properties with more than 300 feet of frontage and two or more freestanding signs, such signs shall be separated by at least 150 feet.
 - (3) Where more than one freestanding sign is proposed on a site with multiple frontages, a minimum of 60 linear feet shall separate a sign on one frontage from a sign on another frontage.
- (b) Sign form. Signs shall be designed so they appear firmly anchored to the ground. Examples include monument signs and other signs where the sign base has a minimum aggregate width of 40 percent of the sign cabinet or face, as shown in Figure 12.



Figure 12

- (c) Placement.
- (1) A minimum of five feet from the property line abutting a street, a minimum of 10 feet from any interior side lot line, or a minimum of 25 feet from any Group 1 (nonresidential or noncommercial) or Group 2 (residential) properties.
 - (2) No freestanding sign shall be located in a manner that will block or impair or impede pedestrian or vehicular traffic on streets, alleys, driveways, or points of ingress-egress, or conflict with the clear vision triangle standards in FMC 22.58.005.
- (d) Materials and Design. Signs shall be designed as an integrated architectural feature of the site as described and illustrated in Figures 13-14, below:

- (1) **Framing.** Signs must include design elements that effectively frame the sign on both sides. Alternatively, signs that have a substantial framing element on one side will meet this provision;
- (2) **Materials and Design.** Signs shall include durable high quality materials and a design that relates to and/or complements the design of on-site buildings and/or is coordinated with other site design elements (such as distinctive lighting, monuments, internal signs); and
- (3) **Top/Middle/Bottom.** Signs shall integrate a top, middle, and bottom element. The top should include a distinctive sign cap. The middle should include a consistent framing technique for an individual sign or multiple signs in a multi-tenant center. The bottom should include a distinctive base design with special materials and/or design. These elements are less critical for signs less than six feet tall, which are exempt from this provision.



Figure 13
Signs including a frame and top/middle/bottom elements



Figure 14

Signs featuring substantial framing elements on one side



Figure 15

Unacceptable signs

The sign on the left includes a base and a frame, but no identifiable top.

The middle sign and sign on the right fail to meet any of the design provisions above.

(e) Landscaping.

(1) Landscaping is required around the base of freestanding signs to enhance the character of street frontages. At least one square foot of landscaped area shall be provided per one

square foot of sign area. Utilize plants and a maintenance program to minimize conflicts with the sign.

(2) Base Height Provision. The copy of all signage shall be at least one foot above grade to allow vertical space for the required landscape elements and enhance the visibility of sign copy. See Figure 16.



Figure 16

(f) Area and Height.

(1) Table 2 illustrates the maximum allowable sign area and height for all freestanding signs.

Table 2

Total ROW Frontage of Parcel (on each street)	Allowable Sign Area (White very light or unshaded background)	Allowable Sign Area (Black, dark or shaded background)	Maximum Height (White, very light or unshaded background)	Maximum Height (Black, dark or shaded background)
<100 Feet	24 sq. ft.	40 sq. ft.	4 feet	6 feet
100--275 Feet	32 sq. ft.	50 sq. ft.	5 feet	7 feet
>275 Feet	40 sq. ft.	60 sq. ft.	6 feet	8 feet

(2) Signs that employ shaded, opaque or dark background and light colored lettering for at least 50 percent of the sign copy are allowed larger sign areas, as they are found to be less visually intrusive than signs incorporating white or very light-colored background. Using a CMYK color chart, signs that employ color numbers that add up to at least 20 (collectively) shall be considered as “shaded.” For example:

C=0, M=0, Y=0, K=20 = Shaded
 C=10, M=0, Y=0, K=10 = Shaded
 C=10, M=0, Y=0, K=0 = Not considered to be shaded

See Figure 17 below for examples. The black, dark, and shaded signs qualify for the extra sign area and height specified in the shaded columns of Table 2. The sign on the right with the white background is allowed but does not qualify for the “bonus” sign area and height and is subject to the sign area/ height limits in the unshaded columns in Table 2



Figure 17

(3) For those properties where more than one freestanding sign is allowed on a particular frontage per subsection (a) of this section, one sign may be installed per standards specified per the total ROW frontage of the parcel. The size and height of additional signs are based on the separation from the larger primary sign or other supplemental sign. For example, if a second sign is 250 feet from the larger primary sign, then it shall meet the standards for a sign that includes 100 through 299 feet of total ROW frontage of parcel as set forth in Table 2.

(g) Address Numbers. Legible address numbers are required on all freestanding signs. Such address numbers are exempt from sign area standards.

(h) Location. Freestanding signs may be permitted in Group 1 (nonresidential/noncommercial) and Group 3 (commercial).

Section 18. A new section FMC 22.26.018 is hereby adopted to read as follows:

22.26.018 Portable signs.

(a) Design and Materials: Portable signs must be designed with durable materials; otherwise they will be regulated as temporary signs under Section 22.26.021. Portable signs must be designed to withstand wind and include a heavy weighted base for pole-mounted signs, and a heavy weight suspended between the opposing faces of a sandwich board sign.

(b) Size and Height (See Figure 18).

1. Sandwich board signs: Maximum four feet in height and three feet in width. (Note: sandwich board sign height is measured in the flat standing position, rather than in open standing position.)
2. Pole-mounted signs: Maximum four feet in height and three feet in width.
3. Feather signs: Maximum 13 feet in height.

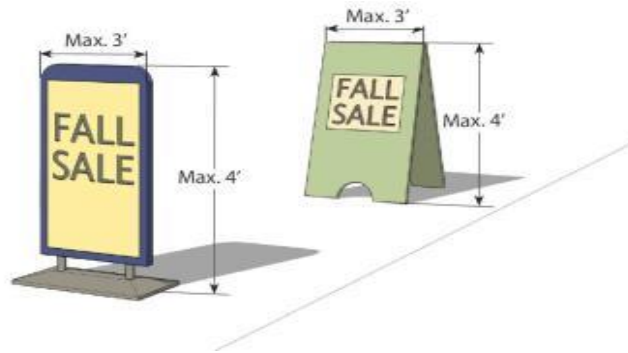


Figure 18

(c) Number, location and spacing:

(1) Sandwich board or pole-mounted sign. One sandwich board or pole-mounted sign may be displayed per tenant space. Signs shall be located within 12 feet of the primary building entrance.

(2) Feather Sign. A feather sign may be displayed in lieu of a portable sandwich board or pole-mounted sign. Spacing of feather signs shall be no closer than 100 feet apart on a property frontage as shown in Figure 19. Each property may qualify for one feather sign regardless of frontage length.



Figure 19

Feather signs shall be placed at intervals of no more than one sign per 100 lineal feet of frontage and located behind the sidewalk outside the public ROW.

(d) Placement: No portable sign may be located on city right-of-way, including sidewalk, without city approval. Such signs shall not be placed within a clear vision triangle (see Section 22.58.005) or any location that will impede vehicular traffic. Further, such signs shall not be placed in a manner that will block or otherwise obstruct the safe use of sidewalks, building entrances or stairs by pedestrians, including pedestrians who are visually impaired or otherwise handicapped.

(e) Display Hours: During business or operating hours only.

(f) Location: Portable signs (durable and temporary) may be permitted in Group 1 (nonresidential/ noncommercial) and Group 3 (commercial), and temporary portable signs may be permitted in Group 2 (residential). Temporary portable signs are subject to the provisions of Section 22.26.021. Feather signs are permitted only in the CMU zone.

(g) Visually obscured building signage: In order to provide increased visibility for businesses and other tenants located in buildings that are visually obscured from public street frontage by an intervening building, sandwich or pole-mounted signs may be placed

along the arterial street frontage in lieu of these signs being placed within 12 feet of the primary entrance to the rear building or business, subject to the following limitations:

- (1) The property is located within a CMU or NC zone.
- (2) Signs shall be placed on private property subject to the property owner's permission.
- (3) The number of signs shall be limited to one per tenant.
- (4) Spacing shall be no closer than ~~50~~40 feet apart to minimize their visual impact.

Section 19. A new section FMC 22.26.019 is hereby adopted to read as follows:

22.26.019 Projecting signs.

(a) Projecting signs may be used in lieu of or in addition to wall, awning, canopy or marquee signs provided they comply with the following standards.

(1) Number.

