

TOWN OF NASHVILLE ORDINANCE NO. 2018 - 11

An ordinance to comprehensively amend the sign provisions of Town of Nashville Zoning Ordinance to incorporate recent U.S. Supreme Court decisions, current local standards, and current sign designs.

WHEREAS, Indiana Code 36-7-4-601 authorizes the Council of the Town of Nashville, ("Town Council"), to adopt planning and zoning ordinances and amendments thereto, for the following purposes: securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general welfare; and otherwise accomplishing the purposes of Indiana Code Chapter 36-7-4, within the Town of Nashville, Indiana ("Town");

WHEREAS, the Town Council has adopted planning and zoning ordinances ("the Zoning Code"), and has codified the Zoning Code as Chapter 153 of the Town of Nashville Code of Ordinances;

WHEREAS, Sections 85 through 98 of the Zoning Code set for regulations relating to signage;

WHEREAS, the Town Council has prepared amendments to Sections 85 through 98 of the Zoning Code ("Sign Code Amendments"), which it deems necessary and advisable to promote the public health, safety, and welfare within the Town;

WHEREAS, Indiana Code 36-7-4-602 authorizes the Brown County Area Plan Commission ("Plan Commission") to conduct a public hearings on the Sign Code Amendments and to certify its recommendation on the Sign Code Amendments to the Town Council;

WHEREAS, the Plan Commission conducted a duly noticed public hearing on the proposed Sign Code Amendments during its July 24, 2018 meeting;

WHEREAS, in accordance with Indiana Code Sections 36-7-4-602 through 605, following the public hearing, the Plan Commission voted to forward the Sign Code Amendments, with certain additional amendments, to the Town Council with a favorable recommendation;

WHEREAS, in accordance with Indiana 5-14-1.5-5, the Town Council provided public notice of its intention to consider the proposed Sign Code Amendments during its September 20, 2018 meeting, and accepted public comment on the proposed Sign Code Amendments during that meeting;

WHEREAS, based on public comment received by the Plan Commission and the Town Council, the Town Council finds that the proposed Sign Code Amendments, if adopted, would reasonably and efficiently advance the statutorily recognized zoning ordinance purposes, and that the proposed amendments should be adopted;

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WHEREAS, the Town Council finds and confirms that in the preparation and/or consideration of the proposed Sign Code Amendments, both the Town Council and the Plan Commission gave reasonable regard to: the Comprehensive Land Use Plan of Nashville; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible development and growth;

NOW, THEREFORE, be it resolved by the Town Council as follows:

Section 1. Sections 85 through 98 of the Zoning Code, shall be, and hereby are, amended to read as follows:

CHAPTER 153: ZONING CODE

....

SIGNS, PERMANENT AND TEMPORARY

§ 153.085 PURPOSE.

(A) The welfare of the town is inextricably tied to its unique scenic and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrian and vehicular traffic, it is necessary to establish public regulations of permanent signs and temporary signs within the town.

(B) Therefore, it is the intent of this subchapter to:

- (1) Control the prominence of signs in as fair and impartial a way as possible;
- (2) Prohibit signs which cause confusion for or block or impair the vision of pedestrians or vehicular traffic on roads, or the intersections of streets and roadways;
- (3) Limit signs to only those districts in which they are permitted by this subchapter; and
- (4) Ensure that all signs have approval from the office of the County Area Plan Commission.

§ 153.086 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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(A) **AREA OF A SIGN.** All surfaces of a sign which are clearly visible to the street and pedestrian traffic excluding supportive structure. The AREA OF A SIGN composed of characters or words attached directly to a building surface shall be considered to be that of the smallest rectangle or triangle which encloses the whole group.

(B) **COMMISSION.** The County Area Plan Commission.

(C) **FRONTAGE.** The linear measure of the property line(s) fronting on the public way, or the linear measure of the outside wall of a business establishment containing a main public access, whichever is greater.

(D) **HEIGHT ABOVE GROUND.** The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line to the highest point of the sign or its frame/support.

(E) **PLANNED UNIT DEVELOPMENT.** In accordance with the Planned Unit Development Amendment to the zoning code.

(F) **PLANNING DIRECTOR.** The Executive Director of the County Area Plan Commission.

