

NOT RECOMMENDED FOR PUBLICATION

File Name: 21a0585n.06

No. 21-1323

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

OUTDOOR ONE)	
COMMUNICATIONS, LLC,)	ON APPEAL FROM
)	THE UNITED
Plaintiffs-Appellants,)	STATES DISTRICT
)	COURT FOR THE
v.)	EASTERN DISTRICT
CHARTER TOWNSHIP)	OF MICHIGAN
OF CANTON, Michigan,)	
)	(Filed Dec. 16, 2021)
Defendant-Appellee.)	

Before: DONALD, THAPAR, and LARSEN, Circuit Judges.

LARSEN, Circuit Judge. The plaintiff in this case, a billboard company, believes that a local sign ordinance imposes unconstitutional content-based restrictions on speech. There's just one problem: the sign it wants to erect is too big, and that's why it wasn't allowed to build it. Even if the company were able to prove that most of the ordinance is unconstitutional, its sign would still be barred by size restrictions it doesn't challenge. In like cases, we have repeatedly held that the plaintiff lacks standing. *See Prime Media, Inc. v. City of Brentwood*, 485 F.3d 343, 353 (6th Cir. 2007); *Midwest Media Prop., LLC v. Symmes Township*, 503 F.3d 456, 461 (6th Cir. 2007). Therefore, we AFFIRM the judgment of the district court.

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I.

Outdoor One Communications LLC (Outdoor) is a billboard company in Michigan. Outdoor's billboards carry all sorts of content, from commercial advertisements to political and religious messages. On March 13, 2020, Outdoor applied for a sign permit in Canton Township, Michigan for the construction of a permanent digital billboard, mounted in the ground, that would cover 360 square feet and reach 30 feet high. Ten days later, Canton's Department of Building and Inspection Services denied the application under § 6A.24 of the local sign ordinance because the sign "[e]xceed[ed the] size and height allowed." The ordinance limits the height of billboards to 12 feet and their area to 160 square feet. Canton Charter Township, Mich., Code of Ordinances § 6A.24.

Outdoor didn't appeal the denial of the permit or ask for a variance. Instead, it sued, challenging the Canton sign ordinance under the First Amendment. First, it claimed that the ordinance contained multiple content-based restrictions. It pointed to the billboard classification in § 6A.24, which created an on-premises/off-premises distinction. And it said that some signs, like political signs, were exempted from the permit requirement entirely. Second, it claimed that the ordinance was an unconstitutional prior restraint because some signs required government approval through the permit process. Finally, it claimed that the ordinance was unconstitutionally vague.

Canton moved to dismiss the complaint for failure to state a claim and lack of subject matter jurisdiction, arguing that Outdoor hadn't challenged the size restrictions and lacked an injury as to the other ordinance provisions. The district court responded by giving Outdoor a chance to amend its complaint. However, Outdoor declined to amend and instead relied on its pleadings to respond to the motion to dismiss. Outdoor also moved separately for summary judgment based on its unamended complaint and accompanying brief.

Ultimately, the district court denied the motion to dismiss, finding that Canton had improperly relied "almost exclusively on cases decided at summary judgment." But the same day, the court also denied Outdoor's summary judgment motion and gave notice under Rule 56(f) of the Federal Rules of Civil Procedure that it would grant summary judgment to Canton on standing grounds unless Outdoor objected. Outdoor objected, but only with the cursory statement that it rested on its complaint and previous briefing. The district court initially struck the objection for being deficient but reinstated it after Outdoor filed a motion for relief. Outdoor appealed the district court's order granting summary judgment to Canton.

II.

A.

Outdoor brings a variety of as-applied and facial challenges to Canton's sign ordinance. But first it must

show constitutional standing. Though we often give broad latitude to facial challenges under the First Amendment, a plaintiff still “must establish that he has standing to challenge each provision of an ordinance by showing that he was injured by application of those provisions.” *Midwest Media*, 503 F.3d at 464 (quoting *Covenant Media of S.C., L.L.C. v. City of North Charleston*, 493 F.3d 421, 429-30 (4th Cir. 2007)).

At the summary judgment stage, Outdoor must demonstrate Article III standing by “a factual showing of perceptible harm.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 566 (1992). The plaintiff cannot rest on “mere allegations,” but must “set forth” by affidavit or other evidence “specific facts” demonstrating standing. *Id.* at 561. Standing has three elements. “The plaintiff ‘must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.’” *Buchholz v. Meyer Njus Tanick, PA*, 946 F.3d 855, 861 (6th Cir. 2020) (quoting *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016)).

Outdoor is clear about what it sees as its injury. It wants to “display[] its unique type of sign;” but it can’t do so because it lacks a permit. The denial of the sign permit, with the accompanying loss of advertising revenue, is a concrete and particularized injury that clearly meets the requirements of constitutional standing. Canton doesn’t contest that Outdoor has demonstrated an injury.

But Outdoor runs into trouble with the next two standing elements. It hasn't demonstrated that its injury—the inability to erect its sign—is “fairly traceable” to the challenged provisions or that it could be redressed. Outdoor challenges § 6A.24 as a general matter, but it doesn't attack the size and height restrictions of that section, the basis for the rejection of the permit; the sign was taller than 12 feet and larger than 160 square feet. (Perhaps Outdoor doesn't challenge the size restrictions because we have rejected such challenges before. *See Prime Media, Inc. v. City of Brentwood*, 398 F.3d 814, 818-21 (6th Cir. 2005).) Instead, Outdoor claims that § 6A.24 creates an unconstitutional content-based restriction on speech. Section 6A.24 applies only to “billboards,” which are defined as “ground sign[s] erected for the purpose of advertising a . . . subject not related to the premises on which the sign is located.” Ordinance § 6A.01(7). Whether this kind of on-premises/off-premises distinction warrants strict scrutiny is an issue currently pending at the Supreme Court. *See City of Austin v. Reagan Nat'l Advert. of Tex., Inc.*, 141 S. Ct. 2849 (2021) (granting certiorari).

The problem for Outdoor is that § 6A.24's allegedly content-based distinction didn't cause its injury. The size restrictions in § 6A.24 are *more* generous than those for all other ground signs, which are limited to an area of 50 square feet and a height of 6 feet. *See* Ordinance §§ 6A.12- 16. So even if Outdoor's sign had not been classified as a billboard, it still would have been denied. Its sign is too big to be a billboard (subject

to the premises distinction) and also too big to be any other kind of ground sign. Outdoor's injury is not "fairly traceable" to the on-premises/off-premises distinction. Absent that allegedly unconstitutional provision, Outdoor still could not build its sign.

This conclusion isn't novel. Indeed, our decision in *Midwest Media* squarely governs this case. There, as here, a local government rejected the plaintiff's signs pursuant to its sign ordinance; and, as here, each sign was too large. 503 F.3d at 458-60. Just as in this case, the plaintiff billboard company also challenged an on-premises/off-premises distinction, but we held that the alleged First Amendment injury was not redressable. *Id.* at 461-62. We explained that even if "our court invalidated [the content-based provisions] . . . the size and height restrictions still would preclude the township from approving the[] sign applications and thus still would preclude plaintiffs from erecting each of these signs." *Id.* When unchallenged size restrictions independently bar erecting a sign, the plaintiff lacks standing to challenge other provisions of a sign ordinance. Our sister circuits agree. *See id.* at 462 (collecting cases).

Outdoor also challenges § 6A.09, which exempts some signs from the permit requirement. *See* Ordinances § 6A.09. Outdoor's theory is that, because of its content, its sign was treated worse than the exempted signs. But this is wrong. Even if Outdoor's sign fit into an exempted category, it would still be too large. Most of the exempted sign categories under § 6A.09 have explicit size requirements. For example, real-estate signs

must not be larger than “six square feet in area, four feet in height in residential districts, and 24 square feet in area, six feet in height in office, commercial and industrial districts.” Ordinances § 6A.09(7). So, Outdoor has the same problem challenging those exemptions as it does § 6A.24; whatever category Outdoor’s sign might fall under, it would still be too big. *See Midwest Media*, 503 F.3d at 461-62.

Outdoor argues that two categories of exempted signs lack explicit size limitations: “political signs” and “holiday signs.” Ordinances § 6A.09(10-11). But both political and holiday signs are subject to size restrictions elsewhere in the code. Political signs must not “violate any other provision of [the] ordinance.” Ordinances § 6A.09(11). And with respect to both holiday and political signs, § 6A.04 states that, when inconsistency in the code cannot be avoided, “the most restrictive” provision shall control. So, if a political or holiday sign were also a “ground sign,” like the one Outdoor wants to erect—a sign “mounted permanently in the ground on a masonry base or monument,” *see* § 6A.01(17)—then the size restrictions for ground signs would still apply. *See* Ordinances §§ 6A.12-16. Holiday signs also have a time-limit; they must not be displayed for “more than 60 consecutive days” or “for more than 120 days in any one year.” Ordinances § 6A.09(10). So the reason Outdoor’s sign is not exempted is that it’s too permanent and too large, not that it has the wrong content. A large, permanent sign displaying a political or holiday message would face the same plight.

Consider the following: If Outdoor’s proposed sign advertised on-premises content, it would be classified as a ground sign and be too large. *See* Ordinances §§ 6A.12-16. If Outdoor’s sign had political content, it would still be a ground sign and still it would be too large. *Id.* If the sign had a holiday message, same story. And so on, no matter the content. Only if Outdoor’s sign were smaller or less permanent—say a yard sign or a banner—might the content-based restrictions sprinkled throughout Canton’s sign ordinance matter.

Outdoor argues that it has standing because Canton’s ordinance is “corrupted by a series of interconnected constitutional infirmities.” Outdoor points to cases, like *Reed v. Town of Gilbert*, 576 U.S. 155 (2015) and *Thomas v. Bright*, 937 F.3d 721 (6th Cir. 2019), where the “constitutional infirmities result[ed] from the interaction between” multiple provisions. So, it says the sign ordinance is “appropriately challenged in its totality.” But Outdoor ignores that, in those cases, the content-based categories actually mattered. For example, in *Reed* the Court noted that the church’s signs were “treated differently from signs conveying other types of ideas.” 576 U.S. at 164. In that case, all the interacting provisions of an ordinance could be challenged because the categorization caused an injury. Here, the categorization of Outdoor’s sign didn’t cause its injury; the sign was too big for any category.

B.

