

**From:** [David Williams](#)  
**To:** [Haberman, Joseph](#)  
**Cc:** [Rebekah Davenport](#)  
**Subject:** Public Comment Submission – Case No. 25-LDC-0006 | April 2, 2026 Planning Commission Hearing  
**Date:** Tuesday, March 24, 2026 8:49:20 AM  
**Attachments:** [Policy Memo - On-Premises Sign Modernization \(03.24.26\).pdf](#)  
[Draft Ordinance - Modernizing On-Premises Electronic Signs \(03.24.26\).pdf](#)  
[Policy Memo - On-Premises Sign Modernization \(03.24.26\).docx](#)  
[Draft Ordinance - Modernizing On-Premises Electronic Signs \(03.24.26\).docx](#)

---

**CAUTION: This email came from outside of Louisville Metro. Do not click links, open attachments, or give away private information unless you recognize the sender's email address and know the content is safe.**

---

Dear Joe Haberman:

I am writing to submit public comment materials in connection with Case No. 25-LDC-0006 (Digital Display Off-Premises Signs - Billboards) and to request that the enclosed documents be added to the official record in advance of the Planning Commission’s public hearing scheduled for Thursday, April 2, 2026, at 1:00 PM at the Old Jail Auditorium, 514 W. Liberty Street, Louisville, KY 40202.

I am submitting two (2) documents for inclusion in the record. Both are provided in PDF and MS Word formats:

1. **Policy Memorandum** – “Proposed LDC Text Amendment 25-LDC-0006 — Need to Modernize On-Premises Electronic Sign Regulations.” This memorandum identifies a regulatory gap in the proposed amendment as currently drafted and outlines its unintended consequences for small and independent business owners. I respectfully request that this memorandum be made part of the official record for the April 2 hearing.
2. **Model Draft Ordinance – Provided for Discussion Purposes Only.** This document presents a fully drafted illustration of one approach to modernizing Louisville Metro’s on-premises electronic sign regulations in a manner that addresses the regulatory gap identified in the companion policy memorandum. *It is submitted solely as a discussion tool* to assist the Commission and staff in evaluating potential solutions. I respectfully request that it also be included in the record in that capacity.

**Extra Time at Hearing.** I would also like to respectfully request additional time to speak during the public hearing on April 2, 2026, beyond the standard allotment, given the technical nature of the regulatory issues raised in the submitted materials. Please let me know what procedure is appropriate for making that request and whether it requires

advance approval from the Commission or its Chair.

**My contact information is as follows:**

David A. Williams

[REDACTED]

[REDACTED]

Office: 13405 Eastpoint Centre Drive, Suite 125, Louisville, KY 40223

Residence: 1017 Essex Court, Goshen, KY 40026

Thank you for your time and for your assistance in ensuring these materials are properly included in the record. Please do not hesitate to contact me if you have any questions or need anything further in advance of the hearing.

Sincerely,

David A. Williams

[REDACTED]

[REDACTED]

# POLICY MEMORANDUM

---

**TO:** Louisville Metro Planning Commission  
**FROM:** David A. Williams. Interested Party & Commercial Real Estate Advisor.  
(██████████ mobile. ██████████)  
Rebekah Davis Davenport. Interested Party & Media Solutions Consultant.  
(██████████ mobile. ██████████).  
**RE:** Proposed LDC Text Amendment 25-LDC-0006 — Need to Modernize On-Premises Electronic Sign Regulations  
**DATE:** March 24, 2026 (for hearing on April 2, 2026).  
**SUBJECT:** **Unintended Harm to Local Business Owners & Creation of an Inadvertent Monopoly**

---

## Executive Summary

The proposed text amendment to the Louisville Metro Land Development Code (Case 25-LDC-0006) takes a meaningful and overdue step in modernizing regulations for Digital Display Off-Premises Signs. However, as currently drafted, the amendment contains a critical gap: it does not update the regulatory framework governing on-premises electronic signs. This omission creates unintended, disproportionate harm for small and independent business owners while leaving large, established outdoor advertising operators entirely unaffected. This memorandum outlines the specific problems created by the gap and recommends that the Commission direct the staff to develop contemporaneous amendments to the on-premises sign framework.

---

## A. The Regulatory Trigger Problem: When an On-Premises Sign Becomes a Billboard

Under both the existing LDC and the proposed amendment, a sign’s classification — on-premises or off-premises — turns on whether it is “associated with” a principal use on the same lot. An on-premises sign serves the business located at that address. An off-premises sign (a billboard) is unassociated with any business on site and is treated as an independent principal use.

The practical consequence of this binary classification is severe: the moment a property owner or business uses an electronic on-premises sign to display any content that is not exclusively tied to their own business — a paid advertisement, a public service announcement (PSA), a community message, or even a sponsorship acknowledgment — that sign risks reclassification as an off-premises sign. Once reclassified, the sign is subject to the full off-premises regulatory framework, including spacing requirements measured in hundreds or thousands of feet, size restrictions, location prohibitions by zoning and form district, and, critically, the mandatory exchange credit requirement imposed by state law.

