



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 15-021

AN ORDINANCE AMENDING SECTION 94.4.10(2) ENTITLED *GARAGE, YARD, ESTATE, AND IN-HOME SALE*; SECTION 94.13.02 (8) ENTITLED *SIGNS ALLOWED WITHOUT PERMIT*; SECTION 94.13.03 (1) ENTITLED *SIGN PURPOSES*; SECTION 94.13.04 (1) ENTITLED *SIGN PROHIBITIONS AND LIMITATIONS*; SECTION 94.13.04 (2) ENTITLED *COMMUNITY INFORMATION SIGNS*; SECTION 94.13.05 (4) RELATED TO *TEMPORARY SIGN REGULATIONS FOR RESIDENTIAL AND RR ZONING DISTRICTS*; SECTION 94.13.07 (5) RELATED TO *TEMPORARY SIGN REGULATIONS FOR NON-RESIDENTIAL, AGRICULTURAL, PR AND N ZONING DISTRICTS*; SECTION 94.13.08 ENTITLED *TEMPORARY SIGNS*; AND SECTION 94.13.09 (3) RELATED TO *STRUCTURAL REQUIREMENTS FOR TEMPORARY SIGNS OF THE ZONING ORDINANCE*.

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stat. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, the recent Supreme Court Decision, *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) required Village staff, with Village Attorney guidance, to review the *Reed* case and analyze its impact on the Village zoning ordinance, and specifically the sign ordinance; and

WHEREAS, Village Staff has requested an amendment various section of the zoning ordinance where temporary sign regulations were described; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance on October 12, 2015, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Section 94.4.10 (2) of the Village Of Weston Ordinances entitled *Garage, Yard, Estate, and In-Home Sales*; Section 94.13.02 (8) of the Village Of Weston Ordinances entitled *Signs Allowed without Permit*; Section 94.13.03 (1) Entitled *Sign Purposes*; Section 94.13.04 (1) Entitled *Sign Prohibitions And Limitations*; Section 94.13.04 (2) Entitled *Community Information Signs*; Section 94.13.05 (4) Related to *Temporary Sign Regulations For Residential And RR Zoning Districts*; Section 94.13.07 (5) Related to *Temporary Sign Regulations For Non-Residential, Agricultural, PR And N Zoning Districts*; Section 94.13.08 Entitled *Temporary Signs*; and Section 94.13.09 (3) Related to *Structural Requirements for Temporary Signs*, is hereby amended to provide as follows:

Section 94.4.10: Temporary Land Use Types

(2) **Garage, Yard, Estate, and In-Home Sales.**

Includes the short term display and sales of household products in a residence, residential garage, driveway, or yard, whether for one or multiple families.

Performance Standards:

1. Shall be limited to properties in residential use.
2. Shall be permitted in association with a two-family and multiple family residence only in a private driveway from the residential unit to the public street or in a garage serving a two- to four-unit building. Sales within parking lots, common driveways, or yard areas of two-family or multiple family residences are not permitted.
3. May only be conducted by or on behalf of the occupants of the residence.
4. Shall be limited to a maximum of four sales per year, with a maximum duration of three days per sale.
5. Shall not require a temporary use review and approval under Section 94.16.07.
6. No hoop buildings or structures of similar design shall be used in conjunction with the sale.
7. Signs shall meet applicable **temporary one-time event** sign standards in Section 94.13.08 No sign shall be placed in the public right-of-way, except with the express consent of the Zoning Administrator.

Section 94.13.02: Sign Permits

(8) **Signs Allowed without Permit.** The following signs are permitted without the need for a sign permit, in cases where they are beneath any size limitations provided herein. Such signs shall not count as part of the maximum permitted sign area in the zoning district in which they are located per Section 94.13.05 or 94.13.07 below, unless they are above any size limitations provided herein and therefore requiring a sign permit.

- (a) **Addresses.** Address numerals and other sign information required to identify a location by law or governmental order, rule, or regulation, provided that such sign does not exceed one square foot in area per address; or the size required by any law, order, rule or regulation; whichever is greater.
- (b) **Architectural Elements.** Integral decorative or architectural elements of buildings or works of art, so long as there is no commercial message, trademark, moving parts, or moving lights.

- (c) **Auxiliary Signs.** Auxiliary signs less than one square foot placed in store windows regarding hours of operation, accepted charge cards, warnings, or similar information.
- (d) **Bulletin Boards.** Bulletin boards, not exceeding 12 square feet in sign area and 8 feet in height, for public, philanthropic, or religious institutions located on the premises of said institutions.
- (e) **Business Nameplates.** A single non-illuminated nameplate, not exceeding two square feet mounted on the building face, denoting the name of a business legally conducted on the premises.
- (f) **Commemorative Signs.** Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure denoting the name of that structure or its date of erection.
- (g) **Construction or Project Identification Signs.** Per temporary one-time event sign requirements of Section 94.13.08.
- (h) **Farm Field Signs.** Freestanding signs located in a farm field that identify the crop or product used in the field, provided that no such sign exceeds 12 square feet in area and 8 feet in height.
- (i) **Flags.** Flags, standards, emblems, and insignia of governmental, civic, philanthropic, religious, or educational organizations, when not displayed in connection with a commercial promotion or as an advertising device.
- (j) **Garage, Yard, Estate, and In-Home Sale Signs.** Per the temporary one-time event sign requirements of Section 94.13.08.
- (k) **Historical Markers.** Commemorative plaques, memorial tablets, or emblems of historical bodies, not exceeding two square feet, placed flat against a building, monument, or other permanent surface.
- (l) **Holiday Decorations.** Temporary displays of a primarily decorative nature, in connection with traditionally accepted civic, patriotic, or religious holidays.
- (m) **Interior Signs.** Signs that are located on the interior of a premise and that are primarily oriented to persons within that premises.
- (n) **Management Signs.** Signs not exceeding four square feet that designate the real estate management agent for the premises on which they are located.
- (o) **Menu Board Signs.** One menu board sign for a drive-in or drive-through restaurant exclusive of any two-way microphone/speaker devices, provided that the sign does not exceed 40 square feet in area or 8 feet in height.
- (p) **Model Home Signs.** Per the temporary one-time event sign requirements of Section 94.13.08.
- (q) **“Open” Signs.** Signs that advertise a premise as open for business or inspection, with no more than one sign per street on which the property has frontage and no more than 4 square feet per sign.
- (r) **Political/Election Signs.** Per the temporary one-time event sign requirements of Section 94.13.08.
- (s) **Real Estate Signs.** Per the temporary one-time event sign requirements of Section 94.13.08.
- (t) **Regulatory and Government Information Signs.** Signs erected by or on behalf of a duly constituted governmental body and for regulatory and other basic government informational purposes, including but not limited to legal notices; handicap parking signs; and traffic signs or other regulatory, directional, or warning signs. Any other sign for broader governmental purposes shall require a permit.