Next Outdoor claims that the ordinance acts as a prior restraint. And it argues that it has “immediate standing” to challenge a prior restraint under cases like *City of Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750 (1988). In *City of Lakewood*, the Court noted that “when a licensing statute allegedly vests unbridled discretion in a government official over whether to permit or deny expressive activity, one who is subject to the law may challenge it facially without the necessity of first applying for, and being denied, a license.” 486 U.S. at 755-56. But standing is not satisfied simply by pointing to *City of Lakewood*. “The requirement of an actual injury is not obviated by a prior restraint claim.” *Phillips v. DeWine*, 841 F.3d 405, 416 (6th Cir. 2016) (cleaned up); *see also Brammer-Hoelter v. Twin Peaks Charter Acad.*, 602 F.3d 1175, 1183 (10th Cir. 2010) (“[W]e conclude Plaintiffs do not have standing as to this alleged prior restraint. Plaintiffs have cited to nothing in the record indicating their speech or association was altered or deterred in any way by the code. . . .”); *Deeper Life Christian Fellowship, Inc. v. Sobol*, 948 F.2d 79, 84 (2d Cir. 1991) (“Because there is no discretion . . . to grant permits to religious groups, appellant’s alleged injury is not caused by a grant of unbridled discretion.”). To allege an injury for a prior restraint claim, the plaintiff must show that it is “subject to [the] prior restraint.” *Phillips*, 841 F.3d at 416 (quoting *Van Wagner Boston, LLC v. Davey*, 770 F.3d 33, 38 (1st Cir. 2014)). That is, the plaintiff must show that there is “speech [it’s] likely to engage in that

would require prior approval or otherwise be impeded under these provisions.” *Id.* Outdoor hasn’t alleged that its speech was altered or deterred by any prior restraint or that it was otherwise impeded by those provisions of Canton’s ordinance.

If Outdoor had alleged any such injury, it would doubtless have standing to challenge Canton’s ordinance. *See Prime Media*, 485 F.3d at 351 (“[T]he prospect of prior restraint and resulting self-censorship can itself constitute the required actual injury” under Article III.). But it hasn’t. Outdoor didn’t self-censor because of the prospect of the permitting process. It hasn’t refused to “yield[] to [the ordinance’s] demands.” *Shuttlesworth v. City of Birmingham*, 394 U.S. 147, 151 (1969) (quotation marks omitted). In fact, Outdoor went through the permitting process and was denied because its signs were too big. Nor has Outdoor alleged that it intends to construct other signs in the future and is, therefore, self-censoring. *See Midwest Media*, 503 F.3d at 462.

C.

Outdoor adds a vagueness challenge to the ordinance, but the challenge is vague itself. Outdoor claims that the procedures “for the acceptance of a sign permit application and issuance of a sign permit, combined with its content, speaker, and activity-based regulations renders the Sign Ordinance unconstitutionally vague.” Then it reiterates that it “has suffered and will continue to suffer financial and other harm because of

its inability to erect and use its proposed billboard.” Outdoor adds little to this in its subsequent briefing. It hasn’t moved past “mere allegations,” and hasn’t “set forth” by affidavit or other evidence “specific facts” demonstrating its standing. *Lujan*, 504 U.S. at 561.

If the vagueness emanates from the “content, speaker, and activity-based regulations,” then the vagueness hasn’t caused Outdoor any harm. Even if the categories were indistinguishable from each other, Outdoor would be unable to build its sign, which is too big for *every* category. Similarly, Outdoor isn’t harmed by the vagueness in the procedures for sign permit applications. Outdoor properly submitted its application and was denied.

Outdoor also tries to frame its claim as a facial challenge. If the entire ordinance were enjoined, Outdoor would get to build its sign. So Outdoor thinks that it has standing to challenge the whole ordinance at once, even if it was injured only by the size provisions. But this is a severability argument, not a magic wand to bypass standing. For a facial challenge, a “challenger must establish that no set of circumstances exists under which the Act would be valid.” *United States v. Salerno*, 481 U.S. 739, 745 (1987). Outdoor hasn’t claimed that the size restrictions in the ordinance are invalid under every set of circumstances, or even in its own circumstances. Indeed, it hasn’t challenged many provisions of the ordinance at all. Instead, it argues that we should first “find[] that the Sign Ordinance is content-based and declar[e] it unconstitutional;” having done that, we should not “then scour the Sign

Ordinance” to determine if other, constitutional, provisions would have blocked its proposed sign. Thus, the argument isn’t that all the provisions are unconstitutional, but that the separate, constitutional provisions cannot stand on their own. That’s severability.

The district court was right to consider severability along with standing. *See Advantage Media, LLC v. City of Eden Prairie*, 456 F.3d 793, 801 (8th Cir. 2006) (“The Supreme Court has incorporated severability analysis into standing determinations. . . .”); *Midwest Media*, 503 F.3d at 465 (“Because the size and height requirements are severable . . . the district court properly relied on those provisions in concluding that plaintiffs lacked standing to bring this lawsuit.”). And it was right to conclude that the size requirements in Canton’s ordinance are severable. The severability of a local ordinance turns on state law. *City of Lakewood*, 486 U.S. at 772. Michigan has “long recognized” that it “is the law of [the] State that if invalid or unconstitutional language can be deleted from an ordinance and still leave it complete and operative then such remainder of the ordinance be permitted to stand.” *In re Request for Advisory Op. Regarding Constitutionality of 2011 PA 38*, 490 Mich. 295, 345 (2011) (quotation marks omitted). Moreover, a severability clause creates a presumption of severability. *See Deja Vu of Nashville, Inc. v. Metro. Gov’t of Nashville & Davidson Cnty.*, 274 F.3d 377, 389 (6th Cir. 2001); *Alaska Airlines, Inc. v. Brock*, 480 U.S. 678, 686 (1987). Here, Canton’s ordinance has a severability provision. Ordinances § 29.01. And the size restrictions for ground signs “comfortably

stand on their own,” *Midwest Media*, 503 F.3d at 465, furthering the purpose in § 6A.02 of “promot[ing] the general safety and welfare of the public.” We have repeatedly held that size restrictions like those in Canton’s ordinance are severable and valid content-neutral regulations. *See, e.g., id.; Prime Media*, 485 F.3d at 348.

Because the size restrictions are properly considered severable, Outdoor “must show injury, causation, and redressability with respect to [the other] provision[s] it challenges.” *Advantage Media*, 456 F.3d at 801. Outdoor has failed to do so and the district court properly held that it lacks constitutional standing.

* * *

We AFFIRM the judgment of the district court.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OUTDOOR ONE
COMMUNICATIONS, LLC.,

Plaintiff,

v.

CHARTER TOWNSHIP OF
CANTON,

Defendant.

Case No. 20-10934
Honorable
Victoria A. Roberts

**ORDER: (1) DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT [ECF No. 15] AND
(2) PROVIDING NOTICE UNDER FRCP 56(f)**

(Filed Mar. 3, 2021)

I. INTRODUCTION

On March 13, 2020, Outdoor One Communications LLC (“OOC”) applied for a permit to erect a 30-foot-tall, 360-square-foot digital billboard on land it leased in Canton, Michigan (“the Site”). The Charter Township of Canton (“Canton”) denied OOC’s application. It concluded the proposed sign violated its Sign Ordinance because it exceeded height and size requirements for a billboard. That denial prompted this lawsuit.

OOC alleges First and Fourteenth Amendment violations and seeks to enjoin Canton from enforcing its Sign Ordinance; Canton says this lawsuit is doomed because OOC has no redressable injury since its

proposed billboard violates content-neutral and severable height and size restrictions in the Sign Ordinance.

OOC seeks summary judgment on all four counts of its complaint. The Court heard oral argument on December 18, 2020. For the reasons stated below, the Court **DENIES** OOC's motion for summary judgment.

II. BACKGROUND

OOC erects and maintains outdoor advertising displays commonly known as billboards. On March 13, 2020, OOC applied for a permit from Canton to erect a digital illuminated sign on the Site to display commercial and noncommercial messages including: paid and unpaid political advertising; paid and unpaid religious messages; unpaid memorial tributes; public general emergency messages; severe weather alerts; and Amber alerts. OOC proposed a 2-sided permanent ground sign measuring 30 feet high and 360 square feet in area. Canton's Sign Ordinance, described in Canton Charter Township Code, Appendix A, Article 6A.00 (the "Sign Ordinance"), regulates the erection of signs.

On March 23, 2020, OOC received a letter in which Canton denied OOC's sign application. The denial note simply stated, "6A.24 – Exceeds size and height allowed." OOC did not reapply for a smaller sign or apply for a variance. Instead, it filed this action challenging the constitutionality of the ordinance.

Canton says OOC's plan to construct its proposed digital billboard violates the content-neutral size requirements of its Sign Ordinance. § 6A.24 limits "billboards" to 12 feet in height and 160 feet in area. Canton says OOC's proposed billboard also exceeds the requirement that "ground signs" be limited to a height of 6 feet and an area of 24 square feet.

OOC disagrees. It says the applicability of § 6A.24's size and height restrictions depends on whether the sign displays off-premise content, and the Sign Ordinance draws content-based distinctions between on-premise and off-premise signs. OOC specifically contends that Canton's ordinance is unconstitutionally vague, underinclusive, overinclusive, and constitutes a prior restraint.

III. STANDARD OF REVIEW

Summary judgment is appropriate if "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c).

IV. ANALYSIS

A. Standing

OOC says it has standing to challenge § 6A.24, in particular, and to facially challenge the entire Sign Ordinance because Canton's regulations jointly and individually function to unconstitutionally restrict speech.

Canton's response is two pronged: (1) the various provisions of the Sign Ordinance that OOC challenges – outside of § 6A.24 – did not cause OOC's injury; and, (2) even if OOC establishes injury, its harm is not redressable since the only sign it proposed violated content-neutral size regulations and OOC did not apply for a variance.

1. OOC's Standing to Challenge § 6A.24

Under traditional standing requirements, “plaintiffs must establish (1) injury in fact, meaning an invasion of a legally protected interest; (2) a causal relationship between the injury and the challenged conduct; and (3) a likelihood that the injury will be redressed by a favorable decision.” *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830, 835 (6th Cir. 2004). Each requirement is “an indispensable part of the plaintiff’s case” and “must be supported in the same way as any other matter on which the plaintiff bears the burden of proof.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992).

The Court finds that OOC has standing to challenge § 6A.24. OOC alleges a concrete and particularized injury. It contends that a Canton city official denied its sign application; and that § 6A.24 is unconstitutionally content-based, fails strict scrutiny, and is not severable. These allegations are sufficient to allege standing. *See Prime Media, Inc. v. City of Brentwood*, 485 F.3d 343, 348 (6th Cir. 2007).

i. § 6A.24 is Content Neutral and Narrowly Tailored

Despite the Court’s finding on standing, OOC loses its challenge on the merits because the size requirements of § 6A.24 are content-neutral and narrowly tailored as applied to OOC. *See Prime Media*, 485 F.3d at 348; *see also Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 808 (1984).

OOO says the Sign Ordinance generally and § 6A.24 specifically incorporates a regulatory distinction between on-premises and off-premises signs, which imposes different size requirements based on the content of the message. Canton argues the size requirements found in § 6A.24 are content-neutral, narrowly tailored, severable, and apply to all billboards.

