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HONORABLE CITY COUNCIL

RE: Sign Ordinances—Chapter 50, Zoning, and Chapter 4, Advertising and Signs (RECOMMEND APPROVAL)

Background

The City Planning Commission (CPC) has worked on revisions to the regulations for on-premises business signs and off-premises advertising signs periodically since 1989 and continuously since 2012. The City's bankruptcy and related reductions in staff delayed significant progress on the sign ordinance project until 2014.

The CPC took up the updating of the sign ordinance that has resulted in the attached Chapter 50 and Chapter 4 amendments on four occasions in 2015 (February 5, February 19, May 2, and June 6). The focus was on on-premises business signs; off-premises advertising sign regulations would be taken up once business signs were addressed. Since 2003 (Ord. No. 29-03), on-premises business sign standards and regulations had been recited outside of Zoning in Chapter 3 of the 1984 Detroit City Code (Advertising and Signs). While that 2003 ordinance successfully addressed signage on conventional business strips, its shortcomings had become clear with respect to institutional campuses and larger buildings such as in the Central Business District.

A statutory public hearing on the "Business Sign" ordinance prepared by a CPC-led Sign Ordinance Working Group was held to consider amendments to the Zoning Ordinance—then Chapter 61 of the 1984 Detroit City Code. That ordinance was recommended for approval by the CPC in June 2015. Coincidentally, a significant sign-related Supreme Court ruling (*Reed v. Town of Gilbert, US Supreme Court No. 13-502*) necessitated revision of that ordinance which was then submitted September 14, 2015 to the Law Department for approval as to form.

Much of the impetus for the revision of advertising sign regulations stems from the interest of downtown building owners and the outdoor advertising industry to generate revenue by legally displaying advertising wall signs on buildings in the Central Business District (CBD). In November 2015, CPC staff presented a framework to City Council for the updating of the advertising sign regulations; Council gave the "green light" to develop a text amendment following that framework. However, the Administration took issue with various provisions of the business sign ordinance and secured the services of an outside contractor to advise the city on best practices nationwide relative to sign regulation. Release of the sign ordinance from the Law

Department was delayed pending this research—an unprecedented hold on a CPC-approved Zoning amendment.

A new Administration-led working group was formed to craft a comprehensive sign ordinance that would place almost all sign regulations in one chapter of the City Code. Outside contractor, Interboro, provided excellent comparative information for the working group during 2016-2017. Regrettably, the complexities of the project and the conflicting interests of multiple stakeholders frustrated the production of a workable final draft ordinance.

In October 2018 the Mayor’s Office and Law Department, working with Council Member Scott Benson, took the many ideas and recommendations that had been voiced and prepared a draft ordinance that moved sign regulation out of Zoning, Chapter 50, and into a police-power chapter of the City Code—Chapter 4, Advertising and Signs. Several iterations of the Law Department-crafted sign ordinance were drafted, reviewed, shared with stakeholders, revised and eventually presented in public hearing and public discussion before the CPC in 2019. Further modifications of the drafts were supported by the CPC in January 2020 and are the basis for the CPC’s recommendation of approval to City Council.

Scope of the *Zoning Amendment, Chapter 50*

The Zoning Ordinance, Chapter 50, is proposed to be amended in the following ways:

Article VI is titled *Signs* and contains a statement of purpose, definitions, procedures, and regulations relative to off-premises advertising signs and directional signs. This article is proposed to be deleted in its entirety including the 1999 prohibition of advertising signs within the 15.5 square mile Grand Boulevard Overlay area.

Article III, Review and Approval Procedures (Part I), contains the provisions relative to Site Plan Review; all references to “signs” are deleted. The prohibition of advertising signs in PC and PCA is deleted.

Article IV, Review and Approval Procedures (Part II), includes provisions related to “Temporary Use Permits;” reference to “signage” is deleted. This article also includes the provisions relative to Board of Zoning Appeals jurisdiction over “variances;” references to “signs” are deleted.

Article V, Violations and Enforcement, lists the violations that are subject to specified remedies and fines; reference to “signs” is deleted.

Article VIII, Residential Zoning Districts, contains the “use lists” for land zoned R1, R2, R3, R4, R5, and R6; references to “signs” are removed from the by-right and conditional use lists.

