

**City of Pleasant Ridge**  
23925 Woodward Avenue  
Pleasant Ridge, Michigan 48069

Regular Planning Commission Meeting  
Monday, December 14, 2020

Members of the Planning Commission, and Residents: This shall serve as your official notification of the Regular Meeting of the Planning Commission to be held Monday, December 14, 2020, 7:00 P.M., via teleconference as described below. The following items are on the Agenda for your consideration:

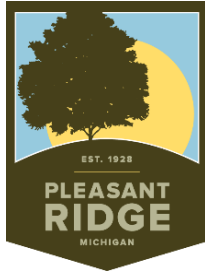
**REGULAR PLANNING COMMISSION MEETING-7:00 P.M.**

1. Meeting Called to Order.
2. Roll Call.
3. Minutes:
  - a. Regular Planning Commission Meeting held Monday October 26, 2020.
4. **PUBLIC DISCUSSION** – Items not on the Agenda.
5. **PUBLIC HEARING** – Sign Ordinance Amendments:
  - a. Public Hearing - Solicitation of public comments on proposed Pleasant Ridge City Code amendments, by the amendment to Chapter 54, Article I – Temporary and Nonconforming Signs, Section 54-2 – Definition, Section 54-7(b)(6) – Election Signs, Section 54-7(b)(8) – Sandwich Board Signs, Section 54-7(b)(9) – Street Banner Signs, and the amendment the Pleasant Ridge Zoning Ordinance, Chapter 82, to remove the provisions dealing with temporary signs, and to revise sections of Chapter 82 accordingly.
  - b. City Commission recommendation of the proposed Pleasant Ridge City Code amendments, by the amendment to Chapter 54, Article I – Temporary and Nonconforming Signs, Section 54-2 – Definition, Section 54-7(b)(6) – Election Signs, Section 54-7(b)(8) – Sandwich Board Signs, Section 54-7(b)(9) – Street Banner Signs, and the amendment the Pleasant Ridge Zoning Ordinance, Chapter 82, to remove the provisions dealing with temporary signs, and to revise sections of Chapter 82 accordingly
6. City Manager’s Report.
7. Other Business.
8. Adjournment.

Due to the COVID-19 State of Emergency declared by the Governor’s Executive Order 2020-4, the limitation on public assemblies of Executive Order 2020-11, and the permitting of public meetings by remote participation allowed by

Governor's Executive Order 2020-15, the December 14, 2020 Pleasant Ridge Planning Commission meeting will be conducted via remote participation.

All members of the public will be permitted to participate during the public comment and public hearing portions of the meeting. There are two ways that members of the public can participate in the meeting by joining the Zoom meeting by computer videoconference. If you have any ADA questions, please call the Clerk's Office (248) 541-2901.



**City of Pleasant Ridge**  
23925 Woodward Avenue  
Pleasant Ridge, Michigan 48069

**Planning Commission Meeting  
October 26, 2020**

Having been duly publicized, Chairman Treuter called the meeting to order at 7:04pm.

Present: Commissioners Corrigan, Carroll, McCoy, Bellak, Martin-Campbell, McAuliffe (7:28pm), Wilkinson, Treuter.  
Also Present: City Manager Breuckman, City Commission liaison Perry.  
Absent: Commissioner Stiffman.

**Minutes**

**PC-2020-1568**

Motion by Commissioner McCoy, second by Commissioner Bellak, that the minutes of Regular Planning Commission meeting held Monday, January 27, 2020, be approved.

Adopted: Yeas: Commissioners Treuter, McCoy, Corrigan, Martin-Campbell, Bellak, Carroll, Wilkinson.  
Nays: None

**Establishing Public Hearing – Monday, December 14, 2020, 7pm**

**PC-2020-1569**

Motion by Commissioner Wilkinson, second by Commissioner Corrigan, that a public hearing be established for Monday, December 14, 2020, at 7pm, to solicit public comments on a proposed Zoning Ordinance amendment to Section 82-196 Signs.

Adopted: Yeas: Commissioners Corrigan, McCoy, Martin-Campbell, Bellak, Carroll, Wilkinson, Treuter.  
Nays: None

**City Manager's Report**

Breuckman outlined some goals and projects for Planning Commission/DDA. Currently waiting for an update/decision on the Woodward Avenue TAP grant and pending project. Park improvements are ongoing, walking path crossovers are being constructed to connect the westside parks. A vehicle crossover will be installed in front of the City Hall driveway. Treuter discussed items from the last meeting to consider reviewing the Master Plan and updating as necessary and an ordinance regulating Air B&B properties/short term rentals. Breuckman indicated the short-term rentals are addressed under the current rental ordinance and this may not be necessary to update. The Master Plan will need to be updated over the next year.