(A) Projecting Signs. One projecting sign may be allowed per tenant space or building frontage that is visible from a street or customer parking lot. (B) Projecting Banner Signs. Multiple banner signs may be integrated on building if aligned with facade articulation elements (such as vertical columns or piers). See Figure 20 for examples.



Figure 20

(2) Area. Maximum 8 square feet.

(3) Orientation. Projecting signs may be either vertically or horizontally oriented. Projecting banner signs must be vertically oriented.

(4) Projection. See Figure 21.

(A) Horizontally oriented signs shall not project more than eight feet;

(B) Vertically oriented signs shall not project more than 42 inches for single-story buildings or more than five feet for multi-story buildings;

(C) Signs may project over a sidewalk into a public right-of-way subject to city approval but shall not extend over a parking area or travel lane.

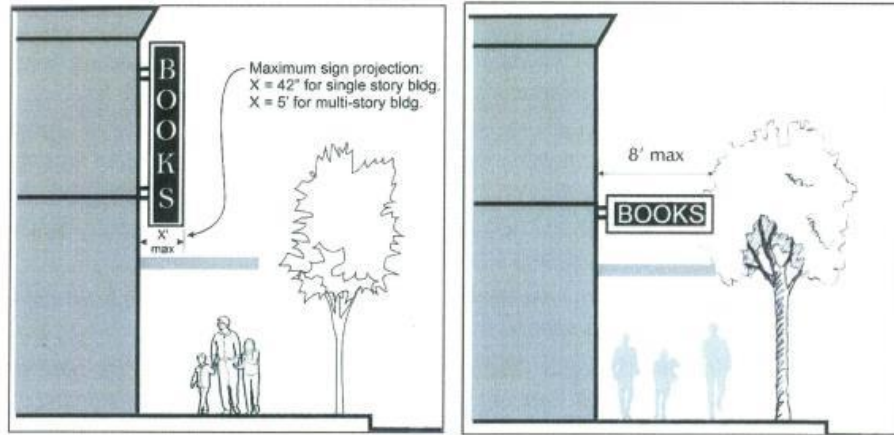


Figure 21

Standards for vertically (left) and horizontally oriented (right) projecting signs.

(5) Height.

(A) Horizontally oriented signs shall not exceed three feet.

(B) Vertically oriented signs shall not extend above the building parapet, soffit, the eave line or the roof of the building. See Figure 22 for unacceptable examples where signs project over the roofline and there is an excessive number of projecting signs resulting in unwanted clutter.



Figure 22

(6) Vertical Clearance. Signs shall be placed a minimum of eight feet above the sidewalk, walkway or driveway that is directly below the sign, or within three feet of the sign. See Figure 23.



Figure 23

(7) Placement.

(A) Projecting signs shall not be located directly in front of windows or in conflict with other signs or architectural features of the building.

(B) No projecting sign shall be located within 25 feet of another projecting sign on the same site or on the same building. Projecting banner signs may be spaced closer than 25 feet when they are aligned with facade articulation elements (such as vertical columns or piers).

(8) Mounting.

(A) Signs shall be mounted perpendicular to the building wall to which they are affixed.

(B) Signs shall be supported by or suspended from solid rods or otherwise tethered or reinforced to avoid movement in wind.

(9) Location. Projecting signs and projecting banner signs may be permitted only in Group 3 (commercial).

Section 20. A new section FMC 22.26.020 is hereby adopted to read as follows:

22.26.020 Service Island Signs.

(a) Number and Size.

(1) Island canopies. One sign on the canopy fascia per street frontage, not to exceed 20 percent of the area of canopy fascia to which the sign is mounted. See Figure 24.

(2) Spandrel signs and island spanner signs. Spandrel signs shall not exceed 20 percent of the spandrel area, and both spandrel signs and island spanner signs attached to canopy support columns shall be deducted from allowable wall signage on the associated principal building on the site.

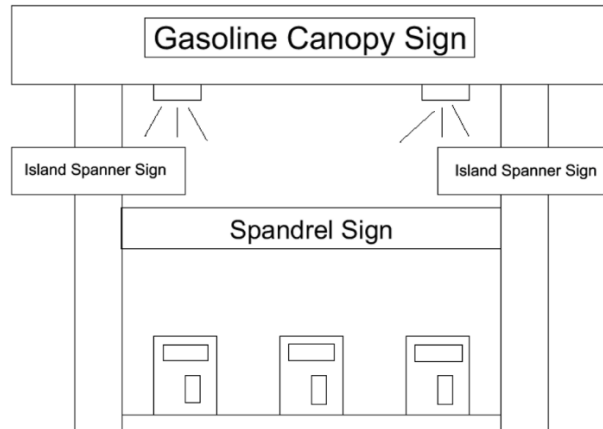


Figure 24

(b) Design. Spandrel signs may be internally illuminated, subject to the illumination standards of Section 22.26.012. Island spanner signs attached to canopy support columns shall not be illuminated.

(c) Location. Service island signs may be permitted only in Group 3 (commercial).

Section 21. A new section FMC 22.26.021 is hereby adopted to read as follows:

22.26.021 Temporary signs.

(a) No Permit required. No sign permit is required for temporary signs.

(b) Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated or creates a public nuisance. Signs installed for periods exceeding 180 days shall be modified to meet the applicable standards for permanent (non-temporary) signs or be removed.

(c) Materials. Temporary signs must be made of non-durable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foam core board, vinyl canvas or vinyl mesh products of less than 20 oz. fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers, and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this Chapter.

(d) Location.

(1) City property (excluding city right-of-way). Temporary signs on city-owned property excluding city right-of-way are allowed only in conjunction with an approved Special Event permit.

(2) City right-of-way outside of the roadway. Temporary signs on city right-of-way placed outside of the roadway must comply with the following requirements:

(A) Placement. Allowed only between the property line and the back of the nearest curb, or where no curb exists, between the property line and the nearest edge of the pavement.

Signs may not be placed on traffic islands, or on sidewalks, driveways or other paved areas designed for pedestrian or vehicular use, or as conditioned in a right-of-way use permit.

(B) Approval of abutting owner. Approval of the abutting owner is required.

(C) Type. Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a right-of-way use permit.

- (D) Area and height. Maximum four square feet in area and three feet in height.
- (E) Dilapidated or nuisance signs. Any temporary sign in the right-of-way that is dilapidated or a nuisance shall be removed by the person responsible for placement of the sign.
- (F) Other signs. The city may allow other signs in city right-of-way with a right-of-way use permit.
- (3) Residential. Temporary signs may be placed in Group 2 (residential) in accordance with the requirements of this Section and the following:
 - (A) Window signs. Maximum one temporary window sign per residential unit, not to exceed four square feet in area.
 - (B) Freestanding signs (includes pole-mounted, stake-mounted and portable signs). Maximum six square feet in area and four feet in height. Spacing shall be no closer than 100 feet apart on a property frontage.
 - (C) Surface-mounted signs. Maximum one surface-mounted sign, not to exceed two square feet in area. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.
- (4) Non-residential. Temporary signs may be placed in Group 1 (nonresidential/noncommercial) and Group 3 (commercial) in accordance with the requirements of this Section and the following:
 - (A) Window signs. Maximum four square feet or 10 percent of the area of the window in which they are placed, whichever is greater.
 - (B) Freestanding signs (including pole-mounted, stake-mounted and portable signs). Maximum eight square feet in area and four feet in height. Spacing shall be no closer than 100 feet apart on a property frontage.
 - (C) Surface-mounted signs. Maximum 32 square feet in area. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.

Section 22. A new section FMC 22.26.022 is hereby adopted to read as follows:

22.26.022 Under-canopy signs.

Under-canopy signs are placed under awnings, marquees or canopies and placed perpendicular to the storefronts and thus oriented to pedestrians on the sidewalk or an internal walkway. Under-canopy signs may be used in lieu of or in addition to wall, awning, canopy or marquee signs provided they comply with the following standards.

- (a) Number. One for each entrance.
- (b) Width. Limited by the projection of the canopy. There shall be a one-foot minimum distance between the sign and the outer edge of the marquee, awning, or canopy and between the sign and the building facade.
- (c) Height. Maximum two feet in height.
- (d) Vertical Clearance. Minimum of eight feet above the sidewalk or walkway. See Figure 25.