(G) **PREMISES.** A building or planned development together with the lot or tract of land on which they are built.

(H) **SIGN.** Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. For purposes of this ordinance, the following sign types are defined:

(1) *Animated Sign:* Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an "electronic sign", an animated sign produces the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications: 1) flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds; 2) patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

(2) *Awning Sign:* A sign that is attached to an awning, canopy, or other fabric that serves as a structural protective cover over a door, entrance, window, or outdoor service area.

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- (3) *Banner*: A non-rigid cloth, plastic, paper, flag, or canvas sign. Banners also include streamers or ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between two (2) or more points of support intended to attract attention.
- (4) *Bench Sign*: Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public street.
- (5) *Billboard*: A freestanding structure along the roadside with a large flat surface (panel, wall, or fence) on which signs are posted.
- (6) *Changeable Copy*: A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.
- (7) *Electronic Sign*: Any sign or portion of a sign that uses changing lights to form a sign message or messages in text or picture form, wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- (8) *Flag*: A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope.
- (9) *Flashing Sign*: Illumination which is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash or blink.
- (10) *Freestanding Sign*: A sign not connected to a building or structure, other than a structure used exclusively for sign support.
- (11) *Portable Sign*: A freestanding advertising device which is designed to be moved from one (1) location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.
- (12) *Projecting Sign*: A sign that is wholly or partly dependent upon a structure for support or suspended from a pole attached to a structure. Such signs must be perpendicular to the structure face upon which they are attached.
- (13) *Roof Sign*: Any sign partially or fully erected on or above the roof line of a structure.
- (14) *Scoreboard*: An electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on or along sports fields.
- (15) *Sidewalk Sign*: A temporary, A-frame, freestanding sign used outside of businesses for advertisement during business hours on the sidewalk.

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(16) *Unified Development Sign*: A sign for a shopping center, office park, industrial park, or other development that contains three (3) or more uses within a single development. A unified development sign is allowed in addition to the permitted signs of the individual tenants.

(17) *Vehicle Sign*: A sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than seventy-two (72) continuous hours for the intent of being used as advertisement. For the purpose of this definition, "permanently affixed" shall mean any of the following: 1) painted directly on the body of a vehicle; applied as a decal on the body of a vehicle; and/or placed in a location on the body of the vehicle that was specifically designed by a vehicle manufacturer.

(18) *Wall Sign*: A sign attached to a building or structure other than a structure used exclusively for sign support.

(19) *Wayfinding Sign*: A municipal sign that is part of a City-sponsored and coordinated program for the purpose of facilitating vehicular and pedestrian tourist routes to local tourist destinations as designated.

(20) *Window Sign*: A sign displayed in a window, or graphics applied directly to the window. Such signs must be professionally painted or constructed of vinyl with adhesive backing.

(I) **SIGN, ABANDONED**. A sign that is 1) associated with an abandoned use; 2) remains after the termination of the business; and/or 3) on its immediate premises but not adequately maintained or repaired.

(J) **SIGN, PERMANENT**. A sign attached to a structure or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign. The use of anchor bolts, ropes, stakes, chains, glue, or similar anchoring are not methods recognized by this ordinance as a permanent foundation.

(K) **SIGN, LEGAL NON-CONFORMING**. A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

(L) **SIGN, TEMPORARY**. A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

(M) **TEMPORARY SIGN**. A sign that is displayed for 14 days or less.

(N) **VARIANCE**. A modification of the specific requirements of this subchapter granted by the Board of Zoning Appeals in accordance with the terms of the subchapter for

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the purpose of adapting the requirements of the subchapter to the needs of unique circumstances.

§ 153.087 PROCEDURE FOR OBTAINING IMPROVEMENT LOCATION PERMIT FOR SIGNS.