Consider a concrete Louisville example. A family-owned equestrian feed and supply company — with roots in this city dating to 1869, representing over 156 years of continuous local operation — decides to modernize the exterior signage at its storefront. The company invests in a contemporary LED electronic display to promote its products, announce seasonal sales, highlight upcoming equestrian events, and reinforce its deep heritage brand to the surrounding community.

The sign is unambiguously on-premises: it sits on the company's own lot and advertises its own business.

To help offset the significant capital cost of the installation — modern LED electronic displays can require up to \$200,000 or more in upfront investment — the owner arranges to display third-party content for no more than half of each display cycle. This might include a public service announcement from Louisville Metro, a rotating message for a regional equestrian event, or a brief community calendar notice from a neighborhood association. The business's own content runs the other half of the time. This is a modest, sensible cost-sharing arrangement of exactly the kind that modern electronic signs are designed to support, and exactly the kind of arrangement that helps a heritage small business compete in a modern commercial environment.

Under the current and proposed LDC framework, that arrangement — regardless of how community-oriented or modest the third-party content — risks converting this 156-year-old Louisville institution's sign into a regulated billboard overnight. The owner would then face a completely different and far more burdensome regulatory pathway: spacing requirements measured in hundreds of feet, form district prohibitions, and — under state law — a mandatory exchange credit obligation requiring the prior removal of five (5) to six (6) existing static billboard structures before the sign can legally operate in its digital form. This is not a pathway available to an independent feed and supply company that has served Louisville since before the completion of the Brooklyn Bridge. It is a pathway available only to large, multi-structure outdoor advertising operators. The family business should have the opportunity, and Louisville's regulations should recognize and protect that distinction.

---

## **B. The State-Level Exchange Credit Requirement Creates an Insurmountable Barrier for Small Owners.**

The problem does not stop at local reclassification. Under Kentucky state law as administered by the Kentucky Transportation Cabinet (KYTC), installing a new electronic (digital) off-premises advertising device within a protected area requires the documented removal of existing nonconforming static billboard structures as a precondition. Specifically:

- Converting a legal static device in an urban or urbanized protected area to an electronic device requires an exchange credit equal to five (5) existing off-premises advertising devices.
- Installing a new electronic advertising device requires documentation of the removal of six (6) existing nonconforming static devices.

These requirements exist to prevent net proliferation of outdoor advertising structures. They are sensible in the context of a large billboard operator managing a portfolio of dozens or hundreds of sign structures across a metropolitan area. For such an operator, retiring a handful of underperforming static structures to unlock a more valuable digital sign is a routine business transaction.

For a small business owner or independent property owner, these requirements are not merely burdensome — they are functionally impossible to satisfy. An independent owner of a single commercial property does not control five or six existing billboard structures anywhere. They have no inventory to exchange. Under the current framework, if their on-premises electronic sign is reclassified as off-premises due to incidental third-party content, they face an exchange credit requirement they cannot meet without purchasing or acquiring rights to other sign structures from existing operators.

The only parties capable of satisfying the exchange credit requirement at scale are the two national outdoor advertising companies that dominate the Louisville market. This is not a theoretical concern — it is the predictable market outcome of a regulatory gap that was never designed to apply to on-premises business signage.

---

### C. The Inadvertent Monopoly Effect

The combined effect of these two regulatory layers — the local on-premises/off-premises classification trigger and the state-level exchange credit requirement — produces a structural outcome that functions as a de facto monopoly in the digital sign market, despite no such intent by the drafters of either regulation.

Under the current framework as proposed, a small business or property owner who wishes to install a modern electronic display sign has the following options:

- Install the sign and use it exclusively for their own business content, bearing 100% of the capital and operating costs with no ability to offset those costs through shared use or third-party revenue.
- Sell the property or building to a national outdoor advertising company and allow the company to install and operate a billboard on the site.
- Enter into a lease arrangement with a national outdoor advertising company, effectively ceding control of the sign and the building facade to a company whose primary purpose is third-party advertising revenue.

None of these outcomes serves the interest of Louisville’s small business community or the Metro’s broader economic development goals. The practical result is that only Lamar Advertising and Outfront Media — the two dominant national operators with existing sign inventory in Jefferson County — have the market position and inventory management capacity to fully participate in the modern digital sign economy. Independent property owners are locked out not by market competition, but by a regulatory structure that was never designed to apply to their situation.

---

### D. A Simple Fix: Create a “Shared On-Premises Electronic Sign” Subsection.

Louisville Metro has a straightforward opportunity to protect local business owners without disrupting the overall framework of the proposed amendment. The Commission should direct staff to add a dedicated subsection to the on-premises sign provisions of the LDC establishing a “Shared On-Premises Electronic Sign” category. This new subsection would allow a property owner or primary business tenant to display third-party content on an electronic sign without triggering reclassification as an off-premises sign, provided that specific conditions are met.

The core elements of the proposed subsection should include:

- **50% Own-Business Content Requirement:** The primary business or property owner must constitute no less than fifty percent (50%) of total display time. Third-party content — including paid advertising, public service announcements, community messages, or event promotions — may occupy the remaining display time without triggering off-premises classification.