- (u) **Residential Signs.** Signs customarily associated with residential use and not of a commercial nature that do not exceed a total of 4 square feet in residential and N zoning districts and 12 square feet in all other zoning districts. Such signs include property identification names and numbers, names of occupants, signs relating to private parking, signs warning the public against trespass or danger of animals, signs indicating a particular farm, and Neighborhood Crime Watch signs.
- (v) **Required Signs.** Signs required by State or Federal statute or regulation that do not exceed 110 percent of the minimum legal size requirements.
- (w) **Site Information Signs.** Signs of no more than 4 square feet that, without including advertising of any kind, provide direction or instruction to facilities intended to serve the public, such as rest rooms, public telephones, walkways, parking, and similar facilities.
- (x) **Certain Temporary One-time Event Signs.** Per the temporary one-time event sign requirements of Section 94.13.08.
- (y) **Window Signs.** Per the associated requirements in Section 94.13.05(5)

Section 94.13.03: General Signage Standards

- (1) **Sign Purposes.** The following are definitions of the different purposes that signs regulated under this Article may have:
 - (a) **Advertising sign, off-premise.** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on a premise other than the premise where the sign is displayed. Off-premise advertising signs include off-premise “billboards,” but do not include community information signs described below.
 - (b) **Auxiliary sign.** A sign that provides special information such as price, hours of operation, parking rules, or warnings, and that does not include brand names or information regarding product lines. Examples of such signs include directories of tenants in buildings, “no trespassing” signs, menu boards, drive-through ordering stations, and signs that list prices of gasoline, up to one price listing sign per type of fuel, which must all be displayed on a single structure.
 - (c) **Business sign, on-premise.** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, offered, or manufactured on the premises where the sign is located.
 - (d) **Community information sign.** A sign that displays information of interest to the general community regarding scheduled public events, public activities, and public facilities and is located either on-premise or off-premise; serves as an identification, entrance, or wayfinding sign for the community; or is located on public lands and advertises sponsors of public events, activities, or facilities thereon.
 - (e) **Directional sign, on-premise.** A sign that indicates only the name (or logo or symbol) of a specific business/department/use area/destination within a development or premises, and a directional arrow or symbol to that destination. For purposes of an on-premise directional sign, the premises shall include all lots that are contiguous, either under unified single ownership and intended to remain so, or within a unified business park or group development.
 - (f) **Group development sign.** An on-premise sign displaying the collective name of a group of uses (such as an industrial park or multitenant retail center) and/or the names and/or logos of the individual occupants of a group of uses. For purposes of a group development sign, the premises

shall include all lots that are contiguous, either under unified single ownership and intended to remain so, or within a unified business park or group development.

- (g) **Identification sign.** A sign indicating the name and/or address of the tenant of the unit or manager of the property located upon the residential premises where the sign is displayed.
- (h) **Parking area sign, on-premise.** A sign used to state parking restrictions and/or conditions, not including handicap parking signs.
- (i) **Temporary One-time Event sign.** A sign or advertising display (including festoons, pennants, banners, flags, and similar devices) intended to be displayed for a certain limited period of time. Included in the definition of “temporary one-time event signs” are retailers’ signs temporarily displayed for the purpose of informing the public of a “sale” or special offer, and personal greeting or congratulatory signs. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be considered temporary, but instead shall be considered permanent.

Section 94.13.04: General Signage Regulations Applicable to All Zoning Districts

(1) Sign Prohibitions and Limitations.

- (a) No sign shall be erected at any location where it may, by reason of its position, shape, color, or design, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, nor shall such sign make use of words such as “stop,” “look,” “drive-in,” “danger,” or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse users of streets or highways.
- (b) No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, fire lane, or fire escape, and no sign shall be attached to a standpipe or fire escape.
- (c) No sign shall be erected that violates the visibility and clearance requirements of Section 94.12.08(12).
- (d) No private sign shall be attached to or painted on any public utility pole, public light pole, or traffic regulatory structure.
- (e) No fluttering, undulating, swinging, rotating, or otherwise moving signs, pennants, feather flags, feather banners, or other moving decorations shall be permitted.
- (f) No illuminated flashing or animated signs shall be permitted. Variable message signs meeting the definition and requirements of this Article shall not be considered illuminated flashing or animated signs.
- (g) No illuminated sign/bulb shall be permitted unless the illumination of the sign is so designed that the lighting element (except for neon signs) is not visible from any property within any residential or RR zoning district.
- (h) No sign other than a regulatory or government information sign shall be permitted within or extend into a public right-of-way, except where otherwise specifically allowed in this Article.
- (i) No sign shall be mounted or displayed on, or extend above the top edge of a roof or extend above the top-most edge of an exterior wall or parapet.
- (j) Mobile or portable signs shall be permitted only as a type of temporary one-time event signage for events of public interest or as a type of temporary one-time event business sign or banner, both as described under Section 94.13.08, but shall be prohibited for any other purpose.

Sandwich board/pedestal signs as defined and regulated in this Article shall not be considered mobile or portable signs.

