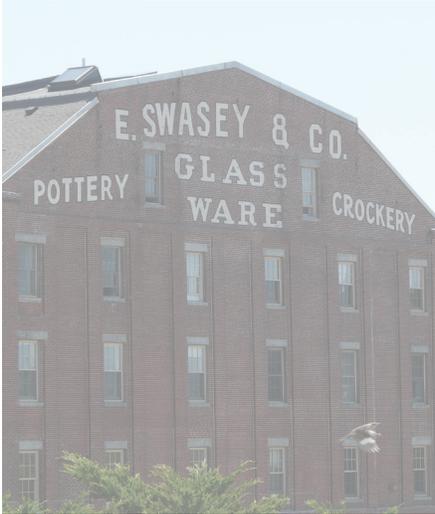


SIGN CODE AUDIT & RECOMMENDATIONS REPORT

DIVISION 22, SIGNS

City of Portland, ME



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Table of Contents

- A. Introduction..... 3**
 - 1. Purpose and Intent of Report.....3
 - 2. Overview of Report4
 - 3. Summary of Recommendations5
- B. Principles of Sign Regulation 7**
 - 1. Content-Neutral Time, Place, and Manner Regulations7
 - 2. Overview of *Reed v. Town of Gilbert* sign case.....8
 - 3. Implications of *Reed v. Town of Gilbert* to the City of Portland.....9
- C. Portland Comprehensive Plan; Applicable Goals and Implementation Strategies..... 12**
 - 1. Historic Resources..... 12
 - 2. Waterfront..... 12
 - 3. Economy 13
 - 4. Recreation and Open Space 13
 - 5. Transportation..... 13
 - 6. Future Land Use 14
- D. Analysis of Existing Sign Regulations, Division 22 Signs 16**
 - 1. Background 16
 - 2. Division 22 (Signs)..... 17
- E. Analysis of Other Documents Related to the Sign Code.....34**
 - 1. Introduction 34
 - 2. Article III (Zoning)..... 34
 - 3. Article V, Site Plan..... 35
 - 4. Article IX, Historic Preservation 36
 - 5. Article X, Alternative Energy..... 39
 - 6. Chapter 25, Streets, Sidewalks and Other Public Places 39
 - 7. City of Portland Design Manual..... 40
- F. Summary of the Stakeholder Interviews and the Community Workshop ..41**
- G. Proposed New Table of Contents44**
- H. Conclusion and Next Steps46**

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A. Introduction

1. Purpose and Intent of Report

The City of Portland has a long history of comprehensive and long-range planning. This is reflected in the recently adopted *Portland's Plan 2030* (Comprehensive Plan). The Comprehensive Plan's vision is comprised of six interconnected themes which provide the foundation for the City's policies and priorities (See Figure A.1).



Figure A.1: Portland's Plan 2030 vision statement

The placement, quality, size, and design of signs on private property compliments and contributes to the envisioned character and aesthetic appeal of a community. Well-designed signs can promote and accomplish the policies of the Comprehensive Plan, support the local economy by helping to ensure local businesses are successful, provide safe and attractive signage for all uses, and promote the free flow of pedestrian and vehicular traffic.



Figure A.2: Example of painted wall signs in Downtown Portland



Figure A.3: Example of a well-designed projecting sign

The City of Portland hired Lisa Wise Consulting, Inc, (LWC) to revise its Sign Code to ensure that a clear, concise, user-friendly, well-illustrated, and legally-defensible code may be adopted. As part of this work, LWC will also ensure that the sign regulations are consistent with the City's goals, objectives and policies as reflected in the Comprehensive Plan.

2. Overview of Report

This Sign Code Audit and Recommendations Report is included in Task 1.4 (Sign Code Diagnosis and Recommendations Report) of the project to update the City of Portland's existing sign regulations.

The Code Audit includes a summary of general recommendations and an overview of the legal principles that municipalities must follow to adopt a legally-defensible and constitutionally sound sign code. Thereafter, a comprehensive audit of the City's current Sign Code, including regulations related to signs located outside Division 22 (Signs), will identify where amendments are required, where new regulations are recommended, and what current regulations may be carried forward, updated and expanded as needed. The Code Audit does not include specific text amendments as these will be provided in Task 2 (Preparation of Sign Code Standards). A summary of comments provided in the July 9, 2018 stakeholder interviews and community workshop are included, as well as a draft annotated outline of a recommended Table of Contents for the updated Sign Code. This has been formatted to fit within the draft Table of Contents for the *ReCode* Land Use Code update project. The report concludes by describing next steps for the eventual successful adoption of an updated Sign Code for the City.

3. Summary of Recommendations

The technical review of the City of Portland's Sign Code includes numerous recommendations for stylistic and content revisions to the Code to ensure it meets the City's goals. The key recommendations of this technical review are outlined below in no particular order of importance.

- The primary goal of the updated Sign Code is to ensure that all sign regulations are legally-defensible and consistent with applicable federal and State requirements including the U.S. Supreme Court's decision in the *Reed v. Town of Gilbert* sign code case. The updated Sign Code will rely on existing administrative procedures and standards as much as possible, while ensuring that a clear, concise, user-friendly, and well-illustrated Sign Code is produced.
- Develop a new simplified and reorganized Table of Contents for the Sign Code to make it easier for City staff, sign industry professionals, and Portland residents to read, use, and apply (See Section G. (Proposed New Table of Contents)).
- Consolidate as much as possible all sign regulations located outside of Division 22 (Signs), including regulations in Article IX (Historic Preservation), Article V (Site Plan), the City of Portland Design Manual, Article III (Zoning), and Article X (Alternative Energy) into a unified Sign Code so that all sign rules are accessible in one place. Cross-references will be updated as necessary.
- The administrative and permitting provisions will be updated and modernized as needed, redundancies and duplication of procedures will be removed, and cross-references to the City's existing administration and procedures sections will be included.
- Revise and update the definitions to ensure all new terms are defined, existing content-based terms are updated or removed, and redundant terms are excluded. For now, all sign-related definitions will be included at the end of the draft Sign Code so that they can be moved into the new Definitions Chapter of the updated Land Use Code at the appropriate time.
- Develop easily understandable regulations supported by simple illustrations to explain the general requirements for all signs, including for example, sign area and height measurement for building mounted and freestanding signs and sign illumination.
- A new approach for presenting the standards for signs is recommended, based on a clear distinction between permanent and temporary signs. Updated standards for permanent signs using the City's existing standards for calculating the quantity and area of signs organized by zoning district are recommended as these base standards generally appear to meet the City's signage needs.
- The City's existing sign design guidelines will be updated and expanded to ensure that all signage is consistent with the City's aesthetic values.

- Allow for increased flexibility in the sign standards to allow for variations in site layout and building design.
- Ensure that Portland's signs contribute to and reinforce the City's historic character and architecture, particularly within historic districts.
- Sidewalk signs appear to be important to promote a vibrant and active streetscape in certain areas of the City, such as within the downtown, within historic districts, and along the wharves.
- Include updated standards reflecting the City's desire to protect the night sky and minimize glare and light pollution.
- Include standards that reflect the utilization of current sign technologies (e.g. standards for electronic message centers (EMCs) and LED lighting) and to promote energy conservation.

B. Principles of Sign Regulation

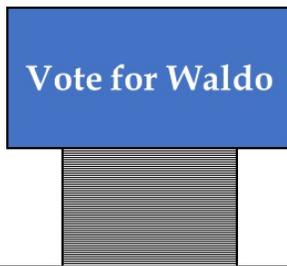
1. Content-Neutral Time, Place, and Manner Regulations

For many years, U.S. courts have affirmed that sign regulations must be “content-neutral” to survive a legal challenge. For a sign regulation to be content-neutral, the sign code must be based on “time, place, and manner” restrictions, rather than by making distinctions based on the message the sign conveys. Time, place and manner restrictions, as the name suggests, limit the length of time, the manner, and place or location of the sign. As an example, well-written sign regulations may include a limitation on the length of time they may be displayed, especially for portable or temporary signs, such as A-frames or banner signs; restrictions on the total area of a sign, its height, and how the sign may be illuminated or designed; and where the sign may be placed (i.e. not to encroach within public a right-of-way).

The challenge for the City of Portland is how to update the Sign Code and related regulations in such a way that it reflects a careful balance of community tolerance for risk and the community’s desire for aesthetic considerations.

Content-Based Regulation

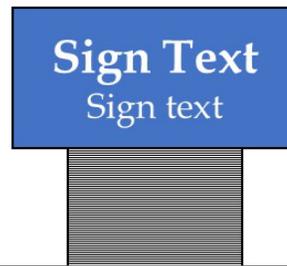
- What does sign say?
- Message determines if it stays up or down, or applicable regulations



“Political Sign”

Content-Neutral Regulation

- Time
- Place
- Manner



“Freestanding Sign”

Figure B.1: The distinction between a content-based and a content-neutral sign

2. Overview of *Reed v. Town of Gilbert* sign case

Following the U.S. Supreme Court's decision in *Reed v. Town of Gilbert* in June 2015, regulating signs in a content-neutral manner to satisfy First Amendment limitations became more difficult for local governments. In this landmark First Amendment case available here - www.supremecourt.gov/opinions/14pdf/13-502_90lb.pdf - all nine Supreme Court justices agreed that the Town of Gilbert, Arizona's, Sign Code failed the First Amendment's content neutrality requirement.

The Town of Gilbert's Sign Code distinguished among a variety of categories of signs, and it provided different regulations for "political signs," "ideological signs," "directional signs for qualifying events," "real estate signs," and others. The pastor for a local church placed temporary signs in street rights-of-way to advertise religious services, but the Town's enforcement staff enforced its Sign Code against the church's temporary signs. Consequently, the church filed a challenge to the Town's Sign Code. The federal district court upheld Gilbert's Sign Code on summary judgment, a decision that was affirmed by the Ninth Circuit Court of Appeals. The Town then appealed to the U.S. Supreme Court.