Article IX, Business Zoning Districts, contains the “use lists” for land zoned B1, B2, B3, B4, B5, and B6; references to “signs” are removed from the by-right and conditional use lists.

Article X, *Industrial Zoning Districts*, contains the “use lists” for land zoned M1, M2, M3, M4, and M5; references to “signs” are removed from the by-right and conditional use lists.

Article XI, *Special Purpose Zoning Districts and Overlay Areas*, contains the “use lists” for land zoned P1, PC, PCA, TM, PR, SD1, SD2, SD4 and SD5 and for the Gateway Radial Thoroughfare Overlay Area, Grand Boulevard Overlay Area, and Development Improvement Area; references to “signs” are removed from the by-right and conditional use lists and overlay provisions.

Article XII, *Use Regulations*, includes the Use Table, general use standards, specific use standards, accessory use standards (including home occupations), temporary uses and structures; references to “signs” are deleted.

Article XIII, *Intensity and Dimensional Standards*, includes general dimensional standards and specific standards for residential, business, and industrial districts; references to “signs” are deleted.

Article XIV, *Development Standards*, includes standards for parking lots and design standards for Traditional Main Street Overlay Areas; dimensional standards for signs are deleted.

Article XV, *Nonconformities*, addresses nonconforming uses and structures; text is added to clarify what constitutes “intensification” of a nonconforming sign and to add “signs” to the list of uses the Board of Zoning Appeals cannot consider for a change from one nonconforming use to another nonconforming use.

Article XVI, *Rules of Construction and Definitions*, includes definitions of land use and procedural terms; references to “signs” are deleted.

Scope of the *Advertising and Signs Amendment*, Chapter 4

Master Plan

Rather than using “zoning districts” as the organizing principle for sign regulations, the proposed Chapter 4 amendment creates five “sign districts,” defined in Sec. 4-1-1, based on the 21 land use classifications described and mapped in the City’s Master Plan. The specifications for the several sign types vary according to sign district.

Sec. 4-1-1. Definitions.

Low-density residential sign district means the portions of the City that are located outside of the Central Business District and are designated in the Master Plan of Policies as low-density residential (RL) or low/medium-density residential (RLM).

Low-density commercial/institutional sign district means the portions of the City that are located outside the Central Business District and are designated in the Master Plan of

Policies as mixed-town centers (MTC), institutional (INST), thoroughfare commercial (CT), retail centers (CRC), or mixed residential-industrial (MRI).

High-density residential/mixed use sign district means the portions of the City that are located outside of the Central Business District, and are designated in the Master Plan of Policies as medium-density residential (RM), high-density residential (RH), neighborhood commercial (CN), or mixed residential-commercial (MRC).

High-density commercial/industrial sign district means the portions of the City that are designated in the Master Plan of Policies as major commercial (CM), special commercial (CS), light industrial (IL), general industrial (IG), distribution/port industrial (IDP), or airport (AP); as well as the entire portion of the City located within the Central Business District regardless of Master Plan of Policies designation therein.

Recreation/open space sign district means the portions of the City that are located outside of the Central Business District and are designated in the Master Plan of Policies as regional parks (PR), recreation (PRC), private marinas (PMR), or cemetery (CEM).

On-premises business signs

On-premises business will be newly regulated in different sign districts by the several sign types:

- Arcade signs—not permitted in Low-Density Residential or Recreation/Open Space sign districts.
- Awning signs—not permitted in Low-Density Residential sign district.
- Marquee signs—only permitted in Low-Density Commercial/Institutional and High-Density Commercial/Industrial sign districts.
- Monument signs—not permitted in Low-Density Residential sign district.
- Pole signs—only permitted in Low-Density Commercial/Institutional and High-Density Commercial/Industrial sign districts outside of Traditional Main Street Overlay areas.
- Projecting signs—not permitted in Low-Density Residential sign district.
- Raceway signs—not permitted in Low-Density Residential sign district.
- Roof signs—not permitted in Low-Density Residential or High-Density Residential/Mixed Use sign districts.
- Wall signs—permitted in all sign districts.
- Window signs—permitted in all sign districts.
- Portable signs—permitted in all sign districts.
- Double-face signs—permitted in all sign districts.
- Dynamic/Animated signs—only permitted in Low-Density Commercial/Institutional and High-Density Commercial/Industrial sign districts.
- Illuminated signs—permitted in all sign districts.