- (k) No inflatable signs shall be permitted.
- (l) No advertising vehicle signs as defined in Section 94.13.03(2)(a) shall be permitted.
- (m) No off-premise advertising signs or structure supporting such sign(s) shall be permitted to be installed or expanded in area or number of signs after March 18, 2015. This provision does not prohibit the use of community information signs under Section 94.13.04(3) or on-premise business signs allowed in Section 94.13.07 that are accessory to established on-premise principal uses for constitutionally protected free speech, provided all messages are in accordance with the time, place, and manner requirements of this Article and other provisions of this Chapter, other chapters of the Village Municipal Code, and other applicable laws. Off-premise advertising signs legally installed before March 18, 2015 but made nonconforming by this Article shall be permitted to continue as legal, nonconforming structures, subject to the requirements of Section 94.15.04, except that:
 1. Billboards legally installed before March 18, 2015 that are directed to and on parcels adjacent to State Highway 29 may be upgraded and/or replaced as new technologies become available, provided that the sign area, number, and height at each installation are not increased and other applicable provisions of this Chapter are satisfied.
 2. Billboards adjacent to State Highway 29, Business Highway 51, Schofield Avenue, or other locations in the Village that fail to meet the maintenance requirements in Section 94.13.10 may be subject to removal under Section 94.13.02(7). Said sign cannot be replaced once removed.

Section 94.13.04: General Signage Regulations Applicable to All Zoning Districts

- (2) **Community Information Signs.** On-premise and off-premise community information signs shall be allowed subject to the following regulations:
 - (a) Is a permanent or seasonal sign that shall only display information in accordance with Section 94.13.03(1)(d). ~~Temporary~~ One-time event signs serving similar functions are listed and regulated under Section 94.13.08.
 - (b) May be located on public property or rights-of-way if approved by the Zoning Administrator.
 - (c) May have changeable copy.
 - (d) Shall conform to the visibility requirements of this Article and of Section 94.12.08(12).
 - (e) Shall not be counted as adding to the area of signage on the property on which it is placed for the purposes of regulating sign area.
 - (f) Shall not exceed 16 square feet in sign area per business or other destination, up to a maximum of 32 square feet if two or more businesses or other destinations are included on the same sign or if the sign is placed in public parkland (such as on an outfield fence).
 - (g) Shall not exceed 10 feet in height, except where the sign is installed by a unit of government such as the Village or WisDOT.
 - (h) If off-premise, may total not more than one per business, except where the sign is installed by a unit of government such as the Village or WisDOT.
 - (i) If advertising or providing directions to a product or business, shall not be located within any residential or RR zoning district, except where such copy is associated with public event, public

facility, or public activity sponsors or where such copy is integral to a community entrance or wayfinding sign.

- (j) May be subject to restrictions on lighting, color, duration of placement (e.g., seasonal limitations) as part of sign permit approval, provided that such restrictions are consistent with the purposes of this Article and Chapter.

Section 94.13.05: Regulations for Residential and RR Zoning Districts

In all residential and RR zoning districts, signage shall be permitted per the following and all other applicable requirements of this Article:

- (4) **Temporary One-time Event Sign.** Temporary One-time event signs are allowed per the requirements of Section 94.13.08.

Section 94.13.07: Regulations for Non-Residential, Agricultural, PR, and N Zoning Districts

Except for residential uses within non-residential zoning districts (instead see Section 94.13.06), signage within non-residential, agricultural, and PR zoning districts shall be permitted per the following and all other applicable provisions of this Article. Signage standards for the N district are exclusively encompassed in subsection (8).

- (5) **Temporary One-time Event Signs.** Per the requirements of Section 94.13.08.

Section 94.13.08: Temporary One-time Event Signs

The following are allowable temporary one-time event sign types and unique requirements for each type. A sign permit shall not be required except where indicated.

- (1) **Real Estate Signs.** Within each residential and rural and open space zoning district, only one on-premise real estate sign is permitted. Such sign shall be removed within 30 days of the sale or lease of the single space it is advertising or of the sale or lease of 90 percent of the total land or space available for sale or lease on the property. Such signs shall not be located in the public right-of-way, shall not exceed 12 square feet in area and 6 feet in height in residential, rural and open space zoning districts, and 64 square feet in area and 12 feet in height in all other districts. No off-premise real estate signs, such as “open house” signs, are permitted.
- (2) **Construction or Project Identification Signs.** Such signs shall be erected no sooner than the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within 30 days of completion of such work. Construction or project identification signs shall not exceed 64 square feet in area and 12 feet in height.
- (3) **Temporary Commercial Signs and Banners.** For sales, limited time offers, grand openings, or other special events only, ~~with such signs not greater than 8 feet in height if ground-mounted, such signs shall not exceed 64 square feet in area and 12 feet in height if ground mounted~~, nor extending above the roof line if building mounted. Except as may be allowed below or by site plan approval under Section 94.16.09, no single use is permitted to display more than one temporary commercial sign or banner at a single time and no single lot is permitted to display more than two temporary commercial signs and banners at a single time. No temporary commercial sign or banner shall be placed on a lot for greater than 30 consecutive days ~~(14 days for any variable message sign), up to five times per calendar year~~. An advertising vehicle sign is not a permitted temporary commercial sign, but a mobile sign is permitted. A sign permit shall be required for a temporary sign serving this purpose. Does not include price or temporary item signs, as described below. If a portable Variable message sign (VMS) is used as a temporary commercial sign, then the regulations in Section 94.13.04(4) shall also apply.