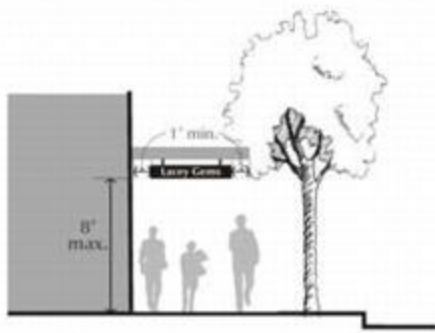


Figure 25

(e) Location. Under-canopy signs may be permitted only in Group 3 (commercial).

Section 23. A new section FMC 22.26.023 is hereby adopted to read as follows:

22.26.023 Wall signs.

(a) Area.

- (1) Group 1. Maximum 32 square feet.
- (2) Group 2. Maximum two square feet.
- (3) Group 3. Maximum area of wall, awning, canopy, or marquee signage on each building elevation is provided in Table 3 below.

Table 3

Maximum sign surface area (White, very light or unshaded background)	Maximum sign surface area (Black, dark or shaded background)
1.5 sf of sign area per linear foot of storefront, tenant space, or building wall, not to exceed 75 sf	2.0 sf of sign area per linear foot of storefront, tenant space, or building wall, not to exceed 100 sf

(b) Placement and Design.

- (1) Wall signs shall be centered, proportional, and shaped to the architectural features of the buildings. Signage shall not exceed 60 percent of the width of the wall plane upon which the sign is placed or the width of the tenant space, per Figure 26. Signage shall not exceed 70 percent of the height of the blank wall space or fascia on which the sign is located. These standards also apply to upper level tenant space.



Figure 26

(2) Wall signs shall not cover important architectural details of a building such as stair railings, windows, doors, building trim, or special ornamentation features. Preferred areas for installation of wall signs include blank areas above canopies, areas between vertical piers or columns, blank areas under a gabled roof, or upper reaches of a false fronted building.

(3) Tenants on upper levels may include wall signs placed on the facade above the ground floor tenant provided the permitted sign area shall be shared with tenant below and the location/design meets the applicable standards in this subsection.

(4) Wall signs may not extend above the building parapet, soffit, the eave line or the roof of the building.

(c) Mounting.

(1) Building signs should be mounted plumb with the building, with a maximum protrusion of one foot unless the sign incorporates sculptural elements or architectural devices.

(2) All individual letter signs shall be installed to appear flush-mounted unless a pin-mounted design is used to accommodate backlit lighting. If the letters are illuminated and require a raceway, the letters shall be installed tight against the raceway, which shall be painted to match the color of the surface to which the raceway is mounted. Where possible, especially on new construction, the raceway should be recessed to allow letters to be flush with the wall surface.

(3) The sign frame shall be concealed or integrated into the building's architectural character in terms of form, color, and materials.

(d) Location. Wall signs may be permitted in Group 1 (nonresidential/noncommercial), Group 2 (residential), and in Group 3 (commercial).

Section 24. A new section FMC 22.26.024 is hereby adopted to read as follows:

22.26.024 Window signs.

Window signs may be used in place of permitted wall signs (except where otherwise specified herein), provided they comply with the following standards:

(a) Number: One permanent window sign may be placed in a single window

(b) Area. ~~Window signs are included in the wall sign maximum area limits set forth in Section 22.26.023. In addition, standards and guidelines set forth in FMC 22.64.020 Display Windows apply where applicable. FMC 22.26.024~~(b) Area. Maximum four square feet or 10 percent of the area of the window in which they are placed, whichever is greater (temporary and permanent window signs combined). These area limits apply to individual windows or to window units separated from another window or window unit by a pier, column or other substantial architectural element. These limits do not apply to uses providing commercial services located within a CMU zone located at least 150 feet from a public or private street.

(c) Location. Permanent signs shall not be placed in windows above the second story level. For the requirements applicable to temporary window signs, see Section 22.26.021.

(d) Design. Permanent signs are limited to individual painted or vinyl cut-out letters and graphics, or neon signs constructed without a solid or opaque background. Permanent signs with solid backgrounds or opaque backgrounds are not permitted in windows in order to ensure maximum light and visibility through windows. Temporary window signs are exempt from these design restrictions.

(e) Location. Window signs may be permitted in Group 1 (nonresidential/noncommercial) and in Group 3 (commercial).

Section 25. A new section FMC 22.26.025 is hereby adopted to read as follows:

22.26.025 Exemptions.

The following are exempt from the permit requirements of this chapter:

(a) Painting, repainting, cleaning, repairing and other normal maintenance, unless structural or electrical changes are made;

(b) Temporary signs on private property or public property, meeting the requirements in Section 22.26.021;

(c) Governmental signs. Signs installed by the city, county, or a federal or State governmental agency for the protection of the public health, safety and general welfare, including, but not limited to, the following:

(1) Emergency and warning signs necessary for public safety or civil defense;

(2) Traffic and/or wayfinding signs erected and maintained by an authorized public agency;

(3) Signs required to be displayed by law;

(4) Signs showing the location of public facilities; and

(5) Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibility to protect the public health, safety and general welfare.

(d) Temporary signs in windows. Any temporary sign taped or otherwise affixed to the inside of a window, in such a manner as to be easily removed, provided that the total area of such sign in any one window does not exceed the square footage limitations in Section 22.26.024 (Window Signs) and Section 22.26.021 (Temporary Signs);

(e) Interior signs. Signs or displays located entirely inside of a building and located at least three feet away from transparent doors and windows;

(f) Vehicle signs. Any sign on a vehicle, unless such vehicle is parked or stationed near an activity for the primary purpose of attracting public attention to such activity, unless such

- vehicle or mobile unit is regularly parked in any prominently visible location for the primary purpose of attracting public attention to the sign ;
- (g) Changes to the face or copy of changeable copy signs and digital signs, provided such changes do not change the material or appearance of the sign as originally permitted by the city;
 - (h) Sculptures, fountains, mosaics, and design features that do not incorporate advertising or identification;
 - (i) Any flags, provided that they conform to all provisions of this chapter for signs;
 - (j) Building identification numbers as required pursuant to Chapter 12.26 FMC or any other city or State regulation;
 - (k) Certain historic and architectural features. Stone or cement plaques and cornerstones with engraved or cast text or symbols and permanently embedded in the building's foundation or masonry siding materials, provided that none of these exceed four square feet in area;
 - (l) Signs not intended to be viewed by the public from the street right-of-way that are not visible from adjacent property. Examples include signs located within an enclosed or partially enclosed lobby or courtyard of any building or group of buildings that are designed and located to be viewed exclusively by patrons of such use or uses, and kiosks and other related informational signs that are placed along internal walkways that are designed specifically to be viewed by pedestrians and not intended to function as advertising to motorists on nearby public streets.

Section 26 A new section FMC 22.26.026 is hereby adopted to read as follows:

22.26.026 Prohibited signs.

From and after the effective date of the ordinance codified in this chapter, it is unlawful for any person to maintain, erect or place within the city:

- (a) Animated signs. Rotating or revolving signs, or signs where all or a portion of the sign moves in some manner. This includes any sign animated by any means, including fixed aerial displays, balloons, pennants, spinners, propellers, whirling, or similar devices designed to flutter, rotate or display other movement under the influence of the wind, including flag canopies not otherwise allowed in Section 22.26.014 (Awning, Canopy or Marquee Signs), streamers, tubes, or other devices affected by the movement of air or other atmospheric or mechanical means. This does not include historic signs and historic replica signs where the applicant is able to prove, through documentation or other evidence, that the original historic sign produced the same motion/movement and is proposed in the same location;
- (b) Nuisance signs. Any signs that emit smoke, visible particles, odors and sound;
- (c) Mobile signs, including those attached to or placed upon a vehicle or trailer parked on private or public property. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal course of business;
- (d) Flashing signs or lights. A sign that contains an intermittent or flashing light source, or a sign that includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Flashing light sources are prohibited. Signs with an exposed light source, including clear light bulbs that do not flash on a theater

marquee except for neon incorporated into the design of the sign, are also prohibited.