- (A) Signs not expressly permitted in this ordinance are considered prohibited.
- (B) Parties desiring to erect a sign, except for those provided in § 153.088(A), (D), or (F), must first apply for an improvement location permit at the office of the County Area Plan Commission.
- (C) The following operations shall not be considered as creating a sign and, therefore, shall not require a sign permit:
 - (1) *Replacing copy.* The changing of the advertising copy or message on an approved painted or printed sign on theater marquees and similar approved signs which are specifically designed for use of replaceable copy;
 - (2) *Maintenance.* Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural change is made; or
 - (3) *Relocation of business.* Signs approved for use in 1 location must be reapproved for use should the business move to a different location.
- (D) The Planning Director shall provide each applicant with written instructions detailing the procedure and information required to obtain a permit or a variance.
- (E) The Planning Director shall approve/disapprove applications within 10 days of receiving them.
- (F) Any decision of the Planning Director regarding an application may be appealed to the Board of Zoning Appeals. An application for such an appeal must be made within ten (10) days of the date of the Planning Director's decision. A decision by the Board of Zoning Appeals shall be available at the office of the Board of Zoning Appeals by the next regular working day following the meeting.
- (G) An application for a variance must be submitted at least 3 weeks prior to the next meeting of the Board of Appeals. A decision by the Board of Zoning Appeals shall be available at the office of the Board of Zoning Appeals by the next regular working day following that meeting.
- (H) The Planning Director shall issue a permit if the application meets all requirements of this subchapter.

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§ 153.088 REQUIREMENTS FOR SIGNS IN RESIDENTIAL DISTRICTS.

(A) Single-family dwelling units may have 1 sign, not to exceed 2 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(B) Multi-family dwellings and offices may have 1 sign not exceeding 10 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(C) Entrances to subdivision, cemeteries and other such areas may be marked by 1 sign at each entrance which does not exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(D) Lots may have no more than 2 temporary signs not exceeding 10 square feet in area, or 5 square feet on each side, or closer than 15 feet from the adjoining property lines. Permitted sign types include: banners, flags, and freestanding signs.

(E) Parking areas may have 1 sign not to exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(F) Churches may have 1 sign not exceeding 32 square feet in area. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, wall signs, and window signs.

(G) Signs in residential area shall not project into public right-of-way, and sign height above ground for any free-standing sign shall not exceed 5 feet; and at an intersection of roads, no sign shall impair the sight distance of oncoming vehicles.

(H) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(I) The light from any externally illuminated sign shall be so shaded, shielded or directed that the glare therefrom will not impair the visibility of passing motorists.

§ 153.089 BUSINESS SIGN DISTRICT S1.

(A) Business sign district S1 includes all businesses not included in business sign district S2.

(B) The total area of all signs provided for in this section for any business establishment shall not exceed 1 square foot of sign surface for each 30 square feet of interior retail or business space, excluding storage areas, up to a maximum sign surface of 75 square feet. However, any business shall be allowed at least 12 square feet of sign surface. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, roof signs, vehicle signs, wall signs, and window signs.

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(C) The sign height above ground may not be greater than the peak of the roof of the building to which it is attached and in no case shall the top of a free-standing sign or a roof sign on a single-story building be higher than 20 feet above ground level, nor shall the bottom of a sign in or over a sidewalk be lower than 8 feet.

(D) The size, structure, location or illumination of signs shall not impair the vision or safety of pedestrian or vehicular traffic or provide adverse effects on residences, parks or other businesses.

(E) The light from any externally illuminated sign shall be so shaded, shielded or directed that the glare therefrom will not impair the visibility of passing motorists.

(F) Neon, internally illuminated, edge-lighted, revolving and flashing signs, and other action signs are expressly prohibited.

(G) Lots may have no more than 2 temporary wall signs or temporary freestanding signs not exceeding 32 square feet in area.

(H) Vehicle Signs.

(1) Vehicle signs shall be parked a minimum distance of 10 feet from any intersecting street right-of-way and shall be located so as to not create an obstruction or hazard to the traveling public.

(2) Trucks and/or trailers may be used as temporary signs for a maximum period of 4 days.

§ 153.090 BUSINESS SIGN DISTRICT S2.

(A) Business sign district S2 includes businesses located on property abutting State Road 46.

(B) The requirements for signs in business sign district S2 are identical to those in § 153.089, except that the maximum sign area shall be 300 square feet. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes.

§ 153.091 RESTRICTED BUFFER SIGN DISTRICT.

(A) Restricted buffer sign district is congruent with the area defined by § 153.037 regarding restricted buffer zone.

(B) The requirements for signs in the restricted buffer sign district are identical to those in § 153.089, except that the maximum sign area shall be 10 square feet. No

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business in a restricted buffer sign district shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes.