Although “[d]eciding whether a particular regulation is content-based or content-neutral is not always a simple task,” the Supreme Court has provided guidance for doing so. *Thomas v. Bright*, 937 F.3d 721, 729 (6th Cir. 2019) (citing *Turner Broad. Sys. Inc., v. FCC*, 512 U.S. 622, 642 (1994)). A law regulating speech is facially content-based if: (1) it “draws distinctions based on the message,” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015); (2) it “distinguish[es] among different speakers, allowing speech by some but not others,” *United v. Federal Election Comm’n*, 558 U.S. 310, 340 (2010); or (3) if, in its application, “it require[s] enforcement authorities to examine the content of the message that is conveyed to determine whether a

violation has occurred.” *Thomas v. Bright*, 937 F.3d at 729 (citing *McCullen v. Coakley*, 573 U.S. 464, 479 (2014)).

Canton cited only one reason for its denial of OOC’s sign application: the sign exceeded the size and height requirements of § 6A.24. [ECF No. 1-5, PageID.84]. § 6A.24 reads:

§ 6A.24. – Billboards. In the GI district, billboards may be permitted adjacent to limited access interstate freeways. Such signs shall be set back a minimum of 1,000 feet from any right-of-way and shall not be erected closer than 2,000 feet to any other billboard. The structure of the sign shall be exclusively steel, and no wood or other combustible material shall be permitted. The sign shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m. No billboard shall be permitted on a parcel in conjunction with a ground sign. The maximum permitted area of a billboard shall be 160 square feet, and the sign shall not exceed 12 feet in height as measured from average grade at the base of the sign.

[ECF No. 1-2, PageID.73]

On its face, § 6A.24 does not require Canton to examine the content of a billboard’s message before it grants or denies a permit. § 6A.24 itself does not draw distinctions based on message – the Sign Ordinance does not have separate categories with different regulatory schemes for on-premise billboards and off-premise billboards. § 6A.24 does not regulate commercial

speech and non-commercial speech differently. All billboards are subject to § 6A.24's same size restrictions – the largest size restrictions allowed for any ground sign pursuant to Canton's ordinance.

However, the Sign Ordinance's definition of "billboard" does implicate an on/off-premise distinction. The Sign Ordinance defines "Billboard" as "a non-accessory ground sign erected for the purpose of advertising a product, event, person, or subject not related to the premise on which the sign is located." § 6A.01(7) (emphasis added). An "Off-premises sign" is defined as "a sign which contains a message unrelated to a business or profession conducted on the subject property or which relates to a commodity, service or activity not sold or offered upon the premises where such sign is located." § 6A.01(25). Conversely, an "On-premise sign" is a sign "which advertises only goods, services, facilities, events or attractions available on the premises where located, or identifies the owner or occupant or directs traffic into or from the premises." § 6A.01(26).

This regulatory scheme, which encompasses § 6A.01(7), § 6A.01(25) and § 6A.01(26), may implicate *Thomas v. Bright*, 937 F.3d at 728-730 because it requires Canton officials to examine the sign's message in evaluating billboard applications.

However, the operative ordinance in *Thomas v. Bright*, Tennessee's sign ordinance, has features which distinguish it from Canton's Sign Ordinance. *Id.* Tennessee's sign ordinance: (1) did not contain a severability clause and the defendant did not raise severability

as an issue on appeal either in briefing or during oral argument. *Id.* see also *Thomas v. Schroer*, No. 13-CV-02987-JPM-CGC, 2017 WL 6489144, at *3 (W.D. Tenn. Sept. 20, 2017); (2) Tennessee law generally disfavors severance of unconstitutional portions of a statute, see *Thomas v. Schroer*, No. 13-CV-02987-JPM-CGC, 2017 WL 6489144, at *3; and (3) Tennessee’s sign ordinance completely exempted all on-premise signs from requiring a permit, while off-premise signs required a permit. See *Thomas v. Bright*, 937 F.3d at 730.

Canton’s Sign Ordinance, in contrast, contains a severability clause. See § 29.01. Michigan law favors severability. See *Blank v. Dep’t of Corr.*, 122, 462 Mich. 103, 611 N.W.2d 530, 539 (2000) (“[t]he general rule favors severability”). And Canton’s Sign Ordinance does not completely exclude on-premise signs from permit requirements.

Height and size regulations – like Canton’s – are consistently upheld by the Sixth Circuit as narrowly tailored and valid content-neutral regulations. See *Prime Media*, 485 F.3d at 348; see also *Int’l Outdoor, Inc. v. City of Troy, Michigan*, 974 F.3d 690, 701 (6th Cir. 2020) (“[t]his court had previously rejected a challenge to size and height restrictions of a sign ordinance”); *Midwest Media Prop., L.L.C. v. Symmes Twp., Ohio*, 503 F.3d 456, 461 (6th Cir. 2007) (“[p]laintiffs chose not to challenge the size and height requirements in their complaint – perhaps in view of the difficulty of such a challenge.”). For this reason, the Sign Ordinance is neither underinclusive nor overinclusive.

Additionally, the Sixth Circuit has upheld Canton's stated purposes for its Sign Ordinance – “to promote the general safety and welfare of the public by regulating and controlling all public and private graphics communications and displays.” § 6A.02; *See Prime Media*, 485 F.3d at 345 (upholding the constitutionality of height and size provisions where the purpose of the city's ordinance was to “advance the safety and welfare of the community”); *see also Midwest Media*, 503 F.3d at 464 (upholding the constitutionality of height and size provisions where the purpose of the city's ordinance was to “minimize the possibility that sign size, location, or character will create hazards adversely affecting the public safety”).

Although § 6A.01(7) contains language that may indicate an on/off-premise and content distinction, OOC's alleged injury derived from the size requirements of § 6A.24; § 6A.24 is content neutral and narrowly tailored. It is also severable, as the Court will explain.

2. OOC's Standing to Litigate its Facial Challenges

The next question is whether OOC has standing to litigate its remaining claims – that the Sign Ordinance is unconstitutionally vague and operates as a prior restraint.

This is a facial challenge, meaning that OOC asserts the Sign Ordinance is unconstitutional on its face and falls short of constitutional demands in all its

applications. *Speet v. Schuette*, 726 F.3d 867, 873 (6th Cir. 2013).

A facial challenge in the vagueness and overbreadth context allows plaintiffs to attack the constitutionality of a statute or ordinance “not because their own rights of free expression are violated, but because of a judicial prediction or assumption that the statute’s very existence may cause others before the court to refrain from constitutionally protected speech or expression.” *Prime Media*, 485 F.3d at 349 (internal quotations omitted) (quoting *Virginia v. Am. Booksellers Ass’n*, 484 U.S. 383, 392-93 (1988)).

Importantly, OOC’s standing with regard to the size and height requirements does not magically carry over to allow it to litigate other provisions of the Sign Ordinance which had no bearing on or connection to OOC’s injury. *See Prime Media*, 485 F.3d at 350. To have standing to facially challenge other provisions of the Sign Ordinance, OOC must separately establish an injury in fact brought on by each of the provisions it seeks to challenge. *Id.* at 351.

Like the Plaintiffs in *Midwest Media*, the key problem with OOC’s claim is one of redressability. It filed only one sign application which plainly violated § 6A.24’s size regulations. OOC cannot tenably show that success in challenging other regulations of the Sign Ordinance, like the variance provision in § 6A.11 or § 6A.11, will redress any injury it suffered. *Midwest Media*, 503 F.3d at 461. Even if the Court invalidated these additional provisions, OOC’s injury would not be

redressed because content-neutral size restrictions under § 6A.24 preclude OOC from erecting its sign. *Id.*

a. Vagueness and Overbreadth

OOC says that the Sign Ordinance’s procedure for issuance of a sign permit, combined with its content, speaker, and activity-based regulations, renders the Sign Ordinance unconstitutionally vague.

OOC’s reliance on the vagueness doctrine to support its facial challenge fails. *Midwest Media* 503 F.3d at 464 (“Although there is broad latitude given facial challenges in the First Amendment context, a plaintiff must establish that he has standing to challenge each provision of an ordinance by showing that he was injured by application of those provisions.”).

For purposes of a First Amendment challenge, the Court evaluates vagueness and overbreadth claims under the same standard. *See Brandywine*, 359 F.3d at 835 (concluding “plaintiffs may not assert third party standing in every First Amendment facial challenge; rather plaintiffs may only do so in vagueness and overbreadth challenges.”).

Although the overbreadth doctrine relaxes the traditional requirement “that a party may assert only a violation of its own rights,” overbreadth does not excuse a party’s failure to “allege an injury arising from the specific rule being challenged, rather than an entirely separate rule that happens to appear in the same section of the municipal code.” *Midwest Media*, 503 at

463 (citing *Prime Media*, 485 F.3d at 351). Importantly, OOC does not make an overbreadth challenge to the Sign Ordinance.

In the end, OOC does not provide facts indicating an intention to display ground signs that comply with any of Canton’s size provisions. As such, it suffered no cognizable injury and lacks standing to facially attack Canton’s additional sign regulations “whether under the overbreadth doctrine or any other doctrine.” *Midwest Media*, 503 F.3d at 464.

b. Prior Restraint

OOO says the Sign Ordinance imposes a permitting requirement that gives Canton officials impermissibly broad discretion to determine what types of signs can be posted. Canton claims its ordinance’s does not vest unbridled discretion in the hands of government officials and incorporates the state construction code’s 10-day time limit for processing applications.

Under the First Amendment, the government “shall make no law . . . abridging the freedom of speech. . . .” U.S. Const. amend. I.1. “A prior restraint is any law ‘forbidding certain communications when issued in advance of the time that such communications are to occur.’” *McGlone v. Bell*, 681 F.3d 718, 733 (6th Cir. 2012) (quoting *Alexander v. United States*, 509 U.S. 544, 550, (1993)). “[W]hen a licensing statute allegedly vests unbridled discretion in a government official over whether to permit or deny expressive activity, one who is subjected to the law may challenge

it facially.” *G & V Lounge v. Michigan Liquor Control Commission*, 23 F.3d 1071, 1075 (6th Cir. 1994).

The requirement of an actual injury is not obviated by a prior restraint claim. *Prime Media*, 485 F.3d at 351. Still, the prior restraint of a licensing provision coupled with unbridled discretion itself amounts to an actual injury. *Id.*

The Court finds that Canton’s Sign Ordinance does function as a prior restraint, but OOC still loses.

**i. Canton’s Permitting Provisions
Constitute a Prior Restraint**

Canton’s Sign Ordinance imposes a prior restraint because the right to display a sign requires a permit unless the sign displays certain content. *Int’l Outdoor, Inc. v. City of Troy*, 361 F. Supp. 3d 713, 717 (E.D. Mich. 2019), *aff’d sub nom. Int’l Outdoor, Inc. v. City of Troy, Michigan*, 974 F.3d 690 (6th Cir. 2020). § 6A.08 of Canton’s Sign Ordinance reads: “[i]t shall be unlawful to construct, display, install, change or cause to be constructed, displayed, installed or changed a sign requiring a permit upon any property in the township without first obtaining a sign permit.” By default, all signs require a permit unless they are explicitly exempted under the seventeen categories of signs in § 6A.09. They include, but are not limited to: memorial signs, tablets, address numbers, nameplates, and open house or garage signs. *Id.* Importantly, political signs are also exempted from permitting requirements.