Digital signs are allowed under the provisions of Section 22.26.016;

(e) Any sign that constitutes a traffic hazard or detriment to traffic safety because of its size, location, movement, content, or method of illumination or that obstructs the vision of drivers or detracts from the visibility of any official traffic control device because it diverts or tends to divert the attention of drivers of moving vehicles away from traffic movement on streets, roads, intersections, or access facilities. No sign shall be erected so that it obstructs the vision of pedestrians, or which by its glare or by its method of illumination constitutes a hazard to traffic. No sign may use words, phrases, symbols or characters in such a manner as to interfere with, mislead, or confuse the steady and safe flow of traffic;

(f) Any sign or advertising structure or supporting structure that is torn, damaged, defaced or destroyed;

(g) Abandoned sign, including signs whose face has been removed or is broken and is not refaced within 180 days thereafter. Abandoned signs shall also include signs with rusted, faded, peeled, cracked or otherwise deteriorated materials or finishes that have not been repaired within 90 days after the city provides notice of the sign's deteriorated condition in accordance with Chapter 22.95 FMC;

(h) Signs attached to utility poles, street lights, fire hydrants, trees, rocks or other natural features except those signs approved as part of a special event permit on city property or banner signs permitted by the city on street lights or utility poles;

(i) Bench signs greater than one square foot in area;

(j) Permanent signs on vacant lots, parcels or easements. No permanent sign shall be located on a vacant lot, parcel or easement. No permanent sign shall be located on a lot, parcel or easement as the principal use of that lot, parcel or easement. Signs may only be established as an accessory use to a principally permitted use;

(k) Roof signs, including signs painted directly on the roof surface; and

(l) Signs that may impede free ingress and egress from any door, window or exit way required by building and fire regulations;

Section 27. A new section FMC 22.26.027 is hereby adopted to read as follows:

22.26.027 Liability.

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, building, altering, constructing, removing or moving any sign in the city. For damages to anyone injured or damaged either in person or in property by any defect therein; the city, or any agent thereof, shall not be held as assuming such liability by reason of permit or of inspection authorized herein or of certificate of inspection issued by the city or any of its agents.

Section 28. Ordinance 1322 §4 and FMC 22.64.041 are hereby repealed.

Section 29. A new section FMC 22.98.114.1 is hereby adopted to read as follows:

22.98.114.1 Building elevation.

“Building elevation” means the visible vertical plane of the side of a building from ground level to the roof line.

Section 30. A new section FMC 22.98.114.2 is hereby adopted to read as follows:

22.98.114.2. Building façade.

“Façade” means the elevation of a building extending from the ground level up to the bottom of the fascia on a pitched roof building, and up to the top of the wall or parapet on a flat roof building. The area of a building façade for purposes of calculating allowable wall signage includes the area of the windows and doors but excludes openings that do not have solid coverings, such as breezeways, colonnades and gateways that extend through, or to the backside of, the building.

Section 31. A new section FMC 22.98.114.3 is hereby adopted to read as follows:

22.98.114.3. Building fascia.

“Building fascia” means any flat horizontal member or molding with little projection, or any relatively narrow vertical surface (frieze) or board under a roof edge or which forms the outer surface of a cornice, visible to an observer.

Section 32. A new section FMC 22.98.114.4 is hereby adopted to read as follows:

22.98.114.4 Building frontage.

“Building Frontage” means the ground floor horizontal distance of a building or portion thereof occupied by a tenant. Building frontage shall only be measured along a ground floor wall that has a customer entrance that faces and has access onto a public open space, such as a courtyard or plaza; or is adjacent to a public street, or adjacent to a driveway or parking lot that serves that use. If any building frontage does not consist of one straight line, the frontage of any offset portion shall be projected, for computation purposes, to the extension of the line of the most forward face of the building.

Section 33. A new section FMC 22.98.286.1 is hereby adopted to read as follows:

22.98.286.1 Flag.

“Flag” means a piece of cloth, attached to a staff, with distinctive colors, patterns or symbols, used as a national or state symbol.

Section 34. A new section FMC 22.98.286.2 is hereby adopted to read as follows:

22.98.286.2 Flag canopy.

“Flag canopy” means a line of flags, or a series of lines of flags, suspended above a site.

Section 35. Ordinance 1375 §9 and FMC 22.98.299 are hereby amended to read as follows:

22.98.299 Frontage.

“Frontage” means the property line of an individual lot, tract or parcel that abuts a public or private street right-of-way, excluding alleys and private driveways. The number of frontages on a lot is the same as the number of public or private street rights-of-way that the lot abuts.

Section 36. A new section FMC 22.98.322 is hereby adopted to read as follows:

22.98.322 Grade, natural.

“Grade, natural” means the topographic condition or elevation of a site or portion of a site over the past five years, or the finished grade of an approved site development plan. Changes to grade or elevation resulting from fill, mounding or berming within five years preceding any requested permit other than a site development plan shall not be considered natural grade for permitting purposes.

Section 37. A new section FMC 22.98.332 is hereby adopted to read as follows:

22.98.332 Halo illuminated.

“Halo illuminated” means a light source placed behind totally opaque letter or symbol so that the light reflects off the wall or background to which the letters or symbols are mounted rather than emanating through the letters or symbols, creating a halo effect that leaves the letters or symbols viewable in silhouette form only.

Section 38. A new section FMC 22.98.437.1 is hereby adopted to read as follows:

22.98.437.1 Luminance.

“Luminance” means the photometric quality most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or “nits.”

Section 39. A new section FMC 22.98.437.2 is hereby adopted to read as follows:

22.98.437.2 Mansard.

“Mansard” means a roof with two slopes on each side of the four sides, the lower steeper than the upper.

Section 40. Ordinance 1322 §10 and FMC 22.98.441 are hereby amended to read as follows:

22.98.441 Marquee.

“Marquee” means a permanent structure attached to, supported by, and projecting from a building and providing protection from the elements.

Section 41. A new section FMC 22.98.441.1 is hereby adopted to read as follows:

22.98.441.1 Master sign plan.

“Master Sign Plan” means a coordinated sign plan that includes the details of all signs (not including exempt or temporary signs) that are or will be placed on a site.

Section 42. A new section FMC 22.98.461 is hereby adopted to read as follows:

22.98.461 Motion.

“Motion” means the depiction of movement or change of position of text, images or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that resembles zooming, twinkling or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes and similar actions.

Section 43. A new section FMC 22.98.467 is hereby adopted to read as follows:

22.98.467 Night-time hours.

“Night-time hours” means from one-half hour before sunset to one-half hour after sunrise.

Section 44. A new section FMC 22.98.467.1 is hereby adopted to read as follows:

22.98.467.1 Nits.

“Nits” means a unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

Section 45. A new section FMC 22.98.469 is hereby adopted to read as follows:

22.98.469 Nonresidential.

“Nonresidential zone” means, in the context of Chapter 22.26 FMC, any zone that does not include residential dwelling units except for mixed use zoning districts where residential units are located above or behind nonresidential uses and the ground floor streetscape is characterized by commercial and other nonresidential uses.

Section 46. A new section FMC 22.98.476.05 is hereby adopted to read as follows:

22.98.476.05 Opaque.

“Opaque” means a material that does not transmit light from an internal illumination source.

Section 47. Ordinance 1322 §13 and FMC 22.98.506 are hereby amended to read as

follows:

22.98.506 Parapet.

“Parapet” means a protective wall or barrier projecting above any canopy, balcony or roof.

Section 48. A new section FMC 22.98.581 is hereby adopted to read as follows:

22.98.581 Raceway.

“Raceway” means a box-type conduit to house electrical wires for signs and used to support and/or affix signage on a wall.

Section 49. Ordinance 1375 §38 and FMC 22.98.610 are hereby amended to read as follows:

22.98.610 Roadway.

“Roadway” means that portion of the street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalks and shoulder. Where there are curbs, the roadway is the curb to curb width of the street.

Section 50. Ordinance 1375 §39 and FMC 22.98.611 are hereby amended to read as follows:

22.98.611 Roofline.

“Roofline” means the uppermost edge of the roof or the top of the parapet, excluding mechanical equipment screens, whichever is highest. Where a building has several roof levels, the roof line shall be the one belonging to that portion of the building on which the sign is located.

Section 51. Ordinance 1322 §21 and FMC 22.98.648 are hereby amended to read as follows:

22.98.648 Sign.

“Sign” means letters, figures, symbols, trademarks, or logos, with or without illumination, intended to identify any place, subject, person, firm, business, product, article, merchandise or point of sale. A sign also includes balloons attached to sign structures, products, streamers, spinners, pennants, flags, inflatables or similar devices intended to attract attention to a site or business, as well as architectural or structural forms, illuminated panels, spandrels, awnings and other structural or architectural features not common to classic vernacular or non-corporate regional architecture and that are intended to convey a brand, message or otherwise advertise a location or product, whether or not such features include text or graphics and whether or not they serve other practical purposes such as lighting, covering or enclosure of persons or products. A sign includes any device which streams, televises or otherwise conveys electronic visual messages, pictures, videos or

images, with or without sound or odors. Refer to FMC 22.26.026 for a list of prohibited signs.