Figure B.2: One of the signs at issue in the *Reed* case

Source: *New York Times, Justices Side with Arizona Church in Dispute over Sign Limits*

The U.S. Supreme Court heard this case in 2015, (it was the first Supreme Court case to address local sign regulations in over twenty years). Six justices agreed that Gilbert's Sign Code improperly distinguished between types of noncommercial speech based on the subject matter of the speech, i.e. the Code was facially content-based. The reason behind this decision is that Gilbert's Sign Code made several exceptions to the permitting requirement for signs, including, for example, exceptions for "political", "ideological", and "temporary directional signage for qualifying events", and regulated each of these forms of signage in different ways. A majority of the Court found that these distinctions

were regulated based on the signs' content, which is prohibited under the Court's First Amendment doctrine.

Further, because Gilbert's Code regulated signs based on the content or message of speech, the Code was, therefore, subject to what is called a "strict scrutiny" standard of review. Strict scrutiny requires that a compelling governmental interest must be demonstrated and that the regulations must be narrowly tailored to serve that compelling governmental purpose. The Court found that the Town failed to meet this standard and held that Gilbert's Sign Code was invalid. On the other hand, a regulation that is "content-neutral" is subject to "intermediate scrutiny", i.e. the regulation furthers a significant or important governmental interest that is unrelated to the suppression of speech, is narrowly tailored, and it provides ample alternative channels for communication.

Since the *Reed* decision, several lower courts have invalidated content-based regulations of noncommercial speech, particularly those relating to political signs (e.g. *Marin v. Town of Southeast*). The lower courts have also upheld several examples of content-neutral time, place, and manner regulations, including restrictions on painted wall signs (*Peterson v. Village of Downers Grove*) and a New York City prohibition on illuminated signage extending more than 40 feet above curb level (*Vosse v. City of New York*). In *Central Radio, Inc. v. City of Norfolk*, the lower court looked unfavorably at specific exemptions for artwork, and based on this decision, some cities have also chosen to not include flags within their sign regulations as they could be considered an ideological message (See further discussion below).

3. Implications of *Reed v. Town of Gilbert* to the City of Portland

The U.S. Supreme Court's decision in *Reed* has emphasized the need for local governments to ensure that their sign regulations are content-neutral. Interestingly, there is a divergence of opinions on what this means, and some First Amendment observers have suggested that the result in *Reed* will encourage local governments to take a more cautious approach to sign regulation that may more broadly suppress speech, while others predict that the decision will result in more freedom for sign owners to display signs with various messages.

In response to the *Reed* decision, and as a general recommended practice, the City of Portland's Sign Regulations should be amended to include several general provisions and principles intended to ensure they are constitutional, as listed below:

1. Include in the Code's Purpose Section confirmation that it is the City's intent to regulate signs and enforce the regulations in a content-neutral manner;

2. Make sure that the Purpose statements are clear and are linked to the regulations and to the City's Comprehensive Plan;
3. Review the sign permitting procedures to ensure they have a narrow focus, a review timeframe that is as short as possible, and the updated code includes clear and enforceable standards against which permit applications can be reviewed.
4. Reduce the number of exceptions as much as possible;
5. Add a substitution provision stating that a noncommercial message may be substituted for any commercial message to protect the City from mistakenly prohibiting the display of a non-commercial message (e.g. a sign with a political or real estate message), where a commercial sign would otherwise be allowed;
6. Establish regulations for signs based on the zoning districts in which they are located (i.e. residential, industrial, or commercial), and ensure the standards are based on the actual sign type and structure, rather than the message it conveys, e.g. regulate freestanding signs as "pylon signs", "monument signs", or "yard signs";
7. Limit regulations to only those which are enforceable and necessary for balancing property owners' needs with the public's interest in maintaining community character.
8. As much as possible, establish consistent standards for temporary and portable signs based on the zoning district in which they are to be located (i.e. residential or non-residential), and ensure the standards are based on the actual sign type and structure, rather than the message it conveys, e.g. regulate A-frame/sandwich board signs, feather signs, or banner signs;
9. Ensure that all words and phrases are clearly defined to enable consistent understanding and application of the sign regulations;
10. Include a severability clause for the Sign Code in addition to a severability clause for the entire Land Use Code;
11. Engage diverse community interests in the process of drafting the new sign regulations, such as business owners, sign makers and installers, residents, community groups, etc. The City has already initiated this outreach through the stakeholder interviews and the community workshop held on July 9, 2018 and will continue to engage with the interested residents in the months ahead as the Sign Code is developed and eventually presented for public review towards the end of the year.
12. As documented below, the existing sign code includes some content-based sign regulations. It is recommended that City planning staff consult

with the City's legal counsel to determine if enforcement of the City's existing sign provisions should be suspended (especially the enforcement of content-based standards) until the Sign Code is updated and content-based issues are resolved.

C. Portland Comprehensive Plan; Applicable Goals and Implementation Strategies

The City of Portland's Comprehensive Plan, *Portland's Plan 2030* adopted June 2017, establishes a comprehensive and long-term vision for the community. Six Policy Guides in the Portland 2030 Plan, including Historic Resources, Waterfront, Economy, Recreation and Open Space, and Transportation are directly related to the Sign Code.

1. Historic Resources

The Historic Resources Policy Guide supports policies to preserve Portland's rich community character and history. Goals that apply directly to and affect the implementation of sign regulations include:

- Promote historic preservation as a key economic, sustainability, and community development strategy; and
- Stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development.

As amendments to the Sign Code are developed, consideration will need to be given to Portland's historic districts to ensure that signs complement the character of these places.

2. Waterfront

The Waterfront Policy Guide supports policies that ensure the continued opportunities and functional autonomy for marine economic activity and allow for private investment in pier and wharf infrastructure. Goals that apply directly to and affect the implementation of sign regulations include:

- Prioritize and promote Portland's unique mix of water-dependent, marine-related uses and compatible non-marine uses;
- Celebrate, promote, and protect Portland's lobster and fishing industry as a foundation of the region's economy and a feature of civic pride.

The Sign Code will address the challenges of commercial activity, while carefully balancing the needs of the commercial fishing industries and waterfront recreation.

3. Economy

The Economy Policy Guide focuses on business-based strategies for job creation, physical improvements, and grants for small businesses. Goals that apply directly to and affect the implementation of sign regulations include:

- Create economic prosperity by growing Portland's tax and employment base.
- Value innovation and creativity as cornerstones of the local economy and as central to Portland's uniqueness and diversity.
- Reinforce the waterfront as a key component of Portland's economic health, balancing traditional and emerging industries with tourism and recreation.

This Policy Guide emphasizes the need for aesthetic improvements to the City's commercial corridors to increase economic activity and encourage innovation and creativity.

Proposed amendments to the Sign Code will focus on enriching the visual character of commercial corridors in the City.

4. Recreation and Open Space

The Recreation and Open Space Policy Guide assures that public spaces a central part of community life and envisions them as centers of art, culture, and community gatherings. Portland's goal for recreation and open space is to "provide high-quality, well-designed, well-maintained, safe, and integrated parks, trails, public open spaces, and recreational opportunities accessible to all residents." Portland is committed to developing "uniqueness" when it comes to open space with specific implementations strategies focused on incorporating "creative design, public art, and placemaking wherever possible to enhance aesthetic value." Another implementation strategy is to "employ consistent signage to reflect distinct identities of elements of the open space system, as well as aid in wayfinding, while respecting historic district and neighborhood branding initiatives."

The proposed amendments to the Sign Code will as much as possible encourage creative design for signs in parks and open spaces while respecting the City's desires for minimizing visual clutter in City parks and maintaining cultural and historic character.

5. Transportation

The Transportation Policy Guide promotes a more walkable Portland by "invest[ing] in a walkable city through sidewalk maintenance, accessibility improvements, trail and path connections, snow clearance, lighting, landscaping,

traffic calming, enhanced street crossings, strong urban design, artistic elements, and wayfinding.”

The proposed amendments to the Sign Code will assist in enhancing the pedestrian realm for pedestrians and cyclists and will help keep Portland’s sidewalks unobstructed and visually pleasing for pedestrians, by for example, ensuring that signs are appropriately scaled for pedestrians.

