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**DEVELOPMENT SERVICES
DEPARTMENT**

Dave Hills
Superintendent of Building
Division

Jeffrey M. Polkowski, AICP
Superintendent of Planning &
Zoning Division

MEMORANDUM

Date: July 5, 2022
To: Honorable Township Board
From: Jeffrey M. Polkowski, Superintendent of Planning and Zoning
RE: 2022-Z-012, Text Amendment: Sign Standards for all Land Uses

This proposed Zoning Ordinance text amendment has been drafted by the Townships Corporation Counsel with input from the Planning Division.

It is Council's opinion that restrictions in the sign ordinance on ideological, memorial and holiday signs are problematic based on the U. S. Supreme Court case *Reed v Town of Gilbert* 576 US 155 (2015), which ruled that content based regulations that rely on the communicative content of the sign are unconstitutional.

This proposed ordinance amendment removes any restrictions that have been deemed unconstitutional and now offers content neutral regulations to the sign ordinance. Content neutral regulations are ones that don't target the sign's communicative message and may be limited to time, place and manner.

In addition to these changes, staff is proposing an amendment to increase all commercial sign heights by 2 feet. It is the hopes of Township staff that allowing an increase in height would incentivize business owners to remove and replace legal non-conforming signs that greatly exceed what the Zoning Ordinance would allow today.

Planning Commission Recommendation and Findings

The Planning Commission reviewed this proposed Zoning Ordinance amendment at the regularly scheduled meeting on June 28, 2022 and resolved unanimously, to forward a favorable recommendation to the Township Board.

Motions

Based upon the Planning Commission's favorable recommendation at the June 28, 2022 regular meeting for this Zoning Ordinance amendment, should the Board want to consider adopting the requested Zoning Ordinance amendment, the appropriate motion would be to introduce the attached Ordinance and schedule it for possible adoption at the July 25, 2022 meeting. However, if the Board does not want to adopt the requested Zoning Ordinance amendment, the appropriate motion would be to not introduce the Ordinance and deny the amendment.

Should you have any questions prior to Tuesday's meeting, please do not hesitate to reach out to me.

**With us there are no
boundaries**

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2022-Z-012

TEXT AMENDMENT TO ZONING ORDINANCE

An Ordinance to amend the Waterford Township Zoning Ordinance No. 135-A (“Zoning Ordinance”) Definitions and Sections 2-500, 2-501.3, 2-501.9, 2-502, 2-503, 2-504, 2-505, 2-506, 2-509, and 2-509 to eliminate content-based sign regulations and to revise regulations for flags and temporary signage.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The definition of Sign in **Section 1-007** of the Zoning Ordinance shall be modified to read as follows:

SIGN. A name, identification, description, display, device, illustration, design, banner, flag, pennant, logo, or trademark that is affixed to, painted on, or otherwise represented, placed, located, or set directly or indirectly upon a parcel of land, including a building or structure, in a manner so as to be visible from any public street, sidewalk, alley, park, or other property, and that advertises, publicizes, or directs attention to a service, product, activity, person, institution, organization or business.

Section 2 of Ordinance

A new definition for Yard Sign shall be added to the Sign definitions in **Section 1-007** of the Zoning Ordinance and shall read as follows:

Yard Sign. A small temporary sign typically used for non-commercial purposes. Yard signs are characterized by a wire frame, non-durable message surface such as cardboard, plastic, or paper, and are often inserted into a lawn with wire posts. Although variations exist as to the materials of the frame and message board, a consistent physical characteristic is its temporary and disposable nature.

Section 3 of Ordinance

Section 2-500 Purpose and Intent shall be amended to add a new Section H and Section I to read as follows:

SECTION 2-500 PURPOSE AND INTENT

- H. To establish reasonable standards for the time, place, and manner of the erection and use of signs, symbols, markings, and advertising devices within the Township that are not intended to target the content of the messages displayed on signs.
- I. To ensure that the constitutionally guaranteed right of speech is protected and to allow signs as a means of communication, subject to appropriate and legally permissible restrictions. Nothing in this ordinance is intended to prohibit the right to convey or receive messages, particularly noncommercial messages such as religious, political, economic, social, philosophical or other types of speech protected by the First Amendment of the United States Constitution.

Section 4 of Ordinance

Section 2-501.1 shall be modified to add a new second paragraph, which shall read as follows:

Every person who engages in the business of erecting, altering or dismantling signs in the township shall first submit proof of appropriate licenses and a liability insurance policy that endorses the township and its elected officials, representatives, and employees as additional insureds and indemnifies them from all damages suits or actions of every nature brought or claimed against the erector for injuries or damages to persons or property sustained by any person or persons through any act or omission or negligence of said erector, his agents and employees, said policy shall contain a clause whereby it cannot be canceled or changed until after written notice has been filed by the township building department at least thirty (30) days prior to the date of cancellation.

