



Prepared by the  
Montgomery County Planning Commission

*A comprehensive, content-neutral approach to local sign control*

# Model Sign Ordinance

## Montgomery County Commissioners

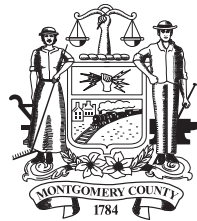
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2014



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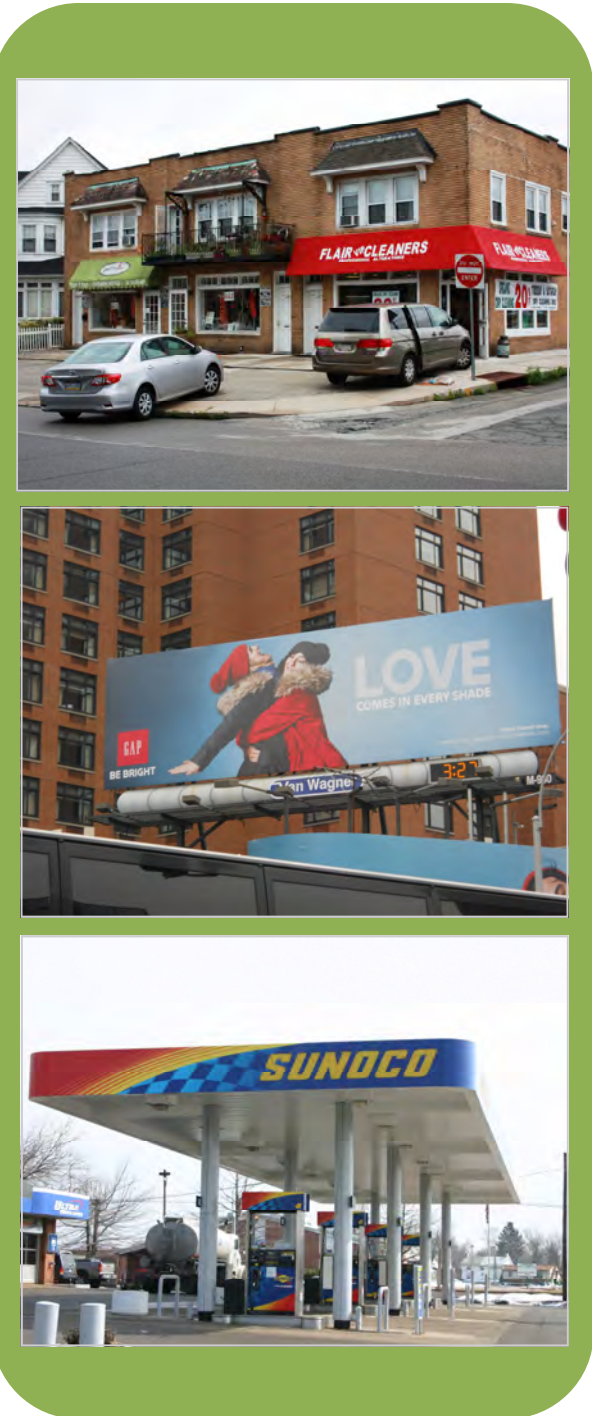
## Introduction

The Model Sign Ordinance provides a comprehensive approach to sign regulations by incorporating best practices from communities around the country, appropriate federal and state statutes, and provisions based on recent leading court decisions involving signage. The model sign ordinance includes regulations for both on-premises and off-premises signs (i.e., billboards) as well as detailed general regulations including an extensive sign illumination regulations section. The first seven parts of this report include detailed information regarding the impact of signs, the need for sign regulation, other state and federal laws governing signs, different approaches to sign regulation, and the complexities of new signage technologies. All of this information was used when crafting content-neutral sign regulations that fit the context of the parcel size and orientation, zoning district, and community character.

The model ordinance, included in full in Part 8 of this report, covers detailed regulations for both on-premises and off-premises signs, in all types of zoning districts. The model ordinance also includes detailed standards for all types of illumination, including new technologies such as digital signs. The model ordinance is based on independent research, best practices from other communities, appropriate federal and state statutes, and provisions based on recent leading court decisions involving signage. Several municipalities have asked for guidance based on new signage technologies, the proliferation of temporary banners, and other issues. Through the model sign ordinance, MCPC has strived to balance the economic value of signage for businesses within our communities while also preserving and improving the visual quality of Montgomery County. Though this ordinance was written for Montgomery County, it could be effectively used in any community in Pennsylvania.

The appendices in Part 9 will provide the user with detailed information regarding the equations used for determining the maximum size of off-premises signs and the minimum message duration on electronic changeable-copy signs. Also included in Part 9 is a comprehensive bibliography of sources used by the drafters in crafting the model ordinance.

- Part 1 provides an explanation of the purpose and many uses of signs and the need for effective signage regulations.
- Part 2 provides an overview of the community impact of signs including safety, aesthetic, and environmental issues.
- Part 3 describes several different sign regulation approaches; including zoning ordinance, historic preservation ordinances, and building permits, and how they relate to general legal issues, including the U.S. Constitution and applicable Pennsylvania State and Federal laws.



- Part 4 provides detailed information about all of the different sign types regulated by the Model Sign Ordinance.
- Part 5 describes how sign regulations may differ based on the character of the zoning district in which they are located. Not all sign types are appropriate for all zoning districts and the size and illumination of the sign should also vary based on the scale and character of the zoning district in which it is located.
- Part 6 explains the many issues regarding digital signage, illumination, and new technologies.
- Part 7 provides more information about how to administer and enforce a sign ordinance.
- Part 8 contains the model sign ordinance which incorporates all of the information described in Part 1 through 7 and includes comments and illustration in the right-hand sidebar.
- Part 9 contains the appendices which include a more detail explanation of the equations used in the model to calculate off-premises sign area and digital signage message duration, as well as a comprehensive bibliography section.

## Hot Topics in Signage Reference Guide

What is the biggest issue facing your community today regarding signage regulation? Find the topic below and go to that page to learn more.

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*purpose of  
signs*

*Part*

*1*

Part 1 provides an explanation of the purpose and many uses of signs and the need for effective signage regulations.



*Directional sign in Norristown*



*On-premises, freestanding, ground sign identifying stores in the Shoppes at Fairview Village*

Signs perform an important function by identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. Signs also help direct vehicular and pedestrian traffic, warn people of dangers, and can serve as gateways and identification for historic districts, business districts, institutions, residential developments, and recreational areas. For businesses, signs can be an important investment and are essential to their commercial success. Well designed and appropriately located signs can be an asset to a community. In some cases, signs become important elements of community character. Some signs are local landmarks and have even been placed on the Federal Register of Historic Places.

Signs present in our communities today vary widely in terms of function, size, location, and structural type. The model ordinance regulates these physical characteristics of signs in order to create content-neutral signage controls.



*Function: On-premises sign identifying a pharmacy on the same property*



*Function: Off-premises sign directing the viewer's attention to goods and services offered elsewhere*

## Function

Generally signs function by identifying the tenants of a property or providing information about goods or services pertaining to the business or facility located on the same lot. These are referred to as on-premises signs. Off-premise signs, also commonly referred to as billboards, provide information about products or services sold or offered at other locations. Some signs are meant to be displayed for a limited time because they are related to a specific event or activity, such as an election, yard sale, or construction project. Many other signs are meant to permanently advertise a business or identify a property.

## Size

Sign size can vary widely. Small signs are usually meant to be viewed from close-up by pedestrians walking by, or by people already on a property, while larger signs can be viewed by motorists passing by, possibly at a high speed. Sign size can also be tied to the amount of information being conveyed and/or the complexity of the designs being used.

## Location

Signs are often located in the front of a property and are positioned so as to maximize the number of persons (motorists and pedestrians) passing by that can view the sign. To be effective, signs need to be placed in areas where they will be readily seen and read by the general public.





*A weathered-looking wood sign complements an old industrial mill building repurposed into loft apartments in Red Hill.*



*A banner sign used to promote a seasonal event in Conshohocken.*

### Structural Type

The sign structure or design is dependent upon its size, location, and overall appearance. Virtually any type of material can be used in the development of a sign. Many modern signs use plastic laminates housed in metal frames, though wooden signs are still used, particularly in traditional settings. Some signs are attached to building walls while others are erected freestanding. Illumination enhances the visibility of the sign, especially during the nighttime. Current digital technologies provide both illumination and the ability to change messages quickly at regular intervals.