- Mechanical signs—only permitted in Low-Density Commercial/Institutional and High-Density Commercial/Industrial sign districts.

Business signs are limited to 6 square feet in area in the Low-Density Residential sign district.

In the High-Density Residential/Mixed Use, Low-Density Commercial/Institutional, and Recreation/Open Space sign districts, business signs are limited to the greater of:

- 2.6 square feet per linear foot of building frontage; or
- 1 square foot per linear foot of premises frontage up to 500 square feet.

In the High-Density Commercial/Industrial sign district, business signs are limited to 3 square feet in area per linear foot of building frontage if outside of the Central Business District up to 500 square feet.

Casino properties are limited to 4 square feet per linear foot of building frontage.

Off-premises advertising signs

Chapter 4 already contains sign regulations relative to on-premises business signs. Chapter 4 will also be expanded significantly to import and revise provisions proposed to be repealed from Chapter 50, *Zoning*. Definitions, procedures, and regulations of off-premises advertising signs, directional signs, and temporary signs will be newly recited in Chapter 4.

A key component of the ordinance is the proposed allowance of 60 advertising signs in the CBD for a 10-year period. Under *Zoning*, a 10-year limit would run contrary to, essentially, the perpetuity of land use rights associated with permits issued under Chapter 50. Since Chapter 4 is outside of the *Zoning Ordinance*, a limited duration authorization is possible.

Since 1999, new advertising signs have been prohibited within the 15.5 square mile area bounded by West Grand Boulevard, East Grand Boulevard, and the Detroit (Grand Boulevard overlay area), which includes the CBD (Ord. No. 22-99). Among other things, Chapter 4 would eliminate the Grand Boulevard Overlay Area prohibition on new advertising signs.

In its preliminary analysis of a draft of the Chapter 4 amendment, CPC staff noted that advertising signs would not only be newly allowed in the CBD, as anticipated, but that broad areas of the city where advertising signs had previously been prohibited would newly be permitted. Some of those areas are residential or sensitive non-residential areas. This was due to three of the five Master Plan-based sign districts allowing for advertising signs—Low-Density Commercial/Institutional, High-Density Residential/Mixed-Use, and High-Density Commercial/Industrial sign districts.

That CPC concern was addressed when the proposed ordinance was modified when Council Member Benson suggested the proposed ordinance be modified to specify a 125-foot setback between any advertising sign and a residential dwelling unit (Sec. 4-4-103(8)).

Public Engagement and Results of November 21, 2019 and January 9, 2020 Public Hearings and Public Discussions at CPC

Council Member Benson led four public meetings to collect community and stakeholder input on the draft ordinance on March 15th, April 5th, May 8th, and May 15th, 2019. Over 300 comments were submitted from a wide variety of public stakeholders. The Law Department has indicated that each of the comments was reviewed with Council Member Benson to determine the appropriateness of each for inclusion or adaptation or exclusion from the ordinance.

The CPC scheduled a preview presentation related to the Chapter 50 and Chapter 4 amendments on November 7, 2019. CPC staff, Law Department, and the Jobs and Economy Team provided an overview of the sign regulations and amendments in recent years and then walked through the September 30, 2019 proposed amendments to Chapters 4 and 50 of the 2019 City Code, highlighting changes and new regulatory approaches. CPC staff also identified some of the concerns that they hoped to address. The Commission raised questions seeking clarification of a few provisions. No members of the public spoke.

On November 21, 2019, the CPC held the statutory public hearing on the proposed Chapter 50 amendment and a public discussion on the Chapter 4 ordinance. CPC staff presented the Zoning amendment explaining that it would repeal Article VI, *Signs*, and would delete sign-related definitions, procedures and regulations elsewhere throughout the Zoning Ordinance. Numerous of the Chapter 50 sign provisions were to be preserved but moved into six chapters of the City Code, including Chapter 4, *Advertising and Signs*.

The Law Department provided a summary of the proposed Chapter 4 ordinance indicating it had been brought in by the Detroit City Council to advance a completed ordinance. The City Council had charged the Law Department with four directives

- The ordinance should be based on the work of the Sign Ordinance Working Group, under both CPC and Planning and Development Department (P&DD) leadership and that numerous policies should be reflected in the ordinance.
- The ordinance should consolidate regulations for all types of signs in a single Chapter of the City Code, to facilitate administration, enforcement and accessibility of sign regulations.
- Signage should be subject to regulation under the City's police powers, rather than its zoning authority.
- The ordinance should include regulations to allow for limited advertising in the CBD.

