

STAFF REPORT AND ANALYSIS
ZONING ORDINANCE TEXT AMENDMENT

RZ-09-006
September 3, 2009

Upon advice from the County Attorney the Washington County Planning Department is proposing an amendment to Section 22.21 of the Washington County Zoning Ordinance. This section regulates signs and lists certain types of signs that do not require a zoning permit. The section proposed for amendment states:

Section 22.21 Signs Permitted Without Zoning Permits

The following signs are permitted without zoning permit in any district provided the following conditions are adhered thereto.

(g) Election signs, provided the signs are not erected more than 45 days prior to a primary or special election. Unsuccessful candidates shall remove signs within 15 days after a primary or special election. All signs shall be removed within 15 days after the general election. Signs shall not interfere with traffic visibility.

The amendment proposes that all of the text of paragraph (g) that imposes time limits on the placement of election signs be eliminated so that the section reads:

Section 22.21 Signs Permitted Without Zoning Permits

The following signs are permitted without zoning permit in any district provided the following conditions are adhered thereto

(g) Election signs, provided the signs do not interfere with traffic visibility.

In supporting information the County Attorney explains that the American Civil Liberties Union (ACLU) of Maryland has notified the County that such time limits are illegal. An ACLU letter cites two federal district court cases regarding similar durational limits from Baltimore and Prince George's counties in Maryland. The court's decisions in each case concludes that such time limits on the placement of election signs are a form of unconstitutional limitation on free speech of the resident displaying the sign and the candidate. Therefore, such time limits have been determined to be illegal. The 1994 Supreme Court decision in the case of *City of Ladue vs Gilleo* is cited as the precedent for this stance.

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The offending text appears to be part of the original Zoning Ordinance text that was adopted in 1973. It is clearly an attempt to limit the time that these signs can be displayed, at least in part to limit the visual clutter of such signs that proliferate before and after elections. As noted above, courts have determined that the right to this type of free speech outweighs a desire to limit this type of visual clutter.

No further explanation for the proposed amendment seems to be necessary. The County has been advised by a reputable party that a certain part of its zoning ordinance violates the U.S. Constitution's 1st amendment freedom of speech protections. In addition to the supporting references of three court cases the advice contains a simple solution to the problem, deletion of the offending section, which is the remedy the County Attorney recommends and the Planning Department proposes.

Respectfully submitted,

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Chief Planner