

## **PROPOSED CODE CHANGES DECEMBER 2018**

### **247-53 Signage**

#### **A. Purpose; intent.**

1. The purpose of this article is to protect and regulate the public health, welfare and safety by regulating existing and proposed outdoor advertising and outdoor signs of all types in all zoning districts. It is intended to protect property values, to create a more attractive economic and business climate and to protect the physical appearance of the community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic issues and to reduce the adverse effects of signage on natural beauty and on the environment in general.
2. No signs shall be erected, altered, moved or used except in conformance with these regulations.

#### **B. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **AWNING OR CANOPY SIGN**

Any sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

#### **FREESTANDING OR GROUND SIGN**

Any sign, including a monument sign, supported by structures or supports that are placed on or anchored in the ground that is independent of any building or structure.

#### **LED SIGN**

Light-emitting diodes (LED), differing from incandescent bulbs because a variety of colors can be emitted from the same bulb without using filters. Such sign has the ability to display scrolling or flashing messages as well as a variety of colors. This definition includes electronic message boards, liquid crystal displays, digitized signs or sign parts, variable electronic message centers and similar electronic displays.

#### **OFF-PREMISES SIGN**

A sign which directs attention to a business, product, activity or service which is generally conducted sold or offered elsewhere than upon the premises where such sign is located.

#### **POLE SIGN**

A permanent, freestanding sign that is mounted on a pole or other support that is placed on and anchored in the ground or on a base and that is independent of any building or other structure.

#### **POLITICAL SIGN**

A temporary sign or poster advocating the election of a particular candidate or candidates for public office. Signs or posters shall not exceed 16 square feet in both residential and nonresidential zoning districts.

## **PORTABLE SIGN**

Any sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich-board signs, balloons used as signs; and umbrellas used for advertising.

## **SIGN**

A name, identification, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, service, place, activity, person, institution, organization or business and the supporting members thereto. A motor vehicle or trailer shall be deemed a sign if it is lettered or displayed in such a fashion as to attract attention and is utilized to advertise or otherwise call attention to a business located in, or event taking place in, the Town of Pendleton or surrounding communities.

1. Exceptions. For the purposes of this article, the term "sign" does not include:
  - (a) Signs erected and maintained pursuant to and in discharge of any governmental function.
  - (b) Signs prohibiting trespassing.
  - (c) Integral, decorative or architectural features of buildings, except letters or trademarks.
  - (d) Temporary signs not exceeding four square feet per face directing and guiding traffic and parking on private commercial or industrial property and bearing no advertising.
  - (e) Signs not exceeding one square foot per face that advertise the cost of motor fuel when attached to a fuel pump or service island canopy.

## **TEMPORARY SIGN**

Any sign that is used for 30 days or less and is not permanently mounted.

## **WALL SIGN**

A sign integral with or attached to and supported by the exterior wall of a building or fascia attached to such wall and projecting not more than 12 inches therefrom.

## **C. Rules and regulations**

1. No sign shall prevent or interfere with the driver of a vehicle from having a clear and unobstructed view of any official sign, entrance or exit roadway, intersection or approaching or merging traffic.
2. No green or red illuminated electronic message display (EMD) signs shall be located within 200 feet of a traffic signal light.