6. Future Land Use

Portland 2030’s plan for Future Land Use identifies goals, objectives, and policies to shape the future physical development of Portland to preserve, protect, and enhance Portland’s current quality of life. While many of these goals and policies may be broadly interpreted to apply to and affect the implementation of the City’s sign regulations, a few directly apply to signs, including the City’s urban design principals which define Portland’s physical character is “by a distinctive relationship between its topography, building character and fabric, and the natural landscape.” The City recognizes the importance of providing excellence

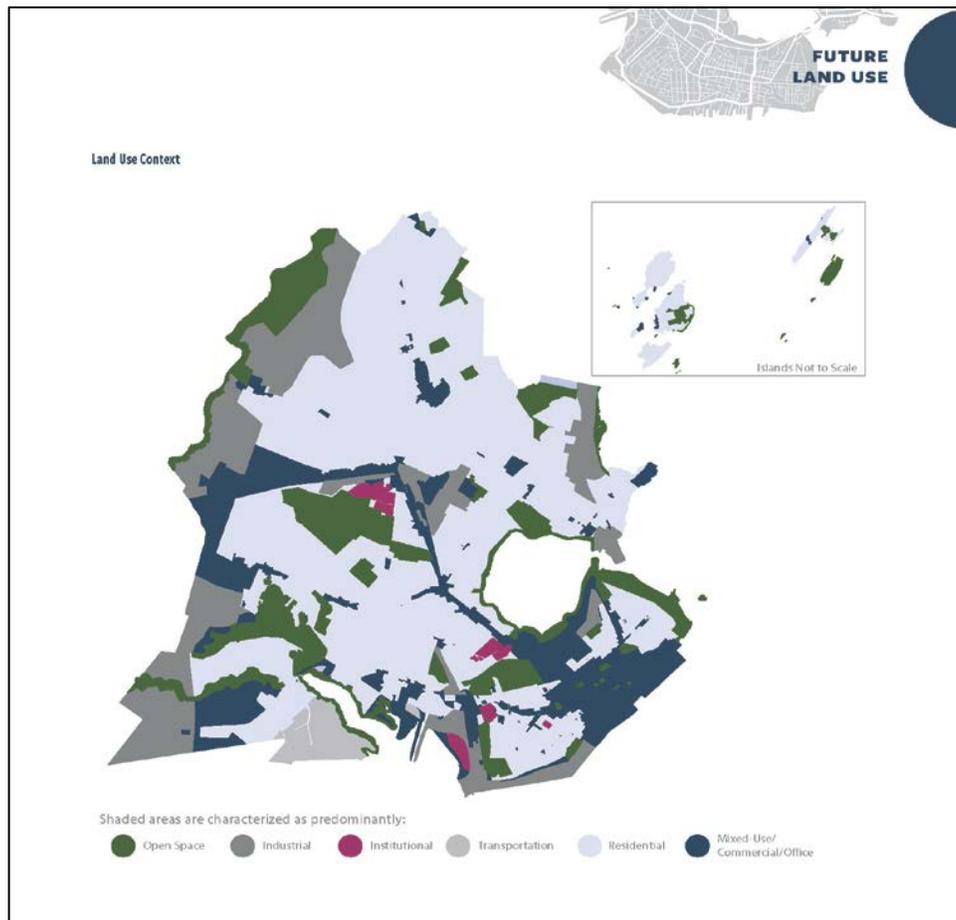


Figure C.1: Portland’s Land Use Context

in “architectural quality and urban design commensurate with the image of Portland in history and today” as the City continues to grow.

The Future Land Use chapter also identifies priority nodes, areas of concentrated mixed-use activity, and priority corridors that highlight key corridors in the City. These elements, along with the waterfront, comprise of Portland’s priority growth areas and indicate where new development would be appropriate for Portland. Finally, five land use principles are identified as illustrated in Figure C.2 and summarized below:

- One Portland;
- Complete Neighborhoods;
- Reinforce the Center;
- Support Our Waterfront; and
- Connect the Chain

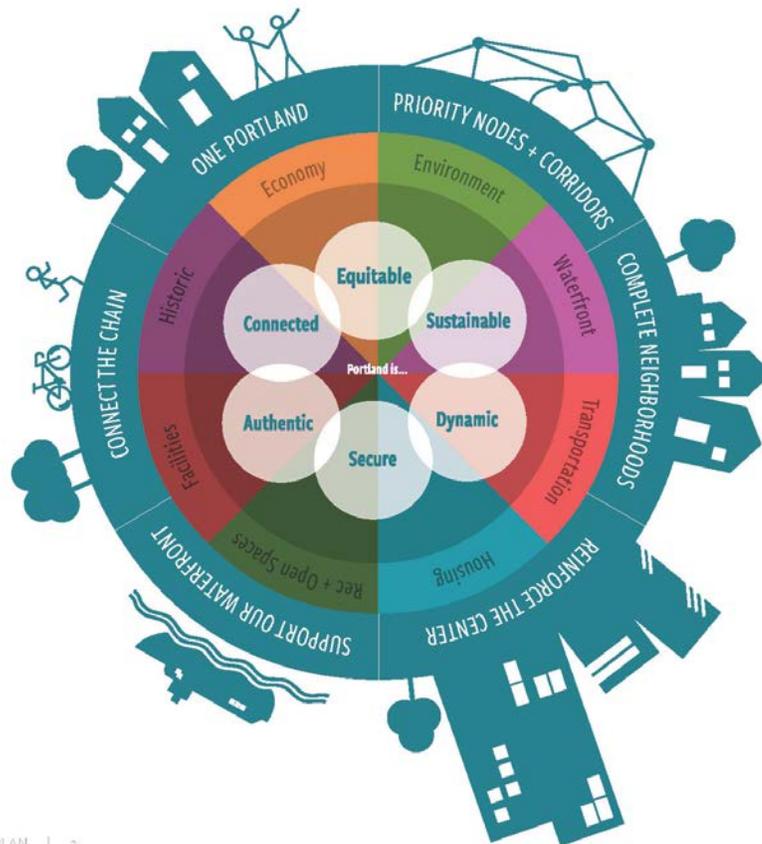


Figure C.2: The graphic illustrating the vision and land use principles in Portland's Plan 2030

D. Analysis of Existing Sign Regulations, Division 22 Signs

1. Background

Portland is currently undergoing a comprehensive update to the City's Land Use Code. Called the *ReCode*, its primary outcome will be to develop a new and accessible land use code that will provide a framework through which the vision of *Portland's Plan 2030* will be realized. Based on the draft Table of Contents provided by City staff in August 2018, the new Chapter 14 (Land Use Code) will be reorganized into the following Articles:

- 14-1: Introductory Provisions
- 14-2: Administration
- 14-3: Definitions
- 14-4: Nonconformities
- 14-5: Zones
- 14-6: Use Standards
- 14-7: Dimensional Standards
- 14-8: Overlay Zones
- 14-9: Shoreland Zone
- 14-10: Flood Plain Management
- 14-11: Site Plan Standards
- 14-12: Subdivision Standards
- 14-13: Impact Fees
- 14-14: Historic Preservation
- 14-15: Housing
- 14-16: Parking
- **14-17: Signs**
- 14-18: Alternative Energy
- 14-19: Public Art
- 14-20: Home Occupations
- 14-21: Regulations of Explosives

The Sign Code will be the first Article based on Division 22 (Signs) of the current code to be comprehensively updated as part of the *ReCode* update project. There are also standards and regulations specific to signs in the following locations in the City Code:

- Chapter 14 (Land Use):
 - Article III (Zoning);
 - Article V (Site Plan);
 - Article IX (Historic Preservation);
 - Article X (Alternative Energy);
- Chapter 25 (Streets, Sidewalks and Other Public Places); and
- The City of Portland Design Manual.

2. Division 22 (Signs)

The majority of Portland’s Sign Regulations are located in Division 22 (Signs) of the City Code which is organized in 12 separate sections as shown in Table D.1.

Table D.1: Existing Division 22 (Signs)	
Section	Purpose
14-366 - Purpose.	Describes the purpose of the Division.
14-366.5. Applicability.	Provides broad applicability statements including that a sign placed in the City must comply with the requirements of the Sign Code.
14-367 - Definitions.	Defines the terms used throughout the Sign Code.
14-368. Regulations.	Describes permitting, construction and maintenance standards for signs.
14-368.5. Permits.	Establishes the procedures and requirements for filing applications for permits and other approvals.
14-369. Computations.	Describes the calculations for the area, height, and number of signs.
14-369.5. Tables.	Describes the types of signs permitted in each zone, when permits are required, and standards for each sign type.
14-369.6. Signs prohibited under this division.	Prohibits signs not otherwise permitted in this Division

Table D.1: Existing Division 22 (Signs)

Section	Purpose
14-370. Portable/temporary signs.	Lists the requirements for portable and temporary signs.
14-371. Exemptions.	Lists the sign types that are exempt from this Division.
14-372. Nonconforming signs.	Establishes the standards and procedures applicable to nonconforming signs.
14-372.5. Violations and enforcement	Establishes that failure to comply with Division 22 (Signs) is a violation and subject to penalties and grants the building authority with the responsibility for enforcement of the Division.

The existing provisions of Division 22 (Signs) have been reviewed and analyzed in the order in which they are found in the current Code. Analytical comments, suggestions, and recommendations are identified by *italic* font while references to the need for additional discussion with City staff and the City’s legal counsel are indicated by a small City logo. The recommendations frequently refer to a new Section to be included in the Sign Code. An overview of the recommended Table of Contents is included in Section F. (Proposed New Table of Contents).



DIVISION 22, SIGNS

Sec. 14-366. Purpose

This Section establishes the purpose of the Sign Code. Four specific policy statements apply to the regulation of signs.

- *This Purpose Section will be expanded and updated to ensure consistency with the Reed case and should include, for example, confirmation of the City’s intent to regulate signs in a content-neutral manner.*
- *A new Authority Section before the Purpose Section may be included in the updated draft of the Sign Code to establish the authority for the City of Portland to implement the City’s sign regulations under applicable state law – to be confirmed with the City’s legal counsel.*



Sec. 14-366.5. Applicability

This Section provides that a sign placed in the City must comply with the requirements of the Sign Code. Further, it includes regulations for the removal of commercial signs when a business closes, except that painted wall signs of historic significance are exempted.

- *An expanded Applicability Section will be included in the updated Sign Code Draft, and it is recommended it be broadened to include:*
 - *A statement that the Sign Code applies to all signs within the City limits;*
 - *A cross-reference to the permanent and temporary/portable sign sections of the updated Code;*
 - *The right to picket or protest (New); and*
 - *A new Subsection - Substitutions and Interpretations - to address that commercial speech is not favored over non-commercial speech. (New)*
- *The provisions for Exempt Signs currently included in Section 14-371 will be included here. It is very important to limit the number of exemptions as much as possible. There are a few Reed issues to resolve in the current Code regarding Exempt Signs to ensure the updated Code includes content-neutral standards and is consistent with the US Supreme Court's decision, e.g. political signs.*
- *The existing applicability language in the first paragraph will be retained and updated as needed.*

Sec. 14-367. Definitions

This Section defines the terms used throughout the Sign Code.

