

**VILLAGE OF EMPIRE
PLANNING COMMISSION REGULAR MEETING
TUESDAY, APRIL 4, 2023, AT 7 PM
EMPIRE TOWNSHIP HALL
10088 W. FRONT STREET**

CALL MEETING TO ORDER

ROLL CALL

APPROVAL OF MINUTES –Regular Meeting 03/07/2023

TREASURER’S REPORT

ADDITIONS OR CHANGES TO THE AGENDA

CONFLICT OF INTEREST

CORRESPONDENCE

PUBLIC COMMENT

ZONING ADMINISTRATOR’S REPORT

UNFINISHED BUSINESS

1. Recreation Plan Update
2. Sign Ordinance No. 142

NEW BUSINESS

1. Election of Officers
2. Zoning Ordinance

COMMITTEE REPORTS

PUBLIC COMMENT

PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS

ADJOURNMENT

Persons with questions or individuals with disabilities requiring auxiliary aids or services to effectively participate in the meeting should contact the Village of Empire Office at (231) 326-5466, PO Box 253, Empire, MI 49630, or at deputyclerk@villageofempire.com.

**EMPIRE VILLAGE PLANNING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, MARCH 7, 2023**

The Empire Village Planning Commission held a regular meeting on Tuesday, March 7, 2023, in the Empire Township Hall.

Schous opened the meeting at 7:00 PM.

ROLL CALL –Bacon, Chase, Collins, Deering, Ellibee, Schous and Stepanek present. Zoning Administrator Robert Hall was also present.

APPROVAL OF MINUTES – **Motion by Bacon, supported by Collins to approve November 1, 2022, regular meeting minutes as presented. AYES: 7, NO: 0. MOTION PASSED.**

ADDITIONS/CHANGES TO THE AGENDA – Schous added OMA and FOIA Training to New Business.

CONFLICT OF INTEREST – None.

TREASURERS REPORT – No report submitted. **Motion by Schous, supported by Collins to elect Chase to the position of Planning Commission Treasurer. AYES: 7, NO: 0. MOTION PASSED.**

ZONING ADMINISTRATORS REPORT – Hall introduced himself and explained the format of his Zoning Administrator’s Report. Hall also passed out information related to the sign ordinance. ZA office hours are 1:30-4:30pm on Fridays.

PUBLIC COMMENTS & CORRESPONDENCE – None.

UNFINISHED BUSINESS

PC Member Binders

Acton is assembling informational binders for planning commission members. Members discussed if it was time to codify and adopt in its entirety a new Zoning Ordinance. **Motion by Ellibee, supported by Bacon to initiate the process of reviewing the zoning ordinance for completeness and consistency. AYES: 7, NO: 0. MOTION PASSED.** The zoning ordinance will be added to the next agenda.

RRC Training

Schous summarized the process for becoming a redevelopment ready community. Acton noted that she completed the RRC Training and is waiting for next steps. The free training is available to anyone interested. Acton will serve as the main point of contact for the program.

Recreation Plan Update

Schous asked members to review the recreation plan to look for areas that need updating. The recreation plan will be discussed in further detail during the next meeting.

NEW BUSINESS

Sign Ordinance No. 142

Trustee Bacon had recommended that council have the planning commission review the ordinance with fresh eyes and an opportunity to work with the Village Attorney on the following:

- Writing a common-sense temporary sign section of the sign ordinance.
- Writing a common-sense “off premise sign” section of the sign ordinance.
- Clean up any inconsistencies in various sections.

Commissioners were provided a legal opinion from the Village Attorney, dated October 28, 2022, on Village Ordinance no. 142, *Signs*. Hall described his typical enforcement process of a sign violation. Members also discussed why the sign ordinance was removed from the zoning ordinance and questioned if it should be added back into Section 3.12 in the ZO. It is rare that a sign ordinance is a police power ordinance as signs do not usually impact health, safety, or welfare.

Members brainstormed ways to regulate signs by quantity, size, temporary, zoning district, etc. Hall stated that the *Reed v. Town of Gilbert* case involved temporary signs and should be reviewed. Hall will provide the PC with additional helpful information prior to the next meeting.

OMA and FOIA Training

Village council is hosting a training session on the Open Meetings Act and Freedom of Information Act on March 29, 2023, at 6:00 PM at the Empire Township Hall. The planning commission has been invited. This training is open to the public.

COMMITTEE AND VILLAGE COUNCIL REPORTS – None.

PUBLIC COMMENT – None.

PLANNING COMMISSISON MEMBERS AND CHAIRPERSON COMMENTS – Schous welcomed and thanked the new members.

ADJOURNMENT – There being no further business, the meeting adjourned at 8:46 pm.

Alacia Acton, Recording Secretary

These draft minutes will be considered for approval at the April 4, 2023, Village of Empire Planning Commission meeting.



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STAFF REPORT
March 2023

This report is meant to provide a snapshot of activity, typically for the previous reporting period. The intended distribution channel is from the ZA to the Planning Commission, and then via the Planning Commission liaison to the Village Council. While it will not detail every interaction, it will provide a synopsis of planning and zoning related activity that is taking place.

Land Use Permit (zoning) Activity

PERMIT #	TYPE	ZONE	PARCEL ID #	NAME(last)	NAME(first) - BLDG	SITE ADDRESS / LOCATION
2023-04	RA	G-RES	45-041-824-052-00	Greisiger, Joe		11472 S. Lacore Street
2023-05	RA	PUD	45-041-550-005-00	Evans, James and Kaye		9888 Wilce Street

Legend: ND=New Dwelling RA=Residential Accessory RAD=Residential Addition
 (others to be included specific to the Village of Empire)

**** A Land Use Permit application for the expansion (addition of) a nonconforming use / structure was denied. The zoning ordinance is very clear on this matter. When a denial occurs, the appeal / variance process is always discussed with the applicant. ****

Planning and Zoning

Several pages of educational information were included with your packet this month exploring the topic of 'SIGNS'. The ordinance language is from the City of Ann Arbor and was the most concise and up to date that I could locate. While it seems a bit cumbersome, it also appears to follow, and be based on the most recent U.S. Supreme Court ruling.

When comparing our (the Village of Empire) sign ordinance to that of Ann Arbor, you will find that we are certainly the more lenient in matters of 'area' in our residential zoning district(s).

Training Opportunity – <https://www.miplace.org/programs/redevelopment-ready-communities/>

Sincerely,

Robert (Bob) Hall
 Village of Empire – Zoning Administrator



DNR Rec Plan Guidelines - (Full document in binder)

Plan Amendments

Prior to the expiration date of a plan, a community may want to amend portions of the plan. An approved plan may be amended at any time during the five-year period of eligibility to reflect significant changes in community conditions, action plan or goals and objectives. An amendment does not extend the five-year life of the plan. Please discuss the need for an amendment with your DNR grant coordinator prior to initiating the process. If a potential project meets the plan's stated goals and objectives, it is not required that it be specifically identified in the action plan.

Amendment deadline: Communities may prepare five-year recreation plan amendments at any time during the year; however, for amendments to be considered during a grant application preliminary evaluation period, they must be submitted in MiGrants by Feb. 1 of the year the application will be submitted.

Amended Plan Content

The amended plan will be uploaded in MiGrants and should include the following information:

- Description of the planning process.
- Description of the public input process.
- Amended goals, objectives or action plan.
- Description of any other amended plan elements.

Supporting Documentation

Notice of Draft Plan for 14 Days of Public Comment

Once the amendment has been drafted, residents must be provided with a well-publicized opportunity of adequate length – at least two weeks – to review and provide input on it before it is officially adopted. Convenient places to allow the public to view the draft amendment are at your city or township hall, public library and on your municipal website. The amendment should be accompanied by the original plan for the two-week review period.

Notice of the Public Hearing

After the two-week review period, a public hearing must take place to take comment on the proposed changes to the plan. The public hearing notice must be published in advance of the hearing, according to the Open Meetings Act, PA 267 of 1976. The public hearing notice must be available for viewing to residents in all local units of government included in the plan.

Minutes from the Public Hearing and Resolution

Approved, certified meeting minutes should be submitted for both the public hearing and the meeting where the resolution was passed to adopt the amended plan. Unapproved meeting minutes can be submitted to meet the submission deadline, but the approved, certified copy is required prior to DNR approval of the recreation plan. Include minutes from all public hearings, if more than one took place. Public comments should be recorded in the minutes. Minutes must reflect that the public hearing took place, with a call to the public, whether or not anyone actually chose to speak. The public hearing and resolution for adoption can occur at one meeting of the highest governing body if they are conducted as separate agenda items and the public hearing occurs prior to the resolution for adoption.

Certified Resolution

Plan amendments must be adopted by the same governing body that adopted the original plan. (See Appendix A for a sample resolution.) Any amendments to a multijurisdictional recreation plan must be adopted by all communities affected by the change to the plan. A letter with a copy of the amendment must be sent to all communities covered by the plan.

PC 4/4/23

Transmittal Letters to the County and Regional Planning Agencies

A copy of the amended plan should be sent to the county and regional planning agencies identified on the table below. Upload a copy of the letter or email transmitting the plan to both agencies. If there is no county planning commission, transmit the plan to the parks and recreation department or county commission instead.

U.S. Supreme Court Ruling Impacts Sign Regulations

Introduction

On June 18, 2015, the U.S. Supreme Court decided the case of *Reed v Town of Gilbert, AZ* and held the town's sign ordinance unconstitutional. In this case, the town regulated a church's temporary directional signs differently than other noncommercial signs (e.g., political signs and ideological signs). For example, while the town of Gilbert allowed non-profit event signs to be displayed for 12 hours prior to the event and one hour after the event, the town allowed political signs to be displayed for an unlimited length of time prior to an election and required to be removed 10 days after the election. The Supreme Court found that these types of distinctions that are based on the content of the sign favored certain types of signs (i.e., speech) and violated the First Amendment of the U.S. Constitution. An important rule from this case is: If you need to read the message on a sign to determine how it is regulated, then the regulation is content-based.