- (4) **Price or Temporary Item Signs.** Signs that advertise the price of products or services offered on the premises or of special temporary goods or services being sold or offered, up to 6 square feet in area per sign face for each double sided sign, not illuminated, no more than two signs per street frontage, and no closer than five feet to any property lines. Each price or temporary sign must be removed within 24 hours of the special being sold or offered, and within 30 days of its placement on the property in any case. Any temporary sign not meeting these limitations but serving a similar purpose shall instead be classified as a temporary commercial sign or banner.
- (5) **Temporary Individual Residential Signs.** Not larger than 6 12 square feet each, to advertise garage sales, yard sales, or similar merchandise sales during the time the sale is taking place. Such signs shall not be erected more than 1 day before the event and shall be removed within 1 day after the event.
- (6) **Temporary Signs for Events of Public Interest.** For a temporary event of public interest hosted by and/or held at a governmental entity, community organization, or institutional facility (e.g., farmers market, fair operated by a nonprofit organization), two signs of up to 32 square feet each may be located upon the site of the event. Additional off-premise signs shall be allowed, up to one per premise, and up to 9 12 square feet per sign. Temporary Signs for Events of Public Interest shall not be erected more than 30 days before the event and shall be removed within 7 days after the event. If a portable Variable message sign (VMS) is used as a temporary commercial sign, then the regulations in Section 94.13.04(4) shall also apply.
- ~~(7) **Over-street Banners for Events of Public Interest.** Banners promoting public events of Village-wide interest displayed over a public street, alley, or highway, when approved by the Zoning Administrator. Such signs shall not be erected more than 30 days before the event and shall be removed within 7 days after the event. A sign permit shall be required for a temporary sign serving this purpose. The Zoning Administrator may also require the sponsoring person, firm, organization, or corporation to provide a certificate of liability insurance with the Village named as an additional insured.~~
- ~~(8)(7) **Political/Election Signs.** Temporary political signs are permitted without restriction so long as they locate per the requirements of this Article, including not being allowed within the public right-of-way. Signs promoting a candidate or position on an issue for an upcoming election may not be placed in a manner that would impede vehicular or pedestrian safety, must be outside of required vision triangles, and must meet the requirements of Wis. Stat. Chapter 12. Signs related to an election or referendum may be erected no earlier than the first day of circulation of nomination papers for candidates for office, in the case of an election; or the date on which a referendum question is submitted to the electors, in the case of a referendum. All such signs must be removed within 7 days after any election or referendum to which they relate.~~
- ~~(9)(8) **Personal Greeting or Congratulatory Signs.** Permitted for up to 7 30 days, with such signs not greater than 8 6 feet in height in residential districts and 12 feet in height in all other districts if ground-mounted, nor extending above the roof line if building mounted.~~
- ~~(10)(9) **Temporary Window Signs.** Signs temporarily affixed to the inside of a window that advertise commercial situations relating to goods or services sold on premises shall be allowed without restriction on quantity or coverage, provided that they do not interfere with other State and Federal code requirements or public, health, safety, or welfare. If a portable Variable message sign (VMS) is used as a temporary commercial sign, then the regulations in Section 94.13.04(4) shall also apply.~~

Section 94.13.09: Structural Requirements

- (3) All temporary/one-time event signs shall be anchored and supported in a manner that reasonably prevents the possibility of the signs becoming hazards to public health and safety.

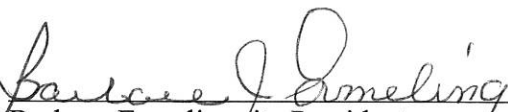
SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.


SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 19th day of October, 2015

WESTON VILLAGE BOARD

By: 
Barbara Ermeling, its President

Attest:


Sherry Weinkauff, its Clerk

APPROVED: 10/19/15

PUBLISHED: 10/21/15

Notice of Newly Enacted Ordinance

Please take notice that the Village Board of Weston, Wisconsin enacted on October 19, 2015, Ordinance No. 15-021: AMENDING SECTION 94.4.10(2) ENTITLED *GARAGE, YARD, ESTATE, AND IN-HOME SALE*; SECTION 94.13.02 (8) ENTITLED *SIGNS ALLOWED WITHOUT PERMIT*; SECTION 94.13.03 (1) ENTITLED *SIGN PURPOSES*; SECTION 94.13.04 (1) ENTITLED *SIGN PROHIBITIONS AND LIMITATIONS*; SECTION 94.13.04 (2) ENTITLED *COMMUNITY INFORMATION SIGNS*; SECTION 94.13.05 (4) RELATED TO *TEMPORARY SIGN REGULATIONS FOR RESIDENTIAL AND RR ZONING DISTRICTS*; SECTION 94.13.07 (5) RELATED TO *TEMPORARY SIGN REGULATIONS FOR NON-RESIDENTIAL, AGRICULTURAL, PR AND N ZONING DISTRICTS*; SECTION 94.13.08 ENTITLED *TEMPORARY SIGNS*; AND SECTION 94.13.09 (3) RELATED TO *STRUCTURAL REQUIREMENTS FOR TEMPORARY SIGNS* OF THE ZONING ORDINANCE.

The full text of Ordinance No. 15-021 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Published: 10/21/2015

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A GANNETT COMPANY

STATE OF WISCONSIN
BROWN COUNTY

VILLAGE OF WESTON
5500 SCHOFIELD AVE
WESTON, WI 54476-4333

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

Account Number: WES425

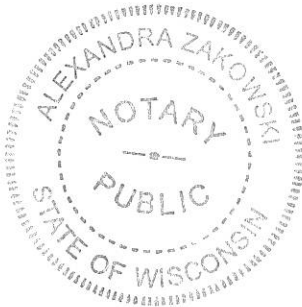
Ad Number: 809177

Published Date: October 21, 2015

(Signed): Bradley Zeiter Date: 10-23-15
Legal Clerk

Signed and sworn to before me

Alexandra Zakowski
Notary Public,
Brown County, Wisconsin
My commission expires 3/3/19



Notice of Newly Enacted Ordinance
Please take notice that the Village Board of Weston, Wisconsin enacted on October 19, 2015, Ordinance No. 15-021: AMENDING SECTION 94.4.10(2) ENTITLED GARAGE, YARD, ESTATE, AND IN-HOME SALE; SECTION 94.13.02 (8) ENTITLED SIGNS ALLOWED WITHOUT PERMIT; SECTION 94.13.03 (1) ENTITLED SIGN PURPOSES; SECTION 94.13.04 (1) ENTITLED SIGN PROHIBITIONS AND LIMITATIONS; SECTION 94.13.04 (2) ENTITLED COMMUNITY INFORMATION SIGNS; SECTION 94.13.05 (4) RELATED TO TEMPORARY SIGN REGULATIONS FOR RESIDENTIAL AND RR ZONING DISTRICTS; SECTION 94.13.07 (5) RELATED TO TEMPORARY SIGN REGULATIONS FOR NON-RESIDENTIAL, AGRICULTURAL, PR AND N ZONING DISTRICTS; SECTION 94.13.08 ENTITLED TEMPORARY SIGNS; AND SECTION 94.13.09 (3) RELATED TO STRUCTURAL REQUIREMENTS FOR TEMPORARY SIGNS OF THE ZONING ORDINANCE.
The full text of Ordinance No. 15-021 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.
PUBLISHED: Oct 21, 2015 WNAJLP

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A GANNETT COMPANY

STATE OF WISCONSIN
BROWN COUNTY

VILLAGE OF WESTON
5500 SCHOFIELD AVE
WESTON, WI 54476-4333

VOUCHER APPROVAL

Account Number:

10-06-56910 -321-000

Description: Ord No. 15-021

PC/RT zoning code amendment

Approved by

[Signature]
Initials

10/28/15
Date

10-06-56925 - 321-000

\$12.74

\$12.74

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

Account Number: WES425

Ad Number: 809177

Published Date: October 21, 2015

\$25.52

(Signed):

Bradley Zeiter
Legal Clerk

Date: 10-23-15

Signed and sworn to before me

Alexandra Zakowski
Notary Public,
Brown County, Wisconsin
My commission expires 3/3/19



Notice of Newly Enacted Ordinance
Please take notice that the Village Board of Weston, Wisconsin, enacted on October 19, 2015, Ordinance No. 15-021, AMENDING SECTION 94.4.10(2) ENTITLED GARAGE, YARD, ESTATE, AND IN-HOME SALE, SECTION 94.13.02 (8) ENTITLED SIGNS ALLOWED WITHOUT PERMIT, SECTION 94.13.03 (1) ENTITLED SIGN PURPOSES, SECTION 94.13.04 (1) ENTITLED SIGN PROHIBITIONS AND LIMITATIONS, SECTION 94.13.04 (2) ENTITLED COMMUNITY INFORMATION SIGNS, SECTION 94.13.05 (4) RELATED TO TEMPORARY SIGN REGULATIONS FOR RESIDENTIAL AND RR ZONING DISTRICTS, SECTION 94.13.07 (5) RELATED TO TEMPORARY SIGN REGULATIONS FOR NON-RESIDENTIAL AGRICULTURAL, PR AND N ZONING DISTRICTS, SECTION 94.13.08 ENTITLED TEMPORARY SIGNS, AND SECTION 94.13.09 (3) RELATED TO STRUCTURAL REQUIREMENTS FOR TEMPORARY SIGNS OF THE ZONING ORDINANCE.
The full text of Ordinance No. 15-021 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.
PUBLISHED: Oct 21, 2015 WNAJLP



VILLAGE OF WESTON
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town & Village of Weston Extraterritorial Zoning Committee, on **Monday, October 12, 2015, at 6:00 p.m.**, at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476 to take testimony relative to the following:

Ordinance No. 15-021 An Ordinance Amending Section 94.4.10(d) Entitled *Garage, Yard, Estate, and In-Home Sale*; Section 94.13.02(8) Entitled *Signs Allowed Without Permit*; Section 94.13.03(1) Entitled *Sign Purposes*; Section 94.13.04(1) Entitled *Sign Prohibitions and Limitations*; Section 94.13.04(2) Entitled *Community Information Signs*; Section 94.13.05(4) Related to Temporary Sign Regulations for Residential and RR Zoning Districts; Section 94.13.07(5) Related to Temporary Sign Regulations for Non-Residential, Agricultural, PR and N Zoning Districts; Section 94.13.08 Entitled *Temporary Signs*; and Section 94.13.09(3) Related to Structural Requirements for Temporary Signs of the Zoning Ordinance.

Ordinance No. 15-022 An Ordinance Amending Figure 5.01(1) of the Village Zoning Ordinance Entitled *Rural, Open Space and Residential District Lot Dimensions and Intensity Standards*.

Ordinance No. 15-023 An Ordinance Amending Section 94.16.11(7) of the Zoning Ordinance Entitled *Criteria for Grant of a Variance*.

The hearing notice and zoning ordinance text amendment materials are available for public inspection on the Village of Weston website located at <http://westonwi.gov/421/Public-Hearing-Notices>.

Written testimony may be forwarded to the Village of Weston Plan Commission, Valerie Parker, Plan Commission Secretary, 5500 Schofield Avenue, Weston, WI 54476, or emailed to vparker@westonwi.gov, by noon on the day of the hearing. All interested persons will be given an opportunity to be heard. Any person with questions or planning to attend needing special accommodations in order to participate should call Valerie Parker, Administrative Specialist, Planning and Development Department, at 715-241-2607.

Dated this 24th day of September, 2015

Valerie Parker
Plan Commission Secretary

Published as a legal ad in the Wausau Daily Herald on Monday, September 28, 2015 and Monday, October 5, 2015.

DAILY HERALD media

A GANNETT COMPANY

STATE OF WISCONSIN
BROWN COUNTY

WESTON VILLAGE OF
5500 SCHOFIELD AVE
WESTON WI 544764333

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

Account Number: GWM-WES425
Order Number: 0000752116
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Total Ad Cost: \$92.34
Published Dates: 09/28/15, 10/05/15

(Signed)  (Date) 10-6-15
Legal Clerk



Signed and sworn before me



My commission expires 3/3/19

VILLAGE OF WESTON
NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town & Village of Weston Extraterritorial Zoning Committee, on Monday, October 12, 2015, at 8:00 p.m., at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476 to take testimony relative to the following:
Ordinance No. 15-021 An Ordinance Amending Section 94.4.10(d) Entitled Garage, Yard, Estate, and In-Home Sale; Section 94.13.02(8) Entitled Signs Allowed Without Permit; Section 94.13.03(1) Entitled Sign Purposes; Section 94.13.04(1) Entitled Sign Prohibitions and Limitations; Section 94.13.04(2) Entitled Community Information Signs; Section 94.13.05(4) Related to Temporary Sign Regulations for Residential and RR Zoning Districts; Section 94.13.07(5) Related to Temporary Sign Regulations for Non-Residential, Agricultural, PR and N Zoning Districts; Section 94.13.08 Entitled Temporary Signs; and Section 94.13.09(3) Related to Structural Requirements for Temporary Signs of the Zoning Ordinance.
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Dated this 24th day of September, 2015
Valerie Parker
Plan Commission Secretary
Published as a legal ad in the Wausau Daily Herald on Monday, September 28, 2015 and Monday, October 5, 2015.
WNAXLP

WESTON VILLAGE OF
e: Public Hearing Ordinances 15-021-15-023

DAILY HERALD media

A GANNETT COMPANY

STATE OF WISCONSIN
BROWN COUNTY

WESTON VILLAGE OF
5500 SCHOFIELD AVE
WESTON

WI 544764333

VOUCHER APPROVAL

Account Number:

10-06-56910 - 321-000

Description:

hearing notice PC - Village Code ordinance amend Oct 2015

Approved by

[Signature] 10/28/15
Initials Date

\$46.17

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

Account Number: GWM-WES425
Order Number: 0000752116
No. of Affidavits: 1
Total Ad Cost: \$92.34
Published Dates: 09/28/15, 10/05/15

VOUCHER APPROVAL

Account Number:

10-06-56920 - 321-000

Description:

ETZ hearing notice zoning code amend Oct 2015

Approved by

[Signature] 10/28/15
Initials Date

\$46.17

(Signed)

[Signature]

(Date)

10-6-15

Legal Clerk

Signed and sworn before me

Alexandra Zakowski

My commission expires

3/3/19



VILLAGE OF WESTON
NOTICE OF PUBLIC HEARINGS
NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town & Village of Weston Extraterritorial Zoning Committee, on Monday, October 12, 2015, at 6:00 p.m., at the West Municipal Center, 5500 Schofield Avenue, Weston, WI 54476 to take testimony relative to the following:
Ordinance No. 15-021: An Ordinance Amending Section 94.4.10(d), Entitled Garage, Yard, Estate, and In-Hom Sale; Section 94.13.02(3), Entitled Sign Allowed Without Permit; Section 94.13.03(1), Entitled Sign Purposes; Section 94.13.04(1), Entitled Sign Prohibitions and Limitations; Section 94.13.04(2), Entitled Community Information Signs; Section 94.13.05(4), Related to Temporary Sign Regulations for Residential and RR Zoning Districts; Section 94.13.07(5), Related to Temporary Sign Regulations for Non-Residential, Agricultural, PR and N Zoning Districts; Section 94.13.08, Entitled Temporary Signs; and Section 94.13.09(3), Related to Structural Requirements for Temporary Signs of the Zoning Ordinance.
Ordinance No. 15-022: An Ordinance Amending Figure 5.01(1) of the Village Zoning Ordinance, Entitled Rural, Open Space, and Residential District Lot Dimensions and Intensity Standards.
Ordinance No. 15-023: An Ordinance Amending Section 94.16.11(7) of the Zoning Ordinance, Entitled Criteria for Grant of a Variance.
The hearing notice and zoning ordinance text amendment materials are available for public inspection on the Village of Weston website located at <http://weston.wi.gov/421/PublicHearingNotices>.
Written testimony may be forwarded to the Village of Weston Plan Commission, Valerie Parker, Plan Commission Secretary, 5500 Schofield Avenue, Weston, WI 54476, or emailed to vparker@weston.wi.gov by noon on the day of the hearing. All interested persons will be given an opportunity to be heard. Any person with questions or desires to attend hearing special accommodations in order to participate should call Valerie Parker, Administrative Specialist, Planning and Development Department, at 715-241-2607.
Dated this 24th day of September, 2015.
Valerie Parker
Plan Commission Secretary
Published as a legal ad in the Wausau Daily Herald on Monday, September 28, 2015 and Monday, October 5, 2015.
WNA:KFP

WESTON VILLAGE OF
e: Public Hearing Ordinances 15-021-15-023

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**Village of Weston, Wisconsin
AGENDA ITEM COVERSHEET
Requested for Official Consideration and Review**

REQUEST FROM: JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: DRAFT ORDINANCE NO. 15-021 RELATED TO SIGNS IN THE ZONING ORDINANCE.

DATE/MTG: BOARD OF TRUSTEES; MONDAY, OCTOBER 19, 2015

POLICY QUESTION: Should the Board of Trustee approve amendments to the zoning ordinance as proposed?

RECOMMENDATION TO: I make a motion to endorse approval Ordinance No. 15-021.

LEGISLATIVE ACTION:

- | | | |
|---|---|---------------------------------------|
| <input type="checkbox"/> Acknowledge/Approve | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order | <input type="checkbox"/> Policy | <input type="checkbox"/> Reports |
| <input type="checkbox"/> Expenditure | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution |
-

FISCAL IMPACT ANALYSIS:

- | | |
|--|-----|
| <input type="checkbox"/> Budget Line Item: | N/A |
| <input type="checkbox"/> Budget Line Item: | N/A |
| <input type="checkbox"/> Budgeted Expenditure: | N/A |
| <input type="checkbox"/> Budgeted Revenue: | N/A |
-

STATUTORY / RULEMAKING / POLICY REFERENCES:

- | | |
|---|------------|
| <input type="checkbox"/> WI Statue: | _____ |
| <input type="checkbox"/> WI Administrative Code: | _____ |
| <input type="checkbox"/> Case Law / Legal: | _____ |
| <input checked="" type="checkbox"/> Municipal Code: | Chapter 94 |
| <input type="checkbox"/> Municipal Rules: | _____ |
-

PRIOR REVIEW: Public Hearing at 10/12/15 Plan Commission/Joint Town & Village Extraterritorial Zoning (ETZ) Meeting

BACKGROUND: Staff asked Attorney Yde to review the recent Supreme Court Decision, Reed v. Town of Gilbert, 135 S. Ct. 2218 (2015) and address its impact on the village's sign ordinance. Staff received the attached letter from Yde, dated 7/29/15, which suggested changes needed to be made to ensure our sign ordinance was still in fact legal and enforceable.

Per Yde's recommendations he suggested the village sign ordinance should not treat commercial speech more favorable than non-commercial speech; regulate signs based on content; and regulate signs without identifying a compelling governmental interest to do so, such as public safety or preserving aesthetics. He recommended creating a one-time event sign ordinance and addressing placement of signs in commercial, residential and public property. Staff made the requested changes and Yde reviewed and approved the amendments as proposed.

No one spoke in opposition at the 10/12/15 Plan Commission/ETZ Public Hearing. The Plan Commission recommended approval of the Ordinance 6-0 and the ETZ approved 4-0.

Attachments?

July 29, 2015

VIA E-MAIL ONLY

Daniel Guild
dguild@westonwi.gov

Jennifer Higgins
jhiggins@westonwi.gov

Re: Village of Weston Sign Ordinance

Dear Daniel & Jen:

You asked me to review the recent Supreme Court Decision, *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015) and address its impact on the Village of Weston's sign ordinance. In this letter, I will briefly summarize the *Reed* case, analyze its impact on the Village of Weston sign ordinance, and then recommend changes to the Village sign ordinance so that it comports with the first amendment.