- *This Section will be inserted at the end of the updated Sign Code so that, assuming all definitions are included in the Definitions Chapter of the new Land Use Code, they can be removed from the Sign Code without impacting the numbering system.*
- *As the Sign Code is updated it will be important to consider the following:*
 - *Ensure that all definitions are Reed complaint and do not use content-based language, i.e. phrases that include "advertising" or "business", as examples.*
 - *Similarly, sign types that are defined by a specific use or activity, such as "real estate/construction/for sale or lease signs", etc. will be excluded.*
 - *When appropriate, clarifying illustrations or photographs will be included in the definitions.*
 - *Most definitions will be updated and, when needed, new definitions will be inserted. Definitions for terms that will no longer be used will be omitted. For example, as requested by staff, the definition of building identification sign will be updated to clarify (as much as possible given that the regulation cannot be content-based) that it should only include the name of the building and not the name of the occupant(s).*
 - *Any standards included in the existing definitions will be removed and inserted in the body of the updated Sign Code.*
 - *Terms currently included in this Chapter that are also defined in the Land Use Code (e.g. Department) will be removed.*

- *As requested by staff, the definitions will clarify the distinction between changeable copy signs and Electronic Message Center (EMC) signs or animated signs.*

Sec. 14-368. Regulations.

This Section establishes a wide range of sign regulations that cover the following topics:

- (a) A description of how and under what conditions signs are allowed on private property as provided in Table 1 of Section 14-369.5;
 - (b) Provisions for sign permits on private property, within public right-of-way, and for nonconforming signs;
 - (c) Sign design, construction and maintenance;
 - (d) Requirements for a signage plan;
 - (e) Exemptions to the prohibition on signs allowed in the public right-of-way;
 - (f) Signs in historic districts; and
 - (g) Signs in the Pedestrian Activities District (PAD) Overlay Zone.
- *With the proposed reorganization of the Sign Code, this Section will be removed, and the regulations will be moved into different sections and subsections. For example, all permitting requirements will be combined in a new Administration and Procedures Section as will the requirements for a signage plan, while the regulations specific to historic districts will be included in a new section specific to historic districts. Also, all exempt signs will be included in a new subsection of Applicability Section.*
 - *As noted by staff, clarification will be provided on what signs will be allowed without a permit.*

Sec. 14-368.5. Permits.

This Section establishes the procedures and requirements for filing applications for permits and other approvals.

- *This Section will be included and rewritten in the updated Sign in a new Administration and Procedures Section with an appropriate cross-reference back to the application procedures in the Land Use Code, Division 14-2 (Administration and Procedures).*
- *Appropriate provisions specific to signs now in Article V requirements of Article V (Site Plan) will be inserted into the updated Sign Code with a cross-reference from Article V to the Sign Code.*
- *In consultation with staff, the new Administration and Procedures Section will include updated appeals procedures specific to signs, and possibly provisions for sign variances.*



Sec. 14-369. Computations.

This Section describes the how the area for certain sign types is calculated (i.e. individual signs, multi-faced signs, and awning signs), how sign height is determined, and the number of signs that are allowed.

- *These standards, updated as needed and illustrated, will be included in a new General Requirements for All Signs section.*

14.369.5. Tables.

This Section is generally divided into two parts (i.e. Table 1 and Table 2 and following sub-tables) as described below:

- **Table 1** includes a comprehensive list of all sign types and whether or not they are permitted within the zoning districts. Sign types are divided into Freestanding, Building, and Miscellaneous Signs. Detailed notes with additional standards are included after Table 1.
- **Table 2** is a series of tables from Table 2.1 to Table 2.14 that provides standards (e.g. area, height, setbacks, number of signs) for Freestanding Signs and Building Signs arranged by zoning district and in one case (gas stations) by use. Other applicable regulations are included after Table 2 relating to historic districts, signs subject to site plan review under Chapter V (Site Plan), and signs in the Pedestrian Activities District (PAD) Overlay Zone.

The recommendations for this Section are divided into three general categories that include recommendations specific to Table 1 and Table 2, and general recommendations specific to the new proposed structure of the Sign Code.

- **Table 1:** *While the intent of this table is good in that it shows in a simple and structured manner what signs are permitted across the City's zoning districts, it is difficult to read, the legend is not intuitive, and the tables are hard to quickly comprehend. The several end notes (11) also make the standards in the table challenging to apply.*
- *A similar table may be inserted into the new code to show in what zones various sign types are allowed. However, it will be simplified, updated as necessary based on the final types deemed to be appropriate in Portland, and a distinction will be made between permanent and temporary/portable sign types.*
- *All signs that are prohibited will not be duplicated in the table, and they will be described in a new subsection (Prohibited Signs) within the General Restrictions for All Signs Section.*

- *As much as possible, the end notes will be simplified and reduced to the fewest number practicable by including the standards currently in the end notes into the sign code standards throughout the Sign Chapter. For example, end note (i) regarding window signs will be included with all the standards specific to window signs.*
- *The question of how and whether “flags” should be included in the Sign Code was discussed with City staff. This is because national flags can be considered ideological signs, and therefore, some communities have chosen to be silent on flags in their sign code, while others have decided that the risk of a potential challenge is low enough that they have been included as an exempt sign. For now, staff has confirmed that the Sign Code will be silent on flags.*
- **Table 2:** *The idea of providing separate tables for the sign standards applicable to each zoning district is good as it ensures that the Sign Code is based on a content neutral foundation. It is recommended that this approach will be carried forward into the update Sign Code with modifications as necessary. For example, in some zones revised standards may be appropriate (e.g. to address the setback requirement for freestanding signs) and will be presented for staff’s consideration. It is also conceivable that the standards will be combined into a single table organized vertically by zone and horizontally by standards for area, height, number of signs, etc.*
- *To ensure that the updated Sign Code is as content-neutral as possible, it is recommended that the sign standards for gas stations be removed and incorporated into the zone(s) in which gas stations are allowed. A new sign type (Service Island Canopy Sign) will also be added.*
- *The regulations for Ballfield Booster or Sponsor Signs will be incorporated into the new Standards for Temporary/Portable Signs Section.*
- *We recommend that the standards for scoreboards be removed from the sign code as these are presumably unique to City operated recreation facilities if they are reviewed and approved by the Recreation Director. This would also eliminate any content-based regulation specific to the area of the scoreboard that may be dedicated to commercial sign content. Further discussion with staff may be needed during the review of the Administrative Draft Sign Code.*
- *Our recommended approach, which is detailed below, will be to develop a table that establishes the maximum sign area, height and number of signs permitted by zoning district for the different types of building mounted and freestanding signs. Once the maximum area for signs for a building or property is established, then any combination of sign types that are either building mounted or freestanding signs may be allowed, provided the maximum area limitation is met. Separate tables will precisely define the standards applicable to each sign type. Recommendations on what sign types are appropriate based on the character and context of various areas of the City will also be developed.*
- *We further recommend that the standards should be pulled apart into two categories – Permanent Signs and Temporary Signs. This is important because*

based on the Reed decision - which was mostly germane to temporary signs - a higher standard of judicial review (strict scrutiny) applies to temporary signs than it does to permanent signs where only intermediate scrutiny may be applied.

- The Permanent Signs Section will be organized into residential zoning districts, commercial zoning districts, mixed-use zoning districts, and industrial zoning districts with further breakdowns by zoning district as needed. As an organizing principle it is good to provide broad standards for sign height and sign area that apply by zoning district (or as needed by use). Note that the actual method of determining sign area or height will be placed elsewhere in the update Sign Code in the General Requirements for All Signs Section. These standards would establish the maximum height and area limitations within each zoning district for building mounted and freestanding signs and would be established in a single Table. Portions of two example tables are inserted below. One of the tables from the City of Lompoc, CA (Figure D.1) utilizes zone-based distinctions only while the other table from the City of Flagstaff, AZ (Figure D.2) includes zones and use-based distinctions for these standards. Based on direction received from staff to allow more signage for institutional uses in residential zones than would otherwise be permitted for a residence, the Flagstaff approach will be pursued.

Table 17.108.060.A: Permanent Sign Standards for All Residential Zones ^{1,2}						
Sign Type	Maximum Number ³	Maximum Area	Maximum Height	Lighting Allowed?	Permit Required?	Additional Requirements
Flag	1 per parcel	35 sf	limited to the zone's allowable building height	external	yes	17.108.060.C.3.f
Monument Sign	1 per street frontage ⁴	24 sf	5 feet	Limited, external,	yes	17.108.060.C.4
	1 per parcel ⁵	4 sf	3 feet	down-directed	no	
Wall Sign	1 per street frontage ⁴	24 sf	Not displayed above the second story	Limited, external, down-directed	yes	17.108.060.C.9
	1 per parcel ⁵	4 sf			no	
¹ Not allowed in the R-1 or R-2 zones unless approved with a precise development plan. ² Parcels in the MU Zone that contain only residential uses shall be subject to the standards in this Table. ³ Additional signs may be allowed if approved with a Sign Program. ⁴ Allowed for signs identifying a multi-family building or complex by name and/or address. Only one 24 square foot sign is allowed per street frontage, which may be either a wall or monument sign. ⁵ Allowed for signs identifying or providing direction to the manager's office of a multi-family building or complex or similar directional signs.						