**Other Business**

Commissioner Carroll indicated he is moving out of the City and he has to resign from the Planning Commission/DDA.

With no further business or discussion, Chairman Treuter adjourned the meeting at 7:40pm.

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Kristi McAuliffe, Secretary

**The Code of Ordinances shall be amended by adding to Chapter 54, a new Article I.—TEMPORARY AND NONCONFORMING SIGNS to read in its entirety as follows.**

**ARTICLE I. - TEMPORARY AND NONCONFORMING SIGNS**

**SEC. 54-1. - Intent and Purpose – Compelling/Important Municipal Police Power Objectives and Relationship of Regulations to the Objectives.**

Signs can obstruct views, distract motorists, displace alternative uses for land, interfere with uses of adjacent properties and pose other problems that legitimately call for regulation. The purpose of this chapter is to establish reasonable standards for the time, place, and manner of the erection and use of signs, symbols, markings, and advertising devices within the city. The standards are designed to promote the health, public safety, and welfare of persons within the community, including the promotion of traffic safety and aesthetics, and to aid in development and promotion of business and industry by providing sign regulations that encourage creativity, effectiveness, and flexibility in design and use of such devices without creating detriment to the general public. The intent is to allow communication through signage while encouraging aesthetic quality in design, locality, and size of signs. This chapter is to be read in a manner consistent with the First Amendment guarantee of free speech.

The following municipal interests are considered by the city to be “compelling” and “important” government interests. Each interest is intended to be achieved in a manner that represents the least restrictive means of accomplishing the stated interest, and in all events intended to promote an important government interest that would be achieved less effectively absent the regulation. These important government interests are in no respect intended to target the content of messages to be displayed on signs but seek to achieve non-speech objectives. Accordingly, it is the intent of this chapter to:

- (a) Ensure that the constitutionally-guaranteed right of free speech is protected and to allow signs as a means of communication, subject to appropriate and legally-permissible time, place, and manner restrictions.
- (b) Protect the safety of drivers, pedestrians, and others by precluding and limiting signs in a manner intended to lessen the diversion or distractions of a driver's attention from the roadway, particularly with regard to larger signs on heavily-trafficked roadways.
- (c) Provide for signage that is adequate but not excessive and that displays a message through use of pictures, symbols and logos for rapid comprehension by the public.
- (d) Prohibit the erection of signs in such numbers, sizes, designs and locations as may create a hazard or distraction to pedestrians and motorists and thus promote safety upon the streets and highways in the city.
- (e) Avoid excessive competition for large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.
- (f) Prevent sign overload and excessively large signs which creates a visually chaotic and competitive situation within the business community.
- (g) Encourage good design in the context of the overall image and visual environment of the city, and prescribe sound practices with respect to size, spacing, illumination, type and placement of signs for the purpose of safeguarding and enhancing properties in each of the

various types of zoning districts.

- (h) Enhance the appearance of the business community, taking into account the nature of the use, and thus stimulate as well as protect the economic vitality of the city and the orderly growth and development of business and industry in the city.
- (i) Protect public investment in public structures, open spaces and thoroughfares.
- (j) Minimize the adverse effects of signs on nearby public and private property.
- (k) Enhance the effectiveness of necessary directional and warning signs.
- (l) Preserve property values.
- (m) Recognize that advertising signs are a legitimate advertising medium in the locations which neither lessen the visual attributes of the city through the placement of such signs, nor cause confusion, safety problems or lessen the ability to identify local businesses through visual clutter.
- (n) Regulate the number and size of advertising signs within the city in the interests of economic prosperity, civic pride, quality of life and general welfare of the people who reside in, are visiting, are employed in or conduct business in the city.
- (o) Avoid or minimize the creation or maintenance of blight or nuisance conditions in the city.
- (p) Preserve landmark signs of historical or community significance

#### **SEC. 54-2. - Definitions.**

Words, terms, and phrases that are defined in section 82-3 shall have the same meaning as used in this article. Additionally, the following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned or Obsolete Sign* means an on-premises sign which has not identified or advertised a current business, service, owner, product, or activity for a period of at least 60 days.

*Commercial Business* means a business establishment that sells goods or provides services directly to consumers including but not limited to restaurants, offices, grocery stores, pharmacies, convenience stores, retail stores selling clothing, food, and personal items, personal service establishments, dry cleaning services, and similar uses.