- **Location-Based Eligibility:** To reflect the City’s interest in vibrant, modern commercial corridors, the subsection should extend eligibility — and potentially an enhanced third-party content allowance — to signs located in priority areas including the Downtown form district, Urban Center Neighborhood areas, Traditional Marketplace Corridors, and properties with frontage along interstate highways and designated expressways within Jefferson County. These are precisely the locations where modern electronic signs add the greatest visual and economic vitality, and where the City should be encouraging, not discouraging, investment by local property owners.
- **PSA and Community Content Exemption:** Content displayed at the request of Louisville Metro Government, Metro Public Health, or recognized neighborhood associations should be expressly exempted from the third-party content calculation. A local business displaying a tornado warning or a Metro health alert should face zero regulatory risk from doing so.
- **Technical Standards Apply Equally:** All digital display technical standards established under the proposed amendment — brightness limits, minimum dwell time of eight seconds, no animation or video, instantaneous transitions, malfunction protocols — apply in full to shared on-premises electronic signs. The content-sharing allowance carries no exemption from safety and performance requirements.
- **Spacing and Exchange Credits Do Not Apply:** A sign that meets the 50% own-business content threshold and qualifies under this subsection retains its on-premises classification and is not subject to the off-premises spacing requirements, form district location prohibitions, or the KYTC exchange credit requirements that apply to billboards. This is the critical protection that current regulations fail to provide.

This approach is not unprecedented. Several peer cities reviewed in the staff report have adopted analogous content-sharing frameworks that distinguish between genuine billboards and business signs that carry modest third-party content. Louisville can do the same — and in doing so, can position itself as a city that actively supports the modernization investments of its local and heritage business community, rather than inadvertently channeling those investments through the two national outdoor advertising operators who control the existing sign inventory.

---

## E. Conclusion

A family-owned equestrian supply company that has served Louisville since 1869 should not need to sell or lease its building to a national billboard operator just to afford a modern LED sign. A heritage local business that wants to display a Metro public health announcement alongside its own advertising should not face the same regulatory burden as a 750-square-foot interstate billboard. These outcomes are not the intent of the proposed amendment — but they are its predictable effect if on-premises electronic sign regulations are not modernized in parallel.

Adding a “Shared On-Premises Electronic Sign” subsection with a clear 50% business content threshold, location-based eligibility for priority corridors and interstate-adjacent properties, and an express exemption from off-premises spacing and exchange credit requirements is a targeted, proportionate solution. It asks nothing of large outdoor advertising operators. It costs the City nothing. And it gives Louisville’s local and heritage business owners the regulatory clarity and flexibility they need to invest in modern signage on their own terms. The Commission has the opportunity — right now, as part of this amendment — to make that choice.

## COVER MEMO - MODEL ORDINANCE FOR DISCUSSION PURPOSES

**TO:** Louisville Metro Planning Commission

**FROM:** David A. Williams. Interested Party & Commercial Real Estate Advisor.  
( [REDACTED] mobile. [REDACTED] ).  
Rebekah Davis Davenport. Interested Party & Media Solutions Consultant.  
( [REDACTED] mobile. [REDACTED] ).

**DATE:** March 24, 2026 (for hearing on April 2, 2026).

**SUBJECT:** **Model Ordinance for Discussion Purposes – On-Premises Electronic Sign Modernization. Case 25-LDC-0006**

This memorandum transmits a model ordinance draft for the Commission's consideration in connection with Case 25-LDC-0006. It is offered as a **discussion tool** — not a staff recommendation — to put concrete regulatory language on the table and focus review on specific policy choices rather than abstract principles.

### The Problem.

Louisville Metro's current LDC treats any third-party content on an electronic sign — no matter how incidental — as a trigger for full off-premises reclassification. That standard was designed for freestanding billboard structures. Applied to a local business's LED storefront sign, it creates an insurmountable barrier: reclassification as a billboard subjects the owner to spacing requirements, form district prohibitions, and a state-level exchange credit obligation requiring the prior removal of five to six existing billboard structures. Only the two national outdoor advertising companies operating in Jefferson County can satisfy that requirement. Independent and heritage business owners cannot.

### What the Model Ordinance Does.

The attached draft makes four targeted changes to the LDC sign framework, none of which require a wholesale rewrite of the sign chapter:

- **Adopts a Primary-Function Standard.** A sign retains on-premises classification if Own-Business Content occupies at least **50% of its display time over any rolling seven (7) day period**. The sign does not lose its classification based on the remaining 50% of display time.
- **Creates an Exempt Content category.** Government emergency alerts, public health announcements, neighborhood association messages, and 501(c)(3) community event notices are excluded from the 50% calculation entirely — in either direction.
- **Establishes a lightweight permit pathway.** The Shared On-Premises Electronic Sign permit gives PDS a mechanism to verify compliance before content-sharing begins. It runs with the land, renews in three-year terms, and transfers without a new fee.
- **Expressly insulates permitted signs from off-premises requirements**, including KYTC exchange credits, billboard spacing mandates, and form district location prohibitions.

### How It Fits Into the Existing LDC.

The model ordinance integrates into the current LDC sign chapter at **eight specific locations**: two definition amendments (On-Premises Sign and Off-Premises Sign), six new defined terms, one new on-premises sign subsection establishing the Primary-Function Standard, one new permit type, a cross-reference in the off-premises sign section, and a historic district cross-reference directing applicable sign permits to Landmarks Commission review. The companion memorandum includes a table mapping each element to its LDC insertion point.