Figure D.1. Example of a table providing standards for permanent signs for all residential zones

Table 10-50.100.060.A: Standards for Permanent Signs by Use				
Land Use	Allowed Sign Types	Number of Signs¹	Max. Ht. (in ft.)	Max. Area (sq. ft.)
Single-family Residential or Duplex (includes Home Occupations and Bed and Breakfasts)				
	Building Mounted	1 ²	6	6
	Freestanding	1 ²	3	6
Single-family Subdivision, Multi-family Developments, Manufactured Home Parks				
	Building Mounted	1	4	2
	Freestanding	1 ³	6	24
	Landscape Wall	1 ³	4	24
Master Planned Communities				
	Building Mounted ⁴	N/A	N/A	N/A
	Freestanding	1 ³ per major vehicular entrance	8	36
	Landscape Wall	1 ³ per major vehicular entrance	8	36
Institutional Use in all Zones				
	Building Mounted ⁴	1	6	24
	Freestanding	1 ³	4	32
	Landscape Wall	1 ³	4	32
Non-Residential Use in Commercial or Industrial Zone – Live/Work, Single Tenant Building, and Detached Buildings within a Multi-Tenant Development or Shopping Center⁵				
	Building Mounted – Single Frontage ⁴	Limited by max. sign area	25	1 sq. ft. to 1 linear ft. of primary building frontage - 100 sq. ft. max.
	Building Mounted – Multiple Frontages ⁴⁶	Limited by max. sign area	25	1 sq. ft. to 1 linear foot of primary building frontage – 100 sq. ft. max. 1 sq. ft. to 0.5 linear foot of auxiliary building frontage – 80 sq. ft. max.

Figure D.2: Portion of a table providing standards for permanent signs for all various zones and uses within zones

Further discussion with staff may be needed during the review of the Administrative Draft Sign Code.

- The approach for improved organization suggested above will help to simplify and better organize the standards. As much as possible the existing standards included in Table 2 will be carried forward into the updated Sign Code, although as needed new or updated standards will be proposed, e.g. for signs on a corner of a building “not readily visible” at the same time. Also, updated standards for cabinet signs and where they are appropriate will be addressed.
- Miscellaneous signs in Table 2.14 (Gas Station Signs – All Zones Where Permitted): As recommended above, the standards for gas station signs will be incorporated into the zone(s) where this use is permitted. However, it is recommended that the

level of regulation for the amount of signage on individual gas pumps should be eliminated, although regulating “pump toppers” as a type of temporary sign may be appropriate.

- *It is also recommended that some allowance for “incidental signage” on buildings and structures should be included in the updated Sign Code to address, for example, exit signs, warning signs, credit card signs, etc.*

- *City Staff noted some specific issues with the existing sign code that warrant attention, greater clarity, and a balanced approach in the new code, including:*
 - *Signs on multi-level multiple-tenant buildings, specifically the need for regulations on where signs should be placed relative to the floor on which the tenant is located.*
 - *Off-premise signs (heads of piers, back parcels, A-frames). While there may not be consensus to prohibit A-frame signs on sidewalks it is important to resolve issues with clutter, placement, and enforcement.*
 - *Update and provide new standards for sign illumination that will be included in a new Section – General Requirements for All Signs, Illumination.*
 - *Address EMCs and in what commercial corridors they may be appropriate, under what conditions, and provide standards for brightness and frequency of message changes, and standards for appropriate quantity and scale of these signs.*
 - *Provide improved standards for B7/Bayside/Marginal Way.*
 - *Off-premise wayfinding signs within the public ROW to provide advertising opportunities for business located down an alley or wharf (Installation of these signs will most likely involve coordination with Portland Downtown as this agency, or others, may contribute to the installation and maintenance of these signs).*
 - *Table 2.8 – update the regulations on free-standing signs.*
 - *The restrictions on roof-mounted signs should be maintained.*
 - *Greater clarity on window signs, including neon signs.*
 - *Prohibit feather signs.*
 - *Clarify which signs are not regulated by the Sign Code – such as traffic, public wayfinding, public safety signage (this is addressed under 14-371, but will be expanded).*
 - *Distinction between pole banners and wall banners in definitions and approval process.*
 - *Include standards to allow legal non-conforming businesses in residential zones to have reasonable signage.*
 - *Make clear distinctions in the sign code between walkable and more auto-oriented environments where necessary, while ensuring quality visual character is maintained citywide.*

Sec. 14-369.6 Signs prohibited under this division.

This Section states that signs not permitted in this division or that are exempt under Section 14-371 (Exemptions) are prohibited.

- *A list of prohibited signs will be included in a new Prohibited Sign subsection in the General Requirements for All Signs Section.*

Sec. 14-370. Portable/temporary signs.

This Section establishes the standards for portable and temporary signs on private property and includes additional standards for freestanding portable and temporary signs. Additional provisions specific to portable signs in the public right-of-way and to exclude the area of portable and temporary signs from the area of permanent signs are also included.

- *As noted previously, it is important to make a distinction between permanent and temporary/portable signs because, based on the Reed decision which was mostly germane to temporary signs, a higher standard of judicial review (strict scrutiny) applies to temporary signs than it does to permanent signs where only intermediate scrutiny may be applied.*
- *The existing standards in Section 14-370 provide general standards for portable and temporary signs in a content-neutral manner (Some content-based temporary sign regulations occur in Section 14-370.7 – see the next bullet below).*
- *It is recommended that a substantially different approach to the updated Sign Code should be taken to ensure that all portable/temporary sign types are regulated under the same time, place, and manner regulations, regardless of the sign's message. In other words, temporary real estate signs, political signs, or commercial advertising signs must be regulated in the same way.*
- *Regulations for temporary or portable signs should, therefore, be placed into a separate Section of the updated Sign Code which will be organized as follows:*
 - *Include a separate and clearly written Purpose Section that specifically applies to temporary/portable signs.*
 - *For the purpose of this Section a temporary sign would include a wall banner which, because it is a de facto wall sign and cannot be easily removed when a business closes, will be an example of a temporary sign type for which a permit may be required so that the length of time that the banner is displayed can be regulated. As noted by staff, consideration will also be given to regulating banner size based on the size of a wall plane on which the banner may be placed, i.e. proportionally scale the size of the banner to the wall plane. Staff has also suggested that permits for Type II and Type III Yard Signs (See Figure D.3), may also be appropriate.*

Portable signs on the other hand, would include sign types that are not permanently attached to the ground, such as A-frame signs, Type I yard signs

(See Figure D.3), feather signs or vertical banners (See Figure D.4), umbrellas, etc. Certain types of portable signs, e.g. wind signs or feather signs, may be prohibited. Staff has recommended that permits should be required for A-frame signs, especially if they are placed within the public right-of-way in downtown Portland.

Type I Yard Sign



Type II Yard Signs



Figure D.3: Examples of Yard Signs

Type III Yard Sign



Figure D.4: Examples of Feather or Vertical Banner Signs

- *Include a Section that contains regulations applicable to all temporary/portable signs. These could include that only wall banners require a permit, a statement that portable signs are not subject to time limitations (only banners are), and location regulations for these types of signs.*
- *A Section specific to portable signs, arranged as a series of easy-to-use tables, would include time, place and manner standards for portable signs organized by zoning district, including for example, standards for period of use, prohibited elements, design and construction, number of signs, areas of signs, etc.*
- *The standard for area of signs is important because the Code would establish a maximum area for all portable signs that would be allowed on a parcel. As the maximum area for each type of portable sign is regulated, it is easy then for City staff to determine if too many signs are erected at any one time. As the message/content of the portable signs is not regulated, provided the maximum area limitation is satisfied, any combination of signs with an ideological, political or commercial message may be displayed at any one time.*
- *Similar to the approach for permanent signs, tables will be inserted that provide base standards by zoning district and for the height, width, area and other standards applicable to individual temporary and portable signs. A separate table would be inserted with standards for temporary wall banners. Staff has recommended that a standard should be included that a temporary or portable sign must be removed when the event or purpose for which it is displayed has ended. Examples of these tables are provided on the following pages.*

Table 16.07.030-A: Standards for All Portable and Temporary Signs on Private Property	
Applicable to All Zoning Districts	Standard
Placement	Must not create a hazard for pedestrian or vehicular traffic. Must not be placed on a sidewalk or pedestrian pathway. See Table 16.07.030-B (Standards for Specific Portable and Temporary Sign Types).
Height and width	Refer to Table 16.07.030-B (Standards for Specific Portable and Temporary Sign Types) for height and width standards for individual portable and temporary signs.
Prohibited elements	Any form of illumination, including flashing, blinking, or rotating lights. Animation. Reflective materials. Attachments, including, but not limited to, any balloons, ribbons, loudspeakers, etc.
Design and construction	Professionally crafted. Of sufficient weight and durability to withstand wind gusts, storms, etc. Must be maintained. Refer to Subsection 16.04.050.C (Maintenance).
Commercial, Industrial, and Other Non-Residential Zoning Districts	
Period of use	No limitation, except for wall banners and A-Frame Signs. Refer to Table 16.07.030.B (Standards for Specific Portable and Temporary Sign Types).
Area of all portable signs at any one time	Max. 24 SF per business; excludes the area of temporary window signs and temporary wall banner signs.
Number of Signs	Unlimited; except the total sign area of all portable signs must not exceed 24 SF per business. Exception: Multi-tenant shopping centers or offices – Max. 2 portable signs per 150 linear feet of property frontage not to exceed 24 FT combined.
Permitting	Sign Permit is not required, except for wall banner signs.
All Residential Zoning Districts	
Period of use	No limitation.
Area of all portable signs at any one time	Max. 16 SF per lot or parcel.
Number of Signs	Unlimited; except the total sign area of all portable signs must not exceed 16 SF
Permitting	Sign Permit is not required.