To avoid creating a prior restraint, cities must “establish neutral criteria to insure that the licensing decision is not based on the content or viewpoint of the speech being considered.” *City of Lakewood v. Plain Dealer Publ’g Co.*, 486 U.S. 750, 785 (1988). “[A] speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed.” *Reed*, 576 U.S. 155 at 171.

Canton must look at the content of the sign to decide if the message falls into one of the permit-exempt categories. Canton’s Sign Ordinance thus singles out specific subject matter for differential treatment. The Supreme Court in *Reed* labeled this treatment “a paradigmatic example of content-based discrimination.” *Reed*, 576 U.S. at 156.

Additionally, Canton enforces the Sign Ordinance before a sign is erected. Valid permitting regimes generally “allow an interested party in posting a sign to do so without any permitting requirement,” and “resolve any disputes about compliance either after the sign is erected without risking any punishment, or beforehand by seeking an advisory letter of compliance in advance.” *Prime Media, Inc.* 485 F.3d at 352.

Canton’s scheme runs afoul of constitutional guidelines outlined in *Prime Media*. Accordingly, its permitting regime outlined in § 6A.08 and § 6A.09 constitutes a prior restraint and creates a cognizable injury to OOC. *See Int’l Outdoor, Inc.* 361 F. Supp. 3d at 717. However, as explained below, § 6A.24’s size provisions are severable from the offending provisions.

B. Severability

Canton argues that OOC's claim must be dismissed because § 6A.24 is severable from all other provisions of the Sign Ordinance that OOC challenges. OOC contends § 6A.24 is not severable because constitutional infirmities permeate every facet of Canton's Sign Ordinance. OOC believes the on/off-premise distinction and prior restraint provisions, in particular, corrupt the entire Sign Ordinance.

"Severability of a local ordinance is a question of state law." *City of Lakewood*, 486 U.S. at 772. Michigan courts consistently recognize that "[i]t is the law of this State that if invalid or unconstitutional language can be deleted from an ordinance and still leave it complete and operative then such remainder of the ordinance [should] be permitted to stand." *Eastwood Park Amusement Co. v. Stark*, 325 Mich. 60, 72, 38 N.W.2d 77, 81 (1949). Valid provisions of an ordinance are a complete enactment and may be enforced. *Melconian v. City of Grand Rapids*, 218 Mich. 397, 188 N.W. 521, 527 (1922).

§ 6A.24's size restrictions satisfy Michigan's severability requirements. Like the ordinance in *Int'l Outdoor, Inc.*, Canton's Sign Ordinance contains a severability clause. *See* § 29.01. § 6A.24 stands on its own as a distinct provision of the Sign Ordinance. Therefore, § 6A.24 may be severed from any constitutionally infirm provision, including those provisions which create a prior restraint. In turn, § 6A.24 does not violate the First Amendment. *See King Enterprises, Inc. v.*

Thomas Twp., 215 F. Supp. 2d 891, 915-16 (E.D. Mich. 2002) (holding that the sections of the ordinance which deal with the placement and construction of billboards constitute independent provisions capable of enforcement apart from the remainder of the ordinance); see also *Int'l Outdoor, Inc.*, 361 F. Supp. 3d at 719 (holding that although the ordinance's variance provision created a prior restraint "[t]he remaining provisions of the Sign Ordinance – such as size and setback limitations – stand independently from the variance provision.").

It is undisputed that OOC's proposed sign exceeds Canton's Sign Ordinance's size limitations. Because content-neutral provisions preclude OOC from erecting its signs, any injury suffered by OOC as a result of the application of the severable variance provision is not redressable.

V. CONCLUSION

OOC's motion for summary judgment is **DENIED**.

VI. NOTICE UNDER FRCP 56(f)

For the purposes of this motion, the parties stipulated that there were no questions of fact. The Court agrees.

Under FRCP 56(f), the Court provides this notice: it will grant summary judgment to Canton for the reasons stated in this Opinion and Order unless OOC objects to entry of Summary Judgment in favor

30a

of Canton, and dismissal of the suit in its entirety, by
the close of business, Friday, March 12, 2021.

IT IS ORDERED.

S/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: March 3, 2021

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

OUTDOOR ONE)	
COMMUNICATIONS, LLC,)	
Plaintiff-Appellant,)	
v.)	ORDER
CHARTER TOWNSHIP)	(Filed Jan. 28, 2022)
OF CANTON, Michigan,)	
Defendant-Appellee.)	

Before: DONALD, THAPAR, and LARSEN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

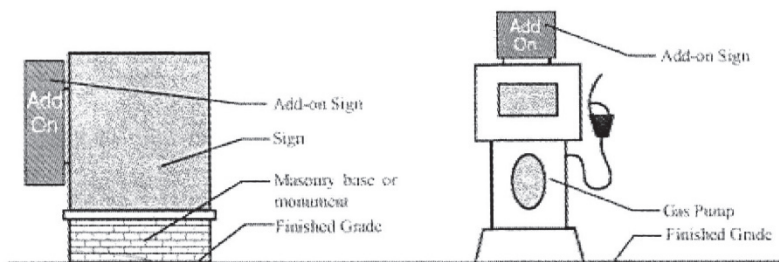
ENTERED BY ORDER OF THE COURT

/s/ Deborah S. Hunt
Deborah S. Hunt, Clerk

6A.01. Definitions.

The following words, terms and phrases, when used in this chapter [article], shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. *Abandoned sign* means a sign which no longer directs a person to or advertises a bona fide business, tenant, owner, product or activity conducted or product available on the premises where such sign is displayed or any sign not repaired or maintained properly, after notice, pursuant to the terms of this article .
2. *Add-on sign* means a sign that is attached as an appendage to another sign, sign support, or a building, and is intended to draw attention to the goods and services available on the premises.



6A.01.02 Add-On Sign

Add-On Sign

3. *Animated sign* means a sign manifesting either kinetic or illusionary motion occasional by natural, manual, mechanical, electrical or other means.
4. *Area of sign* means the entire area within a circle, triangle, parallelogram, or other geometric configuration enclosing the extreme limits or writing,

representation, emblem or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. However, where such a sign has two faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back as a mirror image in size and shape and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or the area of the larger face if the two faces are of unequal area.

5. *Automated teller machine* means a freestanding computerized electronic machine that performs basic banking functions (as handling check deposits or issuing cash withdrawals), also called automatic teller and automatic teller machine.
6. *Awning sign* means a sign that is a roof-like structure made of canvas or similar materials, stretched over a frame and directly attached to a wall of a building. Awning signs shall extend more than 12 inches but not more than 36 inches from the wall. Awning signs shall not project more than 24 inches above the roofline of the building.
7. *Billboard* means a nonaccessory ground sign erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Off-premises directional signs as permitted in this chapter

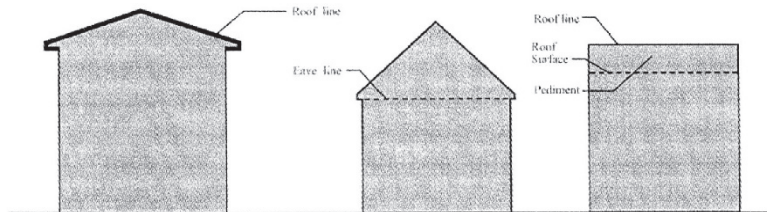
[article] shall not be considered billboards for the purpose of this chapter [article].

8. *Blade sign* (see *Under-canopy sign*).
9. *Canopy sign* means any sign attached to or constructed on a canopy. A canopy is a permanent roof-like shelter extending from part of or all of a building face over a public access area and constructed of the same material as the building.
10. *Changeable copy sign/reader board* means a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this [article]. A sign on which the only copy that changes is an electronic or mechanical indication of time, temperature, or stock market quotation shall be considered a “time, temperature, stock market” portion of a sign and not a changeable copy sign for purposes of this article.
11. *Commercial statue* is a three dimensional figure which by its appearance, overall design, coloration, applied text, graphic identification, applied image, description, display, or illustration directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business, and which is visible from any street, right-of-way, sidewalk, alley, park or other public property and is intended to carry a commercial message. Commercial statues are considered ground signs for the purpose of this ordinance [Ordinance of September 26, 2006] and are

so regulated with regard to permitted dimension, location, and number. The sign area of a commercial statue is that entire area within a circle, triangle, parallelogram, or other geometric configuration enclosing the extreme limits of the statue when viewed from a point perpendicular to the front lot line.

12. *Directional sign* means any sign containing only noncommercial messages including, but not limited to, designation of restrooms, drive entrances and exits, telephone locations, and directions to door openings. A directory sign may also be used for private traffic control.
13. *Directory sign* means any sign containing the names of tenant commercial enterprises within a development site to assist in wayfinding utilizing a uniform font and no commercial logos or graphic identities.
14. *Entrance monument, residential* means a free-standing or structure marking a recognized subdivision, condominium complex, or residential development. For the purpose of determining sign area, only that imaginary circle, triangle, parallelogram, or other geometric configuration enclosing the extreme limits or writing, representation, emblem or any figure or similar character is considered.
15. *Eave line* means the line between the two lowest points of intersection of the top of a wall and the eave, or edge of the roof. The eave line is an imaginary line drawn across the wall on a gable end, and is not a roofline, which is the line of

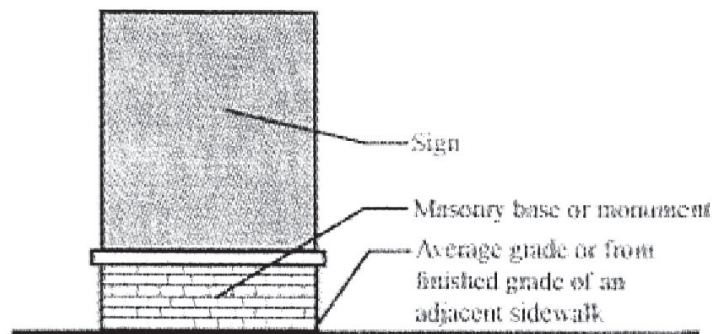
intersection the wall has where it abuts the roof.
See also *Roofline*.



6A.01.13 Eave Line and 6A.01.31 Roof Line

Eave Line and Roof Line

16. *Gasoline pump island* means a combination of more than one fuel-dispensing device, clustered together, to provide a customer with more than one option of type of fuel, or grade thereof, to be purchased.
17. *Ground sign* means a sign which is mounted permanently in the ground on a masonry base or monument. A residential entrance monument is not a ground sign.