Executive Summary

The Village's sign ordinance should be revised so that it does not favor one message over another. Moreover, the ordinance should be revised so that non-commercial speech is treated at least as favorable as commercial speech. Finally, the Village should regulate only to the extent it determines that regulation is necessary for public safety or to preserve property values.

Balancing Act

Sign ordinances help a village maintain a safe and aesthetically pleasing environment. A village's ability to create and enforce a sign ordinance is limited only by state statute and the constitutional protections of property and speech. The only Wisconsin State Statute that preempts municipality authority is Wis. Stat. § 12.04, which regulates the placement of political signs on residential property during an election period. Crafting a valid sign ordinance is a balancing act between the desire to improve the Village's visual landscape and not offending a citizen's constitutional rights.

Whether a sign ordinance is constitutional or not will often depend on the facts and circumstances in each case. As you will see with the *Reed* case, the fact that the town's code compliance manager was using the sign ordinance to impede attendance at a church's service, was likely the triggering factor for all nine US Supreme Court Justices to conclude that the sign ordinance was unconstitutional. As is often said, "bad facts make bad law." While signs are a form of expression protected by the free speech clause, they pose distinctive problems that are subject to municipalities' police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. However, because regulation of a medium inevitably affects

communication itself, it is not surprising that the US Supreme Court has had occasion to review the constitutionality of municipal ordinances prohibiting the display of certain outdoor signs.

Free Speech US Supreme Court Cases before Reed

In *Linmark Associates, Inc. v. Willingboro*, 431 US 85, 97 S. Ct. 1614, 52 L.E.d.2d 155 (1977), the US Supreme Court addressed an ordinance that sought to maintain stable, integrated neighborhoods by prohibiting homeowners from placing “for sale” or “sold” signs on their property. Although the Court recognized the importance of Willingboro’s objective, the Court held that the First Amendment prevented the township from “achieving its goal by restricting the free flow of truthful information.” *Id* at 95.

In *Metromedia, Inc. v. San Diego*, 453 US 490, 101 S. Ct. 2882, 69 L.E.d.2d 800 (1981), the Court reviewed an ordinance imposing substantial prohibitions on outdoor advertising displays within the city of San Diego in the interest of traffic safety and aesthetics. The ordinance generally banned all except those advertising “on-site” activities. The Court concluded that the city’s interest in traffic safety and its aesthetic interest in preventing “visual clutter” could justify a prohibition of off-site commercial billboards even though similar on-site signs were allowed. Nevertheless, the Court invalidated the San Diego ordinance in its entirety because it impermissively discriminated on the basis of content by permitting on-site commercial speech while broadly prohibiting non-commercial messages.

In *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 104 S. Ct. 2118, 80 L. Ed. 2d 772 (1984), the U.S. Supreme Court upheld a Los Angeles ordinance that prohibited the posting of signs on public property. The court found that the City of Los Angeles’ interest in avoiding visual clutter was sufficient to justify this prohibition. The Court rejected the argument that the validity of the city’s aesthetic interest had been compromised by failing to extend the ban to private property, reasoning that the “private citizen’s interest in controlling the use of his own property justifies the disparate treatment.” *Id.* at 811. The Court also rejected as “misplaced” respondent’s reliance on public forum principles, because respondents failed to demonstrate the existence of a traditional right of access respecting such items as utility poles, comparable to that recognized for public streets and parks. *Id.* at 814.

In *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S. Ct. 2038, 129 L. Ed. 2d 36 (1994), the U.S. Supreme Court determined that the City of Ladue’s ordinance that prevented a resident from displaying a window sign stating “For Peace in the Gulf” was a violation of the resident’s right to free speech. The Court noted that the first amendment sign cases identify two analytically distinct grounds for challenging the constitutionality of a municipal ordinance regulating the display of signs. One is that the measure in effect restricts too little speech because its exemptions discriminate on the basis of the sign’s messages. Alternatively, such provisions are subject to attack on the ground that they simply prohibit too much protected speech. Although the City of Ladue has a concededly valid interest in minimizing visual clutter, its ordinance almost completely foreclosed an important and distinct medium of expression for political, religious, or personal messages. Prohibitions foreclosing entire media may be completely free of content or viewpoint discrimination, but such measures can suppress too much speech by

eliminating a common means of speaking. Residential signs are an unusually cheap and convenient form of communication. The audience intended to be reached by a residential sign, primarily neighbors, cannot be reached nearly as well by other means. Since residents have a self-interest in maintaining their own property values and preventing “visual clutter” in their yards and neighborhoods, this diminishes the danger of the “unlimited proliferation of signs.”

Reed v. Town of Gilbert

The Town of Gilbert adopted a comprehensive code governing the manner in which people may display outdoor signs. The sign code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is “temporary directional signs relating to a qualifying event.” This includes any “temporary sign intended to direct pedestrians, motorists, and other passersby to a qualifying event.” A “qualifying event” is defined as any “assembly, gathering, activity or meeting, sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization.” Another category is “ideological signs”, which includes any “sign communicating a message or ideas for non-commercial purposes that is not a construction sign, directional sign, temporary directional sign relating to a qualifying event, political sign, garage sale sign, or a sign owed or required by a governmental agency.” A third category is “political signs”, which includes any “temporary sign designed to influence the outcome of an election called by a public body.”

The code treated all three categories of signs differently. The ideological signs were allowed to be up to 20 square feet in area and to be placed in all “zoning districts” without time limits. Political signs were allowed to be up to 16 square feet on residential property and up to 32 square feet on non-residential property, undeveloped municipal property and “rights of way,” displayed up to 60 days before a primary election and up to 15 days following a general election. Temporary directional signs were allowed to be no larger than six square feet and may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. Temporary directional signs may be displayed no more than twelve hours before the “qualifying event, and no more than one hour afterward.”

Clyde Reed is the pastor of Good News Community Church. The church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the town. In order to inform the public about its services, the church began placing 15-20 temporary signs around the town, frequently in the public right-of-way abutting the street. The signs typically displayed the church’s name, along with the time and location of the upcoming service. The signs were typically posted early in the day on Saturday and then removed around mid-day on Sunday. This practice caught the attention of the town’s sign code compliance manager, who twice cited the church for violating the code. The first citation noted that the church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the church’s failure to include the date of the event on the signs. Reed contacted the sign code compliance department in an attempt to reach an accommodation. His efforts proved unsuccessful. The town’s code compliance manager informed the church that there would be no leniency under the code and promised to punish any

future violations.