How Are My Community's Sign Regulations Impacted?

Reed left many unanswered questions regarding a municipality's authority to regulate signs based on commercial content or off-premise content. However, it is clear that sign regulations must strive for as much content neutrality as possible and that signs should not be regulated based on the content of the message or the speaker. For example, many sign ordinances have different regulations for signs based on the content of the sign, such as: real estate signs, political signs, special event signs, garage sale signs, and gas station signs. Now that the Supreme Court has ruled against these types of distinctions, many communities are at risk of costly and unnecessary litigation.

What Should My Community Be Doing Right Now?

In Michigan, most communities regulate signs in their zoning ordinances in accordance with the Michigan Zoning Enabling Act. However, some communities have a separate sign ordinance that is not included in its zoning ordinance. In either case, every community should take the following steps to address content neutrality in their sign regulations:

Step 1: Conduct a Technical Audit of all Sign Regulations in your Ordinances. Almost all communities have definitions and standards for signs based on the content of the message, including: construction signs, religious signs, garage sale signs, theater signs, time/temperature signs, help wanted signs, directional signs, special event signs, and the like. All communities should conduct a thorough technical audit of their sign regulations and identify any content-based provisions, i.e. provisions that regulate signs based on the message, the speaker, or an event.

Step 2: Discuss Sign Regulations with your Municipal Attorney. Because *Reed* impacts every sign ordinance in the U.S., your municipal attorney should advise you on how much content neutrality is required in your community's sign regulations and make officials aware of any legal risks. The legal community is aware of the implications (and uncertainty) created by the *Reed* case, and it is essential for you to engage the advice of your municipal attorney early in the review process. Your municipal attorney can also advise you on enforcing (or not enforcing) existing sign regulations that are legally questionable. Finally, your municipal attorney should review any proposed amendments to your sign regulations and inform you of potential risks.

Step 3: Initiate and Adopt Amendments to your Sign Regulations. After identifying content-based provisions in your local sign regulations and reviewing them with your municipal attorney, draft text revisions that will comply with the First Amendment and reflect your community's character. Communities may still regulate the non-content aspects of signs, including sign height, area, form, materials, separation, placement, lighting, frequency of message changes, moving parts, and portability. Sign regulations reflect a community's physical character and impacts the value of the highly visible commercial development (tax base) that fronts most major thoroughfares. Therefore, the sign regulations must clearly communicate the aesthetic standards of your community.

This publication was written by Patrick Sloan of McKenna Associates



Signs of the Good News Presbyterian Church placed temporary event signs throughout the town of Gilbert advertising its upcoming services. Because of the content of the message, the town regulated these temporary event signs differently than other non-commercial signs, such as political signs. A more appropriate regulation would have been to limit temporary signs based on content-neutral factors such as sign area, height, number per lot, setback from property line, and proper maintenance.

What makes these signs different?



DON'T GET
EXCITED, IT'S
A TOMATO!

Supreme Court ruling on sign regulation has major implications for all local governments

Brad Neumann, Michigan State University Extension - June 29, 2015

The decision means many, if not all, sign regulations in Michigan will need to be reviewed and likely changed if the municipality wants to reduce legal risks.

In the case *Reed et al. v. Town of Gilbert, Arizona, et al.*, (No. 13-502, June 18, 2015), the United States Supreme Court ruled 9-0, regulations that categorize signs based on the type of information they convey (e.g. temporary, political and ideological) and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment to the United States Constitution.

In this case, Gilbert, Arizona has sign regulations that prohibit the display of outdoor signs without a permit, but exempts 23 categories of signs, including the three relevant here:

- **Ideological Signs** are defined as signs "communicating a message or ideas" that do not fit in any other category and may be up to 20 square feet without placement or time restrictions.
- **Political Signs** are defined as signs "designed to influence the outcome of an election" and may be up to 32 square feet, but may only be displayed during an election season.
- **Temporary Directional Signs** are defined as signs directing the public to a church or other "qualifying event" and include greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near Gilbert, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the sign regulations limited their freedom of speech. The United States District Court denied their motion for a preliminary injunction, and the Ninth United States Circuit affirmed, ultimately concluding that the sign categories (the three noted above) were content neutral.

Upon appeal, the United States Supreme Court held the sign provisions are content-based regulations of speech - the categories of temporary, political and ideological signs are based on their messages and different restrictions apply to each category. As such, the restrictions depend entirely on the sign's communicative content and are unconstitutional.

Courts have long ruled that government cannot regulate the content of signs because doing so could violate the right to free speech contained in the First Amendment. In reviewing government regulations, the Supreme Court applies various 'tests' for the constitutionality of a regulation. When a regulation is challenged based on its free speech content, the Court applies the strict scrutiny test, which means the regulation must be for a compelling governmental interest and the regulation must be narrowly tailored to serve the governmental interest. In *Reed et al.*, the Town of Gilbert did not demonstrate that the differentiation between the various types of signs - temporary, political and ideological - furthered a compelling governmental interest. The Supreme Court wrote "The town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the town when other types of signs create the same problem. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs."

It is fairly common (although unconstitutional) for communities to have definitions and/or regulations that classify signs, based on the message being communicated, into categories such as those subject in this case. Typically, regulations will refer to 'open' signs or 'political' signs and have distinct standards for both. In order to reduce the chance of an adverse lawsuit, local governments will want to review their sign regulations with their municipal attorney very carefully to determine whether any regulation(s) in their ordinance(s) might be content-based. If the ordinance can be implemented without reading the message of the sign, then the regulations are content-neutral. That is what the Court says is minimally necessary. However, local governments must go further and also make sure the underlying governmental purposes of the regulations are compelling. The Town of Gilbert failed to prove to the satisfaction of the Supreme Court that the underlying governmental purposes of traffic safety and aesthetics are compelling. The Court did not say it was impossible to make such a showing, only that the Town had failed to do so in this case. The Court also said there were ample content-neutral ways of achieving traffic safety that would pass constitutional muster.

In reviewing local regulations, it will be helpful to refer to the [Michigan Sign Guidebook: The Local Planning & Regulation of Signs](#) prepared by the [Planning & Zoning Center](#) at [Michigan State University](#) for [Scenic Michigan](#) (for a summary of the Michigan Sign Guidebook, see [Sign regulation guidebook helps communities find their way](#)).

[Michigan State University Extension land use educators](#) are available to deliver training programs on sign regulation based on the Michigan Sign Guidebook.

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The 4-H Name and Emblem have special protections from Congress, protected by code 18 USC 707.

2 of 2

Alito's Opinion

- Justice Alito wrote in an attempt to guide the majority opinion
- He gave a list of criterion which he deemed content neutral, and thus within a city's ability to regulate.
- Alito did not want to do away with the majority opinion, but had hope the opinion could be limited.

A New Hope: Alito's Criteria

- According to Alito, cities could still regulate:
 - Rules regulating the size of signs.
 - Rules regulating the locations in which signs may be placed.
 - May distinguish between free-standing signs and those attached to buildings.
 - Rules distinguishing between lighted and unlighted signs.
 - Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Other Possible Regulations – Alito

- According to Alito, cities could still regulate:
 - Rules that distinguish between the placement of signs on private and public property.
 - Rules distinguishing between the placement of signs on commercial and residential property.
 - Rules distinguishing between on-premises and off-premises signs.

Other Possible Regulations – Alito

- According to Alito, cities could still regulate:
 - Rules restricting the total number of signs allowed per mile of roadway.

- Rules imposing time restrictions on signs advertising a one-time event.
 - Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.

“Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.”

Alito, Reed v. Town of Gilbert, Ariz., 135 S. Ct. 2218, 2233-34 (2015) (Alito, J., concurring).

▶ One court ruled that restrictions against temporary signs, including elections signs, are content based discrimination where those signs are treated differently than other types of temporary signs.

▶ Focus on regulating non-content aspects of signs, such as:

- ▶ Number of signs
- ▶ Area
- ▶ Height
- ▶ Placement
- ▶ Lighting
- ▶ Movement
- ▶ Duration (permanent or temporary)

- 8. Disturbed areas to be reestablished shall be planted with species native to Michigan and characteristic of the plant communities of the area before disturbance. The density and coverage of vegetation (except trees) shall be such that it will approximate the density and coverage before disturbance within three years of planting.

SKIP TO PAGE # 173 FOR TEMPORARY SIGNS

5.24 Signs⁵⁷

5.24.1 Applicability

Signs may be erected or maintained in the City only as permitted by this chapter and subject to other restrictions contained in this Code, including standards relating to the City's designated historic districts. The Sign regulations of this Code are intended to ensure that Signs are located, designed, sized, constructed, installed, and maintained in a way that protects and promotes safety, health, aesthetics, and the public welfare while allowing adequate communication. The Sign regulations of this Code are not intended to and do not apply to Signs required by law or a government entity. If any portion of the Sign regulations of this Code is determined to be a violation of law, that portion shall be severed from the remainder of the Sign regulations and shall be revised to reflect the least possible change that avoids the violation of law; and the remainder of the Sign regulations shall remain in effect and be interpreted as closely as possible to the original intent without violating state or federal law. Regardless of any provision of this Code, noncommercial messages may be placed or substituted on any lawfully permitted Sign.