Commissioners sought clarification on various matters particularly regarding the proposed ordinance's impact on specific geographic areas of the City.

Public comment in support of the ordinances came from eight individuals representing the advertising industry or specific properties in the CBD, many citing the importance of the revenue to be gained from the advertising signs. Representatives from the Sierra Club, Scenic Michigan, and Midtown Inc. spoke in opposition to the ordinances. Commissioners adjourned the hearing to January 9, 2020.

Nature of the Compromise

While much of the Chapter 4 ordinance is predicated on the work of CPC and P&DD, unlike sign ordinances of the past 30 years, these Chapter 50 and Chapter 4 amendments were not authored by the City Planning Commission. It is unlikely that the CPC would, on its own initiative, recommend as many as 60 large advertising signs in the CBD or to allow them to be displayed in historic districts. As such, the ordinances reflect months of re-working and compromise respecting the varied interests and points of view. The Law Department is to be credited with working with the sponsor to address scores of comments and concerns from the CPC, P&DD, Buildings, Safety Engineering and Environmental Department (BSEED), and stakeholders.

Importantly, the proposed removal of the City's sign regulation from Zoning (Chapter 50) and its insertion into a police powers chapter of the City Code (Chapter 4, *Advertising and Signs*) has two decided advantages:

- It allows for the amortization of existing signs that are not compliant with new regulations—signs that don't conform to Chapter 4's standards, such as height, size/area, setback, structural type, have until January 1, 2030 to come into compliance;
- It allows the City to authorize the time-limited display of advertising signage in the Central Business District—those super advertising signs and local advertising signs that are approved are limited to ten years.

Under zoning, once a permit has authorized an advertising sign at a given site, the land use rights run with the land, essentially in perpetuity, as long as it abides by the terms of its original approval.

Another key factor leading to the CPC's support of the proposed ordinances is the increased limitation on the display of advertising signs outside of the Central Business District. This had been a key CPC concern following the January and September 2019 drafts of the Chapter 4 amendment, which would have opened up considerably more acreage in the City for the possible display of advertising billboards and wall signs.

Under the current sign regulations in Chapter 50 (*Zoning*), some 10,127 acres of land, or 15.82 square miles, are on lots zoned appropriately for advertising signs and spaced sufficiently distant from schools, parks, playgrounds, land zoned residential, and from historic districts to be permissible, provided no other advertising sign is oriented to the same flow of traffic within 1,000 lineal feet of a proposed location.

The September 30 draft of the Chapter 4 amendment would have left **12,500 acres** of land, or 19.67 square miles, where advertising signs would be permissible given the spacing and setback requirements that were preserved, provided no other advertising sign is oriented to the same flow of traffic within 1,000 lineal feet of a proposed location.

As noted above, the revised amendment specifies that an advertising sign be not less than 125 feet from a residential dwelling unit, resulting in **7,622 acres** of land, or 11.91 square miles, where advertising signs would be permissible given the spacing and setback requirements that were preserved, provided no other advertising sign is oriented to the same flow of traffic within 1,000 lineal feet of a proposed location. The CPC found that to be an improvement over both earlier drafts of the Chapter 4 amendment and current Zoning provisions and was pivotal in securing CPC support for the ordinance being presented to Your Honorable Body.

In June 2019, when a Master Plan-based approach to sign regulations was first incorporated, CPC staff recommended to the Law Department that only three of the 21 Master Plan land use classifications be indicated for advertising signs: General Industrial (IG), Light Industrial (IL), and Distribution/Port Industrial (IDP). Those three classifications add up to **6,923 acres** of land (10.82 square miles) where advertising signs would be permissible given the spacing and setback requirements that were preserved, provided no other advertising sign is oriented to the same flow of traffic within 1,000 lineal feet of a proposed location. This approach was seen as too limited.

Private Benefit/Public Benefit

Over the years of discussion of signage regulation update, it has been clear how private parties, namely building owners and outdoor advertisers, would benefit from the requested allowance of advertising signs in the CBD: revenues accrue to the property from contracts with advertisers—a point emphasized at the CPC public hearings and discussions.