### Key Legal Flags for Staff Review.

The model ordinance's Drafting Notes identify three issues for Metro Attorney review: (1) whether the content-proportion threshold is defensible under *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), or whether a purely structural framing is preferable; (2) KYTC's independent classification authority for signs visible from the federal-aid primary highway system, which the local ordinance cannot override; and (3) confirmation of KRS Chapter 100 enabling authority for the Primary-Function Standard as drafted.

The attached draft is offered to give the Commission something concrete to react to. The best land use policy emerges from specific language, not from general principles. Staff, legal counsel, and the submitting stakeholder are available to discuss any provision at the Commission's convenience.

**Draft Ordinance Modernizing “On-Premises” Electronic Signs  
(For Discussion Purposes Only)**

**Drafting Note:** The following is model legislative language is intended as a starting point for discussion, and to illustrate how Louisville can Modernize its “On-Premises Electronic Sign Regulations”. It should be reviewed and refined by Louisville Metro's Office of the City Attorney and the Planning & Design Services department before introduction. References to specific code sections reflect placeholder designations that should be conformed to Louisville Metro's Land Development Code numbering.

**LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT  
METRO COUNCIL**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE LOUISVILLE METRO  
LAND DEVELOPMENT CODE  
TO MODERNIZE REGULATIONS GOVERNING  
ON-PREMISES ELECTRONIC SIGNS;  
ADOPTING A PRIMARY-FUNCTION STANDARD;  
ESTABLISHING A "SHARED ON-PREMISES ELECTRONIC SIGN"  
CLASSIFICATION; AND FOR OTHER PURPOSES**

**Case No.:** 25-LDC-0006  
**Sponsor(s):** To be determined  
**Committee:** Land Development and Transportation Committee  
**Introduced:** \_\_\_\_\_, 2026  
**Adopted:** \_\_\_\_\_, 2026

**RECITALS**

**WHEREAS**, the Louisville/Jefferson County Metro Government ("Metro Government") possesses authority pursuant to KRS Chapter 100 and the Louisville Metro Code of Ordinances to adopt and amend land development regulations governing signage within the jurisdiction; and

**WHEREAS**, the existing Louisville Metro Land Development Code ("LDC") defines on-premises signs as those "associated with" a principal use on the same lot, and off-premises signs as those not associated with any principal use on site; and

**WHEREAS**, the existing binary classification framework — which reclassifies a sign as off-premises upon the display of any content not exclusively associated with the primary business — was designed to regulate freestanding billboard structures and was not designed to govern modern integrated electronic business signs that primarily serve a principal use; and

**WHEREAS**, LED and digital electronic sign technology has fundamentally changed how businesses communicate with the public, enabling dynamic content, real-time updates, and modest content-sharing arrangements that can offset the substantial capital costs associated with modern electronic display installations; and

**WHEREAS**, the current regulatory framework inadvertently creates a structural barrier for small and independent business owners who wish to install modern electronic signs on their own properties, while leaving large, multi-structure outdoor advertising operators entirely unaffected by those barriers, thereby producing a de facto competitive imbalance that is not consistent with Metro’s economic development and small business support goals; and

**WHEREAS**, the Metro Council finds that the appropriate standard for determining whether a sign retains on-premises classification is not whether all content displayed is exclusively related to the primary business, but rather whether the sign’s primary function remains connected to and supportive of a principal use located on the property; and

**WHEREAS**, several peer jurisdictions have adopted analogous primary-function and content-proportion standards that distinguish genuine billboard structures from business signs carrying modest third-party or community-oriented content, and Metro should adopt a similarly modernized framework; and

**WHEREAS**, the Metro Council further finds that expressly exempting government-requested emergency alerts, public health notifications, and recognized community organization messages from any content-proportion calculation serves the public interest and should not carry regulatory risk for a displaying property owner or business; and

**NOW, THEREFORE, BE IT ORDAINED** by the Louisville/Jefferson County Metro Council that the Louisville Metro Land Development Code is hereby amended as follows:

**SECTION 1. LEGISLATIVE FINDINGS AND INTENT**

The Metro Council adopts the foregoing recitals as legislative findings and hereby declares its intent to modernize the LDC’s treatment of on-premises electronic signs in order to:

- Preserve the meaningful distinction between genuine off-premises advertising structures (billboards) and electronic signs whose primary function is to serve a principal use located on the same property;
- Enable small, independent, and heritage business owners to make cost-effective modernization investments in electronic signage on their own properties;
- Establish a clear, content-neutral primary-function standard that provides regulatory certainty without the need for content-based review;
- Expressly protect property owners and businesses that display government-requested emergency or public health content from inadvertent sign reclassification; and
- Ensure that Metro’s sign regulations do not function as a structural barrier that reserves the modern digital sign market for only the largest established outdoor advertising operators.

**SECTION 2. AMENDMENTS TO LDC DEFINITIONS**

The following defined terms in the Louisville Metro Land Development Code are hereby amended or added. Where an existing definition conflicts with a definition set forth below, the definition below controls.