5.24.2 Intent

The City intends the Sign regulations of this Code to achieve compelling, substantial, and important government interests in a manner that represents the least restrictive means of accomplishing those interests and to promote important and substantial government interests that would not be effectively achieved absent the regulations. Regulating the size and location of Signs in the most narrowly tailored manner represents the least restrictive means of addressing the targeted government interests of avoiding nuisance-like conditions while maintaining and improving pedestrian and vehicular safety and efficiency; character and quality of life; economic development and property values; and wayfinding and property identification for emergency response purposes. Nothing in the Sign regulations of this Code is intended to prohibit the right to convey and receive messages, specifically noncommercial messages such as religious, political, economic, social, philosophical or other types of speech protected by the First Amendment of the United States Constitution. The following subsections describe some, but not necessarily all, of the compelling, substantial, and important government interests that the City intends to achieve through the sign regulations of this Code:

A. Pedestrian and Vehicular Safety

The City finds that pedestrian and vehicular safety and efficiency are compelling, substantial, and important government interests. Public Rights-Of-Way and private streets in the City are used concurrently by a variety of vehicles of varying speeds, sizes, and vulnerability, including trucks, buses, trains, cars, motorcycles, mopeds, bicycles,

⁵⁷ Ordinance No. ORD-20-27, effective December 30, 2020.

and scooters, all of which may travel in close proximity. Interactions among vehicles and between vehicles and pedestrians create compelling, substantial, and important safety concerns. Most signage is visible to vehicle or pedestrian traffic and at least partly intended or designed to attract the attention of vehicle operators or pedestrians, thereby creating distractions that diminish traffic and pedestrian safety.

The City finds that a mix of traffic types, including vehicles and pedestrians, is beneficial to the general welfare of the City, including allowing density sufficient to sustain a healthy economic base, meeting the different transportation needs of a wide variety of residents and nonresidents, and ensuring adequate access to employment, entertainment, retail, business, housing, and services.

In order to promote pedestrian and vehicular safety, the purposes of the Sign regulations of this Code include the following:

1. To reduce distractions to vehicle operators and pedestrians and thereby reduce the risk for crashes, property damage, injuries, and fatalities.
2. To permit Signs that provide adequate information or direction to both pedestrians and vehicle operators without conflicting with other Signs, structures, or improvements.
3. To reduce clutter and confusion and to provide clear wayfinding Signs, so that traffic movement is efficient and unnecessary traffic maneuvers are minimized.
4. To maintain clear lines of sight along Public Rights-of-Way and at intersections, Driveways, and other points of interaction among vehicles and pedestrians.

B. Character and Quality of Life

The City finds that achieving and maintaining attractive, orderly, and desirable places to live, conduct business, celebrate civic events, entertain people, and provide for housing opportunities are directly related to the stability of property values needed to provide and finance quality public services and facilities within the City, and therefore are compelling, substantial, and important government interests. In order to protect the unique character of the environment and quality of life of the City, the purposes of the Sign regulations of this Code include the following:

1. To permit Signs that are of sufficient, but not excessive, size to perform their intended function.
2. To prohibit Signs that may cause conflicts between vehicular- and pedestrian-targeted messages, hinder sight distances, or detract from a safe and pleasant pedestrian experience.
3. To regulate Signs by zoning district or other geographic area, including those established by the City's Master Plan or other laws, regulations, or plans.

C. Economic and Development and Property Values

The City finds that there is a clear relationship between the promotion of a set of specifications and restrictions for Signs and the promotion of economic development

and property values, which are compelling, substantial, and important government interests. Unregulated or haphazard sizes, locations, or other characteristics of Signs have a realistic tendency to result in an appearance that reduces economic development and property values. The Sign regulations of this Code are intended to create stability and predictability, allowing each private interest reasonable exposure through Signs for purposes including expression and the promotion of business. The application of the Sign regulations of this Code is intended to allow businesses and other Persons to reasonably command attention to their messages in a manner that promotes economic development and preserves property values.

D. Avoidance of Nuisance-Like Conditions

The City finds that, due to the concentration of people and activities within the City, there is a potential for blight, physical clutter, excess light and noise, and visual clutter, which tend to create nuisance-like conditions that are adverse to the public welfare. Such nuisance-like conditions lead to diminished property values, reduced attractiveness of the community, and reduced quality of life within the City. The City finds that it is a compelling, substantial, and important government interest to avoid such nuisance-like conditions. Therefore the purposes of the Sign regulations of this Code include the following:

1. To prohibit an excessive number of Signs in proximity to one another and to establish setbacks from property lines.
2. To establish maximum sizes and regulate the locations of Signs.
3. To establish construction and maintenance specifications for Signs to protect public safety and minimize the potential for deteriorated Signs to contribute to blight.
4. To regulate Signs and Sign lighting to prevent excessive glare, light trespass, and skyglow.

E. Property Identification and Wayfinding for Emergency Response

The City finds that avoiding confusion in Public Rights-of-Way, minimizing unnecessary intrusions onto private property, and ensuring the ability for emergency responders to promptly and efficiently navigate to and identify emergency locations are compelling, substantial, and important government interests. Therefore the purposes of the Sign regulations of this Code include regulations intended to ensure understandable, unambiguous, uncluttered, and coordinated wayfinding for vehicular and pedestrian purposes, including the regulation of location addresses and the limitation of Signs in the Public Right-of-Way.

5.24.3 Prohibited Signs

The following signs are prohibited:

- A. Signs not specifically permitted by this Code.
- B. Signs that move, pulse, scroll, blink, flash, sparkle, or give the appearance thereof, other than Flags.
- C. Exterior Pennants, spinners, inflatables, feather flags, and streamers.

- D. Signs that are structurally or electrically unsafe.
- E. Signs placed on a tree or utility pole or structure.
- F. Signs on a motor vehicle or trailer that is parked on a Premises so as to be visible from a Public Right-of-Way, outside of the hours that any Business on the Premises is open to the public, and for the primary purpose of advertising.
- G. Rope lights, string lights or similar lighting attached to, surrounding or otherwise drawing attention to a Sign.
- H. Signs erected on or projecting into a Public Right-of-Way, except for Signs expressly permitted in a Public Right-of-Way by this Code. The City may remove and destroy or otherwise dispose of, without notice to any Person, any Sign erected on a Public Right-of-Way in violation of this Code.
- I. Signs that imitate a traffic control device.
- J. Signs that emit smoke, visible vapor, particulate matter, sound, or odor.
- K. Sign Structures that no longer contain a Sign.
- L. Signs with a Sign Area over 200 square feet.

5.24.4 General Provisions

A. Calculating Sign Area

Except as otherwise provided in this section, Sign Area is the area of a rectangle or rectangles enclosing the extreme limits of writing, representation, emblem, or any figure of similar character on a Sign, regardless of opacity or missing space within the rectangle or rectangles. Each row of text shall be grouped into one rectangle. See **Error! Reference source not found.** and **Error! Reference source not found.**

1. Sign Area Specific Standards

a. Multiple Faces.

For a Sign with two or more faces, all faces are included in the Sign Area.

b. Reflective Backgrounds.

For internally and externally illuminated Signs, the entire illuminated background is included in the Sign Area, except for nonreflective, matte black backgrounds.

c. Temporary Signs, Projecting Signs, Window Signs, Hanging Signs.

For Temporary Signs, Projecting Signs, Window Signs, and Hanging Signs, all background elements are included in the Sign Area regardless of opacity or reflectivity.

d. Sign Structures.

If the Sign Structure is more than three times the area of the supported Sign, the area of the Sign Structure is included in the Sign Area.

e. **Three Dimensional Signs.**

For a three-dimensional Sign, the Sign Area is the surface area of the smallest cube that completely contains the three-dimensional Sign.