Figure D.5: An example of a table with standards for temporary/portable signs arranged by zoning district

Table 16.07.030-B: Standards for Specific Portable and Temporary Sign Types				
	Standard			
Portable Sign Type ¹	Height (Max.)	Width (Max.)	Area (Max.)	Zoning District where Allowed
A-Frame Sign	42"	24"	7 SF	Only allowed in non-residential zoning districts.
Additional Standards for A-Frame Signs: <ul style="list-style-type: none"> 1. Must maintain a minimum 4-foot wide pedestrian walkway. 2. Not placed on or over any public street, sidewalk, parking lot, or required landscape area. 3. Only be displayed during business hours and must be removed during non-business hours. 				
Balloon Displays	20 FT or above a roofline	18" in diameter	–	Only allowed in the Auto Mall Zoning District in the Eucalyptus Business Park and for new and used vehicle sales uses
Additional Standards for Balloon Displays: <ul style="list-style-type: none"> 1. Balloon displays shall only be allowed in conjunction with an approved Promotional Sale. 2. Must be maintained in original display conditions at all times. 3. Only allowed on Saturdays, Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, Independence Day, and Labor Day. 4. Max. 1 balloon display allowed per business. 5. May be displayed for max. 3 consecutive calendar days. Min. 30 calendar days between display periods. 6. Must be placed on and tethered to the ground and must not be placed on or over any public street, sidewalk, parking lot, or required landscape area. Not allowed on a rooftop. 7. Must always be maintained in original display condition. 8. Must not be cut loose or allowed to fly freely. 				
Yard Sign – Type I	4 FT	2 FT	3 SF	Allowed in all zoning districts.
Additional Standards for Yard Signs – Type I: <ul style="list-style-type: none"> 1. Installed securely in or on the ground. 2. Placed on private property only and not be allowed within any street right-of-way or on any public property. 				
Yard Sign – Type II	6 FT	2 SF	4 SF	Allowed in all zoning districts.
Additional Standards for Yard Signs – Type II: <ul style="list-style-type: none"> 1. Installed securely in or on the ground. 2. May be placed on private property only and shall not be allowed within any street right-of-way or on any public property. 				
Yard Sign – Type III	6FT	8 FT	32 SF	Only allowed in non-residential zoning districts.
Additional Standards for Yard Signs – Type III: <ul style="list-style-type: none"> 1. Installed securely in or on the ground. 2. May be placed on private property only and shall not be allowed within any street right-of-way or on any public property. 				
Number of Signs. See Table 16-07.030-A (Standards for All Portable and Temporary Signs on Private Property).				

Figure D.6: An example of a table with detailed standards for various temporary/portable sign types

- *As discussed with City staff, the updated Sign Code will encourage creative design for signs in parks and open spaces while respecting the City's desires for minimizing visual clutter in City parks and maintaining cultural and historic character. Further, no temporary or portable signs will be allowed on City property, including City-owned parks and open spaces, beyond that required under State law, or limited temporary event signs, provided they can be removed in a timely manner.*
- *City staff have clarified that under the new Maine statute (Title 23-A, Section 1913-A) that went into effect on August 1, 2018, and subject to various requirements, temporary signs may be placed in all State and City rights-of-way for a maximum of 12 weeks per calendar year. This law will have implications to the approach required to be taken by the City for temporary and portable signs to ensure that the City's sign regulations are as content-neutral as possible. As amendments to the Sign Code are drafted, further discussions with City staff will likely be needed to ensure the City's desires are accomplished.*

Sec. 14-370.7 Special sign types

This Section lists the requirements for window signs, real estate/construction/for sale or lease signs, works of art containing signage, building markers, seasonal sales/special activities signs, and directory signs.

- *Window signs. As described above, tables will be created that provide standards and regulations specific to different types of portable or temporary signs. The standards for temporary window signs will be included in these tables, updated and expanded as needed while standards for permanent window signs will be included in a similar table in the permanent sign section of the updated Code.*
- *The requirements for real estate/construction/for sale or lease signs and seasonal sales/special activities are content-based and will be rewritten and included in the updated Sign Code as content-neutral time, place, and manner regulations.*
- *Works of art containing signage, i.e. murals. The regulation of murals can be extremely tricky, especially when the mural includes signage, as some in the City currently do (e.g. the CAT Ferry Building). At a minimum, a new definition of a mural will be recommended and regulations clarifying that any commercial message included within a mural will be considered as a wall sign. Once the Administrative Draft of the updated Sign Code has been prepared, further discussion with staff and the City's legal counsel may be necessary.*
- *Building Markers. As no permit is required for a building marker these provisions will be moved into the Exempt signs section.*
- *Directory signs. As described above, tables will be created that provide standards and regulations specific to different types of permanent signs. The standards for directory signs will be included in these tables, updated and expanded as needed.*



Sec. 14-371. Exemptions.

This Section lists the signs that are exempt from regulation under this Division.

- *As stated previously the number of exempt signs will be reduced as much as possible and all exempt signs will be included in a new subsection within the Applicability Section of the updated Sign Code.*
- *Staff questioned whether the Sign Code should regulate what can be viewed from the public way or all signs. A typical practice is to exempt signs that are not readable from off the property where the sign is located as well as signs within a building. Similarly, signs located within City recreation facilities such as sponsorship banners for local sports teams may also be exempted.*

Sec. 14-372. Nonconforming signs.

This Section defines nonconforming signs and establishes the regulations and procedures applicable to them.

- *This Section will be included, and updated as needed, in a new Nonconforming Sign Section.*
- *As requested by staff, a recommendation for allowing legal non-conforming commercial properties/businesses located in residential zones to have adequate signage will be provided.*
- *Updates to the nonconforming sign section will be made to reflect current staff practices, including for example, reconsideration of Section 14-372(b).*

Sec. 14-372.5. Violations and enforcement.

This Section establishes that failure to comply with Division 22 (Signs) is a violation and subject to penalties and grants the building authority with the responsibility for enforcement of the Division.

- *This Section will be included and updated as needed in a new Enforcement Section to reflect the new departmental organization of the City.*

Other General Recommendations

- *As noted previously, the updates to the Sign Code are the first to be prepared for inclusion into the City's comprehensive update of the Land Use Code called the ReCode. As that work is in progress, for now the updated Sign Code will refer to the City's existing zones established in Article III (Zoning) of Chapter 14 (Land Use) in the City Code. Once the new zones have been established, an update to the Sign*

Code will be necessary to reflect any changes to the zones that may occur through the update process.

- *With the update of the Sign Code, existing language and terminology will be refreshed, updated, and modernized consistent with established code writing best practices. Some examples of how this will be accomplished include:*
 - *Terms in the existing code such as “hereunder” or “thereof” will not be used.*
 - *It is recommended that the word “must” will be used to impose a condition or a standard and “shall” will be used to impose a duty. (e.g., The Director shall review all applications for a variance). To be confirmed with City staff.*
- *The Sign Code lacks illustrations and photographs to clarify standards and how they are applied. It is recommended that illustrations and photographs should be inserted throughout the Code to make it user-friendly and easier for staff to explain, interpret and apply. For example, illustrations will be inserted showing how sign height and sign area for all types of signs (including perhaps 3-D signs) are measured, as well as examples of well-designed signs.*
- *The text will be simplified, duplicative text will be removed, and appropriate cross-references will be inserted.*
- *While many of the standards included in this Chapter are appropriate, they are poorly organized and incomplete. Most of these standards will be included in the updated Sign Code and reorganized into relevant sections based on the updated Table of Contents.*
- *As described in the comments gathered during the July 9, 2018 stakeholder interviews and in the community workshop, context-based sign regulations for the City of Portland will be developed to reflect the need for varying sign regulations based on the character and context of the area in which they are located. Further, the idea of a sign overlay to apply sign standards applicable in a walkable environment such as the Portland Downtown to existing more auto-oriented environments, but which are planned to become more walkable, such as Woodfords Corner, will be explored.*
- *As discussed with City staff, ideas for incentivizing good sign design will be explored using a Comprehensive Sign Program approach. Examples of different approaches to incentivizing good sign design from two cities have been provided to City staff for review (i.e. from the City of Flagstaff, AZ (a very comprehensive approach where sign quality and attention to detail is highly valued in the community) and the City of Lompoc, CA (a simpler and less complicated approach)). As discussed with staff, the former comprehensive approach will be included in the update Sign Code.*

E. Analysis of Other Documents Related to the Sign Code

1. Introduction

In addition to the sign regulations in Division 22 (Signs), the Portland City Code includes standards and regulations specific to signs in the following Articles and Sections:

1. Chapter 14 (Land Use)
 - a. Article III (Zoning)
 - b. Article V (Site Plan)
 - c. Article IX (Historic Preservation)
 - d. Article X (Alternative Energy)
2. Chapter 25 (Streets, Sidewalks and Other Public Parks)
3. The City of Portland Design Manual
4. The Historic Resource Design Manual

As much as possible these sign standards and regulations will be consolidated and/or cross-referenced within the updated Sign Code.

2. Article III (Zoning)

Zones that cross reference Division 22 without specific standards. A careful review of Article III (Zoning) has determined that a number of existing zoning districts include a cross-reference to Division 22 (Signs) without including any additional sign standards. These include:

- Residence-Professional Zone
- B-1b Neighborhood Business Zone
- B-4 Commercial Corridor Zone
- I-L and I-Lb Industrial Zones
- I-M, I-Ma, and I-Mb Industrial Zones
- I-H and I-Hb Industrial Zones
- Waynflete School Overlay Zone
- Eastern Waterfront Port Zone
- Waterfront Central Zone
- Waterfront Port Development Zone
- R-P Resource Protection Zone

USM, University of Southern Maine Overlay Zone. Section 14-152.6. Signage provides specific sign standards for the USM Zone:

- Signs shall be designed with the sign standards created by the university.
- Banners are only allowed for advertising university of events. Displays are limited to four weeks before the event and one week after.