*Feather Flag* means a vertically oriented banner attached to a single pole allowing the fabric to hang loose.

*Nonconforming Sign* means any sign that does not conform to the current requirements of chapter 82 - Zoning.

*Off-Premises Sign* means a sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on property other than where the sign is located.

*On-Premises Sign* means a sign whose message and design relate to an individual business, profession, product, service, event, point of view, or other commercial or non-commercial activity sold, offered, or conducted on the same property where the sign is located.

*Sandwich Sign* means a freestanding sign used in connection with a commercial business.

*Street Banner Sign* means any cloth, bunting, plastic, paper, or similar non-rigid material attached to a.) a building or b.) any single staff, pole, or framing which is anchored on two or more edges or at all four corners. These banners are temporary in nature and do not include flags.

*Temporary Sign* means a sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or signs not permanently embedded in the ground, or not permanently affixed to a building or structure that is permanently embedded in the ground, are considered temporary signs.

**SEC. 54-3. - Noncommercial message permitted.**

Anything in this article to the contrary notwithstanding, a temporary sign permitted in this article or in chapter 82, section 82-196 as a permanent on-premises sign or off- premises sign may contain a lawful non- commercial message, except for traffic signs, railroad crossing signs, danger or other emergency signs, and directional signs.

**SEC. 54-4. - Prohibited signs.**

All signs not expressly permitted under this chapter, or chapter 82, are prohibited in the city. Such prohibited signs include, but are not limited to, the following:

- (a) Beacons;
- (b) Pennants, feather flags, and/or streamers;
- (c) Any strobe, flashing, or oscillating lights either from the interior or exterior of a building.
- (d) Roof signs;
- (e) Flags, except those allowed by Sec 54-76 (b)(9);
- (f) Inflatable signs and tethered balloons.
- (g) Animated signs, including signs containing flashing, intermittent or moving lights or with moving or revolving parts.
- (h) Signs affixed to utility poles or to trees, rocks, shrubs or natural features, provided signs on a rock denoting a site of historical significance or a person being honored may also be allowed.
- (i) Signs which imitate traffic signals, traffic direction signs, or similar traffic control devices or signs which make use of words such as "Stop," "Look," "Danger," or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.
- (j) Any sign which is not an on-premises sign, unless expressly allowed by this article or chapter 82.

**SEC. 54-5. - Permanent signs.**

Any sign which is not considered a temporary sign shall be subject to the requirements of chapter 82, section 82-196 of this Code.

**SEC. 54-6. - Nonconforming and abandoned or obsolete signs.**

- (a) *Nonconforming signs.* The lawful use of a temporary sign exactly as the sign existed on the date of the amendment that added this article may be continued, except as otherwise provided in

this article, although that sign does not conform to this article. It is the intent of this chapter, however, to recognize the eventual elimination, as expeditiously as is reasonable, of such lawful nonconforming signs.

- (b) Alterations prohibited. A nonconforming temporary sign, shall not be expanded, relocated, or structurally altered so as to prolong the life of the sign or to change the shape, size, type, or design of the sign, or in any way that would increase the degree or extent of nonconformity of such sign.
- (c) *Abandoned or obsolete signs.* Abandonment or obsolescence of a nonconforming sign shall terminate immediately the right to maintain such a sign. An abandoned or obsolete sign and its supporting structure shall be removed by the property owner or lessee of the premises upon which the sign is located within thirty (30) days after written notice from the city manager or his or her designee.

#### **SEC. 54-7. - Temporary signs.**

Temporary signs may be erected in accordance with the use, area, height, and placement regulations of this section.

##### *(a) General conditions.*

- (1) No temporary sign shall be located on a utility pole or within, project into, or overhang any public right-of-way, except as otherwise permitted herein. Any sign placed in violation of this section shall be considered a violation of this chapter and may be removed by the city at the expense of the owner. Signs allowed are those erected by or on behalf of a governmental or other public agency to post legal notices, identify public property, convey public information, direct or regulate pedestrian or vehicular traffic.
  - (2) All temporary signs shall be erected and maintained in compliance with all applicable building codes, and other applicable ordinances governing construction within the city. In the event of conflict between this section and other laws, the most restrictive shall govern.
  - (3) All temporary signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or pedestrian movement on any public sidewalk or safety path.
  - (4) No temporary sign shall be erected, relocated or maintained so as to obstruct firefighting or prevent free access to any door, window or fire escape.
  - (5) 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.
  - (6) Temporary signs shall be subject to the maintenance standards of this Code.
  - (7) No temporary sign may be placed on private property without the permission of the property owner. Temporary signs placed upon property in the city in violation of this section may be removed by the city, the owner of the sign, or the owner of the property where a sign has been placed, or their designees. A temporary sign that has been removed by the city will be kept for five days, at which time the sign may be destroyed or disposed by the city.
- (b) *Standards for temporary signs.* Except as provided below, each lot may display up to one temporary sign for a period not to exceed one year, and an additional two temporary signs, each