Figure 24-1: Calculating Area of Freestanding Signs

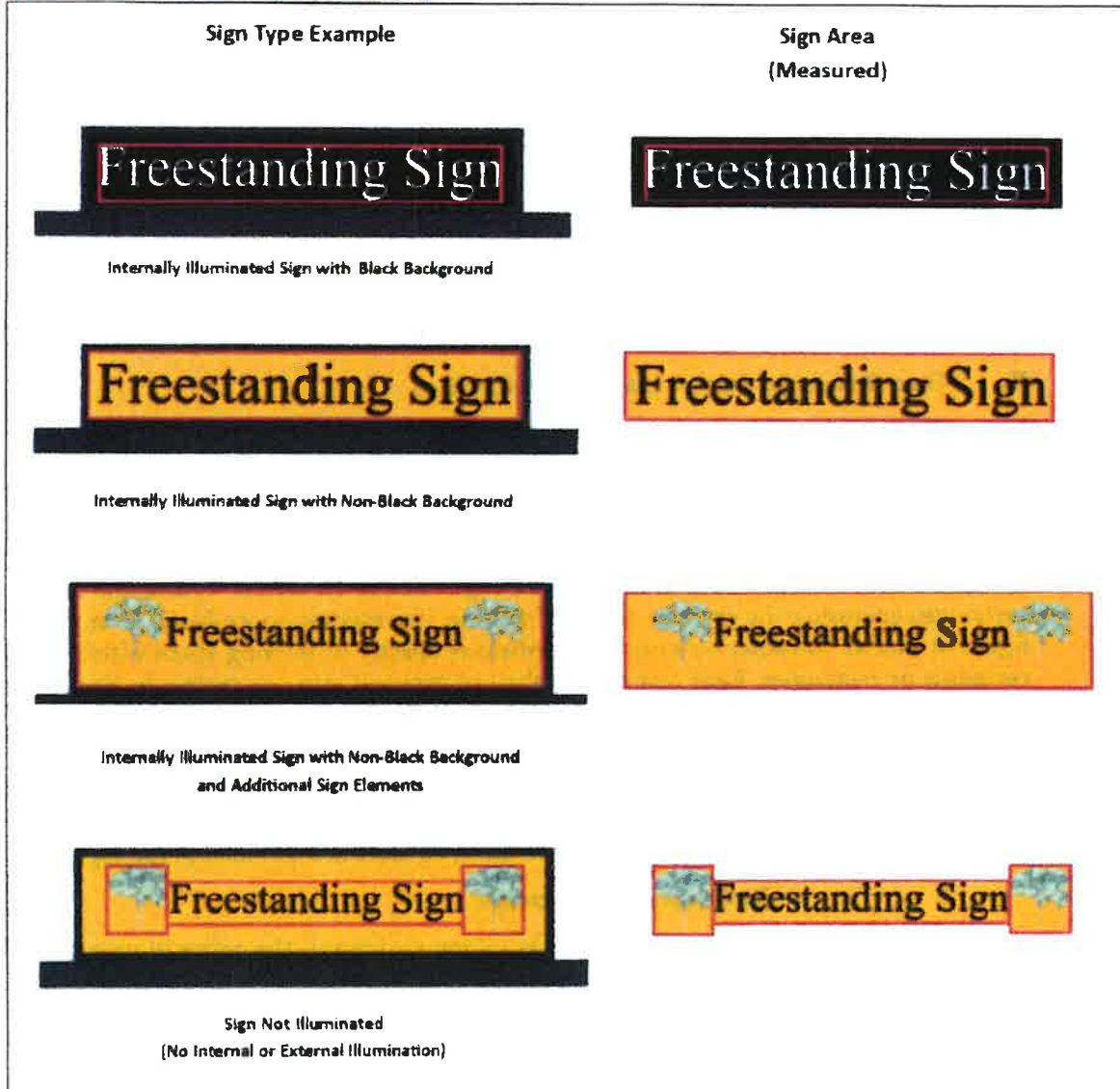
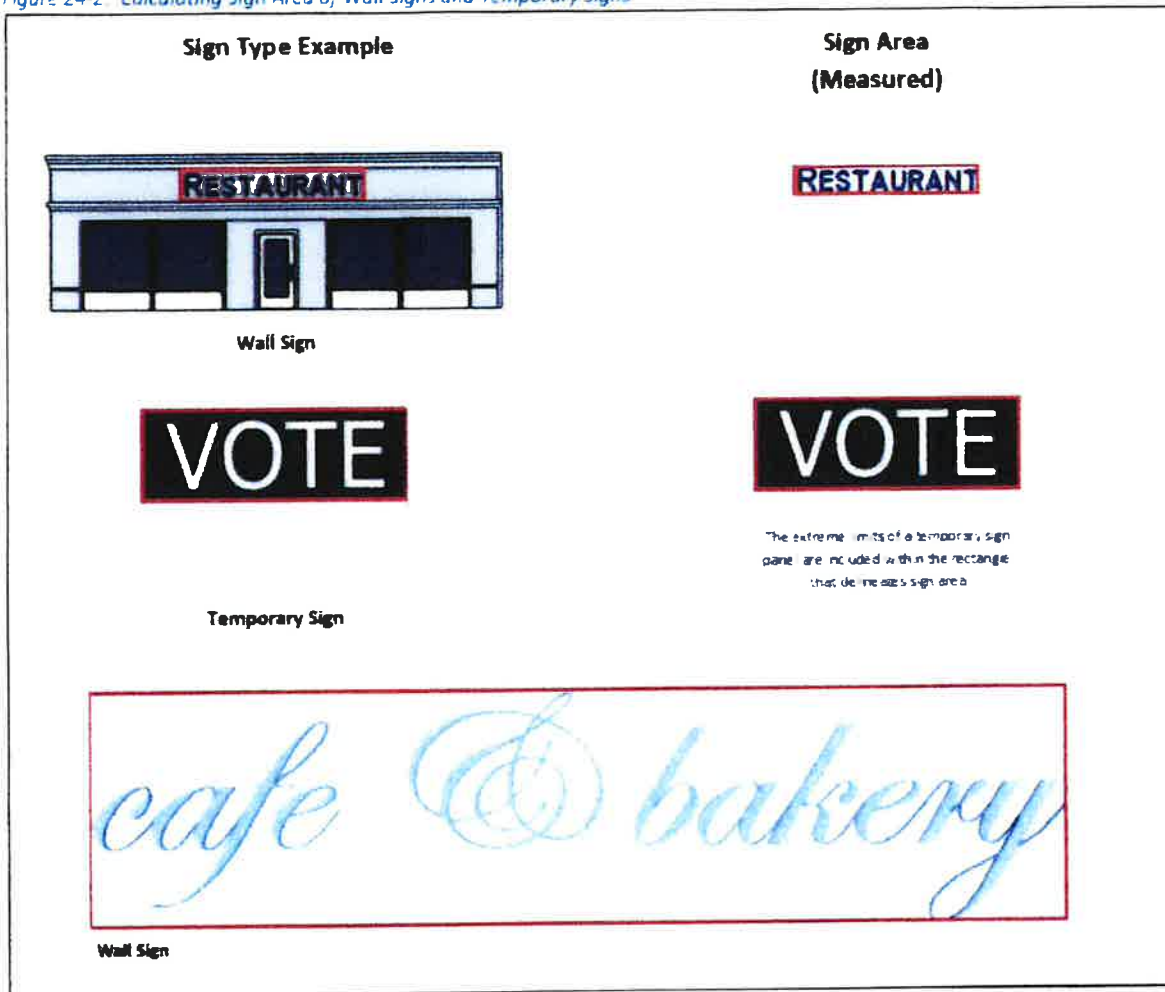


Figure 24.2: Calculating Sign Area of Wall Signs and Temporary Signs



B. Measuring Sign Height

1. Maximum Height.

Maximum heights for Signs are measured as the distance from the lowest point of the ground or pavement (whichever is lower) directly beneath the Sign to the highest edge of the Sign or Sign Structure (whichever is higher).

2. Minimum Height.

Minimum heights for Signs are measured as the distance from the highest point of the ground or pavement (whichever is higher) beneath the Sign to the lowest edge of the Sign or Sign Structure (whichever is lower).

3. Sign Structures.

Height requirements for Signs include all supporting Sign Structures.

C. Changeable Copy and Electronic Message Signs

1. Changeable Copy may not exceed 50% of the total Sign Area of a Sign.
2. An Electronic Message Sign may only be included as a component of a larger Sign and may not exceed 25% of the total Sign Area of the Sign.
3. Changeable Copy and Electronic Message Signs shall not change more than once per minute.

D. Sign Illumination

1. General

- a. A Permanent Sign may be illuminated by internal or external Light Sources. A Temporary Sign shall not be illuminated.
- b. A Light Source that illuminates a Sign shall have a constant color and intensity, except that it may dim or brighten in response to changes in ambient light as permitted in this Code.
- c. A Light Source that illuminates a Sign shall be installed and maintained in a manner to prevent glare as required by this Code, including through the use of fully shielded fixtures, shields, baffles, mounting height, appropriate luminosity, aiming angle, and placement.
- d. In all cases, Sign illumination shall not project light that exceeds 0.1 foot candles above the ambient light at a Lot Line bordering a Residential Zoning District.

2. Mounting and Shielding

- a. An external Light Source illuminating an exterior Sign shall be mounted above the Sign, shall be shielded so that the Light Source is not directly visible from any point on or above a horizontal plane extending from the Light Source and shall not be aimed or directed toward a residential Building on another Lot or toward a Public Right-of-Way.
- b. Exceptions

The following types of Light Sources are exempt from the mounting and shielding requirements in this subsection:

- i) A Light Source wholly within a Sign or Sign Structure constructed with translucent (but not transparent) material, such as an internally illuminated box Sign.
- ii) A Light Source placed behind opaque lettering or other component of the Sign and visible only through reflection off a wall or other surface, such as a halo, back-lit, or reverse channel Sign.
- iii) A Neon Sign.
- iv) An Electronic Message Sign.

3. Electronic Message Sign Illumination

- a. An Electronic Message Sign shall not emit more than 5,000 Nits in full daylight and 100 Nits at night (between astronomical dusk and dawn).
- b. An Electronic Message Sign shall have a functioning ambient light monitor and automatic dimming equipment which shall at all times be set to automatically reduce the brightness level of the Sign proportionally to any reduction in the ambient light. In order to verify compliance with this Code or other applicable law, the interface that programs the Electronic Message Sign shall be made available to the City for inspection upon request. If the interface is not or cannot be made available upon the City's request, the Sign shall cease operation until the City has been provided proof of compliance.
- c. When an Electronic Message Sign changes, the change shall be instantaneous, without any additional effect, such as fade, blinking, or dissolve.
- d. An Electronic Message Sign shall default to an unlit black screen when more than 50% of its Light Sources fail or if its Light Sources otherwise are not displaying properly.

4. Hours of Illumination

Illuminated Signs shall be extinguished as following:

- a. On Lots that do not contain a Business: Illuminated Signs shall be extinguished between 10:00 p.m. and 6:00 a.m.
- b. On Lots that contain a Business: Illuminated Signs shall be extinguished between 30 minutes after the close of all Businesses on the same Lot and 30 minutes before the opening of any Business on the same Lot.

E. Additional Standards

1. Addresses

Addresses shall be visible and legible from a Public Right-of-Way and comply with the requirements of Chapter 2 of this Code. Address Signs with an address that is 12 inches or less in height in Residential Zoning Districts and 24 inches or less in height in Nonresidential Zoning Districts shall be excluded from calculations of maximum permitted Sign Area.