B-2 and B-2b Community Business Zones. Section 14-183 (Conditional uses) lists the conditions for certain permitted uses in the B-2 and B-2b Zones. One of these conditions states that signs shall not adversely affect visibility at intersections or access drives.

A-B Airport Business Zone. Section 14-200 (Other requirements) prohibits temporary freestanding advertising signs in the A-B Zone.

B-3, B-3b, and B-3c Downtown Business Zones. Section 14-221 (Other requirements and standards) states signs within the pedestrian activities district (PAD) overlay zone or in areas designated as PAD encouragement areas shall be consistent with the Downtown Urban Design Guidelines (now the City of Portland's Design Manual).

O-P Office Park Zone. Section 14-230.13 (Development standards) states:

- Development proposals shall identify all proposed signage.
- Signs shall be designed in proportion and character with the building facades.
- All signs shall be constructed of permanent materials and shall be coordinated with the building and landscaping design using appropriate materials and finishes.

Section 14-230.15 (Other requirements) prohibits temporary freestanding advertising signs in O-P Zones.

MMC Maine Medical Center Institutional Overlay Zone. Section 12-282 (Maine Medical Center Institutional Overlay Zone Regulatory Framework) establishes requirements for a unified campus-wide Signage Plan stating that signs be designed in accordance with this plan, in proportion and character with building facades and adjacent street typology and coordinated with the building and landscaping design.

- *The cross-references to the sign standards from the zoning districts will be maintained and updated as needed.*
- *All standards for signs will be incorporated and updated as necessary into the new Code.*

3. Article V, Site Plan

Article V (Site Plan) establishes the standards and procedures for site plan review. There are three levels of site plan review, each with a different threshold for review. Level I and Level II site plan review approval is the responsibility of the Planning Authority while Level III site plan review is conducted by the Planning Board.

The construction or installation of any signage for which approval is sought requires a Level II Site Plan Review in compliance with Section 14-526(d)8.a.(iv). However, it is unclear if this reference is correct as it refers to Waiver Criteria and the Section 14-526.(e).2 does not appear to exist.

Subsection 14-526(d) Site Design Standards. This Subsection lists the site design standards for site plan review, including standards for signage and wayfinding. Subsection 14-526.(d).8 (Signage and Wayfinding) establishes applicable requirements for:

- **Historic Preservation.** This appears to be duplicative of the standards in Article IX as it also requires a certificate of appropriateness for signs within historic districts.
- **Commercial Signage and Directional Traffic Signage.** This Subsection establishes standards for the size, scale, proportions, design, materials, placement and source and intensity of illumination of all permanent or freestanding building signs.
- **On-site directional traffic signage.** This Subsection allows on-site directional traffic signs to ensure traffic safety.
- **Waiver Criteria.** This Subsection establishes the criteria to obtain a waiver from site plan review.
- *There are several outdated references to the Waiver Criteria subsection that are no longer in Section 14-526(d)8.a.(iv). The updated Sign Code will correct and update all cross-references.*
- *Any duplications between the regulations in Article IX (Historic Preservation) and Chapter V (Site Plan) will be resolved in consultation with staff.*
- *In consultation with staff, appropriate provisions specific to signs now in Article V requirements of Article V (Site Plan) will be inserted into the updated Sign Code, including for example the “Exterior Lighting” and “Signage and Wayfinding” standards.*
- *All standards for commercial signs will be incorporated and updated as needed in the updated Sign Code.*

4. Article IX, Historic Preservation

A. Article IX (Historic Preservation)

Article IX (Historic Preservation) establishes comprehensive standards and regulations intended to identify, preserve, and enhance historic resources. This Article includes several regulations that are specific to signs that will need to be reviewed and possibly incorporated in the updated Sign Code. The following Sections in Article IX include specific regulations for signs:

Section 14-602 Definitions. In this Section a definition for signs is included which refers to Section 14-47 (Definitions). This section in turn refers back to the definition for signs in Section 14-367 (Definitions). Advertisings signs are also included in the definition of “Structure.”

- *The definition of a sign in Article IX can be clarified by referring the sign definition in the updated Sign Code.*
- *As billboards are not allowed in Maine, consider removing billboards from the definition of a structure.*
- *Consistent with previous recommendations described in this Audit, all references to content-based sign regulations should be updated and/or eliminated, including the reference to “advertising signs”.*

Section 14-634. Certificate of appropriateness required. This Section establishes standards for a certificate of appropriateness including for the installation of exterior lighting for commercial and institutional signage and awnings when placed on street-fronting facades of designated structures, and the installation or alteration of any exterior sign.

- *Consistent with previous recommendations described in this Code Audit, all references to content-based sign regulations should be updated and/or eliminated, including the reference to “institutional signage”.*
- *Clarify if Section 14-634.1.b (moving of structures or objects) also applies to signs as the definition of a “structure” also includes “advertising signs”.*

Section 14-651 Standards for review of new construction. Subsection (b).5 of this Section requires that new signs or a change in appearance of an existing sign located on a landmark or within a historic or historic landscape district and which is readily visible from public right-of-way or open space shall be consistent with the historic character of the landmark or district and need to comply with the guidelines in the design manual.

- *Regulations in this Section will be consolidated and/or cross-referenced within the updated Sign Code.*

Section 14-652.5. Standards for review of signage. This Section establishes the rules for regulating signs under an application for a certificate of appropriateness.

- *Regulations in this Section will be consolidated and/or cross-referenced within the updated Sign Code*

Section 14-677. Costs. This Section establishes the fees for applications described in this Article, including the fees for historic preservation sign review.

- *Regulations in this Section will be consolidated and/or cross-referenced within the updated Sign Code*

B. Design Guidelines for Signage Installations in Historic Districts.

This Design Guideline for Signage Installations in Historic Districts (Guidelines) establishes guidelines for signage installations in historic districts. Any sign for which a certificate of appropriateness is required as defined in Article IX (Historic Preservation) is subject to these Guidelines. The Guidelines are divided into 11 sections summarized below and followed by illustrated examples:

- **General Design Concerns.** Establishes general guidelines for the integration of signs in the historic character of the area, and covers appropriate sign placement, materials, and design.
- **Size.** Establishes guidelines for the appropriate size of signs reinforcing the need for signs to be compatible with the scale of a building and its architectural features.
- **Placement and Location.** Establishes the appropriate placement and location of signs.
- **Communication.** Establishes guidelines for sign messages, typefaces, color, and shape.
- **Illumination.** Includes guidelines for appropriate illumination for signs.
- **Number of Signs.** Establishes guidelines and standards for the number of signs for ground floor and upper floor tenants. Limits are established for banners and other temporary signs of 30 calendar days.
- **Guidelines for Special Categories of Signs.** Establishes specific guidelines for awnings, canopies, and marquees that include signage; public information signs; painted wall art and signs; portable/moveable signs; temporary signs; real-estate signs; non-commercial banners; flags; pennants; on-site informational signs; signs on residential structures within residential zones; and off-premise signs.
- **Brackets and Installation.** Includes guidelines for the design and installation of brackets and attachments for all signs, awnings, conduit, etc. to avoid damaging architectural features on the building.
- **Master Signage Plans.** Requires that a master signage plan is required for all major projects as part of the site plan and/or historic preservation review process.
- **Maintenance.** Requires that all signs must be maintained.
- **Obsolete Signs.** States that all obsolete signs, except if determined to have historic significance, should be removed.



- *Although intended as guidelines, most of these requirements are written as guidelines although a few standards are also included. We recommend a discussion with City staff to determine if these guidelines are effective, whether consideration should be given to if they should be written as standards, and if, perhaps as guidelines, some to these should be applied City-wide, including for example, the guidelines for sign placement, communication, and maintenance.*
- *Consideration will be given to applying the standards for illumination, placement, and communication into the new General to All Signs Section.*
- *Consistent with previous recommendations described in this Code Audit, all references to content-based sign regulations will be updated and/or eliminated, including the reference to “real-estate signs.”*
- *We are unclear on where the requirements for Master Signage Plans are located (are these the same as Signage Plans described in Section 14-368(d)?) and look forward to discussing these with City staff so they can be appropriately incorporated as needed into the updated Sign Code.*
- *In addition, standards for “ghost signs” (existing wall-painted signs that frequently have historic significance, will be developed.*

5. Article X, Alternative Energy

Section 14-761. General Standards. Subsection 14-761 (e)(7) states signs and advertising is an impact to wind energy generation and prohibits signs, advertisements, flags, or any decorative items on wind energy systems or associated facilities. The only exception is signs and advertising for the manufacturer’s/installer’s/owner’s identification which cannot exceed 1 square foot in size, appropriate warning signs, or lights if required by the FAA.

- *This language can be added into the Exempt Signs section or cross referenced in the new Sign Code.*

6. Chapter 25, Streets, Sidewalks and Other Public Places

Division 2. Permit. Section 25-26 Required [Permit] states that portable sidewalk signs (i.e. A-frame signs) require a permit to be placed in the public right of way.

- *This language can be added into the Sign Permit Requirements Section or cross referenced in the new Sign Code.*

Standards for side walk sign permits in the sidewalk sign permit application instructions and checklist should be updated as necessary and placed in the new Sign Code.

7. City of Portland Design Manual

The City of Portland Design Manual, adopted in May 2010, consolidated several existing design guidelines into one document including:

- Downtown Urban Design Guidelines
- Pedestrian Activity District Map
- Downtown View Corridor Protection Map
- Downtown Height Overlay Map
- B1, B1b, B2, B2b Business Zone Design Standards
- University of Southern Maine (USM) Design Standards
- Bayside (B7) Design Standards
- B-6 Building Height Overlay and Building Envelopes
- R-5 Small Residential Lot Development and Multiplex Design Standards, R-6 Infill Development Principles and Standards
- IS-FBC Building Design Standards

Section 14-369.5 (Tables) in Division 22 (Signs) contains an outdated reference to the Downtown Urban Design Guidelines, “Signs located in the Pedestrian Activity District (PAD) Overlay and in the PAD Encouragement Areas in the B-3 are subject to the Downtown Urban Design Guidelines.” This requirement now references Chapter (b) B-3 Downtown Business Zone in the Design Manual. This chapter states that design, placement, character, durability, and quality of “directional and informational signage” should “enhance the attractiveness, comfort, security, and usability of the pedestrian environment.”