3. No sign, which obstructs vision at elevations exceeding 36 inches in height shall be placed or maintained within the triangular area formed by two intersecting street lines and a line connecting points thereon 30 feet distant from their point of intersection.
4. No sign shall attempt (or appear to attempt) to direct the movement of traffic or imitate or resemble an official sign, signal or device.
5. All signs shall comply with applicable regulations of the New York State Department of Transportation.
6. Off-premises signs shall be limited to business directional signs, as regulated herein, subject to Planning Board approval. Applications to the Planning Board for such signs shall be accompanied by property owner approvals for the placement of such signage.
7. No signs, except such directional devices as may be required by the federal aeronautical authorities, shall be placed, inscribed or supported upon or above the highest part of the roofline.
8. All signs, sign finishes, supports and electrical work shall at all times be maintained in a clean, neatly painted, free-from-all-hazards, safe and structurally sound condition and shall be maintained by replacement of defective or worn parts, faulty wiring, loose supports, braces, guys and anchors, and by painting, repainting and cleaning. Signs shall be maintained in a condition that will enhance or maintain the aesthetic quality of the surrounding neighborhood. Any sign found to be in an unsafe condition or insecure to the point that it is deemed a hazard to public health and safety shall be suitably repaired or removed by the owner as deemed appropriate by the Code Enforcement officer, or shall be subject to immediate removal by the Town.
9. No exterior portable or temporary signs shall be erected, used or maintained without a temporary sign permit issued by the Code Enforcement Officer for the following purposes only:
  - (a) New business enterprises which are waiting erection of permanent signs, for a period not exceeding 30 days.
  - (b) Business enterprises which have lost the use of an existing sign by reason of fire or other catastrophe, for a period not exceeding 30 days.
  - (c) Political Signage refer to chapter 198.
  - (d) Other signs of a temporary nature, such as posters, banners, promotional devices and other signs of a similar nature, may be granted a temporary permit for a period not to exceed 30 days, provided that such signs are not attached to fences, trees, utility poles or the like and further provided that such signs are not placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Upon termination of the event for which said signs, posters, banners or promotional devices were erected, the same shall be removed from said property no later than 48 hours thereafter.

- (e) All signs containing electrical wiring, including extension cords, shall be subject to the provisions of the National Electrical Code (NEC) and an electrical permit issued by the Town of Pendleton. The electrical components used shall bear the label of an approved testing agency.
  - (f) All signs or posters shall be set back so that every part of the sign and any supporting structure are no closer than 10 feet to the road shoulder or street right-of-way or property line, whichever is greater.
10. No signs erected or maintained on the window of a building shall occupy more than 30% of the area of said window.
  11. No sign shall be erected, relocated or maintained so as to prevent or obstruct ingress or egress routes, paths or any right-of-way, walkway, door, window or fire escape. No unofficial sign shall be attached to a standpipe or fire escape.
  12. No sign shall be attached to a utility pole, fence or tree, with the exception of informational signs pursuant to issues of health and safety not to exceed one square foot and not to exceed one sign per every 100 feet, e.g., "Private Property" or "Beware of Dog."
  13. For all signs, a sign permit must be obtained from the Building Department. It shall be unlawful to erect, construct, enlarge, move or convert any sign, or cause the same to be done, without obtaining a sign permit for each sign. (Refer to § 247-53,D.6, No sign permit required.)
  15. Town employees will remove any signs and/or posters posted on public rights-of-way in violation of the rules outlined herein. The violator will reimburse any costs involved in the removal.

#### **D. Permit requirements**

The provisions of this section shall apply to all signs in all zoning districts as established and those amended by the Zoning Law of the Town of Pendleton:

1. Permit required. No person, firm or corporation shall hereafter erect, re-erect, construct or structurally alter a sign or sign structure without a permit first having been issued by the Building Department.
2. Application. Every application for a sign permit shall include the name, address and telephone number of the applicant and shall be accompanied by plans, drawn to scale, showing the dimensions of the sign, the structures supporting the sign, the position of the sign in relation to nearby buildings or structures, the location of the building, structure or lot to which or upon which the sign is to be attached or erected, and the location of all utilities, the method of illumination, if any, and such other information as the Building Department shall require to show full compliance with this article and all other laws and ordinances of the Town of Pendleton.
3. For multiple developments, a coordinated signage plan must be submitted to the Planning Board in addition to the application procedure as part of the site plan review and approval. For multiple developments, the Planning Board shall review coordinated signage plans and approve the locations, sizes and number of permitted signs.