Section 52. Ordinance 1322 §22 and FMC 22.98.648.1 are hereby amended to read as follows:

22.98.648.1 Sign, abandoned.

“Sign, abandoned” means a sign, the face of which has been removed or is broken and is not refaced within 180 days thereafter. Abandoned signs shall also include signs with rusted, faded, peeled, cracked or otherwise deteriorated materials or finishes that have not been repaired within 90 days after the City provides notice of the sign’s deteriorated condition under FMC 22.26.009.

Section 53. Ordinance 1322 §23 and FMC 22.98.648.2 are hereby amended to read as follows:

22.98.648.2 Sign, accessory.

“Sign, Accessory” means a permanent, free standing or building mounted sign of limited height and size that provides supplemental opportunity for free standing or building mounted signage on a site.

Section 54. Ordinance 1322 §24 and FMC 22.98.648.3 are hereby amended to read as follows:

22.98.648.3 Sign alteration.

“Sign alteration” means a change to the copy, color, size, shape, illumination, position, location, construction or supporting structure of a sign, not including ordinary maintenance.

Section 55. Ordinance 1322 §25 and FMC 22.98.648.4 are hereby amended to read as follows:

22.98.648.4 Sign area.

“Sign area” means the smallest square, rectangle, parallelogram or circle that will enclose the extreme limits of writing, representation, logo, or any figure of similar character, together with any frame, background area, structural trim, or other materials or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The supports or uprights on which any such sign is supported shall not be included in determining the sign area. The area of signs with two faces shall be considered to be the area of the largest face. The area of signs with three or more faces shall be considered to be the area of the largest face or 1/2 the area of all of the

faces, whichever is less. For sign copy that has varying sizes of letters or graphics, the sign area may be calculated by combining two or more geometric shapes.

Section 56. Ordinance 1322 §26 and FMC 22.98.648.5 are hereby amended to read as follows:

22.98.648.5 Sign, awning, canopy or marquee.

“Sign, Awning, Canopy or Marquee sign” means a sign affixed to or imprinted on a temporary shelter or a permanent architectural projection, such as an awning, canopy or marquee, composed of rigid or non-rigid materials on a supporting framework, affixed to the exterior wall of a building, extending over a door, entrance, window or outdoor service area.

Section 57. Ordinance 1322 §27 and FMC 22.98.648.6 are hereby amended to read as follows:

22.98.648.6 Sign, changeable copy.

“Sign, changeable copy” means a sign or portion thereof that is designed to have its message or copy readily changed manually or by remote or automatic means without altering or replacing the face or surface. Changeable copy signs support hard-copy text or graphics and do not use digital or electronic text or images.

Section 58. Ordinance 1322 §28 and FMC 22.98.648.7 are hereby amended to read as follows:

22.98.648.7 Sign, digital.

“Sign, digital” means a changeable copy sign with monochrome LED (light emitting diodes) text, graphics or symbols over a black, non-illuminated background.

Section 59. Ordinance 1322 §29 and FMC 22.98.648.8 are hereby repealed.

Section 60. Ordinance 1322 §30 and FMC 22.98.648.9 are hereby repealed.

Section 61. Ordinance 1322 §31 and FMC 22.98.648.10 are hereby amended to read as follows:

22.98.648.10 Sign, flashing.

“Sign, flashing” means an electrical sign or portion thereof, except electronic message center signs, that changes light intensity in a sudden transitory burst, or that switches on and off in a constant pattern in which more than one-third of the non-constant light source is off at any one time., random, or irregular pattern or contains motion or the optical illusion of motion by use of electrical energy.

Section 62. Ordinance 1322 §32 and FMC 22.98.648.11 are hereby amended to read as

follows:

22.98.648.11 Sign, freestanding.

“Sign, freestanding” means a sign and its support pole or base standing directly on the ground that is independent from any building or other structure.

Section 63. Ordinance 1322 §33 and FMC 22.98.648.12 are hereby repealed.

Section 64. Ordinance 1322 §34 and FMC 22.98.648.13 are hereby amended to read as follows:

22.98.648.13 Sign height.

“Sign height” means the vertical distance measured from the adjacent grade at the base of the sign support to the highest point of the sign or sign structure.

Section 65. Ordinance 1322 §35 and FMC 22.98.648.14 are hereby repealed.

Section 66. Ordinance 1322 §36 and FMC 22.98.648.15 are hereby amended to read as follows:

22.98.648.15 Sign, monument.

“Sign, monument” means a freestanding low profile sign designed with a solid base and background consistent with FMC 22.26.017(b).

Section 67. Ordinance 1322 §37 and FMC 22.98.648.16 are hereby amended to read as follows:

22.98.648.16 Sign, neon.

“Sign, neon” means a sign with illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols or other shapes.

Section 68. Ordinance 1322 §38 and FMC 22.98.648.17 are hereby amended to read as follows:

22.98.648.17 Sign, nonconforming.

“Sign, nonconforming” means any sign, which at one time conformed to all applicable requirements and standards of Chapter 22.26 FMC, including all permit requirements, but which subsequently ceased to so conform due to changes in such requirements and standards.

Section 69. Ordinance 1322 §39 and FMC 22.98.648.18 are hereby amended to read as

follows:

22.98.648.18 Sign, pan channel.

“Sign, pan-channel” means a sign graphic that is constructed of a three-sided metal channel, usually having a light source contained within the channel. The open side may face inward, resulting in silhouette lighting, or it may face outward to allow full illumination. The open side of the channel may be enclosed with a translucent material.

Section 70. Ordinance 1322 §40 and FMC 22.98.648.19 are hereby amended to read as follows:

22.98.648.19 Sign, permanent.

“Sign, Permanent” means a sign constructed of weather resistant material and intended for permanent use and that does not otherwise meet the definition of “temporary sign.” Wall mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of this chapter.

Section 71. Ordinance 1322 §41 and FMC 22.98.648.20 are hereby amended to read as follows:

22.98.648.20 Sign, pole mounted.

“Sign, pole mounted” means a sign mounted on a weighted base, intended to be movable.

Section 72. Ordinance 1322 §42 and FMC 22.98.648.21 are hereby amended to read as follows:

22.98.648.21 Sign, portable.

“Sign, portable” means a free-standing sign that is readily moveable and not permanently affixed to the ground, including A-frame or sandwich board signs, pole signs mounted on weighted bases, and similar signs that are used on more than a temporary basis.

Section 73. Ordinance 1322 §43 and FMC 22.98.648.22 are hereby repealed.

Section 74. Ordinance 1322 §44 and FMC 22.98.648.23 are hereby amended to read as follows:

22.98.648.23 Sign, projecting.

“Sign, projecting” means a sign attached to a building with the face not parallel to the vertical surface of the building. Projecting signs include signs projecting directly from walls, or signs hanging from porch ceilings or other support structures.

Section 75. Ordinance 1322 §45 and FMC 22.98.648.24 are hereby repealed.

Section 76. Ordinance 1322 §46 and FMC 22.98.648.25 are hereby repealed.

Section 77. Ordinance 1322 §47 and FMC 22.98.648.26 are hereby repealed.

Section 78. Ordinance 1322 §49 and FMC 22.98.648.28 are hereby amended to read as follows:

22.98.648.28 Sign, roof mounted.

“Sign, roof mounted” means a sign that has a point of attachment to the roof or mansard of a building. Architectural projections, including mechanical equipment screens, above any parapet or roof line whose sole function is a background for signs shall be considered a sign structure. A sign on such an architectural projection shall be considered a roof mounted sign.

Section 79. Ordinance 1322 §51 and FMC 22.98.648.30 are hereby amended to read as follows:

22.98.648.30 Sign, service island.

“Sign, service island” means a permanent sign displayed on the service island canopy, spandrel or island spanner of a service station.

