

Part 3: The promise (and peril) of digital signage

If “to be or not to be?” is the fundamental human question, then “to go digital or stay static?” is the fundamental signage question. Digital signage offers tremendous advantages with regard to changeability of content and enhanced visibility. For this reason, many businesses have been replacing static signage with digital. Seeing this trend, communities are increasingly seeking to regulate digital signs through changes to local sign codes, which up until now often have been silent on the issue.

This article – the third in our series – outlines the common changes happening to local sign codes countrywide to accommodate digital signs, and highlights the common conceptual mistakes business owners make when undertaking the cost-benefit analysis of whether to invest in digital signage.

The regulation of digital signs in local sign codes tends to focus on the following sign attributes: size, brightness, quality, and dwell time and animation. In addition, such regulation now often takes into account the content-neutral restrictions imposed by the 2015 Supreme Court ruling in *Reed v. Gilbert* and the distinction between on- and off-premise signage, which were the subjects of the first two articles in this series that ran in the fourth-quarter 2018 and first-quarter 2019 issues of *Property Management Quarterly*.

• **Size.** While some local sign codes specify the maximum dimensions of a digital sign, others set a limit as a percentage of the total sign area of a particular sign (e.g., not more than



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50 percent of the sign area of a permitted sign may be occupied by a digital face).

• **Brightness.**

Given recent advances in technology, the vast majority of local sign codes require dimming technology and sensors that automatically adjust the bright-

ness of the digital sign for nighttime viewing and variations in ambient light within specific luminance ranges to reduce light pollution and driver distraction.

• **Quality.** As with brightness, advances in technology have made it possible for local sign codes to regulate digital sign quality by mandating that the resolution of digital signs not exceed a certain pixel pitch (i.e., low-pitch values such as 8 millimeter correlate to high-resolution digital signs that look like a photograph or static sign, while high-pitch values such as 19 mm correlate to low-resolution digital signs that look like a pixelated Lite-Brite).

• **Dwell time and animation.** Dwell time refers to the minimum length of time that one image must be displayed on the face of a digital sign before another may be displayed, while animation refers to whether the content of an image may move while it is displayed. The dwell time varies widely by community, with some communities allowing a digital sign image to change as frequently as every four or six seconds and oth-



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ers requiring that an image remain for as long as a couple of minutes. Similarly, local sign codes treat animation inconsistently. Some prohibit animation altogether, while others allow full-motion video.

While it is important for business owners to know the specific ways in which their local sign code regulates these particular digital sign attributes, it is equally important for business owners to review their local sign code for two particular regulations that often are overlooked. The first is on- and off-premise advertising, and the second is time and temperature displays.

• **On- and off-premise advertising.**

Whether a local sign code distinguishes on- and off-premise advertising is important for business owners to know. If so, then it is unlikely that a business owner will be allowed to use a digital sign for any advertising other than for the business itself and the activities, goods and services that are located and available on the business' premises. Many business owners erroneously believe that they will be able to use income from off-premise advertising to pay for the cost of the digital sign, but that may not be a legal option if off-premise advertising is prohibited or otherwise restricted in the local sign code. This often is the case where off-premise advertising is distinguished from on-premise adver-

tising, a content-based restriction that appears to have survived *Reed*.

• **Time and temperature displays.** By contrast, a local sign code's allowance for changeable time and temperature displays on digital signs despite a prohibition on animation and/or a dwell time that exceeds 60 seconds may, in fact, be a content-based restriction that violates *Reed*. Again, many business owners erroneously assume that because time and temperature displays are ubiquitous, they are compliant with the local sign code. It is important, then, for business owners to review their local sign code and to ask for clarification if it is not readily apparent whether the local sign code allows such displays.

The last consideration for business owners contemplating whether to go digital or to stay static with their signage is community messaging. Recognizing that the advantages of digital signage can have community as well as business benefits, some communities are creatively coupling their local sign code regulations with certain conditions. For example, one such condition may be that for a specified period of time each day or throughout the day, the digital sign must display community news or children's art from the local public schools. Another such condition may be that business advertising must be superseded by emergency messaging when necessary.

Certainly, a business owner must weigh all of these aspects of local sign code regulation to determine whether digital signage offers promise or peril. ▲

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