Sign regulations are needed to reduce hazards, conflicts, unsightliness, confusion, and degradation of the community character. Sign regulations should also provide for the reasonable use of signs in a uniform and scientifically-based (where applicable) manner. Though each sign serves a specific purpose, proliferation of inappropriately designed and located signs within an area, or along a road corridor, can reduce the effectiveness of individual signs to be read by the public, create safety hazards, and degrade the community's visual character and commercial viability.



*community  
impact of signs*

*Part*

*2*

Part 2 provides an overview of the community impact of signs including safety, aesthetic, and environmental issues.

Signs can impact many aspects of a community. Signs can provide a means for informing the public; contribute to the success of local businesses; and perhaps most importantly, they can act as an avenue for free speech and personal expression. A sign may become an important community focal point, identify historic or notable buildings, or contribute to a community's character.

What may be an effective advertising tool for a local business, however, may also be a visual eyesore to a resident living nearby. Signs, like many other types of land uses, have different impacts on different aspects and members of the community. The potential negative impacts of signs, as explored further below, are some of the primary reasons for establishing sign regulations in communities across Pennsylvania.

## Safety Issues

By their very nature, signs are intended to attract the attention of those passing by, including drivers whose attention should be focused on the surrounding road conditions. The impact of signs on safety, particularly the safety of vehicular drivers and passengers, as well as the pedestrians and cyclists who share the right-of-way with vehicles, is a commonly cited reason for sign control.

The Federal Highway Beautification Act and Pennsylvania's 1971 Outdoor Advertising Law (Act No. 160) both address the potential safety issues created by on-premises and off-premises signs. Pennsylvania's Act No. 160 forbids on-premises and off-premises signs that interfere with any official traffic or directional sign or obscure a driver's view of approaching or merging traffic. Both laws also prohibit sign lighting that causes glare or impairs the vision of the driver of any motor vehicle.

Regulating the time, place, and manner of signs can help to ensure that signs do not obstruct necessary views of traffic, interfere with a driver's ability to acquire necessary information from official traffic and road signs, and generally limit the number and frequency of distractions presented to the driver. Local regulation of signs on the basis of traffic safety was upheld in the 1981 US Supreme Court case, *Metromedia, Inc. v. City of San Diego*, in which seven justices agreed that San Diego's interest in promoting traffic safety and aesthetics (discussed further below) was substantial enough to justify a complete prohibition of off-premises commercial billboards. While court rulings in the years following the



*Temporary signs clustered along the right-of-way could become a distraction to drivers.*



*An illuminated sign that is too bright or whose message changes too frequently could become a distraction to drivers.*

*Metromedia* case have tended to give deference to local governments that claim to base sign regulations on traffic safety concerns, several recent rulings have underscored the notion that local governments should also be prepared to demonstrate that a regulation substantially advances the government's interest in traffic safety.<sup>1</sup> For example, a sign ordinance that prohibits the use of electronic or digital technology in signs, but exempts the local government from this regulation, may not be found to substantially advance the government's interest in traffic safety.

## Public Welfare and Aesthetics Issues

Like other land uses visible to the general public, signs can affect the aesthetics of the neighborhood and can impact things such as property values and community character. Additionally, the effectiveness of existing signs can be reduced if the number, location, and size of signs creates a visually cluttered environment where individual messages are lost. Signs may detract from the picturesque nature of a scenic roadway or undermine the character of a historic village. Similar to other buildings or structures, the design, placement, and proliferation of signs can impact the overall appearance of the surrounding area. Crafting sign regulations to address aesthetic concerns, or advance the community's character, can have a positive impact on the built environment.

In addition to safety, public welfare and aesthetics have long been used to justify zoning regulations, including those pertaining to signage. Promotion of health, safety, morals, and general welfare was first justified as a basis for zoning regulation in the 1926 Supreme Court ruling *Village of Euclid v. Ambler Realty Company*. Supreme Court decisions in the 1954 *Berman v. Parker* and the 1981 *Metromedia Inc. v. City of San Diego* court cases further demonstrated support for aesthetic-based zoning controls.

While the protection of a community's aesthetics has been successfully used as a reason for enacting sign regulations, it is recommended that local governments be prepared to demonstrate that the regulation substantially advances the government's interest in protecting community aesthetics and traffic safety. One way to properly demonstrate this is to include a strong purpose and intent section that clearly describes how the regulations are intended to protect the public's health, safety, and general welfare. (See Model Ordinance Section 2: Purpose & Intent) The community may also wish to cite local design

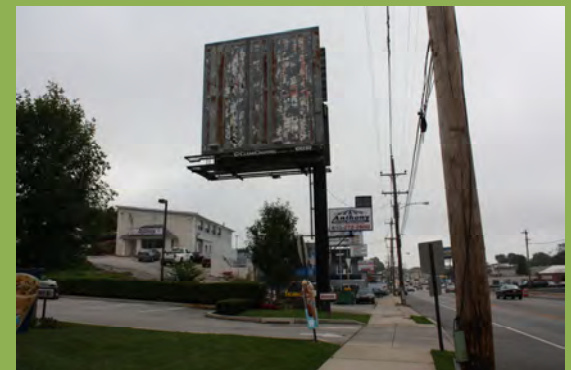
<sup>1</sup> Morris, Hinshaw, Mace, & Weinstein, 2001.

### Case Law Take Away

In *Metromedia Inc. v. City of San Diego (1981)*, the U. S. Supreme Court ruled that the City's interest in promoting traffic safety and aesthetics was substantial enough to justify a complete prohibition of billboards.



*Too many signs can create a cluttered environment where individual messages can be lost.*



*Abandoned signs, or signs in disrepair, may become an eyesore and safety hazard for the community.*

guidelines or comprehensive plans that help define the identity or character that they wish to protect through sign control.

## Environmental Issues

The environmental impact of signs is an issue of increasing concern, especially with the emergence of new technologies such as LED (light emitting diode) bulbs. Digital signs can incorporate hundreds, or even thousands, of LED bulbs needed to illuminate the entire sign face and display detailed, changeable messages during the day and night. Additionally, digital signs require supporting electronic equipment which significantly increases the sign's energy usage.<sup>2</sup>

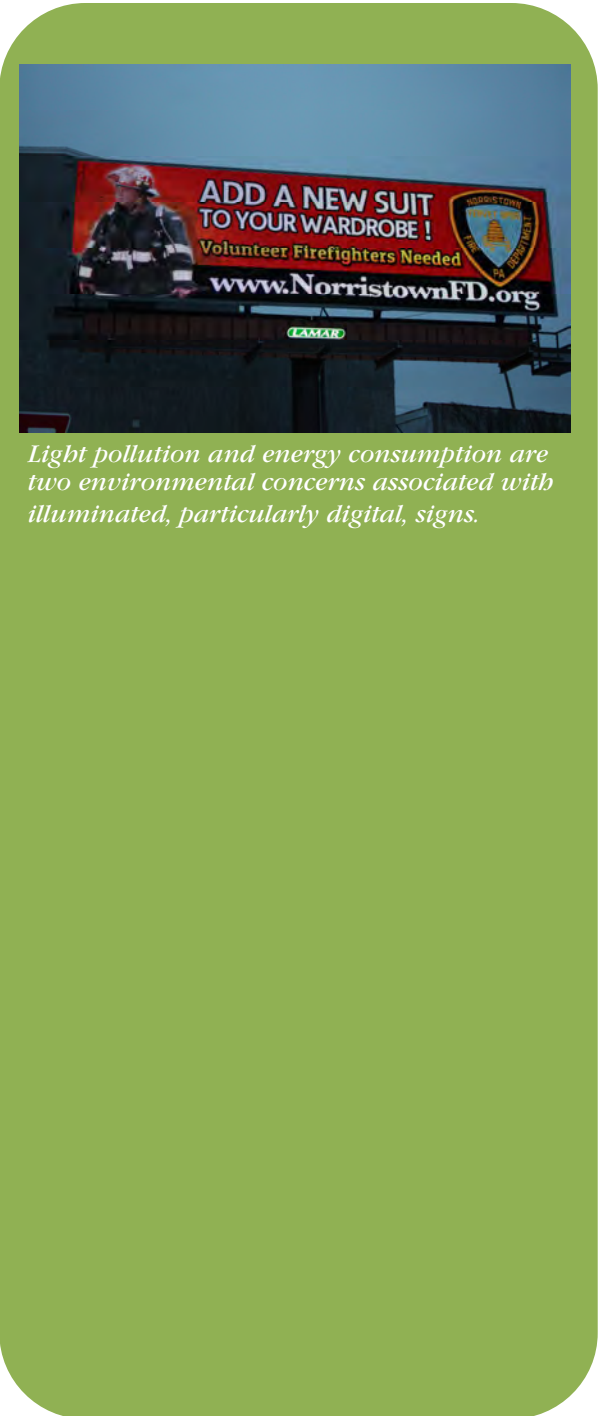
While the actual energy consumption of a digital sign will vary based on the sign's size, image resolution, color capabilities, brightness level, and hours of operation, a report published by Scenic Philadelphia found that a large digital billboard can consume up to 30 times more energy in one year than the average American home.<sup>3</sup> Even though digital technology has increasingly become more energy efficient, a municipality should consider how the potential environmental impacts of digital signs may conflict with any established, community sustainability plans or goals.