2. Projections into Public Right-of-Way

A Permanent Sign, Sign Structure, Flag, Awning, or Canopy shall not be located in, project into, or overhang a Public Right-of-Way or public easement except upon the prior review and permission of the City, receipt by the City of proof of all required insurance, and execution of all licenses, permits, and other agreements required by the City.

3. Sightlines, Interference with Street Signs

- a. Signs and Sign Structures shall not interfere with applicable sightline requirements and standards, including City standards for Driveways and intersections contained in the City Public Services Standard Specifications.
- b. Signs and Sign Structures shall not obscure or interfere with an official street sign or signal, including by position, shape, or color.

4. Placement of Awning Signs and Canopy Signs

Awning Signs and Canopy Signs shall be printed on or hung from the Awning or Canopy surface.

5. Flags

In addition to the Signs permitted under this Code, in all zoning districts each Lot is permitted up to three Flags with noncommercial messages that have a combined total area of up to 90 square feet. All faces of a Flag that contain a message are included in calculating the area, which shall not be included in the calculation of the maximum Sign Area.

F. Safety and Maintenance

1. Every Sign and Sign Structure shall be maintained in a safe condition, in compliance with all applicable building and electrical codes and this Code, including adequate protection against corrosion. If at any time the Building Official determines that a Sign or Sign Structure constitutes a dangerous structure, the Building Official may require immediate action to mitigate the danger, including demolition of the Sign or Sign Structure.
2. A Sign or Sign Structure that is broken, torn, bent, has a broken, bent, or damaged support, or is not reasonably level and plumb shall be repaired or reinstalled in a manner prescribed by the Building Official.
3. A Sign or Sign Structure shall not have more than 20% of its area covered with disfigured, cracked, rippled, or peeling material or paint for a period of more than 30 consecutive days.
4. A Sign or Sign Structure shall not have bent or broken Sign facing, a broken support, loose appendage or strut, or lean more than 15 degrees from vertical, unless designed to do so, for a period of more than 30 successive days.
5. A Sign shall not have weeds, vines, or other vegetation growing upon it in a manner that obstructs the view of the Sign for a period of more than 30 consecutive days.
6. An illuminated Sign shall not remain partially illuminated with a failed Light Source for a period of more than 30 consecutive days.
7. A Sign Structure now or hereafter existing which no longer contains a Sign shall be removed.

G. PUD Zoning Districts

For purposes of these Sign regulations, PUD districts shall be treated as follows:

1. Approved PUD Zoning Districts and Supplemental Regulations

- a. When an approved PUD Zoning District is located within or abutting the Downtown Development Authority boundary, it shall be treated the same as D1, D2, and C1A/R Districts in this section.
- b. When an approved PUD Zoning District is not within or abutting the Downtown Development Authority boundary and its Supplemental Regulations only allow residential uses, it shall be treated the same as Residential Zoning Districts in this section.
- c. When an approved PUD Zoning District is not within or abutting the Downtown Development Authority boundary and its Supplemental Regulations either do not allow residential uses or allow residential use and nonresidential uses together, it shall be treated as Other Mixed Use and Nonresidential and Special Purpose Districts in this section.

2. Proposed PUD Zoning Districts and Supplemental Regulations

- a. The Supplemental Regulations for all proposed PUD Zoning Districts shall either declare its Sign regulation classification for purposes of applying this section or, in accordance with Section 5.29.10.B shall propose modifications that increase, decrease or eliminate the requirements of this Section 5.24.

TABLE 5.24-1: APPLICATION IN APPROVED PUD DISTRICTS			
WHEN	SHALL BE TREATED IN THIS SECTION AS		
	D1, D2, and C1A/R	Other Mixed Use and Nonresidential and Special Purpose	Residential
PUD Zoning District is located within or abutting the DDA boundary	+		
PUD Zoning District not within or abutting the DDA boundary, and Supplemental Regulations only permit residential use			+
PUD Zoning District not within or abutting the DDA boundary, and A. Supplemental Regulations do not permit residential use, or B. Supplemental Regulations allow for mixed uses		+	

5.24.5 Permanent Signs

A. D1, D2, and C1A/R Districts

1. Area

Each Building in the D1, D2, and C1A/R district is permitted two square feet of Sign Area per linear foot of Building Frontage up to a maximum of 200 square feet of Sign Area for Permanent Signs. The permitted Sign Area may be distributed among permitted Sign types, provided that:

a. Awning Signs.

The Sign Area of Awning Signs shall be no more than 25% of the Awning area.

b. Canopy Signs.

The Sign Area of Canopy Signs shall be no more than 25% of the Canopy area.

2. Height, Placement, and Number

The type, height, placement, and number of Permanent Signs permitted in D1, D2, and C1A/R districts are provided in Table 5.24-2. Height and placement requirements include the Sign Structure, unless otherwise stated.

TABLE 5.24-2: D1, D2, AND C1A/R DISTRICT PERMANENT SIGNS			
SIGN TYPE	HEIGHT	PLACEMENT	MAXIMUM NUMBER
Projecting Signs	Maximum: 80 ft. but no higher than the top of the Building Minimum: 8 ft. if projecting into Public Right-of-Way	May not project more than 4 ft. from the Building	1 per Business Frontage
Wall Signs	Minimum: 8 ft. if projecting into Public Right-of-Way	Must be within lowest 20 ft. of the Building. If the Building Height is 45 ft. or higher, may be placed within the uppermost 15 ft. of the Building and may extend up to 3 ft. above the top of the Building. May not project more than 2 feet from the Building	No maximum
Awning Signs	Maximum: 20 ft.	Entirely within the Awning	1 per Business Frontage
Canopy Signs	Maximum: 20 ft.	Entirely within Canopy	1 per Business Frontage

B. Other Mixed Use and Nonresidential and Special Purpose Districts

1. Area

Each Building in Mixed Use Zoning Districts other than D1, D2, and C1A/R and Nonresidential and Special Purpose districts is permitted two square feet of Sign Area per linear foot of Building Frontage up to a maximum of 200 square feet of Sign Area for Permanent Signs. The permitted Sign Area may be distributed among permitted Sign types, provided that:

a. Awning Signs.

The Sign Area of Awning Signs shall be no more than 25% of the Awning area.

b. Canopy Signs.

The Sign Area of Canopy Signs shall be no more than 25% of the Canopy area.

2. Height, Placement, and Number

The type, height, placement, and number of Permanent Signs permitted in Mixed Use Zoning Districts other than D1, D2, and C1A/R and Nonresidential and Special Purpose districts are provided in Table 5.24-3. Height and placement requirements include the Sign Structure, unless otherwise stated.

TABLE 5.24-3: OTHER MIXED USE AND NONRESIDENTIAL AND SPECIAL PURPOSE DISTRICTS PERMANENT SIGNS			
SIGN TYPE	HEIGHT	PLACEMENT	MAXIMUM NUMBER
Projecting Signs	Maximum: 90 ft. but no higher than the top of the Building Minimum: 8 ft. if projecting into Public Right-of-Way	May not project more than 4 ft. from the Building	1 per Business Frontage
Wall Signs	Minimum Height: 8 ft. if projecting into Public Right-of-Way	Must be within lowest 20 ft. of the Building. If the Building Height is 45 ft. or higher, may be placed within the uppermost 15 ft. of the Building and may extend up to 3 ft. above the top of the Building. May not project more than 2 ft. from the Building	No maximum
Freestanding Signs	Maximum: 1 ft. for each foot set back from the nearest Lot Line, up to 2.5 ft. maximum	Minimum Required Setback 5 ft. Minimum 200 ft. between each Freestanding Sign on the same Premises	1 per Street Frontage
Awning Signs	Maximum: 20 ft.	Entirely within the Awning	1 per Business Frontage
Canopy Signs	Maximum: 20 ft.	Entirely within Canopy	1 per Business Frontage

C. Residential Zoning Districts

The type, area, height, placement, and number of Permanent Signs permitted in Residential Zoning Districts are provided in Table 5.24-4. Height and placement requirements include the Sign Structure, unless otherwise stated.

TABLE 5.24-4: RESIDENTIAL DISTRICTS PERMANENT SIGNS					
LAND USE	SIGN TYPE	MAXIMUM SIGN AREA PER LOT	HEIGHT	PLACEMENT	MAXIMUM NUMBER
Single and Two-Family; Multiple-family (up to six units)	Wall Sign	1 sq. ft. per Building	N/A	N/A	1 per Building
Multiple-Family (7 or more units, other group housing)	Wall Sign	6 sq. ft. per Building	Maximum: 10 ft.	Within 4 ft. of a door facing and visible from a public Street	1 per Building
	Freestanding Sign	50 sq. ft.	Maximum: 1 ft. for each foot set back from the nearest Lot Line, up to 8 ft. maximum	Minimum Required Setback: 5 ft.	1 per Lot
Nonresidential	Wall Signs	12 sq. ft. among these types	Maximum: 10 ft.	N/A	1 per Street Frontage
	Awning Signs		Maximum: 10 ft.	Entirely within Awning face	1 per Street Frontage
	Canopy Signs		Maximum: 10 ft.	Entirely within Awning face	1 per Street Frontage
	Freestanding Signs	50 sq. ft.	Maximum: 1 ft. for each foot set back from the nearest Lot Line, up to 8 ft. maximum.	Minimum Required Setback: 5 ft.	1 per Lot

5.24.6 Window Signs

Interior and Exterior Window Signs are permitted as provided in Table 5.24-5 in addition to all other permitted Signs.