6A.01.17 Ground Sign

Ground Sign

18. *Historic district* means the Canton Township Historic District, as administered by the Canton Township Historic District Commission.
19. *Inflatable sign* means a temporary or permanent sign consisting of a non-porous bag, balloon, or other object inflated by any means and designed to draw attention to a commercial business, whether it does or does not include a commercial display, commercial graphic identity, or lettering. Inflatable seasonal display items sold retail to the general public and intended primarily for private home display are not considered inflatable signs, provided they do not exceed eight feet in height.
20. *Institutional bulletin board* means a sign which displays the name of a religious institution, school, library, community center or similar public or quasi-public institution, which may include an announcement of its services or activities.
21. *Menu order and drive-through assistance sign* means a sign used for the purpose of communicating and identifying food and drink items available for order by patrons at a drive-through or fast food restaurant. This type of sign shall be considered a sign for the purpose of these regulations regardless of whether it is visible from the road right-of-way.
22. *Multiple-tenant sign* means a sign permitted only when identified and approved as part of a master sign plan that serves two or more tenants within a project.
23. *Natural materials* are those substances determined to be natural materials for the purposes of

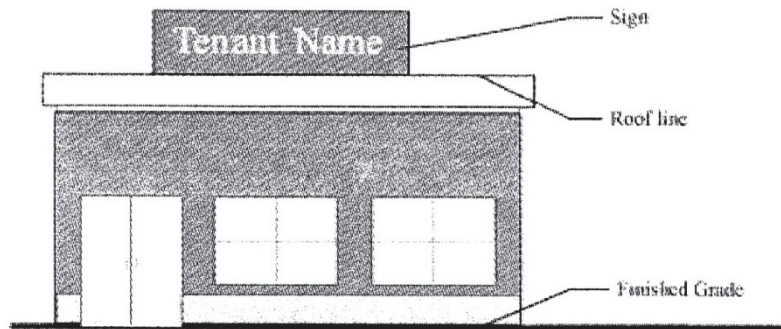
this chapter [article] shall include, but not be limited to, wood, stone and soft textured brick. Although plastic, plywood, pressed board, drywall, wood or metal paneling and sheet metal are generally excluded from this definition, consideration will be given to synthetic materials which simulate the appearance of a natural material through the manufacturing process and meet the intent of this chapter [article].

24. *Nonconforming sign* means any advertising structure or sign which was lawfully erected and maintained prior to the effective date of this chapter [article], and any amendments thereto, and which fails to conform to all applicable regulations and restrictions of this chapter, or a sign for which a permit was previously issued that does not comply with the provisions of this chapter [article].
25. *Off-premises sign* means a sign which contains a message unrelated to a business or profession conducted on the subject property or which relates to a commodity, service or activity not sold or offered upon the premises where such sign is located. In an agricultural setting, the purpose of the off-premises advertisement signs is to permit the producer to make the public aware of produce for sale. The sign shall include the name of the producer, the type of produce available and directional information to assist the motoring public in locating the producer's agricultural area. Additional information may be indicated at the option of the producer.
26. *On-premises sign* means a sign which advertises only goods, services, facilities, events or

attractions available on the premises where located, or identifies the owner or occupant or directs traffic into or from the premises.

27. *Periodic change sign* means a sign where the wording, image, description, display or illustration changes at regular intervals of time. A sign on which the only copy that changes is an electronic or mechanical indication of time, temperature, or stock market quotation shall be considered a “time, temperature, stock market” portion of a sign and not a periodic change sign for purposes of this chapter.
28. *Pole sign* means a freestanding sign with a visible support structure or with the support structure enclosed with a pole or pylon cover.
29. *Political sign* means a sign wherein the message states support for or opposition to a candidate for political office, a political party, a political issue, or a political viewpoint.
30. *Portable sign* means a sign that is freestanding, not permanently anchored or secured to a building and not having supports or braces permanently secured in the ground, including but not limited to, sandwich signs, A-frame signs, inverted “T” signs, and signs mounted on wheels so as to be capable of being pulled by a motor vehicle.
31. *Premises* means any site on which the development under consideration is located.
32. *Project announcement sign* means a temporary ground sign used to announce the name and nature of a project or general information concerning rental or sales.

33. *Projecting sign* means a sign that extends perpendicular to a wall surface.
34. *Roof sign* means a sign that extends more than 24 inches above the roofline.



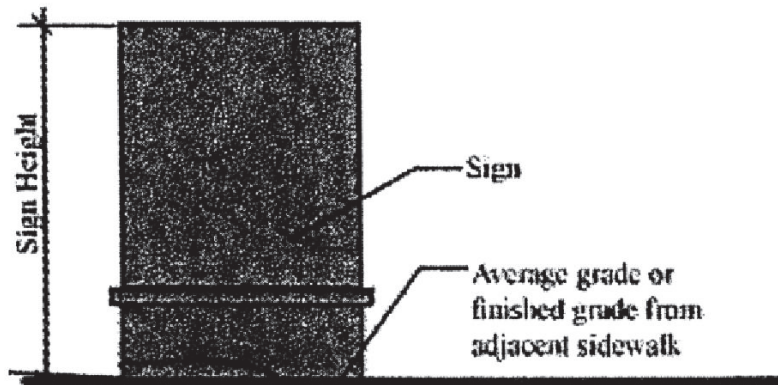
6A.01.33 Roof Sign

Roof Sign

35. *Roofline* means the edge of a roof or parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or other minor similar projections. See also: *eave line*.
36. *Sign* means a structure which includes the name, identification, image, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building, structure or parcel of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization or business, and which is visible from any street, right-of-way, sidewalk, alley, park or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs. This definition

includes the base, frame and support members of the sign.

37. *Sign height* is the measurement to the top point of the sign structure from the finished elevation of the sidewalk nearest to the sign for ground signs located at the right-of-way; and the measurement to the top point of the sign structure from the average elevation at the base of the sign for all other signs.



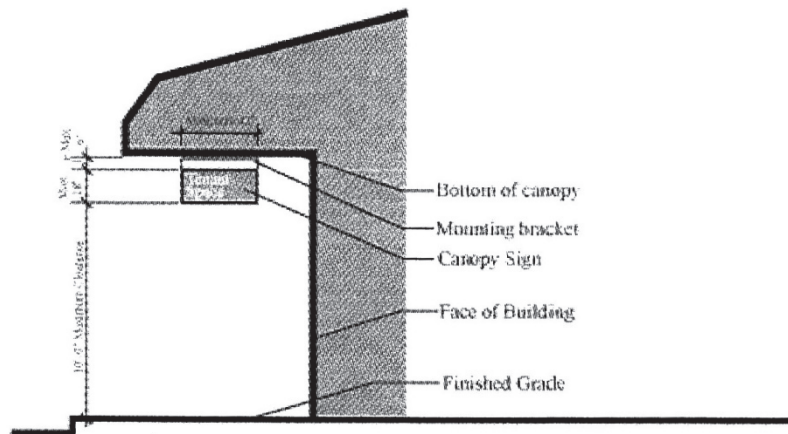
6A.01.36 Sign Height

Sign Height

38. *Sign setback*. Where it is specified that a sign must be located a minimum or other certain distance from property lines or public rights-of-way, such distance will be measured from the portion of the sign structure nearest to such specified line. For the purpose of this measurement, the property lines and public right-of-way lines extend vertically and perpendicularly from the ground to infinity.
39. *Site* means a recognized parcel or collection of parcels proposed for or containing existing

development. A site can consist of more than one parcel of land. A multiple-tenant and/or multiple-building development on a series of integrated individual parcels constitutes a single site. A separate parcel located within a multi-tenant and/or multiple-building development (also known as an out parcel or outlot) shall be considered a separate site if: the parcel has frontage on a public road; and, the parcel is not dependant upon the parcels or parcels on which the remaining multi-tenant and/or multiple-building development is located for access to a public road.

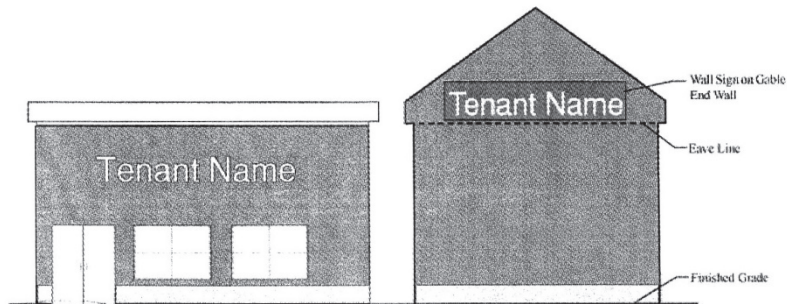
40. *Theater sign* means a sign not exceeding 12 square feet in area designed for theaters to allow the changeable display of feature shows, films, or other performances.
41. *Under-canopy sign* means a sign mounted under a canopy directed to pedestrians and usually mounted perpendicular to the facade it means to identify. Under-canopy signs are also known as blade signs.



6A.01.40 Blade/Under Canopy Sign

Blade/Under Canopy Sign

42. *Wall sign* means a sign that is directly attached to a wall of a building and neither extends more than 12 inches from the wall nor projects above the roofline. On a gable end wall, a wall sign may project above the eave line, so long as the sign does not project beyond the roof line.



6A.01.41 Wall Sign

Wall Sign

6A.02. Purpose.

The purpose of this chapter is to promote the general safety and welfare of the public by regulating and controlling all public and private graphics communications and displays.

6A.03. Compliance.

It shall be unlawful to construct, display, install, change, have, or cause to be constructed, displayed, installed or changed any sign upon any property within the township in violation of the requirements of this chapter.

(Ord. of 9-26-2006)

6A.04. Interpretation; conflicts with other ordinances.

The provisions of this chapter [article] shall be construed, if possible, in such manner as to make such provisions compatible and consistent with the provisions of all existing and future zoning and other ordinances of the township and all amendments thereto; provided, however, that where any inconsistency or conflict cannot be avoided, then the most restrictive of such inconsistent or conflicting provisions shall control and prevail. If there is believed to be a conflict between the stated intent and any specific provisions of this chapter, the zoning board of appeals may, in accordance with established procedures, permit modification of such specific provisions while retaining the intent in such appealed instance.

6A.05. Notice of violation; issuance of appearance ticket.

If a violation of this chapter is noted, the ordinance inspector will notify the owner of record and the occupant of the property of the violation. Such notice shall specify the violation and the time within which the corrective action must be completed. This notice may be served personally or by mail. If the property is not in compliance with this chapter at the end of the period specified in the notice of violation, an appearance ticket may be issued.

6A.06. Nonconforming signs.

1. The regulations established in the zoning ordinance for nonconforming structures shall also be

applicable to signs which exist on the effective date of this Ordinance [Ordinance of September 26, 2006] where such signs fail to comply with the provisions described in this chapter. The elimination of nonconforming signs is hereby declared to be a public purpose and for a public service. The township board may initiate proceedings and prosecute for condemnation of nonconforming signs under the power of eminent domain in accordance with Public Act No. 149 of 1911 (MCL 213.21 et seq.) or other appropriate statutes.