Section 80. Ordinance 1322 §52 and FMC 22.98.648.31 are hereby amended to read as follows:

22.98.648.31 Sign, special event.

“Sign, special event” means temporary signs or advertising displays or a combination thereof that advertises or attracts public attention to a special one-time event.

Section 81. Ordinance 1322 §53 and FMC 22.98.648.32 are hereby amended to read as follows:

22.98.648.32 Sign, temporary.

“Sign, temporary” means any sign that is used temporarily and is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this Chapter, including any poster, banner, placard, feather sign, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of non-durable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than 20 oz. fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers, and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this Chapter.

Section 82. Ordinance 1322 §54 and FMC 22.98.648.33 are hereby amended to read as follows:

22.98.648.33 Sign, Under-canopy.

“Sign, under-canopy” means a sign that is placed under an awning, marquee or canopy, and is placed perpendicular to the storefront so that it oriented to pedestrians on a sidewalk or an internal walkway.

Section 83. Ordinance 1322 §55 and FMC 22.98.648.34 are hereby amended to read as follows:

22.98.648.34 Sign, wall.

“Sign, wall” means a sign that is attached parallel to or painted on a wall, including parapet or canopy fascia, or a building.

Section 84. A new section FMC 22.98.648.35 is hereby adopted to read as follows:

22.98.648.35 Sign width.

“Sign width” means the total horizontal dimension of a sign, including all frames or structures.

Section 85. A new section FMC 22.98.648.36 is hereby adopted to read as follows:

22.98.648.36 Sign, window.

“Sign, window” means a sign that is attached to or is intended to be seen in, on or through a window of a building and is visible from the exterior of the window.

Section 86. A new section FMC 22.98.652 is hereby adopted to read as follows:

22.98.652 Site.

“Site” means a unit of land, together with all improvements thereon, determined as follows:

A unit of land that may be conveyed separately from any and all adjacent land without the requirement of approval of a boundary line adjustment, short plat or a preliminary plat. Two or more buildings or business activities that are or will be related to each other physically or architecturally, such as by sharing off-street parking facilities, so as to form an integrated development, such as a shopping center, industrial park, or office complex.

Section 87. A new section FMC 22.98.658.1 is hereby adopted to read as follows:

22.98.658.1 Spandrel.

“Spandrel” means a panel or box-type structure that spans between and/or is connected to the support columns of a porch, colonnade or canopy, usually for architectural embellishment and/or signage purposes.

Section 88. Ordinance 1246 §27 and FMC 22.98.687 are hereby amended to read as follows:

22.98.687 Street right-of-way.

“Street right-of-way” means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of pedestrians, vehicles or utilities.

Section 89. A new section FMC 22.98.698 is hereby adopted to read as follows:

22.98.698 Tenant space.

“Tenant space” means the entire building which encompasses a building or use on a site; or in buildings designed for multi-tenant occupancy, it is the space between demising walls and which has an independent entrance to common corridors or to the outside. Portions of tenant spaces that are sublet to or otherwise allowed to be used by persons or businesses other than the principle person or business of a tenant space are not considered tenant spaces in the context of this chapter.

Section 90. A new section FMC 22.98.715 is hereby adopted to read as follows:

22.98.715 Unshielded lighting.

“Unshielded lighting” means an external illumination source which is exposed to view.

Section 91. A new section FMC 22.98.760 is hereby adopted to read as follows:

22.98.760 Window.

“Window” means the entire window unit including individual sashes or panes that might otherwise divide the area between the head, jamb and sill; except that in commercial storefront window assemblies, a single “window” is the glass area between each mullion that divides the window assembly, whether installed as a single piece of glass or as multiple pieces of glass divided by muntins.

Section 92. Severability. If any section, sentence, clause or phrase of this title shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this title.

Section 93. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the city. This ordinance shall be effective five (5) days after such publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON,
at a regular meeting thereof this 23rd day of May, 2017.

APPROVED:

Matthew Jolibois, Mayor

ATTEST:

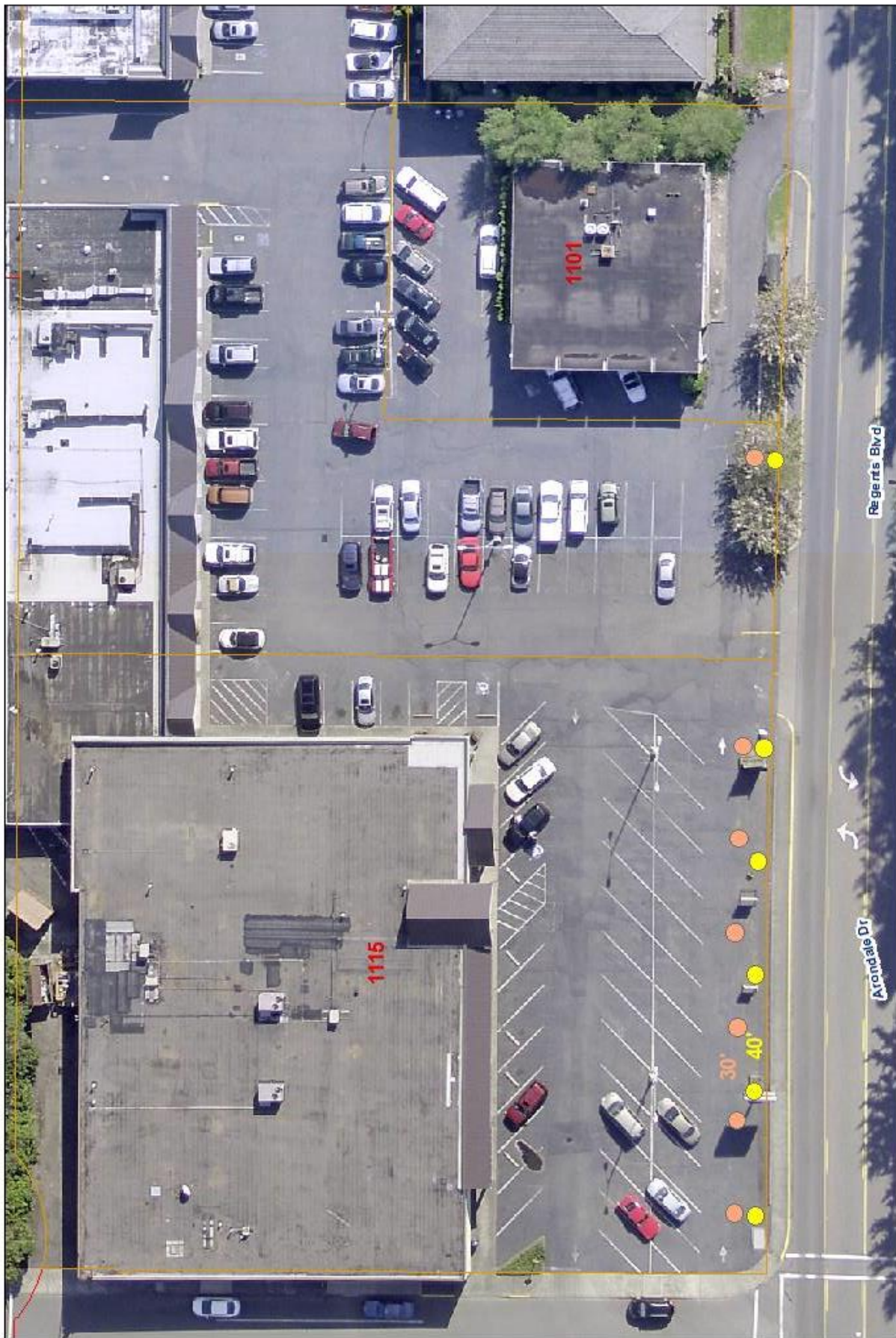
Lisa Keely, City Clerk

APPROVED AS TO FORM:

Michael B. Smith, City Attorney

Publication Date:

Effective Date:



FIRCREST CITY COUNCIL AGENDA SUMMARY

COUNCIL MEETING DATE: May 23, 2017

SUBJECT: Amendments to FMC 22.26 Sign Regulations and FMC 22.98 Definitions, and Repeal of FMC 22.64.041 Signage

FROM: Angelie Stahlnecker, Planning/Building Administrator

Reviewed by: _____City Manager _____Finance Director _____City Attorney

RECOMMENDED MOTION: I move to adopt Ordinance No. _____ amending Fircrest Municipal Code Chapter 22.26 Sign Regulations, amending FMC Chapter 22.98 Definitions, repealing FMC 22.64.041

PROPOSAL:

The City of Fircrest proposes to update the City's sign regulations by amending Chapter 22.26 Sign Regulations and Chapter 22.98 Definitions, and by repealing FMC 22.64.041 Signage.