for a period not to exceed thirty (30) days. Each face of a sign shall not exceed six square feet in area. The maximum height of a sign and any supporting structure shall be four feet. In addition, the following types of temporary signs shall be allowed in all districts subject to the specific standards below, and without any durational limit, except as specifically provided below.

- (1) Municipal signs on public property. Signs which are regulated and approved by local, state, or federal government agencies.
- (2) Municipal traffic and safety signs. Traffic or other municipal signs such as legal notices, railroad crossing, danger, and other emergency signs as may be approved by the city manager or his/her designee.
- (3) Pedestrian and traffic flow signs on private property. Incidental signs which are intended to direct, eliminate, or restrict the flow of pedestrian and vehicular traffic on private property. The sign shall not exceed two square ft. in area and four feet in height, shall contain no advertising, and may be illuminated.
- (4) Municipal signs on private property. Federal, state, county, or local required signs on private property, not to exceed six square feet.
- (5) Window Signs. Window signs shall be limited to no more than 25% of the total window area of the side of the building facing the front lot line, or in the case of a corner lot, one of the sides. In a building occupied by more than one individual unit, establishment, or space is limited to 25% of the total window area for that unit, establishment or space facing the front lot line or, in the case of a corner unit, one of the sides.
- (6) Elections. In recognition that there is a need for additional expression of speech prior to a scheduled election, the following applies for a period of sixty (60) prior to until 14 days after a city-designated election day on which there is at least one (1) ballot item:
  - a) the maximum allowable number of temporary signs shall be nine (9),
  - b) the maximum area of each temporary sign face shall be thirty-two (32) square feet for any lot with frontage on Woodward Avenue, and six (6) square feet for all other lots; and
  - c) the maximum height shall be six (6) feet for any lot with frontage on Woodward Avenue, and four (4) feet on any other lot.
- (7) Real estate sales. When all or a portion of a building or land area on a lot is listed for sale or lease, the maximum display time of freestanding temporary signs and temporary signs mounted on building walls shall be for the duration of the time the building or land area is listed for sale.
- (8) Sandwich signs. Only on lots on which a commercial business is located, sandwich signs are allowed in accordance with the following standards. Each such lot may have one such sign, which:
  - a) must be of A-frame construction with a minimum base spread of two feet and a maximum height of four feet.
  - b) may not exceed eight square feet per side.
  - c) shall be kept within fifteen (15) feet of the building entrance to the business to which the sign pertains and shall not obstruct pedestrian traffic or impede maintenance and/or snow and ice removal.
  - d) may be displayed for a period of up to ninety (90) consecutive days.

- e) may not be illuminated by any means and may not have any moving parts.
- f) may only be in place during the commercial establishment's business hours.
- g) may not be displayed from vehicles parked in front of or adjacent to the lot.
- h) must be stored indoors when not in use or when the business to which it pertains is closed.

(9) Street Banner Signs. Only on lots on which a commercial business is located, street banner signs are allowed in accordance with the following standards:

- a) A lot may display street banner signs for one period of time each calendar year, each period not to exceed twenty-eight (28) calendar days.
- b) No illumination shall be allowed
- c) The sign may not interfere with the visibility of traffic signals or signs
- d) No more than two street poles are allowed per lot
- e) Each street pole may have up to two banners.
- f) Each lot may have a maximum total of four banners, whether attached to a pole or a building.
- g) Each banner, whether attached to a street pole or a building:
  - i) shall have a maximum area of 12.5 square feet.
  - ii) the lowest edge of which shall be at least two feet above the finished grade
  - iii) must be made of lightweight and durable fabrics with wind slits.
  - iv) must not be frayed, torn, or faded so that they are no longer legible.

(10) Flags. Except as otherwise provided in Chapter 82 -Zoning, flags may be displayed as follows:

- a) Each parcel of land may display not more than four (4) flags each not exceeding twenty-four (24) square feet, and
- b) All flags shall be maintained in good repair so as to prevent tearing, fraying or other deterioration. The failure to replace or repair a deteriorated flag within thirty (30) days' notice of such condition shall constitute a violation of this Code.