Term	Definition / Amendment
<b>On-Premises Sign (Amended)</b>	A sign whose primary function is to identify, promote, or communicate information about a principal use, business, service, activity, or tenant located on the same lot or parcel as the sign. A sign that meets the Primary-Function Standard established in Section 3 of this Ordinance retains on-premises classification regardless of whether limited incidental third-party content or Exempt Content is displayed, and regardless of whether compensation is received for display of such content.
<b>Off-Premises Sign (Amended)</b>	A sign whose primary function is to display advertising or other messages related to uses, businesses, products, or services not located on the same lot or parcel as the sign, or a sign that does not meet the Primary-Function Standard established in Section 3 of this Ordinance. The regulatory status of a sign as off-premises is determined by its primary function, not solely by the incidental presence of third-party content.
<b>Primary-Function Standard</b>	The test established in Section 3 of this Ordinance for determining whether an on-premises electronic sign retains on-premises classification. A sign meets the Primary-Function Standard when the sign’s display time is devoted to content related to the principal use(s), primary business(es), or primary tenant(s) located on the same lot or parcel for no less than

Term	Definition / Amendment
	fifty percent (50%) of any rolling seven (7) day period, excluding Exempt Content from both the numerator and denominator of that calculation.
<b>Shared On-Premises Electronic Sign</b>	An electronic sign that (i) is located on the same lot or parcel as one or more principal uses; (ii) meets the Primary-Function Standard; and (iii) has been issued a Shared On-Premises Electronic Sign permit pursuant to Section 4 of this Ordinance. A Shared On-Premises Electronic Sign is classified and regulated as an on-premises sign for all purposes under the LDC.
<b>Own-Business Content</b>	Content displayed on an electronic sign that identifies, promotes, or communicates information about a principal use, business, service, activity, offering, event, or tenant located on the same lot or parcel as the sign, including the name, logo, branding, products, services, hours, pricing, upcoming events, and heritage or history of any such business or tenant.
<b>Third-Party Content</b>	Content displayed on an electronic sign that is not Own-Business Content and is not Exempt Content, including paid advertising for uses, businesses, products, or services not located on the same lot or parcel as the sign.
<b>Exempt Content</b>	Content that is excluded from the calculation of the fifty percent (50%) Primary-Function Standard threshold, as specified in Section 3(c) of this Ordinance. Exempt Content includes: (i) emergency alerts and public safety information issued or requested by Louisville Metro Government, the Commonwealth of Kentucky, or any federal, state, or local emergency management authority; (ii) public health announcements issued or requested by Louisville Metro Department of Public Health and Wellness or the Kentucky Cabinet for Health and Family Services; (iii) community messages requested by a recognized neighborhood association whose geographic boundaries include or are contiguous with the lot or parcel on which the sign is located; and (iv) community calendar or event notices requested by a nonprofit organization holding 501(c)(3) tax-exempt status, where the event to be noticed will take place within Jefferson County.
<b>Display Cycle</b>	The programmed rotation of content displayed on an electronic sign over any seven (7) day period, measured on a rolling basis commencing at 12:00 midnight on Sunday of each calendar week.
<b>Electronic Sign</b>	Any sign that uses light-emitting diode (LED), liquid crystal display (LCD), plasma, or other electronic technology to display text, graphics, images, or other visual information, whether or not the content is changeable or programmable. The term includes digital display signs, electronic message centers, and electronic variable-message signs.

### SECTION 3. THE PRIMARY-FUNCTION STANDARD

#### (a) General Rule — Classification by Primary Function

An electronic sign located on the same lot or parcel as one or more principal uses shall be classified and regulated as an on-premises sign if the sign's primary function is to serve those principal uses. The classification of an on-premises electronic sign shall be determined by its primary function, not by the incidental presence of Third-Party Content or Exempt Content within the Display Cycle.

#### (b) Fifty-Percent Threshold — Primary-Function Standard

An electronic sign meets the Primary-Function Standard, and shall be classified as an on-premises sign, when Own-Business Content occupies no less than fifty percent (50%) of the total Display Cycle time in any rolling seven (7) day period. For purposes of calculating this threshold:

- i. Exempt Content shall be excluded from both the numerator and denominator of the percentage calculation. The fifty percent (50%) threshold is calculated only over the non-Exempt Content portion of the Display Cycle;
- ii. Display time shall be measured cumulatively across all programmed content slots within the Display Cycle, regardless of whether individual content slots are of equal or unequal duration;
- iii. Where a sign is located on a lot or parcel with multiple principal uses or tenants, Own-Business Content for any principal use or tenant on that lot or parcel counts toward the fifty percent (50%) threshold;

- iv. The fifty percent (50%) threshold is applied on a rolling seven (7) day basis, and a sign shall not be found in violation of the Primary-Function Standard based on a snapshot measurement of a single content slot, a single day, or any other short-duration display interval within the seven (7) day period; and
- v. Compensation received for the display of Third-Party Content does not affect the classification of a sign under the Primary-Function Standard, provided the fifty percent (50%) Own-Business Content threshold is maintained.

**(c) Exempt Content**

Exempt Content as defined in Section 2 of this Ordinance shall be excluded from the Primary-Function Standard calculation. A property owner or business that displays Exempt Content on an electronic sign shall face no adverse classification consequence, no sign-reclassification risk, and no permit violation solely as a result of displaying such content, regardless of the proportion of the Display Cycle that Exempt Content occupies. This protection applies whether or not the property owner or business receives compensation for displaying Exempt Content.