Section 5 of Ordinance

Section 2-501.3 Signs in the Rights-of-Way shall be modified to delete Section A and replace it with the following language:

Section 2-501.3 Signs in the Rights-of-Way

- A. No sign shall be located in, project into or overhand a public right-of-way or easement except as otherwise provided for in **Section 2-502.1.G** and **Section 2-503.1** or otherwise provided in the Zoning Ordinance.

Section 6 of Ordinance

Section 2-501.9 Prohibited Signs shall be revised to delete the current Sections G and I and replace them with the following new wording and revise Section J to read as follows:

2-501.9 Prohibited Signs

- G. Any sign which, by reason of its size, location, content, coloring, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstructing, or detracting from the visibility of any traffic control device on public streets and roads.
- I. Any sign that obstructs free ingress and egress from a required door, window, fire escape or other required exit way.
- J. Any sign unlawfully installed, erected or maintained or that is deemed structurally or electrically unsafe by the Building Official.

Section 7 of Ordinance

Section 2-502 shall be deleted in its entirety and replaced with the following wording:

SECTION 2-502. ALLOWED IN ALL DISTRICTS

The following types of signs shall be allowed in all districts where principal use to which is permitted in the Zoning Ordinance:

- 1. No permit required:
 - A. Temporary signs not exceeding thirty-two (32) square feet in area.
 - B. Temporary holiday decorating signs that do not jeopardize public safety in the form of a distraction or obstacle to vehicular traffic, are not used for a commercial purpose and conform to ***Section 2-201***.
 - C. Addresses not exceeding two (2) square feet in area or four (4) square feet in area, if freestanding, and must comply with ***Section 2-501***.
 - D. Cornerstone markers, where cut into any masonry surface or when constructed of bronze or other noncombustible material permanently attached to building, no greater than four (4) square feet.
 - E. Historic marker signs, as regulated and approved by local, state, or federal government agencies.
 - F. Traffic or other municipal signs such as legal notices, railroad crossing, danger, warning of electrical current or animals and other emergency signs. Legal notice signs shall be removed according to the requirements of the township, court order or state statute.
 - G. Protective signs may be located along a property line at a frequency of not exceeding one (1) sign per twenty (20) linear feet. Each individual protective sign shall not exceed two (2) square feet in area.
 - H. Signs displaying noncommercial messages such as religious, political, economic, social, philosophical, or other types of speech protected by the First Amendment of the United States Constitution. However, such signs shall comply with the number and size regulations of this Ordinance.

- I. Flags bearing the official designation of the United States of America. All other flags not to exceed 48 square feet and not exceed three (3) flags per parcel. 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 the Zoning Ordinance.(2) Approval required.
2. Approval required: Memorial signs are permitted if they are erected on a zoning lot directly related to events associated with the zoning lot, comply with *Section 2-501* and have received sign construction plan review approval by the Building Department in accordance with *Section 4-015*. Memorial signs shall not exceed four (4) square feet in area and if freestanding, must comply with the height requirements in *Section 2-508*.

Section 8 of Ordinance

Section 2-503 Protective Signs shall be deleted in its entirety and replaced with the following wording:

SECTION 2-503. TEMPORARY SIGNS

Temporary signs may be erected in accordance with the use, area, height, and placement regulations of this section. No permit shall be required except as specifically provided in this section.

MAXIMUM SIZE, MAXIMUM HEIGHT, AND PERMITTED TYPE OF TEMPORARY SIGNS PER FEET				
USE	PERMITTED TYPES	MAXIMUM AREA OF ALL TEMPORARY SIGNS	MAXIMUM AREA OF ANY INDIVIDUAL SIGN	MAXIMUM HEIGHT (FREESTANDING)
Single Family Residential	Freestanding	10 square feet	6 square feet	4 feet
	Wall	6 square feet	6 square feet	
Multiple Family Residential	Freestanding	32 square feet	16 square feet	6 ft
	Wall	20 square feet	20 square feet	
Non-Residential Uses in all other districts	Freestanding	64 square feet	32 square feet	6 feet
	Wall	32 square feet	32 square feet	

