

## **Scenic Rapid City Committee's Response to Recommendations Made by the Ad Hoc Sign Code Revision Task Force**

Presented to Legal and Finance – July 13, 2011

Scenic Rapid City Committee is a non-partisan, grassroots organization. We are dedicated to the preservation and protection of the beauty of our community, as well as the safety of its citizens, through sign control, while simultaneously protecting the economic future of Rapid City.

Scenic Rapid City was instrumental in getting the initiated measures placed on the ballot and then helping to get them passed. **The citizens of Rapid City sent a clear message with their 2 to 1 vote, expressing their desire for you to make significant changes to the sign code and also to limit any further proliferation of billboard blight!** The two initiated measures only dealt with off-premise signs (billboards); no part of the initiated measures dealt with on-premise signs. Therefore, the following recommendations will be confined specifically to off-premise signs. The sign task force recommendations, however, address both on and off premise signs.

1. The task force discussed the current sign credit system at length. The task force voted to preserve the existing sign credit system Feb 9, 2011 (Cite to meeting where motion making recommendation was approved).

### **Scenic Rapid City Position:**

This is a complicated issue with many ramifications for the city. We are opposed to the Off Premise Sign Credit System (15.28.250) of the Rapid City Sign Ordinance continuing in its present form. Sign credits were issued by the city in an attempt to entice billboard companies to remove obsolete signs, but since we have “use it or lose it” and “maintain it or take it down” provisions in our code, many of these billboards could have been mandated to come down without sign credits. Two companies, control nearly all outstanding sign credits, thus giving them a virtual, government created, monopoly. If someone else wants to put up a billboard on their own property to cash in on the lucrative outdoor advertising business they cannot, because it takes two sign credits to get a license for a new sign. This is a prohibition for small business owners who currently have no other billboards. The two large sign companies in Rapid City could sell them sign credits, but that isn't likely. One of the owners of a company holding credits, at a City Council meeting, stated that the credits could be worth perhaps one hundred thousand dollars each. These two companies currently hold dozens between them. Due largely to the Sign Credit System, there is little opportunity for competition.

The sign credit system has presented many difficulties for the city and will continue to do so in the future.

The sign companies have taken down many old signs, actions which they attribute to the sign credit system, however, it is our opinion that these signs could have been required to be removed by the city and /or they were removed due to market forces rather than the sign credit system. With the advent of digital signs, the sign companies are able to generate more income with less on-going maintenance and many fewer employees than with the old wooden static signs. They had in fact initiated a removal process for these old signs before the sign code was changed to allow for the sign credit system.

The most egregious aspect of the sign credit system is that under the current code, the city will continue to issue companies a sign credit for every billboard taken down, ***even if they are removed because the property owner decides not to renew their contract with the billboard company***, which is the most likely scenario at this point since almost all of the obsolete “telephone pole” billboards have already been removed. In that case, the city gives something of great value to a private company as a result of a private business transaction between two private parties. These credits potentially create a great financial liability for our citizens. Therefore, if the system stays in place, we propose that the code be immediately amended to stipulate that *sign credits can be issued only if a billboard is voluntarily taken down within one year prior to its lease expiration date, and only if the leaser certifies, in writing, that they were willing to renew the lease for the same length of time as the current lease.*

Also, if the city chooses to retain the sign credit system, we would recommend that there should be more sign credits required to be surrendered in exchange for a new sign license. Every billboard previously removed for which credits were issued was non-conforming; therefore each was issued two sign credits. Since the current code calls for only two credits to be surrendered to license a new billboard, basically there will be no significant net reduction when all the credits are used, which was one of the main reasons the Sign Credit system was put in place. *Therefore we propose the surrender of ten sign credits be required to receive a license to erect any new billboard.*

*(The current code is a 2-1 exchange. Recommend a 10 to 1 exchange).*

***We support the recommendation stating there would be no new sign credits given to any company that currently controls 20 or more sign credits.***