4. Review. The Code Enforcement Officer shall review and verify the signed and completed application.
5. Issuance of permit.
  - (a) Upon application approval, the Code Enforcement Officer shall issue a sign permit.
  - (b) For multiple developments, Planning Board approval of the coordinated signage plan must be obtained prior to the issuance of any permits.
6. No sign permit required. A sign permit shall not be required for the following signs:
  - (a) One sign for each building or lot, advertising the sale, rental or lease of the premises or part thereof on which the sign is displayed, not exceeding three square feet in residential districts and 12 square feet in commercial and industrial districts.
  - (b) Official signs, notices or direction devices erected or maintained by federal, state, county, or local governments or agencies thereof.
  - (c) One sign denoting the name and address of the occupants of the premises, which sign shall not exceed two square feet in face area.
  - (d) One sign denoting the architect, engineer or contractor placed on the premises where construction, repair or renovation is in progress, which sign shall not exceed 32 square feet in face area. The sign must be removed from the premises within seven days after such construction, repair or renovation is completed.
7. Sign permit required. A sign permit shall be required for the following signs:
  - (a) Professional nameplates that shall not exceed four square feet in face area.
  - (b) Parking lot pavement markers, directional signs, entrance and exit signs, and other such signs which are erected on the premises and which shall not exceed four square feet in face area and these signs shall not contain any advertising of the use of the premises.
  - (c) One sign or bulletin board which may be illuminated, not exceeding 16 square feet in face area, located on the premises of a public or quasi-public organization or institution and not less than 25 feet from any lot line and not more than six feet in height above the finished grade.
  - (d) One sign identifying the name of a residential area or subdivision, not to exceed 25 square feet of face area or eight feet in height above the finished grade, shall be permitted at each major entrance to the area. Continued maintenance upon completion of the new residential area or subdivision will be approved by the Planning Board, Code Enforcement Officer, and Highway Superintendent.
  - (e) Business directional signs, not to exceed three square feet in face area, shall be limited to providing directional information only, shall be limited to locations along highways at or near the intersection of the appropriate street and shall be placed a minimum of one foot from the right-of-way, except when regulated by the New York State Department of Transportation direction sign programs or Town Highway Superintendent.

## **E. Signs in violation; fine; revocation of permit; removal of certain signs**

1. General conditions.
  - (a) All signs shall be kept clean, neatly painted and free from all hazards, including faulty wiring and loose fastenings, and shall be maintained at all times in such tidy and safe condition as not to disservice the public health, safety and general welfare. Any sign found unsafe or insecure or that is a menace to the public shall be suitably repaired or removed by the owner.
  - (b) Any sign no longer performing its original function due to vacancy or other change on the premises on which said sign is located shall be painted over by the owner of said premises within 30 days of said condition and removed within one year of said condition. Said removal shall include the foundation and supporting structure.
2. Penalties for offenses. Violators shall be liable to a fine as prescribed by the Town Code.
3. Revocation of permit. In addition to the provisions noted below, the Enforcement Officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily without notice.
  - (a) If a sign authorized under any such permit has not been completed, erected or placed within one year from the date of the issuance thereof, such permit shall become null and void but may be renewed within 30 days of the expiration thereof for good cause shown and upon payment.
  - (b) When a sign authorized under any such permit has been completed, erected or placed other than in conformance with all terms and conditions of the application and permit, the Building Department shall give written notice to the owner of the sign, building, or premises to which it is attached, specifying the violation and directing conformance. The sign shall thereupon be conformed to the permit or removed within 30 days from the date of such notice. In the event that the sign is not conformed or removed in 30 days, the Building Department shall revoke the permit and such sign shall be removed by the owner or, upon order of the Town Board, by the Building Department, with the owner paying all removal costs.
4. Removal of certain signs.
  - (a) Absentee business. Any permanent sign which advertises a business or operation no longer conducted on the premises shall be removed by the owner of the premises upon which said sign is located. The Building Department shall provide written notice to the owner of the premises to remove said sign within 30 days. Upon failure to comply with this notice, the Building Department shall remove, or cause to be removed, said sign and shall cause all costs and expenses incurred to be assessed against the property owner.

- (b) Temporary signs erected without a permit on private property will be granted three days for removal after notice is received by the business or landowner. Any sign located in a public right-of-way may be removed immediately without notice.
- 5. Unsafe or unsecured signs.
  - (a) Should the Building Department find that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or is in violation of the construction and maintenance provisions of this article, it shall give written notice to the owner of the premises upon which such sign is located. If said sign is not repaired in 10 days, the Building Department shall revoke the permit, if any, and may cause said sign to be removed. If the permitted agent fails to remove or alter the structure so as to comply with the standards within 10 days after such notice, such sign shall be removed or altered to comply with this article at the expense of the permitted agent or owner of the property upon which it is located.
  - (b) Any sign which is an immediate peril to the health or safety of persons or property is to be removed summarily and without notice. Any expense incident thereto shall be paid by the owner of the building, structure or lot to which such sign is attached.
  - (c) Any sign that has been illegally placed within a public right-of-way may be removed summarily and without notice. Any expense incident thereto shall be paid by the owner of the building, structure or lot to which such sign is attached.