In addition to energy consumption concerns, digital signs can contribute to light pollution, which can adversely affect animal and plant populations that have evolved within the natural rhythm of day and night.<sup>4</sup> Other potential negative externalities of digital signs including glare and light trespass onto neighboring properties. Municipalities can help to minimize the potential impacts of light pollution and glare from all types of signs by establishing reasonable limits on a sign's brightness levels and permitted hours of operation (See Model Ordinance §6.F. General Regulations: Sign Illumination).

<sup>2</sup> Young, 2010.

<sup>3</sup> Young, 2010.

<sup>4</sup> Holker, et al., 2010.



*Light pollution and energy consumption are two environmental concerns associated with illuminated, particularly digital, signs.*





*sign regulation  
approaches and  
legal issues*

*Part*

*3*

Part 3 describes several different sign regulation approaches; including zoning ordinance, historic preservation ordinances, and building permits, and how they relate to general legal issues, including the U.S. Constitution and applicable Pennsylvania State and Federal laws.

## Sign Regulation Approach: Zoning Ordinance

The most common method of regulating signage within a community is through the zoning ordinance. A community can regulate all signs visible to the public through the zoning code using reasonable and objective standards that are meant to protect the public's health, safety, welfare, and aesthetics. When establishing signage regulations through the zoning ordinance, it is important to consider the impact of signage on adjacent roads, streets, walkways, and other properties. When regulating signage through the zoning ordinance, the municipality can adjust signage regulations for different zoning districts to ensure that the standards reflect the current or desired community character of that district. By embedding signage controls within the municipality's zoning ordinance, existing standards and procedures involving non-conforming uses, permitting, inspections, penalties, and variance procedures could be applied to signs as well, thereby simplifying the municipality's administrative and enforcement procedures for signs.

Within the context of the zoning ordinance, it is valid to regulate signs in terms of the time, place, and manner in which they are used. Here are some examples:

- *Time*: regulate the hours of illumination or display
- *Place*: regulate the location, setbacks, pedestrian clearance, or distance from residential districts
- *Manner*: prohibit signs that flash, blink, rotate, or scroll

When regulating signage through the zoning code it is very important that the regulations remain content-neutral in order to give equal opportunity to commercial and non-commercial speech. Zoning regulations also require a focus on structural attributes of the signs such as size, height, clearance, location, form, number, orientation, and illumination, in order to control the safety and aesthetics of the sign.

Although locating all of the signage regulations within a single chapter of the zoning code, as shown in the model ordinance, may be the best approach for most municipalities, sign regulations could also be placed in the zoning chapters for individual zoning districts. Alternatively, some sign regulations may be placed in a separate ordinance chapter to provide for more flexibility when administering appeals. A separate code avoids the requirement that formal variance requests be acted upon by the zoning hearing



*Sign regulations are typically located in a municipality's zoning code and regulate things such as the type, height and maximum area of permitted signs.*

board when an applicant is seeking to develop a sign that does not meet the signage standards in the zoning code. Different appeals procedures can be developed to address this situation within a separate code.

### Sign Regulation Approach: Historic District Ordinance

In addition to the sign regulations in the zoning code, the modification, removal, or construction of signage within a designated historic district is also commonly regulated by the local Historic Architectural Review Board (HARB), or similar body. A municipality can require that a certificate of appropriateness (COA) is issued prior to the approval of a sign permit within a designated historic district.

Here are some examples of things a HARB might review when evaluating an application:

- A. *The effect of the proposed change upon the general historic and architectural nature of the district.*
- B. *The appropriateness of exterior architectural features which can be seen from a public street or way only.*
- C. *The general design, arrangement, texture, material, scale, mass and color of the building or structure and the relation of such factors to similar features of buildings or structures in the district.*
- D. *Furthermore, in the interest of maintaining the architectural integrity of the respective historic districts, the Board shall consider the following guidelines:*
  - 1. *Every reasonable effort shall be made to use a structure for its originally intended purpose or to provide a compatible use which will require a minimum alteration to the structure and its environment.*
  - 2. *Rehabilitation work shall not destroy the distinguishing qualities or character of the structure and its environment. The removal or alteration of any historic or architectural features should be held to a minimum.*
  - 3. *In the event that replacement of architectural features is necessary, the new material should attempt to match the material being replaced in the composition, design, color, texture and other visual qualities. The Board should, however, be sensitive to the increased cost of the proposed change.*

4. *Distinctive stylistic features or examples of skilled craftsmanship shall be treated with sensitivity.*
5. *Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.*
6. *All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged.*
7. *Contemporary design for additions to existing structures or new construction shall not be discouraged if such design is compatible with the size, scale, color, material and character of the neighborhood, structures or their environment.*
8. *Work authorized by a certificate of appropriateness shall comply with the United States Secretary of the Interior's standards for rehabilitation, as amended.*

*Source: Lower Merion §88-9 Historic Districts – Matters to be considered in review.*

Issues may arise when regulating signage within a historic district. Some business owners may see the Certificate of Appropriateness process as obstructive and time-consuming and therefore may avoid updating or repairing their signs. To help alleviate this concern, some municipalities are looking at options to turn the approval of signs in historic districts into an administrative process, provided that the signs meet the guidelines established for that district.

### **Sign Regulation Approach: Building Permits**

In addition to complying with requirements in a zoning code or a stand-alone sign ordinance, signs may also be required to meet certain standards contained in a municipality's building or construction code. While sign regulations may differ between municipalities, building codes often require construction information for freestanding or building signs as well as any electrical details for illuminated signs to be submitted as part of the building permit process. Most municipalities in Pennsylvania utilize the Uniform Construction Code as their building code, which includes the 2009 International Codes issued by the International Code Council and Chapter 11 and Appendix E of the 2012 International Building Code.



*Signs located in a designated historic district are commonly regulated by the local Historical Architectural Review Board (HARB).*

The 2009 International Building Code (IBC) provides regulations for signs in Appendix H. This section governs the design, construction, and electrical standards for signs to ensure important safety measures are met. Issues such as wind load, electrical devices and wiring, and mounting and support methods are detailed for a variety of sign types, including animated signs, illuminated signs, ground signs, roof signs, wall signs, projecting signs, marquee signs, and portable signs. The IBC also provides general location restrictions for signs, including the prohibition of any sign that obstructs a fire escape, window, door, or other opening that is used as a means of egress, or interferes with any opening required for ventilation.

## Federal Signage Regulation

### Highway Beautification Act (1965)

The Highway Beautification Act (Public Law 89-285) was signed into law on October 22, 1965 with the objective that “the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Federal Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.”<sup>5</sup>

The Federal Highway Beautification Act (HBA) requires state compliance to create standards and remove non-conforming and illegal signs. Federal funding was available to help with sign removal in line with just compensation standards. The law controls the type of sign that can be placed within 660 feet of the right-of-way of any federal highway. Only certain types of signs are permitted, including directional and official signs, on-premises signs, and new signs in commercial and industrial areas that are consistent with the size, lighting, and spacing criteria in the State/Federal agreement.

The HBA only controls outdoor advertising in areas that are adjacent to the Federal Interstate System and areas adjacent to the Federal-Aid Primary (FAP) Highway System. The HBA does not technically regulate signs along Federal and FAP Highways, but only withholds funding from states that do not follow the HBA’s guidelines. If a state fails to establish a system of regulations and standards for the

<sup>5</sup> Outdoor Advertising Control: A History and Overview of the Federal Outdoor Advertising Control Program, 1997.



*This map shows the National Highways (in red) and Federal Aid Primary Highways (in green) that are located in Montgomery County and are regulated by Pennsylvania Act 160.*

control of outdoor advertising within these areas, it can result in a loss of 10% of the state's annual federal-aid highway funding.<sup>6</sup> Regulation for the signs along Federal Highways and FAP Highways, therefore, is actually controlled by Pennsylvania State Law (see more information on Pennsylvania Act 160 below).

### Intermodal Surface Transportation Efficiency Act (1991)

The Intermodal Surface Transportation Efficiency Act (Public Law 102-240) was signed into law on December 18, 1991. One thing that the Intermodal Surface Transportation Efficiency Act (ISTEA) did was prohibit the erection of any new signs on designated scenic byways. The designation of specific roadways as scenic byways is the responsibility of the individual states<sup>7</sup> (see more information on Pennsylvania's designated scenic byways below).