**There should also be a specific clause added to the code stating that** sign credits will not be issued by the city if the taking down of a billboard is due to a private negotiation between the landowner and the billboard company. **If a private landowner does not want to renew the lease there is no reason for the city to issue sign credits or be involved in this negotiation in any way as this is a private party transaction, and it may very well be illegal to incur this public obligation, which enriches a private entity at taxpayers expense.**

In the future sign credits may become even more of a financial burden for the city. At some point, there may not be any locations where a new sign can be placed, even though the sign companies still hold sign credits. They view sign credits as a financial commodity, which they believe the city must pay them for. As stated previously, the President of one sign company believes these sign credits are worth approximately \$100,000 a piece, and while we don't agree with this assessment, it demonstrates the problems we may well face in the future. For all these reasons *we recommend that the number of sign credits issued be kept to an absolute minimum in the future.*

2. The task force discussed video signage and voted to recommend that full motion be prohibited on all off-premises, on-premises and public purpose signs within the City. This includes prohibiting full motion on all current signs. Mar 2, 2011.

*Bear in mind that **Initiative Two** provided for a “sunset clause” to be added to the sign code which places a twenty year expiration on sign credits from their date of issue.*

#### **Scenic Rapid City Position:**

The initiatives only dealt with off-premise regulations. *We would support the recommendation that would prohibit full motion of off-premise and public purpose signs.* This is in line with the state ordinance that also prohibits full motion on billboards.

3. The task force recommends that no additional electronic digital off-premises signs be allowed. The task force also recommends that on-premises electronic signs are treated the same as off-premises signs. Mar 9, 2011.

#### **Scenic Rapid City Position:**

**The citizen’s Initiative Number One clearly stated that there would be no new off-premise digital signs allowed, and this includes new digital signs mounted in place of current static faces, a process the Billboard companies have referred to as conversions, but which citizens have always considered to be new billboards.**

4. If off-premises digital signs had been allowed, the task force recommended four sign credits be required to convert a static billboard to a digital one. Feb. 23, 2011.

#### **Scenic Rapid City Position:**

With the passage of the initiated measures, there are not to be any new off-premise digital signs allowed by the Code, therefore the four sign credit recommendation in item #4 is mute and would be a totally inadequate number anyway due to the revenue stream ratio between digital and static. We would have recommended a minimum ten credit requirement for each new digital billboard. Once again, one of the original intentions of implementing the Sign Credit System was to reduce the number of billboards.

Since every billboard removed was non-conforming, each was issued two sign credits when it came down. *Therefore we propose the surrender of ten sign credits for a license to erect any new **static billboard**.* At any rate, the initiative made the four-credit recommendation from the task force invalid.

5. The task force recommends that the display messages on both off-premises and on-premises signs be limited to a 6 second static message with no animation. Scrolling messages would be allowed, but a definition of what constitutes a scrolling message should be added to the sign code. Apr 13, 2011.

**Scenic Rapid City Position:**

*We recommend that messages on off-premise signs be as static as possible, which is what the people supported when they voted to have no more digital. We would recommend for those off-premise digital signs currently in place, that the message would change no more often than every 30 seconds. Also in the interest of safety we would recommend:*

*No animation or scrolling. Changes should be from a static message to a static message. This would greatly decrease the distraction and be safer for drivers and pedestrians. A thirty second interval would allow two advertisements to be presented each minute. That would allow for, on average, 86,400 advertising messages to be presented each month:*

*(24 hours /day), 24 hours x 30 days=720 hours / month)*

*(720 hours x 60 minutes /hour = 43,200 minutes / month),*

*1 message every 30 seconds- so, 43,200 (minutes per month) x 2 = 86,400 thirty-second messages available, on average, each month.*

*This change could be revenue neutral for the sign companies as they could charge more for a longer ad, just as TV and radio do, and this change would greatly reduce the distraction, and thus increase the safety for our citizens.*

**Additionally, we point out once again that the State of South Dakota sign statute also precludes motion on billboards.**

6. The task force recommends the City adopt a non-subjective brightness standard for any electronic/video signs whether they are on or off premises. The standard that the task force recommends is .3 foot candles above ambient light. This standard is based on a presentation on electronic/video signage by a representative of Daktronics. There are several communities/states which have created a sign brightness/intensity standard based on the brightness/intensity of the sign in comparison to the ambient lighting. There is currently equipment that costs less than a \$500, which can measure this standard. Apr 6, 2011.