Mr. Reed filed a Complaint arguing that the sign code abridged the church's freedom of speech in violation of the first and fourteenth amendments. The district court dismissed Mr. Reed's complaint. The court of appeals affirmed, but then remanded to the district court to determine whether the sign code's distinctions among temporary directional signs, political signs, and ideological signs constituted a content-based regulation of speech. On remand, the district court granted summary judgment in favor of the town dismissing Mr. Reed's claim based on its conclusion that the sign code's distinctions were not a content based regulation of speech. The Court of Appeals affirmed. The U.S. Supreme Court reversed.

Justice Thomas delivered the opinion of the court, in which Chief Justice Roberts, and Justices Scalia, Kennedy, Alito and Sotomayor joined. Justice Alito filed a concurring opinion, in which Justices Kennedy and Sotomayor joined. Justice Breyer filed an opinion concurring in the judgment. Justice Kagen also filed an opinion concurring in the judgment, in which Justices Ginsberg and Breyer joined.

Justice Thomas found the regulations imposed content-based restrictions on speech which are presumptively unconstitutional unless the government proves that the restrictions are narrowly tailored to serve compelling state interests. The first amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic. Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate against viewpoints within that subject matter. In this case, the town's sign code singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of likeminded individuals. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the code singles out signs bearing a particular message: the time and location of a specific event. Since the town was not able to show that limiting temporary directional signs was necessary to preserve the town's aesthetic appeal or traffic safety, the sign ordinance did not survive strict scrutiny and was declared unconstitutional.

In Justice Alito's concurring opinion, she provided the following examples of regulations that are not content-based:

1. Rules regulating the size of signs;
2. Rules regulating the locations in which signs may be placed;
3. Rules distinguishing between lighted and unlighted signs;
4. Rules distinguishing between signs with fixed messages and electronic signs with messages that change;
5. Rules that distinguish between the placement of signs on private and public property;
6. Rules distinguishing between the placement of signs on commercial and residential property;

7. Rules distinguishing between on-premises and off-premises signs;
8. Rules restricting the total number of signs allowed per mile of roadway;
9. Rules imposing time restrictions on signs advertising a one-time event.

Analysis of Weston's Sign Code

Based on *Reed*, an ordinance that imposes more stringent restrictions on temporary directional signs than on signs conveying other messages, without strong evidence of some compelling governmental interest in doing so, is unconstitutional. The Village's temporary sign ordinance, Section 94.13.08, should be renamed the "one-time event" ordinance and revised so that the size, location, number, time restriction and any other conditions are the same for all one-time event signs. Our ordinance should not treat commercial speech more favorably than non-commercial speech. Given that commercial properties are much larger and require larger signage to be seen, we can have different size requirements for commercial properties versus residential properties. However, the time restriction for one-time event commercial signs and one-time event non-commercial signs should be the same.

Moreover, the Village may want to consider eliminating any reference to authorizing the placement of signs in the public right of way, including (7), which addresses "over-street banners for events of public interest." If the Village approves the use of a banner to promote Forrest's Run or Irish Fest, the Village will be vulnerable to a lawsuit if it rejects the same request by an organization that does not reflect the Village's values, like the KKK or similar groups.

Recommendations

My recommendation is to revise the Village's sign ordinance to bring it into compliance with the U.S. Supreme Court's interpretation of freedom of speech under the First Amendment. To do so, the code must not prohibit too much protected speech. At the same time, the code must not discriminate on the basis of a sign's messages.

Justice Alito's concurring opinion combined with previous U.S. Supreme Court cases, provide the following guidance:

1. The Village may regulate the size of signs so long as it is consistent with Wis. Stat. § 12.04, which limits a municipality's right to regulate the size, shape or placement of a sign placed on residential property during an election campaign unless the sign exceeds 11 square feet in area.
2. The Village may regulate the locations in which signs may be placed as long as the regulation doesn't prohibit "too much protected speech."
3. The Village may have different rules for lighted versus unlighted signs, and signs with fixed messages versus electronic signs with messages that change.
4. The Village may have different rules for the placement of signs on private versus public

property. In fact, the Village could prohibit the placement of any signs in the public right-of-way.

5. The Village can have different rules for the placement of signs on commercial versus residential property. However, the Village cannot place more restrictions on non-commercial speech versus commercial speech.
6. The Village may have different rules concerning on-premises and off-premises signs. Again, the rules cannot be more restrictive on non-commercial speech versus commercial speech.
7. The Village can restrict a total number of signs allowed as long as it does not place more restrictions on non-commercial speech versus commercial speech.
8. The Village may impose time restrictions on signs advertising a one-time event.
9. The Village should include a severability clause in the ordinance in case part of the ordinance is declared unconstitutional.

Based on *Reed* and prior U.S. Supreme Court cases, the Village should not do the following:

1. Treat commercial speech more favorable than non-commercial speech;
2. Regulate signs based on content;
3. Regulate signs without identifying a compelling governmental interest to do so, such as public safety or preserving aesthetics;

My recommendation is to create a one-time event sign ordinance and an ordinance addressing placement of signs on commercial, residential and public property. The First Amendment right to place the name of a candidate or political party on a sign on private property does not end with the election. As a result, I would not include political or ideological signs in the Village's one-time event sign ordinance.

Wis. Stat. § 12.04 limits a municipality's right to regulate political signs on residential property during an election campaign. The Village's new ordinance should not give any more favor to political signs versus any other sign that involves the right of free speech. Since municipalities cannot regulate the size, shape or placement of a political sign not exceeding 11 square feet in area during an election campaign, the Village should not regulate the size, shape or placement of any other sign during an election campaign unless it exceeds 11 square feet.

The first step in the revision process is for the Village to determine what regulations are necessary to protect the public and property values within the Village. Once the necessary regulations are identified, I can assist with drafting the revisions so they are compliant with current constitutional requirements. I look forward to reviewing and assisting you with making these changes.

Daniel Guild & Jennifer Higgins
July 29, 2015
Page 7 of 7

Very truly,

Matthew E. Yde
Strasser & Yde, S.C.

MEY:jmz