### Manual on Uniform Traffic Control Devices (MUTCD)

The Manual on Uniform Traffic Control Devices (MUTCD) is administered by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations, Part 655, Subpart F.<sup>8</sup> The MUTCD defines the standards for the installation and maintenance of traffic control devices that are located on any public street, highway, bikeway, or public road that is open to the public. Regulations cover road markings, highways signs, and traffic controls. States are required to either adopt the National MUTCD as their legal state standard for traffic control devices, or have a State MUTCD (or supplement) that is in substantial conformance with the National MUTCD. Pennsylvania has adopted the National MUTCD as well as a state supplement.

## State Signage Regulation

### Municipalities Planning Code (1968)

Article VI of the Pennsylvania Municipalities Planning Code (Act No. 247 of 1968) governs zoning and the relationship between the zoning code and comprehensive plan. While Article VI does not discuss the

<sup>6</sup> Pennsylvania Resources Council, Inc.

<sup>7</sup> Outdoor Advertising Control: A History and Overview of the Federal Outdoor Advertising Control Program, 1997.

<sup>8</sup> Manual on Uniform Traffic Control Devices, 2013.

## Federal MUTCD

- Visit the FHWA website for more information about the Manual on Uniform Traffic Control Devices and to download the most recent version of the MUTCD  
<http://mutcd.fhwa.dot.gov/>
- Printed editions are available through AASHTO  
[http://bookstore.transportation.org/item\\_details.aspx?ID=1550](http://bookstore.transportation.org/item_details.aspx?ID=1550)

## State MUTCD

- Pennsylvania State Code Title 67: Transportation; Chapter 212: Official Traffic-Control Devices  
<http://www.pacode.com/secure/data/067/chapter212/chap212toc.html>  
(See Sub-Chapter B: Signs)
- Handbook of Official Signs (PennDOT Publication 236)  
<http://www.dot.state.pa.us>

regulation of signs specifically, Section 603 states that zoning ordinances should reflect the policy goals of the community and “give consideration to the character of the municipality, the needs, of the citizens, and the suitabilities and special nature of particular parts of the municipality.”<sup>9</sup> Specific recommendations relating to the design or placement of signage, or other relevant community development goals that are in the municipality’s comprehensive plan, should be supported by the regulations of the zoning code.

### **Outdoor Advertising Control Act (1971)**

Pennsylvania passed the Outdoor Advertising Control Act of 1971 (Act No. 160) in order to comply with the HBA. Act 160 only controls areas adjacent to interstates and federal-aid primary (FAP) highways and is enforced and administered by the individual PennDOT districts. Under Act 160, all signs within the 660 foot control area, extending from either side of a highway right-of-way must meet lighting safety standards and cannot in any way impair a driver’s vision. Additionally, no sign within the control area can be attached to trees, painted on rocks, or obstruct the driver’s view of official signs or approaching traffic.

Act 160 makes a significant distinction between on-premises and off-premises signs. On-premises signs are not required to get a state permit although they must still meet state standards for size and placement and must meet local sign control regulations. The goal of Pennsylvania’s Act 160 is to limit off-premises signs to commercial and industrial areas. Off-premises signs along designated highways require both a local and state permit and are subject to additional regulations for size, spacing, and location according to whether the sign is in an urban or rural area.<sup>10</sup>

### **Pennsylvania’s Designated Scenic Byways**

Pennsylvania state law designates scenic byways that are subject to rules under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), including a prohibition on the erection of any new signs. Specifically, Pa. Title 74 prohibits “outdoor advertising devices” from being erected within 660 feet of the nearest edge of the right-of-way of a designated scenic byway, or more than 660 feet from the ROW (outside of urban areas) if the sign is visible and meant to be viewed from the main traveled way of the scenic byway. Exceptions are provided for official signs, on-premises signs, and directional signs.<sup>11</sup>

<sup>9</sup> Pennsylvania Department of Community and Economic Development, 2009

<sup>10</sup> Outdoor Advertising Control: A History and Overview of the Federal Outdoor Advertising Control Program, 1997.

<sup>11</sup> PA Title 74. Traffic; Chapter 83. Scenic Byways.



Scenic byways are designated based on their outstanding scenic, historic, natural, recreational and archeological characteristics and qualities and because of opportunities for economic development and tourism.<sup>12</sup> There are two designated scenic byways in Montgomery County: the Blue Route (Interstate 476 from Interstate 95 to Interstate 276) and U.S. Route 202 Parkway from State Route 63 (Welsh Road) to State Route 611.<sup>13</sup>

### State Law Pertaining to Posting on Utility Poles

State law prohibits the attachment of metal or hard substances to any public utility pole or the application of nails or tacks to any public utility poles.<sup>14</sup> Exceptions allow for the public utility or its licensee to affix markers and for the erection of traffic signs by a municipality when authorized by statute or by the owner of the utility poles. Specific utility companies may have more stringent regulations regarding what can be posted on their utility poles.

### General Legal Issues Regarding Sign Regulation

#### Exclusionary Zoning

While municipalities have the right to regulate signs in accordance with police power, a zoning ordinance may be challenged if it is deemed to be exclusionary. Sign regulations within a zoning ordinance may be found exclusionary if either the ordinance excludes a particular type of sign completely (*de jure* exclusionary) or if an ordinance permits a certain type of sign on its face, but erection of that sign would be impossible due to the conditions established in the ordinance (*de facto* exclusionary).<sup>15</sup> In *Norate Corp., Inc. v. Zoning Bd. Of Adj.* (1965), the Supreme Court of Pennsylvania determined that an ordinance banning all off-premises signs was too broad and unreasonable. This is an example of an regulation that is *de jure* exclusionary.<sup>16</sup>

<sup>12</sup> PA Title 74. Traffic; Chapter 83. Scenic Byways.

<sup>13</sup> PA Title 74. Traffic; Chapter 83. Scenic Byways.

<sup>14</sup> PA Title 18. Crimes and Offenses; Chapter 69. Public Utilities; §6905. Nails and other hard substances attached to utility poles.

<sup>15</sup> Twp. of Exeter v. Zoning Hearing Bd., (2009).

<sup>16</sup> McGrory



*State law prohibits the application of nails or tacks to any public utility pole. Individual utility companies may have more stringent regulations regarding what can be posted on the utility poles.*

#### Police Power

A community's "police power" is its obligation as a local government to protect the health, safety, and general welfare of its citizens. "Police power," or the authority to regulate real estate development in order to protect the public health, safety, and welfare, is granted to local governments by state enabling legislation.

#### Case Law Take Away

In *Norate Corp., Inc. v. Zoning Bd. Of Adj.* (1965), the Pennsylvania Supreme Court ruled that prohibiting all off-premises signs was too broad and unreasonable.

The issue of *de facto* exclusion was addressed by the Pennsylvania Supreme Court in *Twp. of Exeter v. Zoning Hearing Bd.* (2009), in which an outdoor advertising business challenged a sign ordinance that prohibited off-premises signs exceeding 25 square feet in size. The Zoning Hearing Board for the Township of Exeter found the evidence provided by the challenger to be substantial in showing the size limitation was *de facto* exclusionary, and that the Township failed to demonstrate that this regulation was substantially related to public health, safety, and welfare. While the Pennsylvania Supreme Court upheld the Board's decision, it rejected the notion that setting a maximum size limit for billboards that is less than the "industry standard" constitutes a *de facto* exclusion of billboards.<sup>17</sup>

If a challenger to a regulation can overcome the presumed validity of the ordinance by showing the ordinance is exclusionary, then it becomes the responsibility of the municipality to provide evidence that the regulation in question is substantially related to the public health, safety, and welfare. With the exception of municipalities who are a part of regional planning organizations, municipalities should avoid enacting exclusionary sign regulations or be prepared to meet the burden of proof that the regulation substantially relates to the municipality's public health, safety, and welfare.

### Free Speech

The First Amendment of the Constitution states that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . . ." While signs are a form of expression protected by the Free Speech Clause of the Constitution, the Supreme Court has held that they are subject to reasonable time, place, and manner restrictions that serve a significant governmental interest and leave open ample alternative channels for communication.<sup>18</sup>

In the Supreme Court case, *City of Ladue v. Gilleo*, the court ruled a sign ordinance invalid that prohibited a resident from posting a noncommercial sign on her private property stating a position on a political issue. Although the City argued the ordinance's intent was to limit the visual clutter associated with such signs, the court found that the City's "attempt to justify the ordinance as a 'time, place, and

<sup>17</sup> *Twp. of Exeter v. Zoning Hearing Bd.*, (2009).