**(d) Classification Determination — Totality of Circumstances**

In determining whether a sign meets the Primary-Function Standard, the Louisville Metro Planning and Design Services (PDS) shall consider the totality of the sign's design, location, construction, programming, and content over a representative measurement period, and shall not base a reclassification determination on:

- i. A single Display Cycle day, a single content slot, or any other snapshot measurement that does not reflect the sign's standard programmed rotation over the full seven (7) day measurement period;
- ii. The display of Exempt Content;
- iii. The receipt of compensation for display of Third-Party Content; or
- iv. Changes to the specific Own-Business Content displayed, including changes in products, services, pricing, events, or branding, so long as the content remains related to a principal use on the same lot or parcel.

**(e) Signs That Do Not Meet the Primary-Function Standard**

An electronic sign that does not meet the Primary-Function Standard — because Third-Party Content exceeds fifty percent (50%) of the non-Exempt Display Cycle — shall be classified and regulated as an off-premises sign and shall be subject to all applicable off-premises sign requirements, including spacing, size, location, and state-level regulatory requirements. Classification as an off-premises sign under this subsection does not affect any nonconforming status or existing permit held by the sign prior to the effective date of this Ordinance.

## **SECTION 4. SHARED ON-PREMISES ELECTRONIC SIGN PERMIT**

**(a) Permit Required**

A property owner or primary business tenant who wishes to display Third-Party Content on an electronic on-premises sign in a manner that would otherwise be subject to reclassification review shall apply for and obtain a Shared On-Premises Electronic Sign permit from Louisville Metro PDS prior to commencing display of Third-Party Content. Issuance of a permit constitutes a determination by PDS that the sign, as proposed to be operated, meets the Primary-Function Standard.

**(b) Application Requirements**

An application for a Shared On-Premises Electronic Sign permit shall include:

- i. Identification of the lot or parcel on which the sign is or will be located, including address and Jefferson County PVA parcel identification number;
- ii. Description of the principal use(s) located on the lot or parcel;
- iii. Description of the electronic sign, including dimensions, height, technology type, and proposed location on the lot or parcel;
- iv. A proposed Display Cycle schedule demonstrating that Own-Business Content will occupy no less than fifty percent (50%) of the non-Exempt portion of any rolling seven (7) day Display Cycle;
- v. A certification executed by the property owner or authorized representative that the sign will be operated in compliance with the Primary-Function Standard and all applicable technical standards under the LDC; and
- vi. Payment of the applicable permit fee established by Louisville Metro PDS.

**(c) Review and Issuance**

PDS shall review a complete Shared On-Premises Electronic Sign permit application and issue a determination within thirty (30) calendar days of receipt of a complete application. PDS shall issue the permit if the application demonstrates compliance with the Primary-Function Standard and applicable technical standards. PDS shall not deny a permit on the basis of the content of Third-Party Content to be displayed, provided that Third-Party Content complies with Section 5 of this Ordinance.

**(d) Permit Duration and Renewal**

A Shared On-Premises Electronic Sign permit shall be valid for a period of three (3) years from the date of issuance. A permit may be renewed by submission of a renewal application demonstrating continued compliance with the Primary-Function Standard. A renewed permit shall be valid for successive three-year periods. PDS shall provide written notice to the permit holder at least ninety (90) calendar days prior to permit expiration.

**(e) Transfer**

A Shared On-Premises Electronic Sign permit runs with the land and is transferable to a successor property owner or primary tenant upon written notice to PDS and submission of a certification of compliance by the successor. No additional permit fee shall be required for a transfer within the term of an existing permit.

**(f) Recordation**

Upon issuance of a Shared On-Premises Electronic Sign permit, PDS shall record a memorandum of permit in the Jefferson County Clerk's office against the applicable parcel. The memorandum shall identify the parcel, the permit number, the permit term, and the Primary-Function Standard obligation. The cost of recordation shall be borne by the applicant.

**SECTION 5. TECHNICAL STANDARDS FOR SHARED ON-PREMISES ELECTRONIC SIGNS**

All Shared On-Premises Electronic Signs shall comply with the following technical standards. These standards apply in addition to, and do not supersede or limit, any technical standard applicable to electronic signs generally under the LDC.

Technical Standard	Requirement
<b>Minimum Dwell Time</b>	Each content slot within the Display Cycle shall be displayed for a minimum of eight (8) seconds before transitioning to the next content slot.
<b>Transitions</b>	Transitions between content slots shall be instantaneous (less than one second). Dissolves, fades, scrolling, animation, video, or any transition effect that creates the appearance of motion is prohibited.
<b>Brightness — Daytime</b>	Maximum brightness shall not exceed 5,000 nits between the hours of sunrise and 30 minutes after sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA) for the Louisville metropolitan area.
<b>Brightness — Nighttime</b>	Maximum brightness shall not exceed 500 nits between the hours of 30 minutes after sunset and sunrise. Automatic dimming hardware that adjusts brightness based on ambient light conditions is required for all signs with a face area greater than 32 square feet.
<b>Malfunction Default</b>	In the event of a malfunction, power interruption, or loss of content programming signal, the sign shall default to a static dark (off) state or a static display of Own-Business Content. The sign shall not default to a blank white screen, a flashing state, or any looping animation.
<b>No Audio</b>	Electronic signs shall not produce or amplify audio in connection with any displayed content.
<b>Content Filtering</b>	Third-Party Content displayed on a Shared On-Premises Electronic Sign shall not include: (i) content that is obscene within the meaning of KRS 531.010; (ii) false or materially misleading advertising; or (iii) content that imitates an official government sign, traffic control device, or emergency alert in appearance or format.