**Scenic Rapid City Position:**

*This equipment should be secured and utilized on a regular basis, and the annual licensing fee for billboards should be increased to pay for this and other effective enforcement of the sign code.*

7. The task force recommends that all legal, non-conforming signs have a maximum of 10 years to come into compliance with the sign code. The task force would recommend that all legal non-conforming

signs within the Downtown Historic District and the Original Town of Rapid City be excluded from this requirement. Apr 16, 2011

**Scenic Rapid City Position:**

*We strongly support this recommendation for all off-premise signs.*

8. The task force recommends that City signage, such as the Civic Center sign, comply with the sign code. Apr 16, 2011.

**Scenic Rapid City Position:**

*We support this recommendation. We also support that all **other** public use signs would be covered by the sign code equally.*

9. The task force reviewed the exception for political signs and recommends the following changes:

**POLITICAL SIGNS**

Found in Sec.15.28.080 of the RCMC

Temporary Political signs are allowed so long as they are not located within the public right of way, a required sight triangle or a required parking stall or parking area. ~~and~~ Political signs may not be displayed until thirty (30) days prior to the election and are limited to 32 total square feet and a maximum height of 8 feet ~~in height~~. Temporary political signs shall be removed within 5 days after the election;

The only substantive change was a prohibition against displaying political signs more than 30 days before an election. Apr 6, 2011.

**Scenic Rapid City Position:**

*We strongly support this recommendation, which would reduce the visual clutter of political advertising to one month before each election rather than the two, or three months we see currently.*

10. The task force reviewed the section of the code on miscellaneous signs and recommended the following changes:

## Miscellaneous Signs – Charitable Exception

Found in 15.28.050 and 15.28.220 of the RCMC

F. Banners, pennants, search lights, streamer, twirling signs, sandwich board signs, sidewalk or curb signs, balloons, air and gas-filled figures shall ~~not be used~~ prohibited except when permitted ~~for the opening of a new business, not to exceed 15 days~~ pursuant to Section 15.28.220;

### 15.28.220 Miscellaneous signs.

The following sign requirements are intended to provide exceptions or qualify and supplement the other requirements of this code:

A. A permit may be issued for banners, pennants, sandwich board signs, and air and gas-filled figures (not exceeding 15 feet in height) to the following:

1. For a business in conjunction with a grand opening. A permit issued under this sub-section shall not exceed 15 days. Only one grand opening will be allowed per business.

2. To a non-profit, civic, charitable or fraternal organization in conjunction with a special event being held within the City. The permit may authorize such signage at multiple locations throughout the City. A permit issued under this sub-section shall not exceed 30 days.

~~AB.~~ Public or private institutions, school, nonprofit membership organizations, and philanthropic institutions that are educational, cultural, religious or recreational in nature, may display on-premises signs. However, such sign or part thereof shall **not** contain a commercial advertising message. The signs shall comply with the following:

1. For on-premises ground signs and on-premises wall signs, the size shall not exceed 32 square feet;

2. The height of the sign shall not exceed 8 feet;

1. One on-premises ground sign shall be allowed per street frontage. The maximum height and area of the sign shall be based on its distance from the street frontage based on the following table:

Distance from Street Frontage	Maximum Height (of the sign or the distance from the ground?)	Maximum Area
0 to 50 ft.	8 ft.	32 sq.ft.

50 to 200 ft.	15 ft.	64 sq.ft.
Over 200 ft.	20 ft.	120 sq.ft.

