

## PLANNING COMMISSION

### STAFF REPORT

#### Growth Management Department



<b>MEETING DATE:</b>	June 23, 2021
<b>PROJECT:</b>	Amendments to the Town of Bluffton Code of Ordinances Chapter 23 – Unified Development Ordinance, Article 3 – Application Process, Sec. 3.19 (Site Feature-Historic District) and Sec. 3.21 (Sign Permits); Article 5 – Design Standards, (Sec. 5.13 Signs) and Sec. 5.15.6.Q. (Old Town Bluffton Historic District, Signs); and, Article 9, (Sec. 9.2 – Defined Terms for Certain Related Definitions).
<b>PROJECT MANAGER:</b>	Charlotte L. Moore, AICP Principal Planner

**INTRODUCTION:** As set forth in Section 3.5.2 of the Unified Development Ordinance (UDO), “an application for a Unified Development Ordinance Text Amendment may be initiated by a Town of Bluffton property owner, Town Council, Planning Commission, or the UDO Administrator when public necessity, convenience, State or Federal law, general welfare, new research, or published recommendations on zoning and land development justifies such action.”

**REQUEST:** The Unified Development Ordinance (UDO) Administrator requests that the Planning Commission recommend approval to Town Council of the following Text Amendments:

Article 3 – Application Process, Sec. 3.19 (Site Feature-Historic District) and Sec. 3.21 (Sign Permits); Article 5 – Design Standards, (Sec. 5.13 Signs) and Sec. 5.15.6.Q. (Old Town Bluffton Historic District, Signs); and, Article 9, (Sec. 9.2 – Defined Terms for Certain Related Definitions).

**BACKGROUND:** The Strategic Plan for Fiscal Year 2021-22 (“Strategic Plan”) serves as a road map for activities and initiatives to implement the Town’s Vision and Mission Statement to ensure that Bluffton is poised to capitalize on opportunities that advance key goals. Strategic Plan focus areas include Fiscal Sustainability, Economic Growth, Town Organization, Community Quality of Life, Infrastructure, Affordable and/or Workforce Housing, and the May River & Surrounding Rivers and Watersheds. Certain amendments to the Unified Development Ordinance are outlined as a strategic initiative, including signage.

An audit of the existing regulations related to signage was conducted by Town Staff and a planning consultant. Most of the concerns identified relate to ordinance format, sign regulation intent, and legal compliance. Additionally, the review revealed areas of the UDO that could be improved, such as better identification of allowable sign types, streamlining the permit review procedures and updating related definitions. As a result, amendments are proposed to the following sign-related sections of the UDO:

- Sec. 3.19: Site Feature Historic District (HD) Permit (applies to zoning districts with an Historic District (HD) suffix—i.e., districts in Old Town Bluffton Historic District)
- Sec. 3.21: Sign Permits (required for Planned Unit Developments and all zoning districts except for those with an Historic District (HD) designation)
- Sec. 5.13: Signs
- Sec. 5.15.6.Q.: Old Town Bluffton Historic District, Sign Guidelines
- Sec. 9.2: Defined Terms

Because the majority of property within Bluffton is zoned Planned Unit Development (PUD), signage is regulated through specific Development Agreements rather than the UDO. The remaining property, approximately eight percent (8%) of the Town, is governed by the UDO, which provides zoning regulations that include sign requirements that are specific to Old Town Bluffton Historic District and all other non-PUD designated properties.

Old Town Bluffton is a local historic district, which means it has specific standards to ensure its historic character will be maintained. The Site Feature – Historic District (HD) Permit review process is applied. Elsewhere in Bluffton, the Sign Permit process is applied, including for properties zoned PUD.

Other UDO sections that apply to signage but that are not proposed to be amended include: Sign Illumination (Sec. 5.12.3.C), Nonconforming Signs (Sec. 7.10) and Penalties and Enforcement, Signs (Sec. 8.8)

### **Legal Compliance**

The main focus of these proposed amendments is legal compliance; specifically, amendments to applicable portions of the Sign section to ensure all sign message regulations, whether commercial or non-commercial, are applied equally.

The impetus for these amendments is a 2015 U.S. Supreme Court decision, *Reed v. Town of Gilbert* (Arizona), which caused many communities to re-evaluate their sign codes. In this case, the Town of Gilbert had stricter limitations on temporary directional signs advertising religious services than signs advertising political and ideological messages. The Supreme Court ruled that varying standards based on sign message was not content-neutral, thus a violation of the First Amendment.

The proposed sign types within the UDO are not specific to content; however, there are some sign types, such as temporary real estate and construction project signs that are specifically identified. Because the time in which it takes to sell property and to construct a building may vary, the time period for posting a temporary sign advertising either activity will most likely be longer than a temporary special event. The regulation of the posting time period, a non-communicative aspect, allows these signs to be distinctly identified by activity. Other non-communicative aspects of sign regulation include the place, manner, location, size, height, illumination, spacing, and orientation.