TABLE 5.24-5: WINDOW SIGNS			
ZONING DISTRICT	SIGN TYPE	PLACEMENT	MAXIMUM SIGN AREA
Residential	Interior Window Sign	Any window	None
	Exterior window sign	Ground floor window	Area counted as Wall Sign
Mixed Use, Nonresidential and Special Purpose	Interior And Exterior Window Signs	Ground floor windows only	Total area of all Interior and Exterior Window Signs may not exceed 25% of ground floor window area of Building facade

5.24.7 Temporary Signs

A. Display Period

1. Temporary Wall Signs

A Temporary Wall Sign may be displayed for up to 28 days in a calendar year and shall not be displayed for more than 14 continuous days. Temporary Wall Signs shall be removed when not within the permitted display period.

2. Temporary Freestanding Signs

A Temporary Freestanding Sign may be displayed for up to 65 continuous days, with at least a 30-day gap between any display period. Temporary Freestanding Signs shall be removed when not within the permitted display period.

3. Exceptions

a. Building or Lot For Sale.

When all or a portion of a Building or Lot is listed or advertised for sale or lease, the maximum display period for Temporary Signs on that Building or Lot shall be the duration that the Building, Lot, or portion thereof, is listed or advertised for sale or lease. Once the Building, Lot, or portion thereof, is no longer listed or advertised for sale, all Temporary Signs that have been displayed for more than 65 days shall be removed.

b. Unlimited Sign.

One nonilluminated Temporary Freestanding Sign up to 6 square feet in Sign Area is permitted on a Lot at any time with no limitation on display period. Such a Sign is subject to the placement requirements and counts toward the maximum Sign Area for Freestanding Signs provided in Table 5.24-6.

B. Regulations

The type, area, height, number, and placement of Temporary Signs permitted by district are provided in Table 5.24-6. Height and placement requirements include the Sign Structure, unless otherwise stated.

ZONING DISTRICT	SIGN TYPE	MAXIMUM SIGN AREA		MAXIMUM NUMBER	REQUIRED SETBACK	MAXIMUM HEIGHT
		PER LOT	PER SIGN			
Single and Two-Family; Multiple-family (up to six units)	Freestanding Sign	Maximum 20 sq. ft.	12 sq. ft.	6	Minimum 5 ft.	6 ft.
	Wall Sign	Maximum 9 sq. ft. per Principal Building	3 sq. ft.	2	N/A	10 ft.
Multiple-Family (7 or more units)	Freestanding Sign	Maximum 20 sq. ft.	12 sq. ft.	6	Minimum 5 ft.	6 ft.

TABLE 5.24-6: TEMPORARY SIGNS						
ZONING DISTRICT	SIGN TYPE	MAXIMUM SIGN AREA		MAXIMUM NUMBER	REQUIRED SETBACK	MAXIMUM HEIGHT
		PER LOT	PER SIGN			
other group housing)	Wall Sign	Maximum 12 sq. ft. per Principal Building	12 sq. ft.	1	N/A	10 ft.
Nonresidential	Freestanding Sign	Building Frontage 166 ft. or less: Maximum 32 sq. ft.	32 sq. ft.	4	Minimum 5 ft.	6 ft.
		Building Frontage more than 166 ft.: Maximum 0.6 sq. ft. per linear foot of Building Frontage up to 100 sq. ft.				
	Wall Sign	20 sq. ft. per Building	20 sq. ft.	No maximum	N/A	10 ft.

C. Materials and Construction

Temporary Signs shall be constructed of durable, all-weather materials and designed to remain in place and in good repair so long as they remain on display. A Temporary Freestanding Sign larger than three square feet shall have a rigid frame or border.

5.24.8 Liability Insurance

If any Permanent Sign or Sign Structure is erected upon or projects into a Public Right-of-Way or if the height of a Sign or Sign Structure is greater than the distance from the Sign or Sign Structure to a Public Right-of-Way, then the owner of the Sign or Sign Structure shall at all times maintain Commercial General Liability Insurance in the amount of \$1,000,000.00 covering collapse of the Sign or Sign Structure and potential resulting injuries and damages. The Commercial General Liability Insurance policy shall include an endorsement, or policy language, naming the City of Ann Arbor as an additional insured.

5.25 Outdoor Lighting

5.25.1 Applicability

Unless exempted by the terms of this Section 5.25, all outdoor lighting installed or modified in the following situations shall comply with the following standards:

- A. Whenever a site plan is required;
- B. Whenever the estimated expenses of construction exceeds 50% of the appraised replacement cost of the entire Building or structure, exclusive of foundation, prior to its improvement (as determined by the Building Official).
- C. Whenever a shared Driveway is provided within an easement.

5.25.2 All Exterior Lighting

All exterior lighting devices shall be adequately shielded and screened so that no light will glare directly onto any Public Right-of-Way or property principally used for residential purposes. Lighting devices shall be arranged and kept at a level so that the amount of light

projected onto property principally used for residential purposes does not exceed 0.10 of a foot candle.

5.25.3 Parking Lots

A. General

Outdoor lighting for Parking Lots shall comply with the following standards:

1. Shall be Illuminated from one-half hour after sunset to one-half hour before sunrise at the levels specified in Table 5.25-1 below.
2. Shall be designed to provide Illumination levels at all unobstructed points of the Parking Lots in accordance with Table 5.25-1. Illumination levels shall be measured three feet above the Lot surface.
3. Shall be designed and maintained so the Illumination is evenly distributed.
4. Shall be designed and maintained so that it does not adversely affect the vision of motorists on public streets.

B. Illumination Levels

Lighting Illumination levels in Parking Lots shall comply with Table 5.25-1.

TABLE 5.25-1: ILLUMINATION LEVELS		
Use	MINIMUM ILLUMINATION LEVEL (FOOTCANDELS)	MAXIMUM UNIFORMITY RATIO
RESIDENTIAL, RELIGIOUS ASSEMBLY, SCHOOL, PRIVATE SWIMMING CLUB, AND CHILD CARE FACILITY		
All Parking Lots	0.4	10:1
OTHER NONRESIDENTIAL		
Small (5–10 spaces)	0.4	10:1
Medium (11–99 spaces)	0.6	10:1
Large (100 or more spaces)	0.9	10:1
Bicycle Parking Spaces	0.4	10:1

C. Exceptions to Illumination Levels

1. Nonresidential lighting levels may be reduced to 0.4 footcandle with a maximum uniformity ratio of not more than 10:1 after 2:00 a.m., or after established hours of operation as filed with the PSDU. Established hours of operation are one-half hour before to one-half hour after published Business hours.
2. Religious Assembly, school, private swimming club, and child care facility Parking Lots in residential neighborhoods may reduce lighting levels by up to 50% after midnight with the maximum uniformity ratio not to exceed 50:1. Lighting plans and specifications for such Illumination must be submitted pursuant to this Section 5.25 during the site plan approval process.

5.26 Fences

5.26.1 Applicability

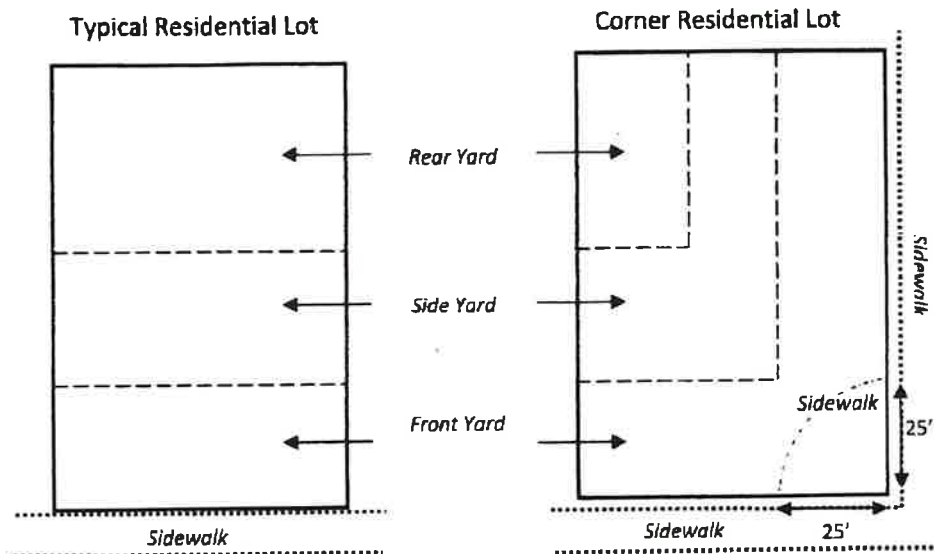
- A. All permanent Fences shall be subject to the requirement of this Section 5.26 .
- B. Temporary construction fences and fences required for protection around Excavations shall comply with Article 13 of the City Construction Code. Such fences shall not be maintained for a period greater than a year without special approval of the Zoning Board of Appeals.

5.26.2 Standards

A. Residential Zoning Districts

Fences located in residential zoning districts (See also figure below):

1. Shall not exceed four feet in height and 50% Opacity in the Front Yard.
2. Shall not exceed six feet in height and 80% Opacity in the Side Yard.
3. Shall not exceed eight feet in height in the Rear Yard.

Figure 26-1. Residential Zoning Districts - Height and Opacity Standard⁵⁸

B. Nonresidential Zoning Districts

Fences located in nonresidential zoning districts:

1. Shall not exceed 12 feet in the Front Setback Area, or exceed the maximum height limit for the zoning district in which the Fence is located outside of the Front Setback Area.
 2. Shall have no restriction as to solid matter or closed construction.
 3. Shall not be charged or connected to an electrical current.
 4. Shall not contain spikes, nails, barbs (including barb wire), or other pointed instruments, or any cleaved selvages or any sharp points on wire. Fences that have not been removed or bent to eliminate any sharp extrusions.
- C. All Fences located within 25 feet of the intersection of two or more street Lot Lines where the minimum Required Front Setback of the zoning district in which the Lot is located is greater than none shall not be higher than 30 inches above the sidewalk Grade.
- D. In determining the maximum height of a Fence that separates two adjoining Lots and runs within two feet of the Lot Line, the maximum height at any point shall be determined from the highest Grade within two feet on either side of the Lot Line.