<sup>18</sup> McGrory

### Case Law Take Away

In *Twp. of Exeter v. Zoning Hearing Bd.* (2009), the Pennsylvania Supreme Court rejected the notion that setting a maximum size limit on billboards that is less than the "industry standards" constitutes a *de facto* exclusion of billboards.

manner' restriction [failed] because alternatives such as handbills and newspaper advertisements are inadequate substitutes."<sup>19</sup> The Court concluded that more temperate measures could be used to satisfy the need to regulate signs without unduly restricting the First Amendment rights of citizens.

To address free speech concerns of sign regulation, this model ordinance exempts personal expression signs from permit requirements. Personal expression signs are defined in the ordinance as "an on-premises sign that expresses an opinion, interest, position, or other non-commercial message." Generally, non-commercial speech receives much greater protection under the First Amendment than commercial speech.<sup>20</sup> Personal expression signs are permitted on any private property, provided they do not exceed three square feet in size, and are non-illuminated. These restrictions are aimed to address reasonable time, place, and manner issues, particularly the issue of place (private property) and manner (size limit of three square feet and illumination controls).

The model ordinance allows an unlimited number of these signs on a property and places no restrictions on the length of time such signs may be displayed. While municipalities may wish to impose further limits on the number of personal expression signs permitted per property, municipalities should seek legal guidance on this issue and give careful consideration to additional regulations. For example, imposing a limit of two personal expression signs per property may have the effect of limiting a property owner to expressing views on only two issues or showing support for only two political candidates.

### Content-Neutrality

Similar to the issue of free speech discussed above, content-neutrality is an important concern in the First Amendment principles of sign regulation. While courts have ruled that signs are subject to reasonable time, place, and manner restrictions, recent court decisions have determined that sign ordinances attempting to regulate the content of speech will face the highest level of scrutiny.<sup>21</sup> The issue of content-neutrality was raised in the case, *Metromedia, Inc. v. City of San Diego*, in which the City of San Diego exempted certain signs that were defined by their content. The Court struck down the

<sup>19</sup> *City of Ladue v. Gilleo*, (1994)

<sup>20</sup> McGrory

### Case Law Take Away

In *City of Ladue v. Gilleo*, the Supreme Court ruled that a prohibition of non-commercial residential signs violated the First Amendment rights of homeowners because it restricted the display of political, religious, or personal messages on their own property.

exemptions as content-based because it held that the exemptions discriminated between different signs because of their content.<sup>22</sup>

Since the *Metromedia* case did not result in a majority opinion by the Supreme Court, some federal courts, including the United States Court of Appeals for the Third Circuit, which includes Pennsylvania, have not considered themselves bound by the opinion. The Third Circuit developed its own approach for use in challenges to sign regulations on first amendment issues in the case, *Rappa v. New Castle County*, and determined that a law that makes exceptions for certain signs based on content may be acceptable where there is a significant relationship between the sign and the property where the sign is located.<sup>23</sup> The Court noted that the distinction cannot be made in an attempt to censor certain viewpoint or to control what issues are appropriate for public debate and that the regulation must still be justified by a compelling government interest and use the least restrictive means to achieve that interest.<sup>24</sup> For example, the Court noted that a sign conveying information about the speed limit or a rest stop is more important along a highway than a sign containing information about a political election.<sup>25</sup>

Content-neutrality is an important consideration for many communities. Some municipalities may prohibit electronic signs, but make exceptions for “time and temperature signs” or exempt “barber shop poles” from a regulation that prohibits “rotating signs”. Many sign ordinances also make distinctions on the limits of display for certain types of temporary signs according to content; for example, permitting contractor signs to be displayed for the duration of a construction project but limiting political signs to a period of 30 days. This model sign ordinance strives to achieve content-neutrality and avoid making exceptions or regulation signs according to content. For example, the model ordinance does not distinguish between political signs or contractor signs. Non-permanent signs are not defined according to the message of the sign, but by their non-permanent status, and are regulated based on size, height, and type.

<sup>21</sup> Weinstein (2002)

<sup>22</sup> Mandelker (2001)

<sup>23</sup> McGrory

<sup>24</sup> Weinstein (2002)

<sup>25</sup> *Rappa v. New Castle County* (1994)

### Case Law Take Away

*Metromedia, Inc. v. City of San Diego* struck down exemptions in a sign ordinance because the exemptions were content-based.

The U.S. Court of Appeals for the Third Circuit (which includes Pennsylvania) upheld the importance of content-neutral sign ordinances in *Rappa v. New Castle County* but established allowances for regulations in which there is a significant relationship between the content of the sign and the property where the sign is located.

## Trademark Protection

Court decisions are mixed on whether businesses with registered trademarks protected under the Lanham Act can be required to alter the registered trademark in order to comply with sign ordinance regulations. Since some courts have ruled that requiring changes in coloring or design of a sign does violate the Federal Lanham Act, the model sign ordinance does not include any standards regulating the color, font, or other design factors of sign content.

## Amortization of Nonconforming Signs

Amortization is a process used to bring existing land uses and structures into compliance with current regulations by establishing a time period a nonconforming use or structure can remain in use before its termination. While several states have upheld the practice of amortization, the Pennsylvania Supreme Court found amortization to violate the state's constitution. In the 1992 case, *Pennsylvania Northwestern Distributors, Inc. v. Zoning Hearing Board of Moon Township*, the Court ruled that amortization of a nonconforming use constituted a taking of property without just compensation.

While amortization cannot be used by Pennsylvania municipalities in, the model sign ordinance does require nonconforming signs to be brought into conformance with current regulations in several situations, including if the sign is removed, relocated or significantly altered, if the sign is more than 50% damaged, if the property submits a subdivision or land development application, or even if type of illumination on the sign is proposed to change.

<sup>21</sup> Weinstein (2002)

<sup>22</sup> Mandelker (2001)

<sup>23</sup> McGrory

<sup>24</sup> Weinstein (2002)

<sup>25</sup> Rappa v. New Castle County (1994)

### Case Law Take Away

Although court cases are mixed, sign codes that require the alteration of a registered trademark to comply with sign regulation may be in violation of the Federal Lanham Act.

### Case Law Take Away

In *Pennsylvania Northwestern Distributors, Inc. v. Zoning Hearing Board of Moon Township*, the Pennsylvania Supreme Court ruled that amortization of nonconforming signs violated the state constitution.



*types of signs*

*Part*

*4*

Part 4 provides detailed information about all of the different sign types regulated by the Model Sign Ordinance.



## Non-Permanent Signs



## Portable Signs



## On-Premises Freestanding Signs



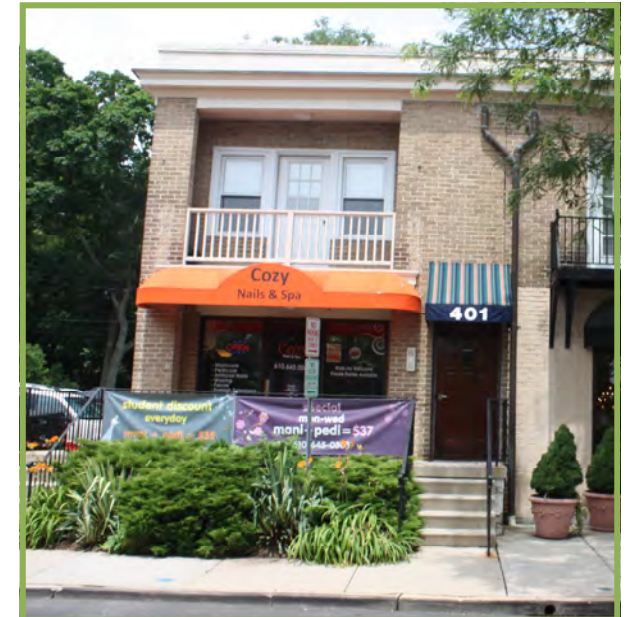
## Off-Premises Signs (Billboards)



## Building Signs



## Banners and Flags



## Non-Permanent Signs

**Non-permanent signs** are signs that are not intended for permanent installation and are often referred to as temporary signs. These types of signs often display a message that is temporary in nature and relates to a specific event or occurrence. Examples of non-permanent signs include a banner advertising a sale or promotion at a retail establishment, or a lawn sign promoting a particular candidate for an election.

While all non-permanent signs are similar in that they are not permanently affixed or installed, some non-permanent signs may require longer periods of display in order to effectively convey their message. This ordinance distinguishes between two types of non-permanent signs in order to allow for the different needs of this sign type. These two types of non-permanent signs are **limited duration signs** and **temporary signs**.