§ 153.092 PROHIBITED SIGN LOCATIONS

The following prohibitions apply to signs in all districts, unless otherwise stated:

(A) No sign shall be placed or maintained in any form, or at any location, where it may obstruct or in any way interfere with the view, or be confused with, any approved traffic control sign or device, or where it may obstruct or in any way interfere with the minimum sight-distance necessary to promote traffic safety.

(B) No sign shall be placed in any location or position that endangers pedestrian, bicycle, or vehicular traffic.

(C) No sign shall be placed in any public right-of-way except: publicly owned traffic control, information, or transit signs; utility signs; and, sandwich board signs on sidewalks within the Village District placed by the owner of the immediately adjacent property.

(D) All signs shall be placed and their supporting structures shall maintain clearance and noninterference with all surface and underground lines, equipment, or facilities, associated with utilities, communications, or storm water control.

§ 153.093 PLANNED UNIT DEVELOPMENT SIGNS.

(A) Planned unit developments in district S1 may have 1 unified development sign in addition to the signs provided for in § 153.089. The area, size, height and design of the additional sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(B) Planned unit developments in district S2 may have, in addition to signs provided for in § 153.090(B), 1 unified development sign. The area, size, height and design of the unified development sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(C) Signs provided for in § 153.091(A) and (B) will be the only types of signs permitted at the roadside under this section.

§ 153.094 MESSAGE SUBSTITUTION

In accordance with Indiana Code 36-7-4-1109(h), the owner of any sign that is otherwise allowed by this regulation may substitute noncommercial copy in place of any other commercial or noncommercial copy. This substitution of copy may be made without the issuance of any additional permit by the Town of Nashville or any of its board or commissions. The purpose of this provision is to prevent any inadvertent favoring of

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commercial speech over noncommercial speech, or the favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision in this subchapter to the contrary.

§ 153.095 TEMPORARY SIGNS.

(A) Permitted temporary sign types include: banners, flags, freestanding signs, portable signs, sidewalk signs, and window signs.

(B) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(C) All temporary signs to be displayed for more than 4 days in a calendar year shall be approved by the Planning Director by writing on them the date of display and date for removal.

(D) Temporary signs on public property are permitted, only then with approval of the Planning Director and with approval of the government agency that controls the public property.

(E) A temporary sign that is displayed for 4 days or less in a calendar year does not require approval of the Planning Director. All other temporary signs must have the approval of the Planning Director.

§ 153.096 (Repealed)

§ 153.097 AMORTIZATION.

Any sign existing or installed on the date of this subchapter which does not conform with this subchapter shall be removed or altered so as to comply with this subchapter within 15 years of the date of passage.

§ 153.098 REMEDIES.

(A) Signs which are in violation of this subchapter shall be removed by the owner within 14 days after the mailing of a certified letter requesting removal of the sign, complete with a return receipt, sent by the Executive Director of the County Area Plan Commission.

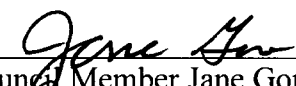
(B) In the event that the violation is not corrected within the time specified, then the County Area Plan Commission may proceed with enforcement remedies as provided in this chapter.

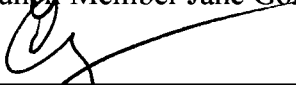
Section 2. This ordinance shall be effective upon the date of adoption and satisfaction of any relevant statutory publication requirements.

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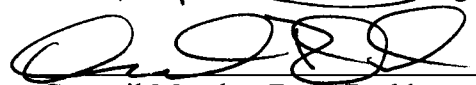
SO ORDAINED and ADOPTED by the Town Council of the Town of Nashville, Indiana
on the 20th day of SEPTEMBER, 2018.


Council Member Charles B. King ☒ yea ☐ nay ☐ abstain



Council Member Jane Gore ☒ yea ☐ nay ☐ abstain


Council Member Alisha Gredy ☒ yea ☐ nay ☐ abstain


Council Member Arthur Omberg ☒ yea ☐ nay ☐ abstain


Council Member Dave Rudd ☒ yea ☐ nay ☐ abstain

ATTEST:


Clerk-Treasurer, Brenda K. Young