Technical Standard	Requirement
<b>Compliance Documentation</b>	The permit holder shall maintain records sufficient to demonstrate compliance with the fifty percent (50%) Primary-Function Standard for any rolling seven (7) day period during the permit term, including weekly display cycle logs showing Own-Business Content and Third-Party Content time allocation. Such records shall be made available to PDS upon request within ten (10) business days.

## SECTION 6. LOCATION-BASED ELIGIBILITY

### (a) General Eligibility

Shared On-Premises Electronic Sign permits are available for electronic signs located on any lot or parcel with an active principal use in any zoning or form district in which on-premises signs are permitted under the LDC. The fifty percent (50%) Primary-Function Standard applies uniformly to all eligible signs regardless of location, form district, or frontage.

### (b) Historic Districts

A Shared On-Premises Electronic Sign permit application for a property located within a Louisville Metro Local Historic District or a National Register Historic District within Jefferson County shall be referred to the Louisville Landmarks Commission for review pursuant to LMC Chapter 32, Article X, prior to issuance by PDS. A Certificate of Appropriateness (COA) from the Landmarks Commission shall be required as a condition of permit issuance for such properties. The review by the Landmarks Commission shall be limited to the sign's design, materials, lighting, and physical integration with the historic structure or district, and shall not extend to evaluation of the content displayed on the sign.

## SECTION 7. NON-APPLICABILITY OF OFF-PREMISES REGULATORY REQUIREMENTS

A Shared On-Premises Electronic Sign that meets the Primary-Function Standard and has been issued a permit under Section 4 of this Ordinance is classified and regulated as an on-premises sign for all purposes under the Louisville Metro LDC, and is expressly not subject to:

- Off-premises sign spacing requirements measured from other signs, roadways, or property lines that apply to billboards and other off-premises advertising structures;
- Off-premises sign size or height limitations that differ from those applicable to on-premises signs in the same zoning or form district;
- Off-premises sign location prohibitions that apply to the form district or overlay zone in which the sign is located;
- The mandatory exchange credit requirements imposed by state law under 603 KAR 10:040 or applicable Kentucky Transportation Cabinet (KYTC) regulations that condition the installation or conversion of a new electronic off-premises advertising device upon the documented removal of existing nonconforming static billboard structures; and
- Any registration or permit requirement under the Kentucky Outdoor Advertising Act, KRS Chapter 177, that is applicable only to off-premises advertising devices, provided that the sign otherwise complies with all applicable LDC on-premises sign requirements.

*Note: The on-premises classification conferred by this Ordinance is a local LDC classification. Property owners and permit holders are advised to consult with the Kentucky Transportation Cabinet and, if appropriate, Kentucky legal counsel, regarding whether the sign is subject to independent state-level classification under KYTC regulations and the Highway Beautification Act (HBA), 23 U.S.C. § 131, for signs visible from the federal-aid primary highway system. Metro Government will seek an interpretive position from KYTC confirming that on-premises signs meeting the Primary-Function Standard are not subject to state outdoor advertising device classification, as described in Section 9 of this Ordinance.*

## SECTION 8. ENFORCEMENT AND COMPLIANCE

### (a) Compliance Monitoring

Louisville Metro PDS, or such other department as the Mayor may designate, shall be responsible for monitoring compliance with the Primary-Function Standard and the technical standards set forth in Section 5 of this Ordinance. PDS may inspect a permitted sign and request compliance documentation from the permit holder at any time during the permit term.

**(b) Notice of Violation**

If PDS determines that a permitted sign is not in compliance with the Primary-Function Standard or applicable technical standards, PDS shall issue a written Notice of Violation to the permit holder specifying: (i) the nature of the alleged violation; (ii) the factual basis for the determination; (iii) the corrective action required; and (iv) a compliance deadline of not less than fifteen (15) business days from the date of the notice, unless the violation poses an immediate threat to public safety.

**(c) Cure Period and Hearing**

The permit holder shall have the right to cure the alleged violation within the compliance deadline or to request a hearing before PDS within ten (10) business days of receiving the Notice of Violation. A timely cure or a timely hearing request shall stay any further enforcement action pending the outcome of the cure or hearing. PDS shall issue a written hearing decision within twenty (20) business days of the hearing date.

**(d) Permit Suspension and Revocation**

If the permit holder fails to cure a violation within the compliance deadline and does not timely request a hearing, or if the hearing officer upholds the violation finding, PDS may suspend or revoke the Shared On-Premises Electronic Sign permit. Upon revocation, the sign shall be operated solely as an on-premises sign displaying Own-Business Content only, or shall be taken out of service, until the violation is cured and the permit is reinstated or a new permit is issued.