#### **F. Electronic Message Centers (EMC)**

- 1. All signs containing electrical wiring shall be subject to the provisions of the National Electrical Code and an electrical permit verified by the Town of Pendleton. The electronic components used shall bear the label of an approved testing agency.
- 2. Electronic message display (EMC) signs may be permitted, subject to an electrical permit issued by an approved third party, in the Light Commercial (CO1), Medium Commercial (CO2) and Light Industrial (LI) and Special Light Industrial (SLI) Districts. Electronic message display (EMD) signs may also be permitted, subject to a special use permit to be issued by the Town of Pendleton Planning Board, together with an electrical permit issued an approved third party, for the following purposes, in any zoning district.
  - (a) Churches and other places of worship.
  - (b) Schools and other places of education.
  - (c) Emergency services.
- 3. There shall be no more than one EMC sign per parcel of land, except that for corner lots, there may be one EMC sign per street.
- 4. Illuminated signs or lighting devices shall employ only light of constant intensity.

5. Applications. All applications for EMC signs are subject to approval by the Code Enforcement Officer. The EMC is subject to the following requirements:
  - (a) Operational limitations. Such displays shall be limited to static displays, messages that appear or disappear from the display through dissolve, fade, travel or scroll modes, or similar transitions and frame effects that have text, animated graphics or images that appear to move or to change in size or to be revealed sequentially rather than all at once.
6. No EMC shall be so placed as to permit its beams and illumination to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
7. The full number of illuminating elements of an EMC shall be kept in working condition or shall be immediately repaired or replaced.
8. The brightness levels of the electronic message sign shall at any part of any roadway not exceed as follows: a daytime level of no greater than 7,500 nits and a nighttime level of no greater than 500 nits. "Nighttime" is defined as the time from 1/2 hour before sunset to a 1/2 hour after sunrise. A "nit" is a unit of measurement for luminance brightness. It is also referred to as "candela per square meter" (cd/m<sup>2</sup>). In the event that an EMC sign is not capable of adjusting its level of illumination, the property owner shall install an external dimming mechanism, and if that is not possible, based upon proof that the owner shall submit to the Town of Pendleton Building Department, then the EMC sign shall be considered to be "grandfathered," but if any EMC sign so grandfathered is replaced or updated, it shall conform to the standards set forth in this section.
9. The duration time of a message displayed on the EMC shall be a minimum of 10 seconds. "Duration time" is how long a message must remain fixed in place before it can transition to another message.
10. The transition time of the EMC signs should not last more than one second. The "transition time" is how long it takes to go from one message to the next.
11. Message displays will be instantaneous, without scrolling, fading-in, dropping-in or similar moving copy changes, and moving pictures and digital movies shall not be displayed.

G.

1. Every sign not conforming to the regulations of the district in which it is located at the time of adoption of this article shall be a nonconforming use.
2. Preexisting signs; role of Enforcement Officer.
  - (a) To avoid hardship, owners shall be allowed to use nonconforming signs that are permanently affixed to a structure or foundation and have been in existence prior to the effective date of these regulations, until their value is depreciated or for a period of six years, whichever is shorter. All other nonconforming signs shall be removed within six months of these regulations.

- (b) The Enforcement Officer shall review and inspect existing signs for their conformance with these regulations and shall, by registered letter, notify the owners of nonconforming signs of the character of nonconformance. He or she shall notify the owners of the date on which conformance must be accomplished.
  - (c) The Enforcement Officer may require the owner of the sign to submit satisfactory proof of the date of erection of the sign.
  - (d) Except as provided in this section, nonconforming signs shall be made to conform to these regulations or shall be removed.
  - (e) To avoid hardship, owners shall be allowed to use nonconforming LED and EMC signs for a period of 30 days.
- 3. Replacement. A nonconforming sign which is destroyed or which is damaged to an extent in excess of 50% of its original construction shall not be replaced except by a sign which conforms to these regulations,
- 4. Alteration. A nonconforming sign may not be altered, rebuilt or resumed except in conformity with the regulations for the district in which it is located.