- **Limited Duration Signs** are a type of non-permanent sign that can be displayed on private property for greater than 30 days, but are not intended to be displayed for an indefinite period. Limited duration signs require a sign permit, which is valid for up to one year, and can be renewed annually.
- **Temporary Signs** are a type of non-permanent sign that can be displayed on private property for not more than 30 consecutive days, up to twice per calendar year. Temporary signs do not require a permit.

Both limited duration and temporary signs are restricted according to the type of the sign (wall, freestanding, etc.), height, size, and the number permitted per property.

### Regulation Issues:

The rationale for establishing and regulating two types of non-permanent signs in the model ordinance is to ensure that the regulations remain content neutral. The distinction between limited duration and temporary signs allows municipalities to regulate non-permanent signs requiring longer display times, such as those containing real estate information, without having to regulate non-permanent signs according to their individual message.

The model sign ordinance establishes limits on the size, height and number of both limited duration and temporary signs that can be displayed on any one property.

To help enforce the time limitations for the display of temporary signs, the model ordinance requires all temporary signs to show the date the sign was posted in the bottom right-hand corner of the sign. Temporary signs that are displayed for more than 30 days from the posted date can be removed by municipal authorities.



types of signs

model sign ordinance

## Portable Signs

**Portable signs** are signs that are designed to be transported or moved and are not permanently attached to the ground or a structure or building. Portable signs differ from non-permanent (limited duration and temporary) signs in that they are intended to be displayed indefinitely, but can be easily transported and displayed in more than one location. Portable signs are limited in their display based on the time of day in relation to the business' hours of operation, rather than the number of days permitted for display.

There are two very different common types of portable signs: **sandwich board signs** and **vehicular signs**.

- **Sandwich Board Signs** are signs that typically consist of two faces connected and hinged at the top and have a message targeted to pedestrians. They are also commonly referred to as **A-frame signs**.
- **Vehicular Signs** are signs affixed to parked vehicles that are used primarily or solely for advertisement. They are also commonly referred to as **mobile billboards**.

### Regulation Issues:

When regulating portable signs it is appropriate to limit illumination and hours of display. Portable signs should also be placed indoors during inclement weather, overnight, or whenever the business is closed, so as to reduce hazards to pedestrians and others.

The model sign ordinance includes specific regulations for sandwich board signs, including standards for height and placement of the sign on the sidewalk or walkway.

Vehicular signs and mobile billboards are subject to regulations found in the municipality's vehicular code when in use on public roadways.



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## On-Premises Freestanding Signs

**On-premises freestanding signs** are signs that are supported by structures or supports that are placed or anchored in the ground, are detached from any building or structure, and whose message and design relate to an activity, business, product, etc. on the same property where the sign is located. On-premises freestanding signs are typically grouped into the following categories:

- **Ground Signs** are freestanding signs permanently affixed to the ground and supported entirely by a base structure. They are also commonly referred to as **monument signs**.
- **Pole Signs** are freestanding signs permanently supported by a structure of one or more poles, posts, uprights, or braces from the ground.

### Regulation Issues:

On-premises freestanding signs are typically the most prominent sign type for a business or establishment, especially in suburban environments where buildings may be set back further from the street.

Sign area, vertical clearance, height, and illumination are all important considerations when regulating on-premises freestanding signs.



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## Building Signs

**Building signs** are signs that are attached to and supported by a building; whether it is the wall, window, or roof of the building. The model ordinance regulates the following types of building signs separately:

- **Awning Signs** are signs that are painted on, or affixed to, an awning structure. An awning is a non-structural covering that projects from a wall, usually for the purpose of shielding a doorway or window.
- **Canopy Signs** are signs that are part of, or attached to, a canopy structure. A canopy is a structure that is affixed to a building and carried by a frame that is supported by columns or posts affixed to the ground.
- **Marquee Signs** are signs attached to a marquee structure. A marquee is a permanent structure that is attached to, supported by, and projecting from a building, usually for the purpose of providing protection from the elements.
- **Projecting Signs** are building-mounted signs with sign faces that are generally perpendicular to the building wall. They are also commonly referred to as **blade signs**.
- **Roof Signs** are building-mounted signs erected upon, against, or over the roof of a building.
- **Wall Signs** are building-mounted signs that are attached to or painted on an exterior wall so that the sign faces are generally parallel to the building wall. A sign installed on a false or mansard roof is also considered a wall sign. Some other common terms for wall signs include **fascia sign**, **parallel sign**, and **band sign**.
- **Window Signs** are signs applied, painted, or affixed to a window. Signs that are placed inside a window, within three feet of the glass, facing outside the building, and are easily seen from the outside are considered window signs as well. Customary displays of merchandise behind a store window are not considered window signs.

### Regulations Issues:

There are several types of building signs that when scaled appropriately and designed as a package can contribute to an attractive streetscape and commercial district.

Safety and aesthetics issues such as vertical clearance, height, projection from the wall, and percentage of window area covered should be considered when regulating building signs. The model ordinance provides guidance on how to adjust these standards for different scales of commercial districts within your community.





types of signs

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## Off-Premises Signs (Billboards)

**Off-premises Signs** are signs with a message that directs attention to a specific business, product, service, event, activity, or other commercial or non-commercial activity, or contain a message about something that is not sold, produced, manufactured, furnished, or conducted on the premises where the sign is located. These types of signs are also commonly referred to as **billboards** or **outdoor advertising signs**.

### Regulation Issues:

Several state and federal court cases have helped to shape the policy for off-premises signs in Pennsylvania. One lesson learned from these cases is that ordinances regulating off-premises signs should be carefully crafted to include things such as purpose statements specific to the municipality and well-reasoned and grounded motivations for sign controls. Strong sign controls should be tied to the issues of health, safety, economic development, community aesthetics, and public welfare.

While some municipalities, especially those who are members of regional planning organizations, have been successful in prohibiting off-premises signs completely, strong standards regulating the size, height, and location of off-premises signs can be effective methods for limiting the negative impacts often attributed to billboards.

In addition to standards controlling the placement, location, and illumination of off-premises signs, the model ordinance ties the maximum size of an off-premises sign to the posted speed limit of the roadway along which the sign is placed, thereby establishing a rational basis for the regulation.



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## Banners and Flags

**Banners** are signs made of any cloth, bunting, plastic, paper, or similar non-rigid material attached to any structure, staff, pole, rope, wire, or framing which is anchored on two or more edges or at all four corners. While similar in nature, **flags** are defined as signs printed or painted on cloth, plastic, canvas, or other like material with distinctive colors, patterns, text or symbols, and attached to a pole or staff anchored along only one edge or supported or anchored at only two corners.

Although the primary distinction between these two sign types is made according to how each is physically hung and displayed, the model also establishes very different regulations for banners and flags. In the model ordinance, flags are exempt from permit requirements, but are limited in terms of size, height, and the number permitted per property. Banners, however, are considered a type of temporary sign and are limited to display periods of no more than 30 consecutive days, twice per calendar year.

### Regulation Issues:

An important aspect of the model ordinance is its emphasis on creating content-neutral regulations, this remains true for flags and banners.

While many flags are often representative of a government or other non-commercial entity or message, the ordinance does not define flags according to content. All flags, including government flags are limited in the number per property, size, and height. While flags are permitted to contain both non-commercial and commercial messages, flags that contain commercial messages or advertising are counted towards a commercial property's total allowable sign area.

Unlike flags, banners are considered to be temporary in nature and are regulated by the section of the ordinance governing non-permanent signs. Banners are also limited in terms of size, height, and number per property, but are additionally limited to a display period of no more than 30 consecutive days, up to twice per year.

Like all other sign types, any flag or banner that is three square feet or smaller and that does not contain commercial messaging is considered a personal expression sign and is therefore exempt from all permit requirement and does not count towards the property's total allowable sign area.



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## Prohibited Signs

There are some sign types that should generally be prohibited due to their tendency to disproportionately distract drivers, detract from a desirable community character, and reduce the effectiveness of allowed signage through visual clutter and confusion. In general animated, flashing, reflective, and rotating signs or signs that incorporate other mechanical movements are prohibited. The model ordinance also prohibits pennants, streamers, festooning, and beacon lighting. Also, interactive signs that react to the behavior or electronic signals of motor vehicle drivers are prohibited. Here are several other examples of signs that should be generally prohibited:

- **Snipe signs** are signs that are tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, street lights, or other objects, or placed on any public property or in the public right-of-way. The model ordinance prohibits the placement of signage without the property owner's permission which should also reduce the amount of snipe signs present in a community. These types of signs are also commonly referred to as **bandit signs**.
- **Inflatable signs** are signs in the form of air-inflated objects of various shapes that are made of flexible fabric and placed on the ground or a structure. By changing the rate of air being blown into the object, the objects can appear to be moving increasing the sign's likelihood of unreasonably distracting drivers or passersby.
- **Abandoned signs** are signs which have not identified or advertised a business, service, owner, product, or activity for a period of at least 180 days (for off-premises signs) and 360 days (for on-premises signs). Abandoned signs are commonly un-maintained and therefore pose an increased threat of becoming unsafe and should be removed. Additionally, abandoned signs that no longer contain a message contribute to the visual clutter of a community.