Sec. 5.13, Signs, provides the legal foundation for sign regulation in Bluffton. A summary of amendments to this Section includes: 1) an update to the Intent section (5.13.1) to allow “adequate

opportunities for both commercial and non-commercial messages,” in addition to improved objectives; 2) an update to the Applicability section (5.13.2.) to provide that “non-communicative” aspects of sign regulations not related to the message can be distinguished; and, 3) the inclusion of a “Substitution Clause” section (5.13.5) that would allow a commercial message to be substituted with a non-commercial message and a non-commercial message to be substituted with a commercial message. The latter item ensures that all speech is treated equally.

### **Other Considerations**

Sec. 5.13, Signs, has also been reformatted to allow readers to locate information more quickly, expands on exempt and prohibited signs, provides more details for the various freestanding and building sign types, and includes a new sign maintenance section. Sec. 5.15.6.Q., the Sign Guidelines for Old Town Historic Bluffton Historic District has also been revised to cross-reference Sec. 5.13. The differences between the general sign requirements and Old Town Bluffton will be distinguished in Sec. 5.15.6.Q. to avoid repetition.

The sign permit process for Old Town Historic District and all other areas of Bluffton are different. For Old Town, a Site Feature-Historic District (HD) permit (Sec. 3.19) is required. This permit process authorizes the UDO Administrator to review and approve signs and certain “minor” changes to buildings and structures within Old Town. A non-related sign amendment to this section includes removing the reference to “historic structures” outside of Old Town as a process does not yet exist to identify such structures, nor are there standards in place to regulate such structures as there is for similar historic structures in Old Town.

The Sign Permit section (Sec. 3.21) has been revamped to remove the objectives to be considered when reviewing an application (which are more appropriately located in Sec. 5.13, Signs). Additionally, the amendments make it clear when a sign permit is required (some signs are exempt from permitting) and identifies other sign-related sections in the UDO that a reader may need to reference.

Finally, some sign-related definitions are proposed to be revised, added, or removed. For example, the definition for “Sign” has been expanded to more comprehensively identify the elements that make a sign a sign. Both “commercial” and “non-commercial” messages are defined, and certain sign types have been refined.

The proposed amendments appear in Attachment 1. An unmarked version of the existing UDO text for each section appears in Attachment 2. More detail regarding the specific changes will be provided with the presentation of the amendments.

**REVIEW CRITERIA & ANALYSIS:** When assessing an application for UDO Text Amendments, the Town Council is required to consider the criteria set forth in UDO Section 3.5.3, Application Review Criteria. These criteria are provided below, followed by a Finding.

1. **Section 3.5.3.A.** Consistency with the Comprehensive Plan or, if conditions have changed since the Comprehensive Plan was adopted, the consistency with the overall intent of the Plan, recent development trends and the general character of the area.

**Finding.** The proposed amendments are consistent with the needs, goals, and implementation strategies of the Comprehensive Plan. The Comprehensive Plan, as adopted on September 4, 2007, balances “long-term visioning and goals” with “short-term actions.” The amendments also support the Old Town Bluffton Master Plan.

2. **Section 3.5.3.B.** Consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices.

**Finding.** While these amendments do not have a direct relationship to demographic changes or economic trends, ensuring that sign regulations are legally compliant has been recognized as a best planning practice since the Reed decision in 2015. These revisions also provide an opportunity to ensure that the remainder of the sign regulations are clear and up-to-date.

3. **Section 3.5.3.C.** Enhancement of the health, safety, and welfare of the Town of Bluffton.

**Finding.** The improved intent for Sec. 5.13, Signs, reinforces the desire of the Town to ensure that signs allow for effective communication while avoiding visual clutter and distractions that could result from less regulation.

4. **Section 3.5.3.D.** Impact of the proposed amendment on the provision of public services.

**Finding.** The amendments will have no impact on providing public services.

5. **Section 3.5.3.E.** The application must comply with applicable requirements in the Applications Manual.

**Finding.** The application complies with all applicable requirements of the Applications Manual.

**PROPOSED AMENDMENTS:** The proposed amendments are shown in Attachment 1.

**PLANNING COMMISSION ACTIONS:** As granted by the powers and duties set forth in Section 2.2.6.C.4 of the UDO, the Planning Commission has the authority to take the following actions with respect to this application:

1. Approval of the application as submitted;
2. Approval of the application with amendments; or
3. Denial of the application as submitted by the Applicant.

**STAFF RECOMMENDATION:** As submitted, Growth Management staff recommends approval of the proposed Text Amendments to the Planning Commission.

**NEXT STEPS:**

UDO Text Amendment Procedure	Date	Complete
Step 1. Town Council Workshop	March 9, 2021	✓
Step 2. Planning Commission Public Hearing and Recommendation	June 23, 2021	✓
Step 3. Town Council – 1st Reading	July 13, 2021	✓
Step 4. Town Council Meeting – Final Reading and Public Hearing	August 10, 2021	✓

**ATTACHMENTS:**

1. Proposed Amendments (Attachment 1)
2. Existing Sign-Related UDO Text (Attachment 2)