



## LEGAL SERVICES DEPARTMENT

### Office of the City Attorney

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**TO:** Members of the Finance Committee

**FROM:** Christopher R. Behrens, City Attorney

**DATE:** June 2, 2021

**RE:** Resolution #5-R-21/Lobner  
Our File No. A21-0310

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On April 7, 2021 former alderperson Kyle Lobner submitted Resolution # 5-R-21 that stated in part:

*Therefore be it resolved that political signs shall not be posted on any City-owned property, including property leased from the City.*

Addressing the first part of the above directive, any unauthorized sign, regardless of its content, that is posted on City property is subject to automatic removal.

The second part of the above extends this prohibition of political signs displayed on property leased from the City. In most cases, the government is very limited with regard to regulating the content of signs displayed pursuant to the First Amendment. This is an area of law that is constantly evolving, and currently, it appears that such restrictions may be permissible as long as they are contractual in nature, i.e., within a lease, where both parties agree to the condition. There are a limited number of properties presently under lease from the City with the terms of those leases expiring at different times including the following:

**Basil's (Patio)**

Expires: 12/31/2022

**Appleton Yacht Club**

Expires: 1/31/2023, automatically renewing every 5 years thereafter

**Supple Group (Heritage Park)**

Expires: 10/2025

**USA Youth**

Expires: 4/30/2026, automatically renewing for 15 years

**Appleton Family Ice Center**

Expires: 6/30/2038

The most appropriate time to negotiate the addition of terms and restrictions with regard to posting signs for any existing leases is at the time of renewal. In addition, it will be necessary to conduct a legal analysis each time to ensure that such a provision is still legally permissible. Accordingly, if the Finance Committee, and ultimately Common Council, wish to approve and carry out the intent of this resolution, I respectfully that the following be approved:

That upon negotiating or renegotiating lease of City-owned land, the City Attorney's Office shall endeavor to incorporate language limiting the posting of political signs by the tenant subject to any legal limitations, court decisions and the like in place at the time. A political sign shall be considered a sign erected for the purpose of soliciting support for, or opposition to, a candidate or a political party or relating to a referendum question in an election held under the laws of this state.

If you have any questions or concerns, please do not hesitate to contact our office.

CRB;jlg