⁵⁸ Ordinance No. ORD-20-34, effective February 14, 2021.

5.26.3 Maintenance

Fences shall be maintained so as not to endanger life or property. Any Fence which, through lack of repair, type of construction or otherwise, endangers life or property is hereby deemed a nuisance.

VILLAGE OF EMPIRE
LEELANAU COUNTY, MICHIGAN
Signs - Ordinance #142 - Village of Empire Code of Ordinances

The Village of Empire ordains:

Part I: Village of Empire hereby replaces Ordinance #142 - Village of Empire Code of Ordinances as follows:

Section 1. Sign Regulations Established: These regulations shall apply and govern in the Village of Empire. No sign shall be erected or maintained unless it complies with this Ordinance.

Section 2. Purpose: This Ordinance is intended to preserve the desirable character of the Village of Empire, as well as to recognize the need for certain signage to promote safe traffic flow and pedestrian safety. At the same time, the Village of Empire recognizes that excessive signage may create a less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this Ordinance.

Section 3. Definitions: As used in this Ordinance, the following words shall have the meanings:

Accessory Sign: A sign that is not for a principal use of the property on which it is located, including warning signs.

Animated Sign: A sign that uses movement, spins or changes of lighting to depict action or create a special effect or scene.

Awning/Canopy Sign: A sign that is part of or attached to the surface of an awning/canopy.

Banner: A sign printed or displayed upon cloth or other flexible material, excepting national, state, or municipal flags.

Changeable Copy Sign: A sign or a portion of a sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this Ordinance.

Corner Lot Sign: Signs placed facing both public streets on corner lots.

Display Area: The entire space used for lettering and symbols on one vertical plane.

Flag Sign: Any cloth or bunting attached to a staff.

Flashing Lighted Sign: An illuminated sign that intermittently and repeatedly flashes on and off, and/or creates an illusion of a flow of lights.

Freestanding or Ground Sign: A sign supported by permanent uprights or braces in the ground.

Identification Sign: A sign that identifies a building or street address.

Illuminated Sign: A sign rendered visible during the period from sunset to sunrise by means of an internal light source or by means of an exterior light source directed on to, or in the vicinity of the sign.

Marquee Sign: A permanent overhang or roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the buildings, and are generally designed and constructed to provide protection from the weather.

Marquee Surface Sign: A sign attached to or made part of a marquee.

Multi-Business Plaza: Those structures that contain more than one enterprise, leased under separate ownership, and may have a common entrance or multiple entrances.

Nonconforming Sign: Any existing sign on the effective date of this Ordinance, as amended, which does not at that time comply with all of the provisions of this Ordinance and any amendments.

Portable Sign/Trailer Sign/Sandwich Board: A sign that is designed to be transported, including but not limited to signs:

- With a chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T-frame signs;
- Attached temporarily or permanently to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;
- Menu and sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

Projecting Sign: A sign attached to or erected on the exterior wall or surface of a building, which projects twelve (12) inches or more from the wall or surface.

Roof Sign: A sign mounted on or over the roof of a building and is wholly or partially supported by the building. Mansard roof signage shall be considered wall signage for the purpose of calculating allowable footage.

Sign Enforcement Officer (SEO): The Zoning Administrator or such other person as shall be designated by the Village Council.

Sign: A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors.

Surface Sign: That portion of a sign excluding its base, foundation and erection supports on which message is displayed pertaining to a product, use, occupancy, function, service, or activity is displayed.

Temporary Sign: A display sign, banner, flag, or device intended for a limited period of display, associated with a temporary event, and is without permanent foundations or attached to the exterior of a building.

Wall Sign: A sign that is affixed to or placed flat against the exterior wall or surface of a building or structure, with no portion projecting more than twelve (12) inches from the building or structure wall.

Section 4. Permit Application: The following application requirements shall apply to all signs requiring a permit pursuant to the provisions of this Ordinance.

- 1) Application for a permit, on a form supplied by the Village of Empire, shall be required to erect, alter, or reconstruct a sign, unless otherwise noted. The completed application, together with all plans and specifications, shall be submitted to the SEO. Approval shall not be given until the application complies with all provisions of this Ordinance. If the application is approved, a permit to erect, alter, relocate, or post the sign shall be issued.
- 2) A non-refundable permit fee shall be submitted with the application. Fees for sign permits shall be established, from time to time, by resolution of the Village Council and shall be remitted to the Village.
- 3) The application shall contain or have attached the following:
 - a) Name, address, and telephone number of owner, where the sign is to be erected and the owner of the sign.
 - b) Location of building, structure, or lot where the sign is to be attached or erected.
 - c) Position of the sign in relation to nearby buildings or structures.

d) A sketch or scale drawing with the dimensions, specifications of the display area, color, method of construction, lighting and if applicable, method of attachment to the building or ground.

e) Name of person, firm, or corporation erecting the sign.

f) Any Leelanau County construction permit required and issued for the sign.

g) Other details the SEO shall require establishing conformance with this Ordinance.

4) Issuance of a sign permit in no way indicates any responsibility by the Village of Empire for structural adequacy of a sign or the right to construct the sign.

5) A sign permit shall be null and void if the sign has not been installed within ninety (90) days from the date of approval.

6) Public service and non-profit agencies must apply for a permit, but the fee may be waived by the SEO.

7) In addition to the limitations stated in Sections 5, 9 and 10, the following conditions shall apply to all signs in any use zoning district:

a) Except for the signs authorized without a sign permit pursuant to Section 6, no sign, except non-illuminated identification sign, shall be erected or altered until approved by the SEO or authorized by the Village of Empire Planning Commission as part of an approved site plan. After approval, the required sign permit shall be issued by the SEO.

Section 5. General Provisions: The following regulations shall apply to all signs:

1) Signs must be constructed of durable materials, maintained in good condition, and shall not be allowed to become dilapidated.

2) No sign shall be permitted for any business or service not available at that location. When a business is abandoned the sign must be removed within thirty (30) days. A business shall be considered abandoned if determined by the Zoning Administrator to have been suspended or halted for a continuous period of one (1) year.

Section 6. Signs Not Requiring a Sign Permit: The following signs may be placed in any zoning district without a sign permit, provided such signs comply with all applicable federal or state law or regulation and are located to not cause a nuisance or safety hazard:

1) Two (2) non-illuminated signs per property not to exceed sixteen (16) each square feet of sign surface.

- 2) Signs erected or approved by state, county or village agencies when necessary to give proper directions or to safeguard the public.
- 3) Accessory signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to road hazards, high voltage, fire danger, explosives, and severe visibility.
- 4) Signs posted near property boundaries, provided the sign surface does not exceed the maximum size of one (1) square foot.
- 5) Signs marking a historically significant place, building or area when sanctioned by a national, state, township, village or local historical organization provided the sign surface does not exceed the maximum allowed size of sixteen (16) square feet or the maximum size allowed in the zoning district whichever is less.
- 6) Signs required by federal or state agencies in connection with federal or state grant programs that have been approved in conjunction with a valid site plan or land use permit.
- 7) Temporary signs may be removed by the Village after fifteen (15) days following abandonment or obsolescence as determined by the SEO.

Section 7. Prohibited Signs. The following signs are prohibited:

- 1) A sign not expressly permitted is prohibited.
- 2) Signs imitating warning signals are prohibited. No sign shall display intermittent lights resembling the flashing lights customarily used in traffic signals or in police, fire, ambulance, or rescue vehicles.
- 3) Revolving, moving, animated, mechanical, electronic simulated motion, and flashing signs are prohibited, except for rotating/revolving barbershop poles.
- 4) Signs within a village street or highway right-of-way are prohibited. No signs (except those established and maintained by the village, township, county, state, or federal governments) are to be located in, projected into, or located overhead within a public right-of-way or dedicated public easement, unless the sign has been issued a permit by the agency having jurisdiction over that right-of-way.
- 5) Signs higher than eight (8) feet, measured from ground level are prohibited, except for projecting signs and signs fully attached to the face of a building.
- 6) A sign which is part of a canopy or an awning.

- 7) Stake or wire signs, other than those allowed in Section 6 Signs Not Requiring a Sign Permit.
- 8) Bench signs.
- 9) Mansard roof signs shall be considered as wall signage.
- 10) Off-premise signs for businesses.

Section 8. Alteration or re-establishment of nonconforming signs. Any existing sign which, on the effective date of this ordinance, does not at that time comply with all of the provisions of this ordinance and any amendments shall not:

- 1) Be changed to another type of sign which is not in compliance with this Ordinance.
- 2) Be structurally altered so as to prolong the life of the sign or so to change the shape, size, type, or design of the sign.
- 3) Be re-established after the activity, business or usage to which it relates has been discontinued for a period of one (1) year.
- 4) Be re-established after damage or destruction, ordinary wear or obsolescence, if the estimated cost of the reconstruction or renovation exceeds fifty (50) percent of the replacement sign cost as determined by the Zoning Administrator.
- 5) Ever be placed, maintained, or displayed by someone other than the person who owned the premises on the date of adoption of the ordinance or ordinance amendment from which this Ordinance is derived.
- 6) Be supplemented by new additional signs. On parcels that contain a legal nonconforming sign, no new additional sign shall be erected until all such nonconforming sign or signs on the parcel are brought into compliance with this Ordinance.