The proposed amendments (Attachment 1) borrow and adapt certain provisions from a Model Sign Code prepared in 2016 by Fircrest special land use counsel, Carol Morris for AWC in order to meet the requirements of Reed v. Town of Gilbert.

Significant changes to the sign code are identified in Attachment 2, Comparison Table.

HISTORY:

The City has initiated a review of its sign regulations, adopted in 2003, in response to the U.S. Supreme Court's decision in Reed v. Town of Gilbert (2015). The court held that a town sign code that treats various categories of signs differently based on the information they convey violates the First Amendment. The Gilbert sign code defined the categories of temporary, political, and ideological signs on the basis of their messages and then subjected each category to different restrictions such as on size, number of signs, and the permissible duration of display.

Fircrest's sign regulations, like most sign codes, rely on content to regulate various types of non-commercial signs. For example, the City's code distinguishes among real estate signs, home occupation signs, political signs and other types of signs when it regulates their size, number, location and duration. One typically has to read the content of these signs to discern their type so as to be able to properly apply the sign code. This is no longer permissible due to the Reed decision.

Staff has identified a number of sections in the current code that will need to be revised in order to become content neutral – consistent with Reed. Under Reed, the City can regulate signs in a content-neutral "time, place, or manner" approach, using such factors as:

- Location, such as commercial vs. residential locations or zoning districts;
- Size and height;

- Type of structure (for example, freestanding signs, monument signs, permanent façade signs, banner signs, and inflatable roof signs);
- Use of materials;
- Maximum number;
- Lighted vs. unlighted signage;
- Fixed message signs vs. signs with changing messages (electronic or otherwise);
- Moving parts;
- Portability (for example, A-frame or sandwich board signs).

In addition, staff has identified a number of provisions (unrelated to content) that would benefit from updating to improve clarity, simplify administration, achieve higher quality signage, reflect changes in technology and provide greater flexibility for property owners and tenants with respect to the types, sizes and locations that may be permitted. These provisions typically relate to commercial signage.

The City prepared an Environmental Checklist and issued a Determination of Nonsignificance (DNS) for the proposed critical areas amendments with a 14-day comment/appeal period that ended on January 25, 2017. The City did not receive any comments or notice of appeal. The City submitted a Notice of Proposed Amendment to the Washington State Department of Commerce on January 11, 2017. The mandatory 60-day state agency comment period ended on March 13, 2017 and no comments were received.

The Planning Commission held study sessions on November 11, 2016, December 12, 2016, and January 3, 2017. After notifying 242 commercial property and business owners, the Planning Commission conducted a public hearing on February 7, 2017 to solicit public comment on the proposed amendments to the City's sign regulations. After considering comment, the Commission continued its deliberations on the proposal to the March 7, 2017 meeting where it approved a recommendation to the City Council by a vote of 5-0 (Attachment 1).

The City Council held a public hearing on April 11, 2017.

ADVANTAGES:

The amendments are intended to:

- Respond to Reed v. Town of Gilbert by achieving content neutrality;
- Improve code clarity and simplify administration;
- Achieve more attractive and effective signage per community character and economic development goals; and
- Provide greater flexibility for commercial property owners and tenants with respect to sign types, sizes and locations that may be permitted.

DISADVANTAGES:

The amendments may:

- Increase the number of existing signs that would become legally nonconforming due to a decrease in maximum allowable height and/or revised design standards;
- Increase costs for taller freestanding (monument) signs due to more substantial framing requirements. This would not apply to signs six feet or less in height.

FISCAL IMPACT:

None.

ALTERNATIVES:

Staff has identified, in attachment 4, two amendments to the Planning Commission recommendation for the City Council to consider.

Attachments:

1. Planning Commission Resolution 17-04, including Recommended Draft Amendments in Exhibit A (redline)
2. Comparison Table
3. Ordinance
4. Staff Proposed Amendments

City of Fircrest Sign Code Update

Comparison between Existing and Proposed Regulations

April 11, 2017

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.008 Legal nonconforming signs	Allowed to remain until sign is removed, moved, or structurally or electrically changed	<p>Same as current code, except that such signs must be brought into conformance:</p> <ol style="list-style-type: none"> (1) When a building or property containing a legal nonconforming sign is enlarged or remodeled to a value of 25 percent or more of existing assessed valuation of real property improvements; (2) When the use of a building or property containing a legal nonconforming sign changes from one type of business or other tenancy to another type of business or other tenancy; (3) When a new business or other tenancy is established after a building or property containing a legal nonconforming sign is vacated for a period exceeding 90 days; or (4) When an existing business containing a legal nonconforming sign changes ownership. <p><u>Purpose:</u> To speed up conversion of nonconforming signs to conforming to achieve community character goals.</p> <p><u>Practical Implications:</u> The most noticeable change under item (4) would be conversion of pole to monument signs. Estimated 8 pole signs affected. 4 additional "ground-hugging" pole signs could be readily converted to conforming monument designs.</p> <p>Nonconforming monument signs and wall signs installed with permits <u>after</u> the code was last updated in 2003 would be exempt from item (4) requirement in recognition that they are close to compliance with new code and represent fairly recent investments.</p> <p>Roughly 65 (e) wall signs In Fircrest (Group 3). Perhaps as many as 9 signs on 7 properties could be affected. More analysis required to get precise number.</p>
22.26.010 Classification and regulation of signs	Signs may be classified as entry/exit/incidental, identification, limited duration, and temporary.	<p>Signs may be classified as: Accessory signs; Awning, canopy and marquee signs; Changeable copy signs; Digital signs; Freestanding signs; Portable signs; Projecting signs; Service island signs; Temporary signs; Under-canopy signs; Wall signs; or Window signs.</p> <p><u>Purpose:</u> To classify signs based on configuration or characteristics instead of content.</p>

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.010 Classification and regulation of signs	Sign allowance table specifies types of signs allowed in three zone groups, the number and size/height allowed, and other limitations.	Sign allowance table would be deleted and replaced by a table that simply specifies where each sign type would be allowed: <ul style="list-style-type: none"> • Group 1: Non-residential and non-commercial zones including PROS and GC; properties within R zones developed for churches, schools, parks or municipal buildings • Group 2: Residential properties in R zones • Group 3: Properties within commercial or mixed use zones <u>Purposes:</u> To eliminate duplication in current code (sign standards are provided in sign allowance table AND in separate text). To provide clearer (and consistent) standards for each sign type in its own section.
22.26.011 Sign standards applicable to all signs	General provisions cover a limited number, but wide range, of issues	More in-depth explanations provided for measuring sign area, sign height, sign structure and installation, and sign placement. <u>Purpose:</u> To place common standards for a variety of sign types in one location rather than repeating them for each sign type in numerous sections.
22.26.012 Illumination standards	<p>Internal illumination standards specify that light sources shall be fluorescent tubing.</p> <p>Internally lit signs shall minimize luminance transmittance so that signs have darker backgrounds with lighter lettering or symbols.</p> <p>Nighttime illumination allowed in CC and CO zones more than 300 feet from a residence.</p>	<p>Code would no longer require one particular light source (fluorescent tubes). <u>Purpose:</u> Provide flexibility for sign manufacturers to continually upgrade lighting technology to maximize efficiency and performance.</p> <p>Internal illumination standards would continue to encourage darker backgrounds, but would do so with incentives (signs with darker backgrounds could be taller and larger than signs with lighter backgrounds). <u>Purpose:</u> Provide greater flexibility for businesses that wish to use “standard” corporate signage with light backgrounds, albeit it at smaller scale in some cases.</p> <p>Maximum light output would be set at 100 nits (a unit of brightness or luminance). <u>Intent:</u> This level is bright enough for the sign to serve its intended purpose without it becoming a distracting beacon.</p> <p>Nighttime illumination no longer allowed except for existing legally established signs. <u>Purpose:</u> Support energy conservation and dark sky goals.</p>