2. Nothing in this chapter shall relieve the owner or user of a nonconforming sign, or the owner of property on which the nonconforming sign is located, from the provisions of this chapter regarding safety and maintenance of the sign.
3. Whenever an addition or modification to an existing site requires submittal and approval of a site plan pursuant to section 27.02 of the zoning ordinance, any nonconforming sign shall be brought into conformance with the provisions of this chapter.

6A.07. Applicability of state construction code.

Except as otherwise indicated in this chapter, the regulations of the state construction code as adopted by the township shall apply to signs. Where the provisions of this chapter [article] are more restrictive in respect to location, use, size or height of signs, the limitations of this chapter [article] shall take precedence over the regulations of the state construction code.

6A.08. Permit required.

It shall be unlawful to construct, display, install, change or cause to be constructed, displayed, installed, or changed, a sign requiring a permit upon any property within the township without first obtaining a sign permit.

6A.09. Exemptions from permit requirement.

The following signs are permitted without a sign permit in all zoning districts where the principal permitted use to which they are related is a permitted use in that district:

1. Address numbers, nameplates (including apartment units and office suites) identifying the occupant or address of a parcel of land and not exceeding three square feet in area. All address numbers shall comply with the provisions of chapter 62, article III.
2. Memorial signs or tablets, not to exceed eight square feet in area, containing the name of the building and date of erection, when cut into any masonry surface or constructed of bronze or other incombustible material and affixed to the exterior wall of the building.
3. Signs painted on or permanently attached to legally licensed vehicles which are used upon the highways for transporting persons, goods or equipment.
4. Traffic or other municipal signs, including, but not limited to, the following: legal notices, historic site designations, municipal facility directional signs,

street or traffic signs, railroad crossing signs, and danger and other emergency signs as may be approved by the township board or any federal, state or county agency having jurisdiction over the matter of the sign. Such signs may be located in any zoning district. However, all signs on governmental property on which a municipal building is located shall meet the commercial and industrial zoning district requirements in section 102-35.

Pursuant to Chapter 247 of the Wayne County Code, the County may permit the display of signs, banners or decorations along or over county roads, pursuant to MCL 257.615. Such display may be permitted for any civic, holiday, charitable, school, social or club purpose but may not be permitted for political campaigning nor for commercial advertising. Any banner, sign or decoration which is displayed without a county permit shall promptly and without notice be removed by the county roads and engineering division, or other approved designee. The permit number shall be prominently exhibited upon each item of a display.

5. Reserved.
6. For gasoline service stations, the following special sign, which is deemed customary and necessary to their respective businesses: customary lettering or other insignia on a gasoline pump consisting of brand of gasoline sold, lead warning information, and any other data required by law and not exceeding a total of three square feet on each pump. Such signs shall carry no commercial messages.
7. One sign advertising parcels of land or buildings for rent, lease or sale, when located on the land or

building intended to be rented, leased or sold, not exceeding six square feet in area, four feet in height in residential districts, and 24 square feet in area, six feet in height in office, commercial and industrial districts. One sign is permitted per parcel that fronts on a public street. All signs reflecting zoning classifications must be accurate with the current zoning designation. An additional 18 square feet of sign area will be permitted if the sign faces the I-275 freeway and if the property is adjacent to the I-275 freeway. Such signs are subject to the maintenance and structural requirements for signs in the state construction code.

8. Institutional use bulletin boards, not to exceed 18 square feet in area and not to exceed six feet in height, including the frame and base of such sign, set back ten feet from any property line, for use by educational nonprofit institutions licensed by the state, houses of worship or other public entities.
9. Flags of government, civic, philanthropic, educational, and religious organizations and other public or private corporations or entities; provided, however, that only one flag bearing the seal or trademark of a private organization may be displayed by an individual establishment or proprietor of any single building or parcel of land. A flag pole is considered a structure, and is subject to all height regulations affecting structures.
10. Signs of a primarily decorative nature, not used for any commercial purpose and commonly associated with any national, local or religious holiday; provided that such signs shall be displayed for a period of not more than 60 consecutive days, and

shall not be displayed for more than 120 days in any one year.

11. Political signs shall be permitted on all occupied lots regardless of zoning, provided such sign is located and placed with the permission of the owner or lawful occupant of the lot or parcel where such sign is located, and provided that such sign does not violate any other provision of this ordinance [Ordinance of September 26, 2006].
12. For model homes within a subdivision, one sign per model, which shall not exceed two square feet in area or four feet in height, including the frame and base of such sign, when located within the front yard setback, for the purpose of identifying the model style.
13. Open house and garage sale signs. Temporary signs used to advertise garage sales and the public showing of a single family residence, condominium unit, or apartment to potential purchasers. The following regulations shall apply to open house and garage sale signs:
 - a. Size and height. The signs shall not have a total surface area greater than six square feet per face and shall not exceed a height of four feet above grade.
 - b. Number. No more than five open house or garage sale signs in total, including the directional signs, shall be permitted to be placed to provide directions to the residence advertised for sale or garage sale including: One open house or garage sale sign shall be permitted at the residence advertised for sale; no more

than one open house or garage sale sign may be placed at each neighborhood entrance; and, up to four directional signs may be permitted within the neighborhood. Open house and garage sale signs shall not be placed further away from the place of sale than the distance between the neighborhood entrance and the residence advertised for sale.

- c. Duration. Open house signs shall be displayed only on the day on which the residence is held open to the public as an open house. Garage sale signs may not be displayed for more than three days. Community-wide garage sale signs may not be displayed for more than seven days.
 - d. Location. Open house and garage sale signs shall not: be placed in any public road right-of-way; on private property without the consent of the property owner; be placed on private property which would result in creation of a traffic hazard by obstructing the vision of motorists, or obstruct the visibility of any traffic sign or traffic control device on any public street; use electricity, or be illuminated; nor be permanently anchored or secured to either the ground, a building, or a structure.
14. One sign identifying on-site construction activity, during the time of construction, not exceeding 24 square feet in area, except in connection with individual single-family detached residential construction, which sign shall not exceed six square feet in area. Such signs shall not exceed six feet in

height, and shall be removed before an occupancy permit is issued.

15. Signs temporarily erected for municipal construction projects to inform the public of the nature of the project or anticipated completion dates, which shall be permitted in all zoning districts, subject to a maximum size of 24 square feet in area and six feet in height.
16. Help wanted signs not exceeding six square feet in area and four feet in height, which may be displayed on private property for a period of up to four weeks at a time and not more than four times within each calendar year.
17. Blade under-canopy signs hung below the canopy or eave of a multiple tenant project intended to direct pedestrians under the sheltered area in areas where the tenant primary signage is not visible. Such signs must not exceed 42 inches in width and must not extend more than 18 inches from the mounting hardware or bracket attached to the underside of the canopy or eave. The mounting bracket may not extend more than six inches from the underside of the canopy or eave. The minimum required headroom clearance under the blade sign must be provided as required by the building code.

6A.10. Rezoning signs.

Whenever an application for rezoning is made, the following requirements shall be met:

1. A four-foot by eight-foot sign shall be erected in full public view along road frontage at least 15 days prior to a public hearing on the property which is the site of the rezoning; provided,

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however, if the property to be rezoned is situated on two streets or roads abutting the subject property, then two signs, one for each road, shall be required.

2. A permit and bond shall be required.
3. The sign shall read as follows:
 - a. At the top of the sign, the words “This property proposed to be rezoned,” or other applicable language, shall appear.
 - b. The sign shall contain the name of the real party interested in asking for a zoning change.
 - c. The sign shall contain what the present zoning is at the time of petition.
 - d. The sign shall contain the proposed or requested zoning sought and amount of acreage involved (map with dimensions).
 - e. The sign shall contain the proposed general use of the land if the zoning is successful.
 - f. The sign shall contain the date and place of the public hearing on the rezoning.
4. It shall be the duty of the petitioner to erect, maintain and remove the sign. Removal shall be within three days after the public hearing.
5. If the township determines the need to consider rezoning certain land areas, the regulations of this section will not be applicable. The township will endeavor to carry out the erection of rezoning signs unless an agreement cannot be reached with

the property owner for the erection of the sign. The township may proceed with consideration of the rezoning in accordance with the other appropriate provisions of the zoning ordinance.

6A.11. Signs prohibited in all districts.

The following signs are considered to be unsafe, dangerous, hazardous or an attractive nuisance, therefore these signs shall not be permitted, erected, or maintained in any zoning district unless the applicant requesting a variance from this section can substantiate to the building official, fire chief and police chief that the applicant's specific use of a sign listed in this section will not be dangerous, hazardous, or an attractive nuisance. If these officials unanimously agree that the specific use of the sign requested is not dangerous, hazardous, or an attractive nuisance, and the zoning board of appeals has granted a variance in accordance with the variance procedures, then the building official shall issue a permit for such requested use.

1. Signs which incorporate in any manner any flashing or moving lights, including strobe lights, whether they are mounted indoors or outdoors, if they are visible from the outdoors.
2. Banners, pennants, spinners and streamers, and inflatable figures, except as specifically permitted in accordance with sections 6A.09.5 and 10 and 6A.15.
3. String lights used in connection with commercial premises for commercial purposes, except holiday uses not exceeding nine weeks in any calendar year.

4. Any sign which moves or has any moving or animated parts, or images, whether the movement is caused by any mechanical, electronic or electrical device or wind or otherwise, including swinging signs and strings of flags or streamers, or cloth flags moved by natural wind except as permitted in section 6A.09.10. Such a prohibition shall not pertain to public message signs on governmental property and those on public property which display time, temperature or stock market quotation signs.
5. Any sign or sign structure which:
 - a. Is structurally unsafe;
 - b. Constitutes a hazard to the safety or health of persons or property by reason of inadequate design, fabrication, mounting or maintenance or by abandonment thereof;
 - c. Is not kept in good repair; or
 - d. Is capable of causing electrical shocks to persons that may come in contact with it.
6. Any sign which by reason of its size, location, content, coloring, intensity, or manner of illumination constitutes a traffic hazard or a detriment to traffic safety by obstruction of visibility of any traffic sign or control device on any public street or road.
7. Any sign which obstructs free ingress or egress to or from a required door, window, fire escape, driveway or other required access route.
8. Signs which make use of words such as “stop,” “look,” or “danger” or any other words, phrases, symbols or characters in such a manner as to

interfere with, mislead or confuse drivers of vehicles traveling upon any highway, driveway or parking area.