**(e) Appeal**

Any final enforcement action under this Section may be appealed to the Board of Zoning Adjustment (BOZA) in accordance with LMC Chapter 11 and applicable LDC provisions governing zoning enforcement appeals. The filing of a timely appeal shall stay enforcement during the pendency of the appeal, subject to BOZA's authority to impose interim conditions.

## **SECTION 9. COORDINATION WITH KENTUCKY TRANSPORTATION CABINET**

Within one hundred eighty (180) calendar days of the effective date of this Ordinance, the Mayor's Office of Economic Development or such other office as the Mayor may designate shall formally engage the Kentucky Transportation Cabinet (KYTC) Jefferson County District Office to:

- i. Request a formal written interpretive position confirming that electronic signs meeting the Primary-Function Standard under this Ordinance retain on-premises classification under KYTC's outdoor advertising device regulations, including 603 KAR 10:040, and are not subject to the exchange credit requirements applicable to off-premises advertising devices;
- ii. Explore the availability of a formal local government agreement or memorandum of understanding with KYTC establishing a coordinated framework for classifying on-premises electronic signs meeting the Primary-Function Standard; and
- iii. Report the results of such engagement to the Metro Council Land Development and Transportation Committee within two hundred seventy (270) calendar days of the effective date of this Ordinance.

*Note to Drafting Staff / Legal Review: Property owners and applicants should be advised that KYTC's on-premises/off-premises classification operates independently of Louisville Metro's LDC classification. Signs visible from the federal-aid primary highway system may be subject to independent KYTC and HBA review. This Ordinance's on-premises classification does not bind KYTC. Metro legal counsel should review whether any formal intergovernmental agreement with KYTC is necessary or advisable, and whether state enabling authority is sufficient for the Primary-Function Standard as drafted.*

## **SECTION 10. NONCONFORMING AND EXISTING SIGNS**

An electronic sign that was lawfully operating as an on-premises sign as of the effective date of this Ordinance and that displays Third-Party Content shall be deemed to have been granted a provisional Shared On-Premises Electronic Sign permit effective as of the effective date of this Ordinance, subject to the following:

- The sign's owner or operator shall submit a complete Shared On-Premises Electronic Sign permit application within one hundred eighty (180) calendar days of the effective date of this Ordinance;
- During the provisional period, the sign shall operate in compliance with the Primary-Function Standard and applicable technical standards;
- Timely submission of a complete application within one hundred eighty (180) days and compliance with the Primary-Function Standard during the provisional period shall constitute full protection against retroactive reclassification or enforcement action for Third-Party Content displayed prior to the effective date of this Ordinance; and
- Failure to submit a timely application shall result in expiration of the provisional permit, and the sign shall be operated as an on-premises sign displaying Own-Business Content only, or shall be taken out of service, until a permit is obtained.

## SECTION 11. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the invalidity or unconstitutionality shall not affect other provisions or applications which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Ordinance are declared to be severable.

## SECTION 12. CONFLICTS

All ordinances and parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict. Where a conflict exists between this Ordinance and any other provision of the Louisville Metro Code of Ordinances or the LDC, the provisions of this Ordinance shall control with respect to on-premises electronic signs.

## SECTION 13. EFFECTIVE DATE

This Ordinance shall take effect upon passage and approval as provided by law, or upon such other effective date as may be specified by the Metro Council. Louisville Metro PDS shall promulgate such administrative guidelines, application forms, and fee schedules as are necessary to implement this Ordinance within sixty (60) calendar days of its effective date.

### DRAFTING NOTES AND STAFF GUIDANCE

*For internal Planning Commission and PDS use — not part of the enacted ordinance*

#### 1. Primary-Function vs. Content-Neutral Approaches

This draft adopts a content-proportion threshold (50% Own-Business Content) rather than a purely content-neutral structural test. Staff and the Metro Attorney's office should consider whether *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), requires a content-neutral framing, or whether the proportion threshold is defensible as a time, place, and manner regulation. The content-type distinctions in this draft (Own-Business Content, Third-Party Content, Exempt Content) may warrant additional legal review under *Reed's* content-neutrality analysis. An alternative purely structural approach — defining on-premises classification solely by ownership, location, and physical integration with the principal use, without any content-proportion requirement — may present a cleaner constitutional profile.

#### 2. KYTC / HBA Preemption Risk

The most significant legal risk in this framework is the possibility that KYTC will independently classify a sign meeting the Primary-Function Standard as an off-premises advertising device under 603 KAR 10:040 and the federal Highway Beautification Act (23 U.S.C. § 131) if it displays Third-Party Content and is visible from the federal-aid primary highway system. This Ordinance cannot bind KYTC. The Section 9 engagement mandate is the most Metro can do unilaterally. Property owners near interstates or parkways should be clearly advised in permit materials that state-level classification is separate and independent. Metro legal counsel should

assess whether an intergovernmental agreement with KYTC is feasible and whether the Governor's office or KYTC Commissioner-level engagement is appropriate.

### **3. Fee Schedule**

PDS should develop a permit fee schedule that reflects actual administrative costs for a 3-year permit term. Waiver or reduction of fees for permit holders that display Exempt Content (government emergency alerts, public health announcements) above a defined threshold may be a policy option worth considering.