### Regulation Issues:

Creating content-neutral regulations should be an important consideration when deciding which sign types will be prohibited in the sign ordinance. Municipalities must be careful not to create content-specific sign regulations by providing exceptions for prohibited signs that display certain types of information.

For example, zoning codes should not prohibit electronic or digital signs, but exempt "time and temperature" signs from this regulation. Similarly, ordinances that prohibit rotating or mechanical moving signs, but exempt "barbershop poles" from this rule may open the zoning code up to a legal challenge.



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*sign regulations by  
zoning district*

*Part*

*5*

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Part 5 describes how sign regulations may differ based on the character of the zoning district in which they are located. Not all sign types are appropriate for all zoning districts and the size and illumination of the sign should also vary based on the scale and character of the zoning district in which it is located.



*Sign for Willow Creek Farm Market*

## Agricultural, Rural, and Open Space Districts

Agricultural, rural, and open space lands contribute to the visual character of Montgomery County. The model sign ordinance offers regulations for this type of zoning district that help to preserve the district's rural character by setting relatively low limits on sign area and sign height.

The model sign ordinance suggests that off-premises signs (billboards) be allowed in rural districts but the municipality could choose to set further limits on the location of the off-premises signs. For example, if a major highway runs through the municipality, the municipality could choose to allow off-premises signs only within 250 feet of the right-of-way of the major highway.



*Home occupation sign in Red Hill Borough*



*Residential development sign in West Norriton Township*

## Residential Districts

The model sign ordinance aims to preserve the non-commercial character of residential districts while allowing adequate signage for common uses in residential districts, including home occupations and residential developments

It is important to keep in mind that the model sign ordinance also allows for personal expression signs, flags, and address signs without a permit (See Model Ordinance Section 5. Signs Exempt from Permit Requirements). The standards in the residential district section apply to all residential uses in other districts, as well.



*Freestanding sign for a church in Valley Forge*



*Wall Sign at Arcadia University*

## Institutional Districts

The institutional district regulations for the model sign ordinance were written to properly accommodate the signage needs of a range of institutional uses, from a small church or fire house to larger institutions such as a hospital or university.

The total allowable sign area for wall, projecting, window, and awning/canopy signs is relative to both the size of the parcel on which the building is located, and the total wall area of the building the sign is attached to. This language is meant to reflect the signage needs of institutions that may have multiple buildings on a single parcel or may have internal walkways rather than frontage onto public roadways. The standards in the institutional district section apply to all institutional uses in other districts, as well.



## Main Street Districts

The model ordinance offers optional signage regulations for a Main Street district that the municipality can incorporate, if appropriate to their community. Borough commercial, village commercial or traditional shopping districts are all examples of areas that may benefit from the Main Street signage guidelines in this model sign ordinance. Main Street districts are typically walkable districts where store frontages are smaller, commonly built in row-style, and are built-up to the sidewalk. Signage in this type of commercial district should be of a similar pedestrian-scale and orientation.

The model ordinance states that the maximum total area of all sign types for non-residential uses is limited to two square feet of sign area per one linear foot of building frontage that faces a public street or parking lot. This total sign area can then be distributed by sign type to adequately and creatively identify the business using wall, window, projecting, and awning/canopy, as appropriate and subject to specific size and other limitations based on the sign type. Additionally, marquee signs are permitted up to 150 square feet in area.



sign regulations by zoning district

## Village Commercial Districts

The model sign ordinance also incorporates standards meant to address the unique characteristics of the County's numerous villages. Referred to as Village Commercial Districts in this model, these districts are traditional village areas that contain a mix of uses, including retail, office, institutional and residential. These areas typically have small separate buildings located close to each other but set back further from the street than buildings in Main Street districts. For these reasons, appropriately-scaled freestanding signs may be an appropriate sign type in village commercial districts.

Since village commercial districts are typically mixed with, or located in proximity to, residential uses; standards for the size, height, and illumination of signs are more limited than they are for general commercial districts.

Some examples of Village Commercial Districts in Montgomery County include areas of Gilbertsville along Philadelphia Avenue in Douglass Township, Historic Skippack Village, and Harleysville in Lower Salford Township.



sign regulations by zoning district

## General Commercial & Industrial Districts

Sign regulations for commercial and industrial districts would be applicable for any auto-oriented, less dense commercial areas in the community, as well as any business parks or industrial districts. Properties in these districts are typically larger parcels with buildings set back further from the road than properties in Main Street districts. For this reason, the model sign ordinance created a slightly lower multiplier, 1.5 square feet of sign area to 1 linear foot of building frontage, to determine the total permitted sign area. The total sign area can then be distributed by sign type to adequately identify the business using wall, window, projecting, awning/canopy, and freestanding signs, as appropriate and subject to specific size and other limitations based on the sign type.

The model sign ordinance also permits additional freestanding signs for gas stations and drive-thru establishments within the commercial and industrial district. Another sign type that may be appropriate, depending on the community, is upper-level corporate or building identification signs which are located on the top floor of larger office or commercial buildings.

The model ordinance permits off-premises signs, or billboards, in the commercial and industrial district. However, the municipality may choose to set further limits on the location of the billboards. For example, if a major highway runs through the municipality, the municipality could choose to allow off-premises signs only within 250 feet of the right-of-way of the major highway.



*digital signage and  
new technologies*

*Part*

*6*

Part 5 of this publication explains the many issues regarding digital signage, illumination, and new technologies.

## Digital Signage

The proliferation of digital signage and billboards over the past several years has raised the issue of how to best to regulate sign illumination. The digital technology being integrated into today's signs can take many forms. From the digital numeric symbols often used to display gasoline prices at gas stations to large digital billboards showing video advertisements, the way in which new digital technology is utilized can have a significant impact on the surrounding environment.

As the use of digital technology in signs has grown, communities have become increasingly concerned about the technology's impact on driver distraction and safety, the potential increases in compensation costs where eminent domain is used, and the environmental issues relating to both the energy consumption of digital signage and increased light pollution. Beyond the issues of safety and the environment, digital signs also have an impact on the community as these brightly illuminated and changeable signs can become an unwanted focal point in the landscape.

In spite of these concerns, digital technology, if appropriately regulated, can also provide numerous benefits to its users. Digital signage can allow multiple advertisers to share one sign structure and allow sign displays to be quickly and remotely changed. Commercial entities aren't the only beneficiaries of digital sign technology either. For many municipalities, the new technology provides a venue for communicating community events, information about municipal activities, emergency notifications, and other public service announcements.

As of the printing of this publication, Pennsylvania's state courts have not definitively ruled on the legality of outright prohibition of digital signs and billboards. There is one circumstance in Pennsylvania where outright prohibitions on specific land uses would be defensible – when a municipality is a member of a regional planning organization in which one or more other member municipality permits the prohibited use. In Montgomery County, municipalities participating in one of the County's four regional planning organizations should consider the regulations of the entire region when drafting new regulations for digital signage.



*Commercial and institutional uses are incorporating digital technology into their signs.*

With the exception of municipalities who are members of a regional planning organization, and therefore may have more flexibility in zoning for certain land uses, until the Pennsylvania Supreme Court rules on prohibition of digital sign technology, our model ordinance advocates that municipalities permit digital signs with reasonable restrictions such as brightness levels and hours of operation. Well-crafted regulations can help to mitigate the potential negative impacts of digital signs and increase the benefits of such signs to the community.

It is important to note that restrictions placed on the display of digital or electronic message signs should avoid distinctions based on the content of the sign. Many municipalities prohibit electronic signs but provide exceptions for signs displaying “time and temperature” or other similar information. While this type of regulation has yet to be challenged in the state of Pennsylvania, the Kentucky Supreme Court has held that this type of regulation is unconstitutional<sup>26</sup> and municipalities that make a content-distinction for these types of signs may open themselves up to a legal challenge.

## Types of Illumination

This model identifies four different types of sign illumination, each of which is regulated according to both the sign type used, and the zoning district in which the sign is located.