9. Any sign or other advertising structure or display which conveys, suggests, indicates or otherwise implies by pictures, drawings, words, emblems, logos, or other communication methods the following:
 - a. Human genitalia.
 - b. Specified sexual activities as defined in section 18-141.
 - c. Adult nude human bodies.
 - d. Obscene words.
 - e. Obscene gestures.
10. Any sign which no longer advertises a bona fide business or product sold. Such signs shall be removed by the property owner within 30 calendar days after a business closes or vacates the premises.
11. Any sign, except traffic or other municipal signs, as permitted in section 6A.09(4), that is located in or projects into or over a public right-of-way, publicly dedicated easement, or publicly owned property.

In any proceeding for violation of this section, the court may presume that the person, business, candidate, committee or other entity displayed on the sign, or the person, business, candidate, committee or other entity to whom a phone number, e-mail address, or event address displayed on the sign,

was assigned is the person, business, candidate, committee or other entity, that unlawfully displayed the sign. Violation of this section is a civil infraction punishable as follows: first offense, \$200.00 fine; second offense, \$400.00 fine; third or subsequent offense, \$600.00 fine.

12. Any sign that exceeds the height limitation for structures in the zoning district in which it is located, or a wall sign that extends beyond or above the structure to which such sign is affixed, except as may specifically be provided for in other provisions.
13. Placards, posters, circulars, showbills, handbills, cards, leaflets or other advertising matter, except as otherwise provided in this chapter, when posted, pasted, nailed, placed, printed, stamped or in any way attached to any fence, wall, post, tree, sidewalk, pavement, platform, pole, tower, curbstone or surface in or upon any public easement, right-of-way or on any public or private property whatsoever. Nothing in this section shall prevent official notices of the township, school districts, or county, state or federal government from being posted on any public property deemed necessary. All placards, posters, circulars, showbills, handbills, political signs, cards, leaflets or other advertising matter posted, pasted, nailed, placed, printed, or stamped on any right-of-way or public property may be removed and disposed of by the township without regard to other provisions of this chapter.

In any proceeding for violation of this subsection within a publicly dedicated easement, public right

of way, or public property, the court may presume that the person, business, candidate, committee, or other entity displayed on the placard, poster, circular, show bill, handbill, card, leaflet or other advertising matter, or the person, business, candidate, committee, or other entity to whom a phone number, e-mail address, or event address displayed on the placard, poster, circular, show bill, handbill, political signs, cards, leaflet, or other advertising matter was assigned, was the person, business, candidate, committee, or other entity that unlawfully displayed the placard, poster, circular, show bill, handbill, card, leaflet, or other advertising matter. Violation of this section is a civil infraction punishable as follows: first offense, \$200.00 fine; second offense, \$400.00 fine; third or subsequent offense, \$600.00 fine.

14. The parking of a vehicle or trailer on a public right-of-way or on public or private property, on an ongoing and/or continuing basis, so as to be visible from a public right-of-way, if the vehicle has attached thereto or located thereon any sign or advertising device which has the effect of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises.
15. Any sign greater than four feet in height that is suspended by chains or other devices that will allow the sign to swing due to wind action. The zoning board of appeals shall have the power to grant relief from the strict application of this provision when the applicant can show that the intent of this provision will be achieved through alternative means and result in a sign that is more in keeping

with the architectural character and more in harmony with the design of the development it serves and with surrounding properties.

16. Bench signs.
17. Commercial signs erected on bus stop shelters.
18. Ground signs within 100 linear feet of an existing ground sign.
19. Roof signs.
20. Ground signs which identify more than one business within a multi-tenant building or multiple-building site, unless otherwise permitted through the approval of a master sign plan as provided for in section 6A.22
21. Portable signs, except as provided in section 6A.18
22. Any sign placed upon a cart corral or cart return other than signage indicating the intended function of the corral or return and which does not carry a commercial message.
23. Animated signs.
24. Add-on signs.
25. Pole signs.

6A.12. Signs permitted in all single-family residential districts

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
All single-family residential districts	Subdivision development ground signs	one per subdivision entrance	Adjacent to a subdivision entranceway; shall not be located within ten feet of any road or street right-of-way	24 square feet; shall not exceed 8 feet in length	Six feet (sign support shall not extend more than two feet from the ground area to the sign)	<ul style="list-style-type: none"> Valid for a two-year period. Permits issued for this type of sign shall only be issued to the developer. Permit may be renewed yearly if at least five percent of the lots remain vacant and available and new homes remain under construction after the two-year period. Such signs shall be removed upon cessation of new home marketing within the subdivision, when 95 percent of all lots have been sold by the builder or when the permit expires, whichever occurs first.
	Subdivision homebuilder ground signs	One for each homebuilder within the subdivision	Within the subdivision and no closer than ten feet to any property line in front of each model home	16 square feet	Five feet	<ul style="list-style-type: none"> The homebuilder ground signs are permitted in addition to the one permitted for a subdivision for the general developer of the subdivision.
	Subdivision development off-premises temporary sign	One per subdivision development	No such sign may be erected within 10 feet of any road or street right-of-way and must be located on private property	24 sq. feet	Six feet	<ul style="list-style-type: none"> Permitted for a two-year period, which may be renewed yearly if at least five percent of the lots remain vacant and available and new homes are under construction. Such signs shall be removed when 95 percent of all lots in the

						subdivision have been sold by the builder.
	Residential subdivision entranceway ground signs	One per entrance or one sign on each side of the entrance where mounted or integrated into a residential entrance monument	On private property at least one foot away from all property lines; on boulevards, residential entranceway ground signs erected on private property shall meet all requirements as stated in this subsection and shall not be located closer than ten feet to the intersecting road right-of-way line.	24 square feet of lettering	Six feet	<ul style="list-style-type: none"> • Shall not be constructed until the subdivision has received final plat or site plan approval. • Shall only display the name of the subdivision. • All entranceway ground signs erected on private property in a subdivision shall have a common design and be constructed of the same or similar materials throughout that subdivision. • Signs within the public road right-of-way shall be approved by the county, state, or other governmental agency having jurisdiction.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
All single-family residential districts	Pole-mounted, permanent, interchangeable, banners	Two per subdivision entrance	On a light pole or dedicated pole on private property at least one foot away from all property lines or within the median island of a boulevard and shall not be located within 10 feet of a public road right-of-way.	10 square feet per banner	Each banner shall not exceed 2 feet in width or 5 feet in height	<ul style="list-style-type: none"> • Shall be decorative in nature and shall contain no commercial message or content.
	Ground signs for churches, schools, and other	One for each developed site.	Not closer than ten feet to any property line or to the edge of the pavement of any driveway entrance off of the right-of-way	24 sq. feet	Six feet	<ul style="list-style-type: none"> • If an institutional use bulletin board is utilized as permitted in section 6A.09.8, no additional ground sign will be permitted.

nonresidential uses within residential zoning districts						<ul style="list-style-type: none"> • Shall be integrated into the landscape buffer design and shall be compatible with the design and materials used for the structures on the site. • Masonry base shall have a minimum height of 18 inches and shall not exceed a height of 36 inches. • The masonry base, at a minimum, shall be equal to the length of the sign. • Masonry or other decorative features enclosing the sides or top of the face of the sign shall not extend beyond the maximum allowable width and height of the sign.
Golf course ground signs	One for each frontage on a public right-of-way with at least 86 feet in width (maximum of two)	Not closer than ten feet to any road right-of-way	24 square feet	Six feet	NA	
Project announcement signs	one	Shall not be located closer than ten feet to any property line	24 square feet	Six feet		<ul style="list-style-type: none"> • Permitted after the development has received preliminary site plan or tentative preliminary plat approval from the township board. • This sign may remain until the first building permit is issued, at that time the sign must be removed.

All single-family residential districts	Wall signs for churches, schools, and other non-residential uses within residential zoning districts	One for each developed site.	Shall not extend above the roofline, nor project more than 12 inches from the face of the building.	50 square feet	See wall sign in section 6A.01.41.	<ul style="list-style-type: none"> Where corporate logos are proposed for use as a wall sign, the logo shall not exceed 30 percent of the maximum permitted area.
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6A.13. Signs permitted in single-family attached residential, multiple-family residential and mobile home park districts.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
Single-family attached residential (R-6), multiple-family residential (MR) and mobile home park (MHP) zoning districts	Multiple-family or mobile home development ground signs	One per multiple-family or mobile home entrance	Adjacent to a multiple-family or mobile home development entranceway; shall not be located within ten feet of any road or street right-of-way; limited to one along each bounding primary or secondary road	24 sq. ft.; shall not exceed 8 ft. in length	Six feet	<ul style="list-style-type: none"> May have such signs on a temporary basis, for a two-year period. The sign support shall not extend more than two feet from the ground area to the sign surface. Permits issued shall only be issued to the developer of the multiple-family or mobile home development. After the two-year period, sign permits may be renewed yearly if at least five percent of the lots or units remain vacant and available. Such signs shall be removed when 95 percent of all lots or units have been sold or rented.
	Multiple-family or mobile home development	One per multiple-family or	No such sign may be erected within 10 feet of	24 sq. feet	Six feet	<ul style="list-style-type: none"> Permitted for a two-year period, which may be renewed yearly if at least five percent of the lots or units remain vacant

	off-premises temporary sign	mobile home development	any road or street right-of-way.			and available or new units or lots are under construction. <ul style="list-style-type: none"> Such sign shall be for the purpose of directing traffic to the development's location. Such signs shall be removed when 95 percent of all lots in the subdivision have been sold by the builder.
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Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
Single-family attached residential (R-6), multiple-family residential (MR) and mobile home park (MHP) zoning districts	Multiple-family or mobile home entranceway ground signs	One per entrance or one sign on each side of the entrance where mounted or integrated into a residential entrance monument shall meet all	On private property at least one foot away from all property lines; on boulevards, residential entranceway ground signs erected on private property requirements as stated in this subsection and shall not be located closer than ten feet to the intersecting road right-of-way line.	24 sq. ft. of lettering	Five feet	<ul style="list-style-type: none"> Shall not be constructed until the development has received site plan approval. Shall only display the name of the development. All entranceway ground signs erected on private property in a multiple-family or mobile home project shall have a common design and be constructed of the same or similar materials throughout development. Multiple-family or mobile home entranceway ground signs within the public road right-of-way shall be approved by the county, state, or other governmental agency having jurisdiction.
	Pole-mounted, permanent,	Two per multiple-family or mobile home	On a light pole or dedicated pole on private property at least one foot away from all property lines or within the median island	10 square feet per banner	Each banner shall not exceed 2 feet in width or 5 feet in height	<ul style="list-style-type: none"> Shall be decorative in nature and shall contain no commercial message or content.