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.013 Accessory signs	Directional signs are regulated.	<p><i>Accessory sign</i> regulations would replace directional sign provisions. <u>Purpose:</u> <i>Reed</i> compliance – content neutral.</p> <p><i>Drive-through large accessory sign</i> provisions added. <u>Purpose:</u> This new sign type is recommended given the expectation that Fircrest will receive future applications for drive-throughs in the CMU zone.</p> <p><i>Internal sign</i> provisions added. <u>Purpose:</u> A new sign type is recommended given the expectation that Fircrest will receive future applications for larger-scale projects that could benefit from regulations governing internal signs such as wayfinding or directional signs. The “internal sign” type would be content neutral.</p>
22.26.014 Awning, canopy and marquee signs	One awning sign not to exceed 20 SF allowed. Classified as a secondary sign – two of which are allowed for a single tenant.	<p>One awning, canopy or marquee sign allowed per primary entrance to tenant space, plus one sign allowed per secondary entrance facing public street or parking lot.</p> <p>Maximum sign area based on percentage of building façade length specified in Table 3 in Section 22.26.023 (wall signs). Maximum wall sign area applies to the combined area of all wall signs plus awning, canopy and marquee signs.</p> <p>Not allowed in Group 2 residential areas.</p> <p><u>Purpose:</u> Provide more explicit design standards to improve sign design quality and legibility while also providing greater latitude in terms of number and size. Practical result may be that some businesses will qualify for more signage that existing code would allow.</p>
22.26.015 Changeable copy signs	One reader board sign not to exceed 20 SF allowed. Classified as a secondary sign – two of which are allowed for a single tenant.	<p>Changeable copy signs may be used in lieu of, or as part of, freestanding signs and wall signs, subject to limits on number, size, height and location.</p> <p>Not allowed in Group 2 residential areas.</p> <p><u>Purpose:</u> Provide more explicit design standards to improve sign design quality and legibility while providing greater opportunity for their use.</p>

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.016 Digital signs	Freestanding "changing" signs allowed in C zones.	Digital (changing message) signs allowed in nonresidential zones and on nonresidential properties subject to size, brightness, motion/programming limits. <u>Purpose:</u> Provide more explicit design standards to minimize potential visual impacts.
22.26.017 Freestanding signs	One freestanding "static" sign not to exceed 60 SF per single tenant building. One freestanding "static" sign not to exceed 60 SF per 150' of frontage - multiple tenant building. Internally lit signs shall minimize luminance transmittance so that signs have predominantly darker backgrounds with lighter lettering or symbols. 10' maximum height.	One freestanding sign allowed per 150 feet of frontage regardless of number of tenants or buildings. 150-foot separation required for multiple signs. Variable size limits (area and height) based on frontage length. Properties with longer frontages qualify for larger/taller signs. Variable size limits also based on lightness/darkness of sign background. Darker backgrounds qualify for taller/larger signs. Size range from 24 SF/4' height (light background on frontage <100 feet) to 60 SF/8' height (dark background on frontage >275 feet). Monument design required. Signs ≥6' in height require substantial framing, including top, middle and bottom elements. Signs <6' are exempt from framing requirement. Sign copy must be at least one foot above grade to allow for required landscaping at base. <u>Purpose:</u> Accommodate tenants wishing to use "standard" corporate signage, provide incentives to use preferred signage (darker backgrounds), establish more stringent design standards for taller monument signage to enhance community character. Keep signage more in scale with properties.
22.26.018 Portable signs	Temporary portable reader board signs allowed for special events for schools, churches, parks and businesses limited to 4' height and 18 SF area.	Allowed to be displayed during business or operating hours only. Must be durable material (not made of temporary sign material). Not allowed in Group 2 residential zones unless classified as temporary signs. Sandwich board and pole-mounted signs limited to 4' height and 3' width. One sign per tenant, located within 12' of primary building entrance or, if the building is visually obscured, may be placed along street frontage with 50' separation and owner permission. Feather signs permitted in lieu of sandwich board or pole-mounted sign. Limited to 13' height. Spacing no closer than 100 feet apart. All properties may qualify for a feather sign regardless of frontage length. Permitted only in the CMU Zone. <u>Purpose:</u> Provide more flexibility for use of portable signs while ensuring the result is not excessive clutter.

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.019 Projecting signs	Projecting signs allowed in commercial districts. Limited to one sign not exceeding 30 SF.	<p>One projecting sign per tenant space or building frontage visible from street or customer parking lot. May be used in lieu of, or in addition to wall, awning, canopy or marquee signs. 12 SF maximum area. Maximum projection 8' when horizontal orientation used. Maximum projection 42" to 5' when vertical orientation used. Minimum spacing 25'.</p> <p><u>Purpose:</u> Encourage use of projecting signs subject to explicit design standards.</p> <p>Banner signs allowed w/ spacing closer than 25' when integrated w/ building.</p> <p><u>Purpose:</u> Encourage use of artistic statements achieved through signage.</p>
22.26.020 Service Island signs	Fuel price informational signage permitted up to 2 SF. Other signs regulated as wall signage (up to two 20 SF signs allowed).	<p>One sign on canopy per street frontage, not to exceed 20% of the area of canopy fascia.</p> <p>Spandrel and canopy support signage limited to 20% of area of spandrel and canopy support area. The combined area of these signs is subtracted from the wall sign area otherwise permitted on the principal building on the site.</p> <p><u>Purpose:</u> Added flexibility for larger facilities.</p>
22.26.021 Temporary signs	Regulated by sign type (sandwich, window, wall banner), location/activity, (open house, special event, R or C zones, and political. Typically limited to 4' height, 6 SF, and 1-4 signs per site depending on use.	<p>Temporary signs must be made of non-durable materials and are limited to 180 days.</p> <p>Size (height and area) and placement standards vary depending on location – city property, city street ROW outside of the roadway (area designed for vehicular travel), residential areas, and non-residential areas.</p> <p>Regulations provided for temporary window signs (e.g., 10% of window covered by signage), freestanding signs (8 SF, 4' in height, at least 100 feet apart), and surface mounted signs (32 SF attached to walls, fences, etc. in commercial areas).</p> <p><u>Purpose:</u> <i>Reed</i> compliance – content neutral.</p>
22.26.022 Under-canopy signs	Not directly regulated	<p>One sign per entrance allowed under awnings, canopies or marquees in commercial zones. 8' clearance required under sign. May be used in lieu of, or in addition to, wall, awning, canopy or marquee signs.</p> <p><u>Purpose:</u> Provide another means by which to highlight entrances in a safe and effective manner.</p>

Sign Regulation	Current Sign Code	Proposed Sign Code
22.26.023 Wall signs	Single or multi-tenant building may have one principal wall sign up to 80 SF or two secondary wall signs up to 20 SF each.	<p>No distinction made as to primary or secondary signage.</p> <p>Variable area based on building façade length. Properties with longer facades qualify for larger area. Variable area also based on lightness/darkness of sign background. Darker backgrounds qualify for larger area.</p> <p>Size limit for light background sign -- 1.5 sf of sign area per linear foot of storefront, tenant space, or building wall, not to exceed 75 sf. See Table 3.</p> <p>Size limit for dark background sign – 2.0 sf of sign area per linear foot of storefront, tenant space, or building wall, not to exceed 100 sf. See Table 3.</p> <p>Design standards govern location/placement on building so as to avoid conflict with important architectural details.</p> <p><u>Purpose:</u> Provide more explicit design standards to enhance community character. Provide greater flexibility by not limiting the number of individual signs and by allowing more signage on larger buildings on a proportional basis.</p>
22.26.024 Window signs	Regulated as limited duration signs. Maximum 25% window coverage.	<p>Window signs are included in the wall sign maximum area limits set forth in Section 22.26.023. In addition, standards and guidelines set forth in FMC 22.64.020 Display Windows apply where applicable.</p> <p>Solid or opaque backgrounds not allowed.</p>
22.26.025 Exemptions	Numerous categories exempted.	<p>Categories revised per Model Sign Code.</p> <p><u>Purpose:</u> Generally for <i>Reed</i> compliance – content neutral.</p>
22.26.026 Prohibited signs	Numerous categories prohibited.	<p>Categories revised per Model Sign Code.</p> <p><u>Purpose:</u> Generally for <i>Reed</i> compliance – content neutral.</p>
22.98 Definitions	Terms defined in Definitions chapter.	<p>Definitions added, deleted and modified to reflect proposed sign code provisions.</p> <p><u>Purpose:</u> Generally for internal code consistency.</p>