#### **SEC. 54-8 - Appeals.**

- (a) Appeal from the ruling of any officer, department, board or bureau of the city concerning the enforcement of the provisions of this article may be made by any aggrieved party within thirty (30) days of the ruling to the City Sign Committee, which shall be appointed by the City Commission, sitting as an administrative appeal board under this chapter.
- (b) The Sign Committee shall have the same authority to hear and decide appeals and grant variances from the application of this chapter as granted to the Zoning Board of Appeals for zoning matters as set forth in chapter 82 of this Code. In exercising these duties, the Sign Committee shall follow the same procedures and apply the same standards as set forth in chapter 82 for dimensional variances.

**SEC. 54-9. - Violations; signs in violation declared public nuisance.**

- (a) It shall be unlawful for any person to erect, construct, maintain, enlarge, alter, move, or convert any sign in the city, or cause or permit the same to be done on such person's property contrary to or in violation of any of the provisions of this chapter.
- (b) Any sign which is erected, constructed, maintained, enlarged, altered, moved, or converted in violation of any of the provisions of this chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.



# City of Pleasant Ridge

James Breuckman, City Manager

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From: Jim Breuckman, City Manager  
To: Planning Commission  
Date: December 10, 2020  
Re: Sign Ordinance Amendments

## Overview

Due to recent court cases, most notably Reed v. Gilbert from 2015 decided by the Supreme Court, our sign regulations require review and revision. The amendments and updates we must make are not major in scope, but it is important to ensure that we are current with our standards.

## Background – Article 54

The sign ordinance amendment consists of two parts, an amendment creating a new Article 54 in the Code of Ordinances addressing temporary signs, and an amendment to the sign standards in the Zoning Ordinance, Chapter 82 to regulate permanent signs.

After review of the ordinance with the Planning Commission at the October meeting, the following changes were made to the proposed new Article 54:

- Section 54-2 – Definitions
  - Added a definition for Commercial Business.
  - Added a definition for Sandwich Sign
  - Revised the definition for Street Banner Sign
- Section 54-7(b)(6) – Elections Signs
  - Revised the standards for elections signs to reduce the maximum size per sign to 32 sq. ft. for lots with frontage on Woodward and 6 sq. ft. on any other lot
  - The maximum height is 6 feet for lots with frontage on Woodward and 4 feet on any other lot.
- Section 54-7(b)(8) – Sandwich Board Signs
  - Added standards for sandwich board signs
- Section 54-7(b)(9) – Street Banner Signs
  - Added standards for banner signs on poles or attached to the building

## **Background – Article 82**

The changes to the zoning ordinance sign standards are limited to eliminating all temporary sign regulations and a few housekeeping amendments to update section references. No changes are proposed to how we regulate permanent signs.

## **Requested Action**

Action to recommend approval or denial of the proposed ordinances to the City Commission after the public hearing on December 14.

City of Pleasant Ridge  
Ordinance No. \_\_\_\_

AN ORDINANCE TO AMEND THE CITY OF PLEASANT RIDGE CODE OF ORDINANCES,  
CHAPTER 82 – ZONING

THE CITY OF PLEASANT RIDGE ORDAINS:

**Section 1. Intent and Purpose**

The City desires to amend its Zoning Ordinance to remove provisions dealing with temporary signs, which are now contained in Chapter 54, and to revise sections of this chapter accordingly

**Section 2. Amendment**

1. The following provisions of the City's Zoning Ordinance are hereby deleted:
  - Section 82-3. *Sign*, subsection (6), definition of "*Political sign*" and subsection (7), definition of "*Portable sign*".
  - Section 82-196 (k), subsections (6), (7), (10), (11) and (12), and renumber the remaining sections accordingly.
  - Section 82-196 (l), subsection (11), and renumber the remaining section accordingly..
2. Renumber Section 82-3 *Sign*, former subsections (8)-(10) as subsections (7)-(9) respectively, and former subsection (12) as subsection (11)
3. Amend Section 82-3 *Sign*, former subsection (11), *Temporary sign* as subsection (10) and to read in its entirety as follows:

(10) *Temporary sign* means a sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or signs not permanently embedded in the ground, or not permanently affixed to a building or structure that is permanently embedded in the ground, are considered temporary signs.
4. The following definition is added to Section 82-3, *Sign*:

(6) *Permanent sign* means any sign which is not a temporary sign as defined herein.
5. Amend Section 82-196 (d) *Exceptions* to read in its entirety as follows.