Section 9. Signs Allowed in Zoning Districts: The following signs are allowed in the specified Village zoning districts, subject to a sign permit:

- 1) **Residential (R), Mixed Residential (MR), and Village Residential (VR) Districts**
Only signs not requiring a permit shall be allowed.
- 2) **Commercial-Residential (CR) and Light Industrial (LI) Districts**
Any sign not requiring a permit, and approved signs in accordance with Sections 9 and 10.

3) **Recreation/Conservation (RC) District**

Any sign not requiring a permit. Also, for nature areas consisting of over thirty (30) acres in the R/C district, may have on the property not more than two (2) identifying signs, each not to exceed 12 square feet and not more than 8 feet in height. One (1) 32 square foot kiosk is also allowed with a height limitation of 8 feet.

4) **Planned Unit Developments (PUD)**

Any sign not requiring a permit. Commercial uses within a PUD, shall be allowed approved signs in accordance with Section 10.

Section 10. Permitted Sign Types, Allowable Dimensions and Specific Requirements:

1) **Allowable number and total square footage of signage by district:**

Residential Districts (GR, MR, VR)	2 signs - 8 square feet
Commercial-Residential District	2 signs - 32 square feet
Light Industrial	2 signs - 24 square feet
Recreation/Conservation	2 signs - 24 square feet
PUD	2 signs - 24 square feet

2) **Sign size limits based on sign type.** If a sign is a double-faced sign, only one side shall be used in calculating compliance with the total allowable square footage.

3) **Corner lots.** Signs may be placed facing both public streets on corner lots within the Commercial-Residential (CR), Light Industrial (LI) Districts, and Planned Unit Developments (PUD) districts. All other requirements of this Ordinance must be met.

Sign Type	Max. Sign Surface Area	Other regulations
Either freestanding marquee sign (or other)	24 square feet	The number of freestanding signs shall not exceed 1 sign/100 ft lot along M-22 in C/R district, or 1 sign/50 ft lot in remainder of C/R. Max. height allowed is 8 ft.
Identification sign	4 square feet	
Illuminated sign	24 square feet	Signs may be illuminated only during hours of operation by a direct light source. Light source shall be shielded and downward directed. No direct rays or glare emanating from the light sources shall be visible from a public right of way or from an abutting property.
Projecting sign	20 square feet	Maximum projection allowed shall be five (5) feet from a building; not to extend over a public sidewalk, street or alley; shall not exceed the height of a building's roof line; and with a maximum height of fifteen (15) feet.
Portable sign	2 feet wide by 4 feet height (8 square feet). Signs transported by trailer or wheels 4 feet height by 8 feet length (32 square feet)	If intended to direct attention to a specific event, may be displayed for up to fourteen (14) days prior to the event, and must be removed within three (3) days after the event.
Banner sign	24 square feet	May be erected two (2) weeks prior to an event, and removed within three (3) days following an event.
Wall sign	32 square feet	1 sign/street facade, not to exceed 32 square feet if multiple businesses within the building they shall share the total 32 square feet.
Alley sign	4 square feet	1 sign/alley facade. If multiple businesses within the building they are to share the 4 sq. ft.
Multiple business/plaza entrance sign	48 square feet	All businesses within a common structure will share a common entrance sign.
Individual businesses within a multiple business building	1 square foot/lineal feet building length facing public street	The total lineal street frontage divided by the # of businesses/units within a building, not to exceed twelve (12) square feet/business. Signs shall comply with all other provisions of the Ordinance.

Section 11. Administration; Annual Inspection; Enforcement; Sanctions. The SEO, or designee, shall administer and enforce the provisions of this Ordinance. The SEO shall inspect signs on a yearly basis. In the case of a sign that poses an immediate danger to the public health or safety, the Village or its employee may remove the sign immediately and without notice. Neither the Village nor any of its employees shall be held liable for any damage of the sign or building when a sign is removed under this Ordinance.

Part II. Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. Should any part, clause, sentence, paragraph or section of this Ordinance be found invalid or unconstitutional for any reason by any court of competent jurisdiction, any such decision shall not affect the validity of the remainder of this Ordinance.

Part III. Conflict and Interpretation

The standards and provisions of this Ordinance shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Ordinance imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Ordinance shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Ordinance by the SEO or the designee, the Village Council shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the SEO or designee. The concurring vote of a majority of the Village Council shall be necessary to reverse any interpretation of this Ordinance by the SEO or designee.

Part IV. Savings Clause

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Part V. Effective Date


The provisions of this Ordinance are ordered to take effect thirty (30) days after publication (as the full text or as a summary thereof) in a newspaper of general circulation in the Village of Empire.


Part VI. Adoption

This Ordinance was duly adopted by the Village of Empire Council at its regular meeting called and held on the 22 day of October, 2019.

Part VII. Publication

The Village Clerk shall cause this Ordinance or summary of this Ordinance to be published in a newspaper of general circulation within Village of Empire within thirty (30) days after adoption.


Wayne Aylsworth, President, Village of Empire


Derith Smith, Clerk, Village of Empire

Adoption date: 10-22-19
Publication date: 11-1-19
Effective date: 12-1-19

CERTIFICATION

I, Derith Smith, the Clerk for Village of Empire, Leelanau County, Michigan, do hereby certify that the foregoing is a true and complete copy of this Ordinance adopted by the Village of Empire Council at a regular meeting held on Oct. 22, 2019. The following members of the Village of Empire Council were present at the meeting: Carpenter, Rademacher, Davis, Aylsworth, Bacon and Skrocki.

The Ordinance was adopted by the Village of Empire Council with 6 members of the Council voting in favor (All) and 0 voting against ().

A copy of the Ordinance or a summary thereof was published in the Traverse City Record Eagle on 11/1/2019.


Derith Smith, Clerk, Village of Empire

January 2, 2023

Sign Ordinance

On September 27, 2022, two motions related to the requesting a legal opinion regarding the sign ordinance were made. They were:

Question 1: Does the 2-sign limit violate the first amendment for political campaign signs on residential property?

Question 2: Clarify the ZA does not have the authority to remove signs unless: a. they present an immediate danger to the public (part 1; section 11) or b. 15 days after obsolescence of a temporary sign.

On November 10, 2022, Palmer made a motion to waive Attorney/Client Privilege on the sign ordinance opinion for the Village Attorney, Tim Figura to allow the VC to discuss the opinion. Since this was an addition to the agenda that night, I was not prepared for a full discussion on the issue.

Bacon comments and recommendation:

I recommend the Village Council send the sign ordinance to the Planning Commission for a new look, fresh eyes and the opportunity to work with Village attorney on the following:

- Writing a common-sense temporary sign section of the sign ordinance
- Writing a common-sense "off premise sign" section of the sign ordinance
- Clean up inconsistencies in sections (including, but not limited to sections 6 and 10 – where the size of the signs are different, 16 square feet; 8 square feet for signs. Unclear if we are talking about temporary signs or some other kind of signs.

Rationale:

Based on the opinion from the attorney, he may not have received the specific wording of the motion. His summary of the questions asked was: "You have asked for our opinion on whether the sign ordinance in effect in the Village of Empire complies with current case law. Additionally, you have asked whether the Village might be able to entirely outlaw political signs".

In his opinion, he indicated reviewing two cases and said they "are not binding on the Village of Empire." What he did not specifically address **was all three parts of 3-part test** related to the 1st amendment and signs. His focus seemed to be on content neutral. In essence, we were asking - Do you think if we were sued on our two-sign limit being a violation of the 1st Amendment, we would win?

1st Amendment - (3-part test)

- Is the content neutral
- Narrowly tailored to serve a significant government interest
- Is there amply/adequate alternative channels for communication

Maggie Bacon

PC 4/4/23

PC 3/7/23

VC 2/28/23

**VILLAGE OF EMPIRE PLANNING COMMISSION
ADOPTED BY-LAWS**


SECTION 1. AUTHORITY

These rules of procedure are adopted by the Village of Empire Planning Commission (hereinafter referred to as the "Commission") under the Municipal Planning Act 285 of 1931, as amended, and under the Open Meetings Act 267 of 1976, as amended. The following rules and "Robert's Rules of Order" (where Robert's does not conflict with these rules) shall govern the deliberations and the generally accepted parliamentary procedures for all meetings of the Commission.

SECTION 2. RESIDENCY

Members of the Planning Commission shall be qualified electors of the village, except that two of the planning commission members may be individuals who are not qualified electors of the Village but are qualified electors of another local unit of government.

SECTION 3. OFFICERS

 **A) ELECTION OF OFFICERS:** At their regular April meeting, the Commission shall elect from its membership a Chairperson, Vice-chairperson, Treasurer and Secretary who shall take office immediately following their election. The officers shall serve for one year or until their successors take office. Officers are eligible for re-election.

B) CHAIRPERSON DUTIES: The Chairperson shall preside and preserve order at all meetings of the Commission. In the absence of the Chairperson, the Vice-chairperson shall assume the duties of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office. The Commission shall then elect a successor to the office of Vice-chairperson at the earliest practicable time.

C) TREASURER DUTIES: The Treasurer shall be responsible for the keeping of the financial statements of the Commission and shall report on the financial status of the Commission at their regular meetings.

D) SECRETARY DUTIES: The Secretary shall be responsible for the preparation of minutes, the keeping of pertinent public records, the delivery of communications and related items of business, issuing notices of public hearings and performing related administrative duties to assure the efficient and informed operations of the Commission. The Commission may consider it necessary to appoint an employee to perform the duties of the Secretary. This employee shall be subject to the same provisions of law that govern other corresponding civil employees of the municipality. In the event the Secretary or appointed employee is absent at a meeting, the Chairperson or acting Chairperson shall appoint a temporary Secretary for the meeting.

E) RESIGNATIONS: Members electing to resign from the Planning Commission should do so in writing to the Village Council President and the Planning Commission Chair.

PC 4/4/23