1. The location of temporary signs shall comply with the following:

- a) Not be attached to a utility pole, tree, fence, or be located in a public right-of-way.
 - b) Not be located closer than two (2) feet to the edge of the traveled portion of the roadway.
 - c) Not be located in the public right-of-way.
2. 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.
 3. Display of temporary banners shall be limited to a total of twenty-eight (28) days per calendar year. Such signs shall not be displayed for any continuous period greater than fourteen (14) days. A permit for a temporary banner shall be required (provided, however, that no fee shall be required). No more than three (3) permits for any one parcel of land shall be permitted per year.
 4. Temporary signs shall be subject to the maintenance standards of this section.
 5. The maximum display time of freestanding temporary signs shall be as follows after which the temporary sign shall be removed:
 - A. For single family development projects, signs must be removed within seven (7) days of eighty percent (80%) of the development structures acquiring a Certificate of Occupancy or final completion.
 - A. For multiple-family development projects and non-residential development projects, signs must be removed within seven (7) days of the final Certificate of Occupancy.
 - B. All other temporary signs may be left in place for the length of the associated event or activity, or up to 64 days, whichever comes first.
 6. When all or a portion of a building or land area on a zoning lot is listed for lease, the maximum display time of freestanding temporary signs shall be ninety (90) days and temporary signs mounted on building walls shall also be permitted for up to ninety (90) days. When all or a portion of a building or land area on a zoning lot is listed for sale, the maximum display time of freestanding temporary signs shall be for the duration of the time the building or land area is listed for sale. Signs for the sale or lease of building or land must be located on the same zoning lot subject to the sale or lease. The sign area limits in the Table above apply.
 7. Signs that must be on the same lot as the transaction: Signs for the sale or lease of building or land must be located on the same zoning lot subject to the sale or lease. Signs for non-residential construction must be on the same zoning lot that is subject to the construction. Signs for residential home improvement or residential site improvement must be on the same zoning lot as where the work is being performed.
 8. In addition to any other temporary sign allowed in this Ordinance, the Township Board of Trustees may, by resolution, allow temporary sign in connection with an event or promotion, and may as part of the resolution impose such limitations as to size and duration as it deems appropriate. Application for such additional sign must be made to the Township, on a form provided by the Township, which shall include an acknowledgement and permission for the Township to enter upon the property to remove the sign if it is not removed by the applicant within the time specified in the resolution.
 9. A residential subdivision, site condominium, or condominium that required and obtained site plan approval under the Zoning Ordinance, shall be considered a non-residential use until eighty (80) percent of the lots or units are issued certificates of occupancy.

Section 9 of Ordinance

Section 2-504 Memorial Signs and Historic Markers, Section 2-505 Holiday Decoration Signs, and Section 2-506 Real Estate Signs, Residential Site Development Signs, Home Improvement Signs, and Construction Signs shall be deleted. These section numbers shall be reserved.

Section 10 of Ordinance

Section 2-508. Freestanding Signs shall be modified with the following wording:

Freestanding signs shall comply with **Section 2-501**. All freestanding signs shall be ground signs, except as provided for in subsection E below. Freestanding signs, where permitted, shall comply with the following criteria:

WHEN A ZONING LOT POSSESSES:	MAXIMUM NUMBER OF SIGNS	MAXIMUM SIGN FACING AREA (in square feet)	MAXIMUM SIGN HEIGHT (in lineal feet)
Less than 100 feet of right-of-way frontage	1	50	8
Between 100 and 200 feet of right-of-way frontage	1	75	10
Between 201 and 400 feet of right-of-way frontage along one street	1	100	12
Greater than 401 feet of right-of-way frontage along one street, does not possess an approved site plan, and does not possess a twenty (20) ft. greenbelt on the zoning lot along the adjacent right-of-way	1	100	12
Greater than 401 feet of right-of-way frontage along one street, an approved site plan, and a twenty (20) ft. greenbelt on the zoning lot along the adjacent right-of-way	2	200 for first sign 100 for second sign	17 for first sign 12 for second sign
	<i>(provided there is a minimum 150 feet separation between the signs)</i>		

Sections A-F (unchanged)

Section 11 of Ordinance

Sections 2-509 Ideological shall be deleted and replaced by the following wording:

SECTION 2-509. SUBSTITUTION CLAUSE

Notwithstanding any provision in this chapter to the contrary, a noncommercial message may be substituted, in whole or in part, for any commercial message on any sign permitted pursuant to this chapter. If a noncommercial message is substituted, the sign must still comply with the provisions of this chapter applicable to the original sign prior to any substitution. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or messages over noncommercial speech or messages.

Section 12 of Ordinance

Section 2-510 Election Signs shall be deleted, and replaced with the following wording:

SECTION 2-510. SEVERABILITY CLAUSE

If any provision, of this chapter, or the application thereof to any person or circumstance, shall be found invalid by a court, such invalidity shall not affect the remaining portion or application, or validity of the remaining provisions, of this chapter, provided such remaining portions are not determined by the court to be invalid. It is hereby declared to be the legislative intent that this chapter would have been adopted, had such invalid provision not been included.

Section 13 of Ordinance

The effective date of this Ordinance shall be on the 8th day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

CERTIFICATION

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on July 25, 2022.

Date

Kim Markee, Township Clerk