What has been challenging has been to identify a benefit to the City and the public from such an allowance. The City gains no appreciable revenue from having such signs displayed in the CBD—fees must be commensurate to the cost of processing permit review and administration. The Assessor has cautioned against any expectation of increased tax revenue from such signs.

Advertising graphics can have the undesirable effect of stealing focus from or detracting from the City's remarkable architectural gems as well as street-level restaurants, retail, and service commercial downtown. The City's skyline and collection of buildings are what distinguish Detroit from other places; advertising signs homogenize the built environment, making a building wall in Detroit look the same as one in Atlanta or Phoenix. Chapter 4 will allow CBD advertising signs within and near historic districts, subject to review and approval by the Historic District Commission, unlike advertising signs outside the CBD where they are prohibited.

The Sign Ordinance Working Group's deliberations in 2016-2018 focused, among many other issues, on the possibility of linking the permission of commercial advertising graphics in the CBD to an obligation for production of a proportionate amount of non-commercial **art graphics** elsewhere in the City. However, the Working Group failed to agree on the feasibility of such a

mandate in light of the absence of an arts commission or dedicated office to oversee such a program.

Notably, the Administration has recently appointed a director of arts and culture and the Chapter 4 ordinance recognizes the potential visual blight that 35 super advertising signs might have on the Central Business District and that art murals and other public art installations could have a mitigating effect (Sec. 4-4-129(a)). It is this recognition that allows the Planning Commission to support an acknowledged commercialization of the public realm in the CBD given the prospect of increased public art and the dedicated resources to stimulate and maintain it.

For example, where BSEED in consultation with the director of arts and culture, has determined that, in a given instance, mitigation of negative visual aesthetics is necessary, the applicant for a 5,000 square foot advertising wall sign can be requested to contribute one dollar per square foot per year to a dedicated arts fund—\$5,000 per year (Sec. 4-4-129(e)). The rate for dynamic advertising signs would be two dollars per square foot per year; the rate for painted wall advertising signs would be eighty cents per square foot per year. Such resources should help stimulate public art, bringing a true benefit to the general public and, hopefully, artists and artisans of painted wall graphics.

“Leap of Faith”

The expectation that signs that do not conform with the new provisions of Chapter 4 will come into compliance or disappear by January 1, 2030 involves a certain leap of faith. The CPC has noted over the decades that enforcement of sign laws is difficult and often take a back seat to BSEED’s attention to life safety matters.

Diligent administration and enforcement of the sign ordinances will be enhanced if BSEED trains and dedicates an expanded staff to follow-up on existing and future sign permits. The creation of a roster of current legal advertising signs and their locations and permitted dimensions will go a long way to facilitate the 2030 verification of compliance expected by the ordinance.

Before voting its support of the proposed sign ordinances, the CPC specifically emphasized the need for BSEED to be properly charged, trained, and budgeted to effectively implement these new ordinances.

CPC ACTION AND RECOMMENDATION

At its meeting of January 23, 2020, the City Planning Commission received an update from staff and the Law Department indicating almost complete incorporation of suggested edits from numerous CPC concerns. The CPC voted to recommend **approval** of the Chapter 50 (*Zoning*) amendment as revised 1-21-20. The CPC also directed CPC staff to meet with the Law Department toward finalizing the remaining Chapter 4 edits from the remaining CPC concerns and that upon agreement on final language to the satisfaction of CPC staff and the Law Department that City Council be advised of the City Planning Commission’s recommendation of approval of the Chapter 4 amendment.

On January 24, 2020, CPC staff and the Law Department concluded their joint review of the remaining concerns and developed language satisfactory to both that is incorporated in the Chapter 4 draft, dated 1-24-20. The CPC recommends **approval** of the Chapter 4 amendment.

This report, dated February 7, 2020, takes the place of the transmittal report dated January 24, 2020 and should be considered, for purposes of the *Journal of City Council*, to be the official report and recommendation of the City Planning Commission.

Respectfully submitted,

ALTON JAMES, Chairperson

A handwritten signature in black ink that reads "Marcell R. Todd, Jr." in a cursive script.

Marcell R. Todd, Jr., Director

M. Rory Bolger, Staff