- **Internal:** A sign illuminated by a light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface.
- **External:** A sign illuminated with an artificial light, located away from the sign, and directed onto the sign face so that the message is visible in darkness.
- **Message Center Sign:** A sign that uses changing lights to form a sign message or messages using alpha-numeric symbols and wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. A common example is a gas price display sign.

<sup>26</sup> Flying J Travel Plaza v. Transportation Cabinet, Dep’t of Highways, 928 S.W.2d 344 (Ky. 1996)



*Internally illuminated sign*



*Externally illuminated sign lit from below*



*Externally illuminated sign, lit from above*

- **Digital Display:** A display of a sign message that is made up of internally illuminated components that display an electronic image, which may or may not include text and is capable of changing the message periodically. Digital Displays may include but are not limited to television screens, holographic displays, programmable ink, LCD, LED, or plasma displays.

It is important to note that the model ordinance makes a distinction between message center signs and digital displays. While message center signs are limited to using alpha-numeric text to display a message; digital displays can incorporate pictures, text, and other images. The model ordinance recognizes that the impact of electronically-illuminated gasoline prices on a gas station freestanding sign is likely to be different from that of a full-color digital advertisement on a billboard. This distinction is meant to recognize that certain types of illumination are more appropriate for certain locations than others, without unduly restricting all digital technology.

## Illumination Issues

The model ordinance includes regulations for all types of illumination that address the following issues:

- **Hours of Operation:** All illuminated signs, both digital and non-digital, may be illuminated from 5 am until 11 pm, or until ½ hour past the close of business of the facility being identified or advertised, whichever is later. A business or facility that is open 24 hours a day is not required to turn off their signs.
- **Display Change Frequency:** The model ordinance states that message center signs and digital displays cannot contain a message which flashes, pulsates, moves, or scrolls. Each message must transition instantly. The length of time each message can be displayed is based on the visibility and speed limit unique to the individual sign and adjacent road conditions (see equation in right hand side bar).
- **Default Display:** In the case of malfunction, digitally-illuminated signs are required to contain a default design to freeze the sign message in one position.
- **Public Service Announcements:** Owners of message center signs and digital displays are required to coordinate with local authorities to display, when appropriate, emergency information im-

### Minimum Display Duration:

This equation can be used to determine the minimum message duration (in seconds) and is based on the length of time it will take a car to pass the sign, starting when the sign first becomes visible.

$$\text{Minimum Duration} = \frac{\text{Visibility Distance (ft)}}{\text{Speed Limit (ft/s)}}$$

A detailed explanation of the minimum display duration calculation is provided in Appendix II.



Message center sign



Digital display sign

portant to the traveling public, including Amber Alerts, Silver Alerts, and weather or other emergency information.

- **Brightness:** The model ordinance establishes brightness limits for message center signs and digital displays. The ordinance limits luminance to 5,000 nits (candela per square meter) between sunrise and sunset and up to 250 nits during nighttime hours. These signs are required to employ a light sensing device that can automatically adjust the brightness of the display within the limits described above.

This model measures brightness for electronic signs in terms of luminance, which is measured in units of footcandles or lux, rather than illuminance. While illuminance measures the amount of light falling onto a surface, luminance measures the perceived brightness of a surface and is a more appropriate standard for surfaces that emit light, as electronic signs do.<sup>27</sup> The luminance limits of 5,000 and 250 nits were chosen to help ensure that electronic signs are not significantly brighter than non-electronic signs. A luminance of 5,000 nits will result in surface brightness similar to non-digital signs that are illuminated during daylight hours by the sun.<sup>28</sup>

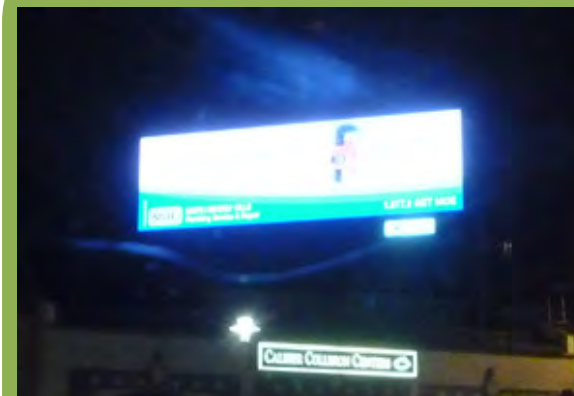
The model's suggested nighttime luminance level of 250 nits is based on recommendations from several lighting studies that have analyzed the brightness levels of static billboards have determined that the majority of surveyed signs have nighttime luminance levels of less than 150 nits.<sup>29</sup> Additionally, the nighttime levels are in accordance with the Illuminating Engineering Society of North America (IESNA) Lighting Handbook, which recommends a maximum nighttime sign luminance of 250 nits for brightly lit areas and 125 nits in low-light settings.<sup>30</sup> Rural municipalities with minimally illuminated roadways may want to consider a lower nighttime luminance levels than what is recommended in the model ordinance.

<sup>27</sup> Illinois Coalition for Responsible Outdoor Lighting, 2010.

<sup>28</sup> Illinois Coalition for Responsible Outdoor Lighting, 2010.

<sup>29</sup> Illinois Coalition for Responsible Outdoor Lighting, 2010.

<sup>30</sup> DiLaura, Houser, Mistrick, & Steffy.



*Is this off-premises sign too bright?*

*Photo credit: Randy Grider.*



*Digital signs that are interior to a site or sporting facility are not subject to the same restrictions as digital signs directed at vehicular drivers.*

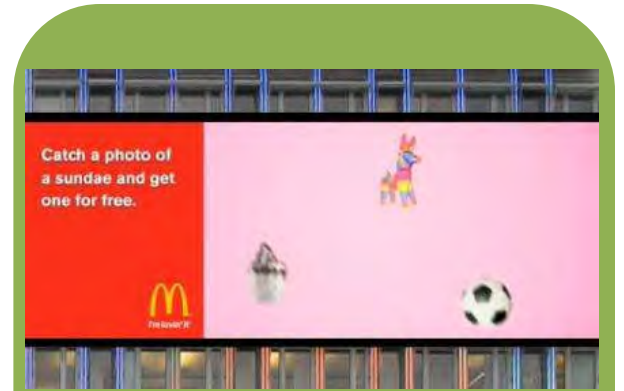
A potential drawback to the use of luminance as a measurement standard is the high cost of luminance meters, which are used to measure brightness and are typically more expensive than a footcandle meter. Municipalities that prefer to adopt brightness limits for electronic signs using an illuminance standard, should consider a regulation that limits the brightness of a sign to no more than 0.3 footcandles above ambient light levels, as measured at 150 feet from the sign.<sup>31</sup>

Regardless of the measurement standard used, municipalities should include provision that require the owner of any illuminated sign to arrange for a certification by an independent contractor showing compliance with brightness standards as a condition of a sign permit.

## New Technologies

Sign technology is continuing to advance and “interactive” signs and billboards are already being used in countries around the world. Interactive signs may encourage viewers to take pictures of the sign or send a text message to a specific number in hopes of winning a prize. Others may change the display based on the person or vehicle passing by. These interactive signs react to the motion or electronic signal of passing vehicles, creating an even greater safety concern. In anticipation of this technology, this model ordinance encourages municipalities to prohibit interactive signs, along with other unsafe activities, including signs that flash or scroll text, use animation, or emit noise.

<sup>31</sup> Lewin.



*An example of an interactive billboard encouraging viewers to take a picture of the advertisement.*

*Photo credit: McDonalds, adweek.blogs*





*sign ordinance  
administration and  
enforcement*

*Part*

*7*

Part 7 provides more information about how to administer and enforce a sign ordinance.

Administration and enforcement of sign ordinances is increasingly complicated by the proliferation of new sign types and technologies, as well as the increasing use of non-durable sign materials that are both affordable and easy to erect (*e.g.*, banners, window stickers, streamers, flags). Given the dynamic nature of signs, enforcement of a sign ordinance can be onerous, as municipal officials will need to dedicate time and resources to monitoring properties and maintaining up-to-date records of sign permits.

Limited municipal staff time can result in reactionary enforcement that is driven as the result of complaints, gross or frequent abuse of sign regulations, or other code enforcement issues that arise, rather than regular monitoring by code enforcement officials. While municipalities have different ways of handling, organizing, and monitoring signs, efforts should be made to maintain organized records that include sign permit information and pictures of the property. These pictures should be taken upon completion of a new development, or for older properties, efforts should be made to build a photo inventory during routine monitoring.

Sign permit information and photos can be organized together based on street address or the zoning district that the property is located in. Alternatively, detailed sign permit information could be stored within individual property record files. Regardless of how the information is organized, well-maintained records can help municipalities monitor conditions and keep track of changes to signage over time.