One on-premises wall sign shall be allowed per street frontage. The maximum **area** for the signs is based on the distance from the street frontage and is identical to the area allowed for on-premises ground signs. The height of the wall sign is dependent on the height of the building and is not subject to the restrictions on height for on-premises ground signs. If a wall sign is directly adjacent to a walking or other paved surface, it must be at least 8 ft. from the lowest part of the sign to the surface grade.

3. Signs shall not be placed within a required sight triangle or a required parking area; and

4. Electric signs shall comply with § [15.28.130](#).

~~BC.~~ In the area of the City designated as the “original town,” Each separate business entity may display 1 pedestrian-oriented sign for each wall of the building that faces a public street ~~in the original town.~~ These signs are limited to 5-foot projection, 8 square feet, 9-inch letters and 8-foot clearance.

~~CD.~~ For home businesses or occupations located in residential zoning districts, the total area of wall signs or ground signs ~~for all residential entities on the premises may be~~ is 1 square foot for each dwelling unit. Wall signs or ground signs for all residential entities on the premises must also meet the following:

1. A maximum of 1 such sign per street frontage is allowed;

2. The maximum height of the sign shall be ~~8~~ 5 feet; and

The maximum width of the sign area shall be 8 feet.

~~DE.~~ Wall signs or ground signs for a commercial use in a residential district or a home occupation may be 1 square foot in size per commercial use or home occupation.

~~EF.~~ Miscellaneous signs shall not be located within any clear sight triangle as set forth by city’s Municipal Code.

~~FG.~~ The light from any light source intended to illuminate a miscellaneous sign, or emanating from an internally illuminated miscellaneous sign, shall be so shaded, shielded, directed or of such an intensity that the brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas. If a miscellaneous sign is located in a residential zoning district, any illumination will be turned off from 10:00 p.m. to 6:00 a.m.

### Scenic Rapid City Position:

*These are not ordinances which apply to off-premise signs and so we have no recommendations.*

### Additional Recommendations from Scenic Rapid City:

- \* Divide the sign ordinance into off-premise and on-premise sections. The code is too confusing the way it is currently written.*
- \* There should be an increase in the annual off-premise (billboard) licensing fee to at least \$100 per year **per sign face** or whatever is needed to provide sufficient funding to effectively evaluate the signage and enforce the sign code in Rapid City. This was recommended in the past sign code of 2007, because the current fee of \$75 **per pole** is inadequate and does not meet the financial needs of the code enforcement office. There should be regularly scheduled, routine evaluations of all the signage in Rapid City. Currently, sign enforcement is unable to evaluate signage until a complaint is made. The off-premise sign owners may believe the burden of paying for code enforcement should not rest solely on them. It doesn't; on-premise sign owners pay property taxes which include their on-premise signs and therefore contribute to the code enforcement office through taxes. Off-premise signs pay no property tax. They also pay no sales tax on the advertising they sell, unlike on-premise signs that do pay sales tax on any additional sales their sign might generate.*
- \* The distances between off-premise signs in the sign code need to be consistent with the initiated measure that requires 2000 feet axially.*

Thank you for considering the opinions of your constituents as you work through the modification of the city Sign Code. We appreciate the difficult task the City Council has in rewriting a sign code so that it will be able to control the increase in visual clutter Rapid City has experienced in the past few years. We support any effort you make to decrease the size and number of signs, decrease the visual distraction of messages and increase the distance between signs. Rapid City has well over 400 sign faces within the city limits and this doesn't account for the 8-10 messages per minute on the 8 digital signs within the city. By comparison, Denver only has about 500 sign faces. In four states there are no off-premise signs allowed; Hawaii, Alaska, Maine, and Vermont. It is imperative we get sign blight under control, before we forever alter our greatest asset, the scenic beauty of our community. The people have voted, and they have sent a clear message to the City Council that they want a much more restrictive sign code, so please consider their wishes in making your decisions. Thank you for your time. Scenic Rapid City Committee- Board of Directors

If you would like to discuss any of our recommendations further, please contact Jim Petersen, Chairman of Scenic Rapid City Committee, Inc. 342-6245.

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