(d) *Exceptions.* This section shall not apply to any temporary sign. Temporary signs are regulated by Chapter 54.

6. Amend the title and first sentence of Section 82-196(k) to read as follows:

*Permanent signs permitted in all districts.* Permanent signs specified in this section are permitted.... (continue as in original)

**Section 3. Severability.**

Should any provision or part of this Article be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the validity or enforceability of the balance of this Article, which shall remain in full force and effect.

**Section 4. Repealer.**

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 5. Savings clause.**

Nothing in this Article shall be construed to affect any suit or proceeding pending in any court or any rights acquired or any liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

**Section 6. Effective Date.**

This Ordinance shall become effective fifteen days after enactment and upon publication as provided by law.

**Section 7. Adoption.**

This Ordinance is hereby declared to have been adopted by the City Commission of the City of Pleasant Ridge at a meeting duly called and held on the \_\_\_\_ day of \_\_\_\_\_, 202\_, and ordered to be given publication in the manner prescribed by law.

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James Breuckman, City Manager

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Amy M. Allison, City Clerk

# MEMORANDUM

**TO:** Jim Breuckman  
**FROM:** Gregory K. Need  
**RE:** Sign Regulations  
**DATE:** March 31, 2020

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As discussed, attached is my crack at revised sign regulations for the City.

The suggested approach, which I have used in another community, is to remove all provisions as to temporary signs from the Zoning Ordinance and place them into a stand-alone general ordinance. This draft additionally takes all provisions as to nonconforming signs from the Zoning Ordinance and places them into this ordinance. Including those provisions in a general ordinance was discussed at length. As we both know, there are pluses and minuses to general versus zoning ordinance and no clear consensus as to whether sign regulation must be in a zoning ordinance. Before I did anything to revise our Zoning Ordinance provisions, I wanted you to take a look at this so we can discuss if you are agreeable to this approach.

I would give a more detailed memorandum as to the *Reed* case and the reasons for this ordinance when we send something to the City Commission.

Please note the following. This is a draft to start discussion. As mentioned, this was taken from another community and there are certainly other options for most of this.

1. I suggest this be placed into Chapter 34 but obviously it certainly could be put into Chapter 14 or perhaps somewhere else.
2. Proposed Section 34-70, Intent and Purpose, is very lengthy but many attorneys believe that, given the First Amendment implications, the strongest statement possible as to the compelling police power objectives is prudent.
3. In looking at our section on prohibited signs, it is over ten years old so I updated it with my current draft. Please note, again, this only applies to temporary signs – permanent signs would still be addressed in the Zoning Ordinance.
4. Section 34-75 deals with nonconforming signs. In this community, they gave 90 days for removal of temporary and window signs. For permanent signs, essentially, our current Zoning Ordinance provisions are carried forward. There is an exception for landmark signs found in Section 3. I continued our current abandonment provisions with the 60-day time period. Also, note that, unlike zoning nonconforming use provisions, a change of ownership under this draft eliminates the right to continue the nonconforming sign.



5. The temporary sign provisions were drafted, as much as possible, to eliminate any content-specific provisions; although, of course, that is impossible to do entirely. In drafting this, I relied upon the concurring opinion of Justice Alito in the *Reed* case as to permissible subjects of regulation.
6. Section 34-76(a) has several general conditions for any temporary sign. Subsection 8 allows you to allow additional temporary signs in connection with a permitted event or promotion. I left the specific regulations blank and included in subsection 8(b) the current provisions regarding banners and signs on public property.
7. In lieu of the current language, subsection (b) attempts to address real estate sale signs and election signs by referencing the activity rather than the content of the sign. Thus, for election signs, there is nothing specific that says political signs are allowed but, for the period of time before and after the election, the maximum permitted signage for every lot is increased. This particular draft does require permits for garage sales. The community that adopted this is developing a no fee application available on their website.
8. I do not know whether flags are an issue in the City but subsection 9 attempts to address those.
9. Where temporary sign permits are required, they are subject to the provisions of subsection (c), which establishes limits on area and height of temporary signs.
10. In an attempt to head off any constitutional challenges, we included an appeal section, in Section 34-77, to be determined in the same fashion as ZBA appeals by a City Sign Committee appointed by the Commission.

Let me know your thoughts. If this general approach looks acceptable, then I can get you the Zoning Ordinance draft which, basically, will delete the temporary/nonconforming provisions.

Thanks.

# 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.

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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.