- *This language will be consolidated into the new Sign Code update, specifically in the new Section 14-11-060 (Sign Design Guidelines and Performance Standards).*

F. Summary of the Stakeholder Interviews and the Community Workshop

On July 9, 2018, LWC participated in a series of five interviews with stakeholder groups arranged by City staff. These stakeholders represented the following groups or organizations:

- Sign contractors/vendors
- Business representatives
- Local architect with an interest in historic preservation issues
- Member of a local neighborhood organization
- Members from three City Boards – Planning Board, Zoning Board of Appeals, and Historic Preservation Board.

Over the course of about an hour, these stakeholders, who have a direct connection with the existing Sign Code and sign issues in general in the City, shared their thoughts and observations in an informal discussion.

On the evening of July 9, 2018, staff arranged a community workshop in a meeting room at City Hall which was attended by six residents. This workshop provided staff and LWC with an opportunity to introduce the Sign Code update project, describe its purpose and what is hoped to be achieved, describe the next steps in the process, and to gather ideas, information, and comments on the existing sign code. An exercise in which attendees could comment on various sign types and designs was also conducted.

As part of the presentation in the community workshop, ten general themes and ideas from the previous stakeholder interviews were presented. These comments are included in Table F.1 arranged in no particular order of importance. They closely align with the observations made in the community workshop.

Table F.1: What We Heard – Comments from Stakeholder Interviews
Organizational issues – the existing sign code is hard to use, lacks illustrations, and is out-of-date
Generally, standards are working, and signs are the right size
Clearly some standards need to be updated to reflect new technologies and to provide clarification
Keep the character of Portland – the passion for the uniqueness of the City is very apparent
Streamline permitting – more efficient, easier, and faster
Flexibility is key to allow for unique circumstances
Certainty is also important
Context-based signage standards – signs need to reflect the character of the area in which they are located
Strong consistent enforcement is important
Community residents are clear about what types of signs are not wanted

Some other general themes, issues and comments made by the participants in the stakeholder interviews and community workshop (including comments made on the sign types handout) are summarized below:

1. Code structure and organization

- a. Simplify the code and make it as easy to use as possible with tables and illustrations.
- b. Provide more flexibility within the code to allow more creativity and to accommodate unusual conditions, e.g. a comprehensive sign program with incentives.

2. Permanent and Temporary Sign Standards

- a. Much discussion on A-frame signs in the right-of-way in the downtown area and along the wharf; continue to allow them but perhaps with more regulations on placement as they are important for bringing a sense of vibrancy to the street.
- b. Review the setback for signs from the property line.
- c. Develop context-based sign regulations so that the standards for the downtown area and historic districts are different than in more conventionally zoned suburban parts of the City, i.e. a distinction between walkable and drivable environments.
- d. Allow a wider variety of materials to make attractive and long-lasting signs without maintenance issues.
- e. Scale the size of building mounted signs to the building/wall on which they are located.

- f. Consistency of sign design within a development is important.
- g. Allow more driveway directional signs.
- h. General consensus that vertical banners, tube/wind signs are not appropriate in Portland.
- i. Neon – generally not supported, but OK for signs in windows.
- j. EMCs – probably OK in certain areas of the City, but not in the downtown. Add more comprehensive illumination standards.
- k. Much of the current code generally works – but some refinements are needed.
- l. Include more comprehensive standards for sign types like blade signs, suspended signs, painted wall signs, awning signs, etc.
- m. Determine how to allow signs for businesses located down an alley or on the wharf away from a street.
- n. Resolve the issue of a building name also being the name of the business located within it.
- o. Allow more opportunities for temporary signs to promote events in parks and similar public spaces.
- p. Important to maintain the City’s historic signs.
- q. Signs made of individually letters, which may be illuminated, were preferred, but should not be required.
- r. Pole signs were generally not supported.

3. Administration and Procedures

- a. Update the appeals process and add a variance process.
- b. Need a consistent approach to enforcement – City does not enforce its rules and a few bad actors create problems.
- c. Simplify and clarify the sign permit approval process.

4. Other General Comments

- a. Balance flexibility and creativity with need for regulations – maintain a mix of art and business.
- b. Do not be too restrictive.
- c. Need stronger standards requiring signs to be maintained.
- d. It is important to maintain Portland’s character and uniqueness and express this in the sign code.

G. Proposed New Table of Contents

To address the City's needs for a comprehensive, yet logically organized and easy-to-use Sign Code, it is recommended that a new structure and organization for the Code be implemented. The comprehensive update to the City's Land Use Code (*ReCode*) includes the Sign Code as Article 14-17 (Signs). A draft new Table of Contents is summarized in the Table below (some sections may be reorganized as the updated Sign Code is drafted) with brief explanatory notes in the right-hand column.

Article 14-17 Signs		
14-17.1	General Provisions	
14-17.1.1	Purpose	Establishes the purpose of the Sign Code
14-17.1.2	Authority	Establishes the authority to implement the regulations of the Sign Code
14-17.1.3	Applicability	
14-17.1.3.A	Applicability	Establishes how the Sign Code applies
14-17.1.3.B	Substitutions and Interpretations	Explains how and what review authority may interpret the Code
14-17.1.3.C	Exemptions	A shortened list of signs that are exempt from the Code
14-17.1.4	Severability	Important legal provision to provide a severability clause
14-17.2	Administration and Procedures	
14-17.2.1	Review Authority	Explains who has review authority for the Sign Code
14-17.2.2	Applications and Fees	Describes the process for applications for sign permits
14-17.2.3	Sign Permit Requirements	Establishes the permit requirements for permanent signs and temporary/portable signs (may cross-reference to the Land Use Code's Administration Section) and will include Site Plan Review
14-17.2.4	Variances	Possibly includes procedures for variances from the sign requirements when hardships exist
14-17.2.5	Appeals	Includes the procedures for appeals
14-17.3	General Restrictions for All Signs	
14-17.3.1	Location Restrictions	Includes restrictions on where signs may be placed
14-17.3.2	Prohibited Signs	Lists all prohibited sign types
14-17.3.3	Display Restrictions	Includes display restrictions applicable to all sign types

14-17.4	General Requirements for All Signs	
14-17.4.1	Sign Message	Important statement regarding a sign message and substitution of a sign message
14-17.4.2	Sign Measurement (Area and Height)	Establishes the rules for measuring sign area and sign height
14-17.4.3	Sign Illumination	Establishes standards for sign illumination including EMCs
14-17.4.4	Structure and Installation	Establishes standards for sign structures and sign installation with cross-reference to the City's building codes
14-17.4.5	Sign Maintenance	Establishes standards for sign maintenance
14-17.5	Standards for Permanent Signs	
14-17.5.1	Applicability	Explains how the permanent sign standards apply to all sign types across all zoning districts
14-17.5.2	Standards for Permanent Signs by Zoning District or Use	In a table format establishes the maximum sign area and height limitations for each zoning district or use type
14-17.5.3	Standards for all Permanent Sign Types	Establishes specific standards for each sign type in two broad categories – building mounted signs and free-standing signs
14-17.6	Sign Design Guidelines and Performance Standards	
14-17.6.1	Sign Design Guidelines	May include existing and expanded sign design guidelines, unless these are included as mandatory standards
14-17.6.2	Sign Design Elements	Establishes standards for enhanced sign design
14-17.6.3	Cumulative Adjustments	Establishes the process for applying multiple design standards to building mounted or freestanding signs
14-17.7	Standards for Portable Signs and Temporary Signs	
14-17.7.1	Purpose	Explains why the regulation of portable/temporary signs is necessary
14-17.7.2	General to All	Establishes standards applicable to all portable/temporary signs
14-17.7.3	Standards for Portable Signs	Establishes standards applicable to each portable/temporary sign type
14-17.8	Sign Districts of Special Designation	
14-17.8.1	Historic Districts	Establishes standards for Historic Districts
14-17.8.2	TBD	
14-17.9	Nonconforming Signs	
		Establishes standards and procedures for non-conforming signs (confirm with City staff if this Chapter stays in the Sign Code)
14-17.10	Enforcement	
		Establishes procedures for the enforcement of the Sign Code

14-17.11	Definitions	
		Definitions and abbreviations used in the sign code to be moved into the new Land Use Code at the appropriate time

H. Conclusion and Next Steps

This Sign Code Audit and Recommendations Report has been prepared to fulfill Task 1.4 (Sign Code Diagnosis and Recommendations Report) of the project to update the City of Portland’s existing sign regulations included in Division 22 (Signs) of the Portland City Code.

Based on an overview of the legal principles that local municipalities must follow to adopt a legally-defensible and constitutionally sound sign code, a comprehensive analysis or diagnosis of the City’s existing Sign Code was presented which identified where amendments are required, where new regulations are recommended, and what provisions in the current Sign Code may be carried forward, updated and expanded as needed. The report concludes with a new annotated outline of a recommended Table of Contents, which may evolve as the Administrative Draft of the Sign Code is written.

Now that the Sign Code Audit and Recommendations Report has been completed, LWC will now commence work on an Administrative Draft of the sign code to be submitted for internal review by City staff only before a Public Review Draft of the final Sign Code is submitted towards the end of the year for a public presentation with the Planning Board.