

March 31, 2017

Planning Commission  
Northfield Township  
8350 Main Street  
Whitmore Lake, MI 48189

**Subject:** Proposed Update to Zoning Ordinance – Sign Regulations

Dear Planning Commissioners:

As a follow-up to our discussion from the March 28, 2017 Township Board Joint Session with the Planning Commission, we would like to provide you with more information regarding upcoming amendments to the Sign Regulations article of the Zoning Ordinance to make the regulations more content-neutral and user-friendly.

**Background of Recent Legal Requirements**

On June 18, 2015, the United States Supreme Court decided the case of *Reed v. Gilbert* and held the Town of Gilbert's sign ordinance unconstitutional because it violated the First Amendment. The plaintiff, Good News Community Church (Good News), claimed that the defendant's, City of Gilbert, sign ordinance made impermissible content-based distinctions between "Temporary Directional Signs, Ideological Signs, and Political Signs."

Good News held its weekly services at different locations and used temporary signage to direct congregants to the service location each week. The City of Gilbert had classified these temporary signs as "Temporary Directional Signs." However, the Supreme Court held that Gilbert's sign ordinance was "content based on its face" because of the message the sign conveyed. Other permitted temporary signs such as Political Signs and Ideological Signs were given more favorable treatment by the City's sign ordinance. By placing greater restrictions on other temporary signs based on the sign's content, the Supreme Court held such restrictions unconstitutional.

As a result, all communities in the United States must now review their sign ordinances to determine if it regulates all in accordance with the Court's decision and, if not, how to legally amend its ordinance.

Finally, in concurring with the opinion of the Court, three (3) of the Court's nine (9) justices concluded that municipalities are empowered to enact and enforce reasonable sign regulations, and included the following rules that would not be content-based:

- Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.
- Rules regulating the locations in which signs may be placed. These rules may distinguish between freestanding 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.
- 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.
- 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.

These 3 justices also stated that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. Government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots. Although these guidelines were not issued by a majority of the Court, they are long-standing guidelines that communities have used to regulate signs based on past decisions of the Court. As communities review and revise their sign ordinances, they should review these guidelines with their municipal attorney prior to adoption.

### **Recommendations**

There are many areas of the Sign Regulations article of the Northfield Township Zoning Ordinance that regulate signage based on the content of the sign, the speaker (e.g., gasoline stations, religious institutions, etc.), and specific events taking place. Also, the Sign Regulations contain very few tables and graphics to assist the user with the regulations. At this time, we recommend updating the Sign Regulations to include the following:

- Eliminating unlawful areas of the Sign Regulations that are based on the sign's content, speaker, or specific event.
- Adding more robust purpose statements at the beginning of the article to make the standards more defensible.
- Amending the temporary sign regulations to ensure they are consistent and representative of the community character envisioned in the purpose statements of the article.
- Adding several more definitions to make the regulations more clear by defining a sign by its type – not its content. Updating the definitions would also include accompanying graphics for many sign types.
- Implementing content-neutral best practices, such as regulating signs by zoning district and/or frontage type, as well as making user-friendly format changes like adding tables.

We look forward to discussing the Sign Regulations article with you at an upcoming Planning Commission meeting.

Respectfully submitted,

**McKENNA ASSOCIATES**



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