interchange-able, banners	development entrance	of a boulevard and shall not be located within 10 feet of a public road right-of-way.				
Ground signs for churches, schools, and other non-residential uses within residential zoning districts	One for each developed site.	Not closer than ten feet to any property line or to the edge of the pavement of any driveway entrance off of the right-of-way	24 sq. feet	Six feet		<ul style="list-style-type: none"> • If an institutional use bulletin board is utilized as permitted in section 6A.09.8, no additional ground sign will be permitted. • Shall be integrated into the landscape buffer design and shall be compatible with the design and materials used for the structures on the site. • Masonry base shall have a minimum height of 18 inches and shall not exceed a height of 36 inches. • The masonry base, at a minimum, shall be equal to the length of the sign. • Masonry or other decorative features enclosing the sides or top of the face of the sign shall not extend beyond the maximum allowable width and height of the sign.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
Single-family attached residential (R-6), multiple-family residential (MR) and mobile home park (MHP) zoning districts	Wall sign for identification purposes	One for the clubhouse or office for a development site	Shall not extend above the roofline, nor project more than 12 inches from the face of the building	24 sq. feet	See wall sign in Section 6A.01.41	<ul style="list-style-type: none"> Where corporate logos are proposed for use as a wall sign or as part of the overall wall sign, the logo shall not exceed 30 percent of the maximum permitted area.
	Project announcement signs	One	Shall not be located closer than ten feet to any property line	24 square feet	Six feet	<ul style="list-style-type: none"> Permitted after the development has received site plan approval. This sign may remain until the first building permit is issued, at that time the sign must be removed.
	Golf course ground signs	One for each frontage on a public right-of-way, maximum of two; each right-of-way must have a minimum road right-of-way width of 86 feet	Not closer than ten feet to any road right-of-way	24 square feet	Six feet	NA

6A.14. Signs permitted in office, mid-rise development and high-rise development districts.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
Office districts (O-1), mid-rise development districts (MRD) and high-rise development districts (HRD)	Wall signs, awning signs, and projecting signs	One for any development site with one or more buildings	Shall not extend above the roofline, nor project more than 12 inches from the face of the building. A projecting sign may not project more than 24 inches.	Shall not exceed 50 square feet	See wall sign in Section 6A.01.41	<ul style="list-style-type: none"> • Shall meet the legibility and design requirements of section 6A.25. • Corner lots shall be provided 150 percent of the otherwise permitted total wall sign area calculated in accordance with section 6A.23. • When a wall sign is used in conjunction with an awning sign and/or a projecting sign, the total square footage allowed for all together shall not exceed the maximum square footage that would be allowed for a wall sign. • A projecting sign may not exceed 9 square feet in area • Where corporate logos are proposed for use as a wall sign or as part of the overall wall sign area, the logo shall not exceed 30 percent of the maximum permitted area.
	Ground signs	One for each developed site.	Not closer than ten feet to any property line or to edge of pavement of any driveway entrance off of the right-of-way.	24 sq. ft.; shall not exceed 12 ft. in length	Six feet	<ul style="list-style-type: none"> • All ground signs must meet the legibility and design requirements of section 6A.25.
	Project announcement signs	One	Shall not be located closer than ten feet to any property line	24 square feet	Six feet	<ul style="list-style-type: none"> • Permitted after the development has received site plan approval. • This sign may remain until the first building permit is issued, at that time the sign must be removed.

	Automated teller machine sign	NA	Located on ATM Machine or ATM Machine cabinet	3 square feet; this area is inclusive of any graphics and lettering	NA	<ul style="list-style-type: none"> Graphics for the purpose of this definition are any colors or designs other than the principal color of the machine.
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6A.15. Signs permitted in all commercial and industrial districts.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
All commercial and industrial zoning districts	Wall signs, awning signs, and projecting signs	NA	Shall not extend above the roofline, nor project more than 12 inches from the face of the building. A projecting sign may not project more than 24 inches.	Permitted wall sign area shall be calculated in accordance with section 6A.17	See wall sign in section 6A.01.41	<ul style="list-style-type: none"> Shall meet the legibility and design requirements of section 6A.25. Corner lots shall be provided 150 percent of the otherwise permitted total wall sign area calculated in accordance with section 6A.23. When a wall sign is used in conjunction with an awning sign and/or a projecting sign, the total square footage allowed for all together shall not exceed the maximum square footage that would be allowed for a wall sign. A projecting sign may not exceed 9 square feet in area Where corporate logos are proposed for use as a wall sign or as part of the overall wall sign area, the logo shall not exceed 30 percent of the maximum permitted area.
	Window signs	Two per window surface	NA		25 percent of the total surface of the window to which the sign is affixed	NA

Canopy signs	NA	Shall not project further than the canopy support structure	Eight square feet	NA	<ul style="list-style-type: none"> No permit is required for a canopy sign. Minimum clearance shall be ten feet from the average grade of the parcel to the bottom of the sign.
Ground signs	One for each developed site.	Not closer than ten feet to any property line or to edge of pavement of any driveway entrance off of the right-of-way.	24 sq. ft.; shall not exceed 12 ft. in length	Six feet	<ul style="list-style-type: none"> All ground signs must meet the legibility and design requirements of section 6A.25.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
All commercial and industrial zoning districts (C-1, C-2, C-3, C-4, LIR, LI-1, LI-2, and GI)	Temporary cloth or canvas signs, pennants or banners	NA	NA	The total square footage allowed for a banner sign shall not exceed what is permitted for a wall sign	NA	<ul style="list-style-type: none"> May be displayed for a total period of up to eighteen weeks within the calendar year that the first permit was applied for. Six permits may be issued per calendar year. Each permit shall allow banners or temporary signs to be displayed for up to but not exceeding Such signs must be attached to a building.
	Pole-mounted, permanent, interchangeable, banners	The maximum ratio of banners to light poles shall be 1:3	On a light pole or dedicated pole on private property at least one foot away from all property lines or within the median island of a boulevard and shall not be located within 10 feet of a public road right-of-way.	10 square feet per banner	Each banner shall not exceed 2 feet in width or 5 feet in height	<ul style="list-style-type: none"> Shall be decorative in nature. Shall contain no commercial message or content. Up to two banners may be located on a single light pole or dedicated banner pole.

	Menu order and similar drive-through assistance signs	One for each drive-through lane.	At the point of vocal communication with the main building	24 square feet	NA	NA
	Project announcement signs	One	Shall not be located closer than ten feet to any property line	24 square feet	Six feet	<ul style="list-style-type: none"> Permitted after the development has received site plan approval. Sign may remain until the first building permit is issued, at that time the sign must be removed.
	Township governmental property sign	NA	NA	NA	NA	<ul style="list-style-type: none"> A changeable copy sign/reader board may be installed in addition to what is otherwise permissible within this section.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
All commercial and industrial zoning districts	Automated teller machine	NA	Located on ATM Machine or ATM Machine cabinet	3 square feet; this area is inclusive of any graphics and lettering	NA	<ul style="list-style-type: none"> Graphics for the purpose of this definition are any colors or designs other than the principal color of the machine.
	Multiple tenant signs	In accordance with section 6A.22	In accordance with section 6A.22	In accordance with section 6A.22	In accordance with section 6A.22	<ul style="list-style-type: none"> Permitted only when in accordance with section 6A.22 and meeting the requirements established for such signs therein.

6A.16. Signs permitted in agricultural, rural residential and rural estate districts.

Zoning Districts	Sign Type	Number	Locations	Area Maximum	Height Maximum	Special Regulations
Agricultural (RA), rural residential (RR) and rural estate (RE) zoning districts	Wall sign	One for each permitted agricultural or open space recreation use	Shall not extend above the roofline, nor project more than 12 inches from the face of the building	Permitted wall sign area shall be calculated in accordance with section 6A.17	See wall sign in section 6A.01.41	<ul style="list-style-type: none"> Where corporate logos are proposed for use as a wall sign or as part of the overall wall sign, the logo shall not exceed 30 percent of the maximum permitted area.
	Ground sign	One for each undeveloped site where a conforming use exists	Must be setback a minimum of 10 feet from any property line	24 sq. feet	Six feet	NA
	Off-premises ground sign	One for each bona fide producer of agricultural products	Must be setback a minimum of 10 feet from any property line and 100 feet from any other ground sign	24 sq. feet	Six feet	<ul style="list-style-type: none"> Shall not advertise any products or services other than the availability of bona fide agricultural produce raised by the producer. Permits may be obtained for a maximum period of six consecutive months in any calendar year. Permit applicants shall present letter indicating permission has been received from the landowner to place the sign upon his property. A cash bond shall be posted to guarantee removal of such signs. Signs shall be removed within 48 hours of permit expiration.

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	Project announcement signs	One	Shall not be located closer than ten feet to any property line	24 square feet	Six feet	<ul style="list-style-type: none"> • Permitted after development has received site plan approval. • Sign may remain until the first building permit is issued, at that time the sign must be removed.
	Golf course ground signs	One for each frontage on a public right-of-way, maximum of two; each right-of-way must have a minimum road right-of-way width of 86 feet	Not closer than ten feet to any road right-ofway	24 square feet	Six feet	NA

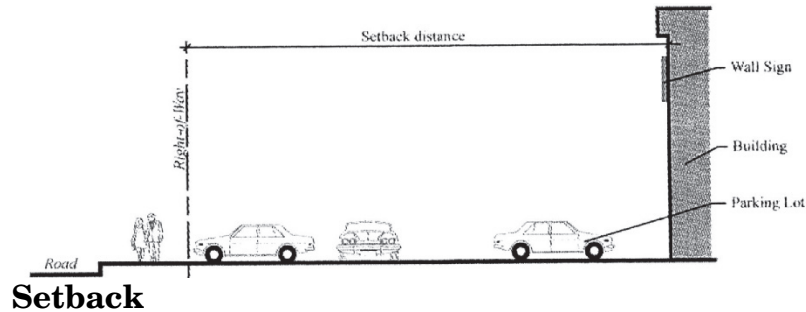
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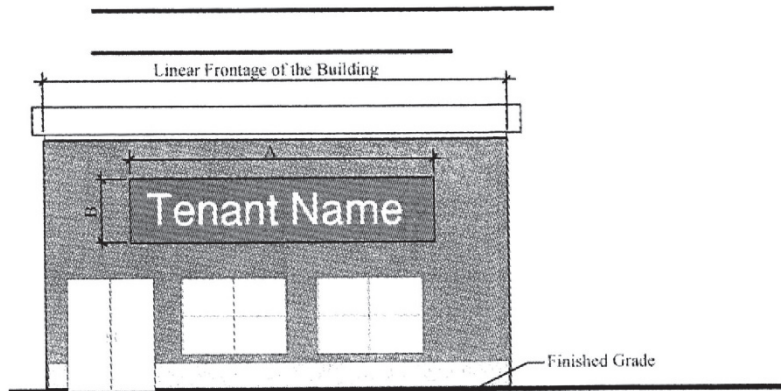
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6A.17. Wall sign area scale.

The maximum permitted wall sign area is based on a function of setback and the width in feet of the longest side of the building facing a parking lot, private drive, or road. The total square footage for a wall sign or awning sign or combination of both in this setback range shall be determined by multiplying one square foot by the total feet in width of the building or legally occupied tenant space. The total wall sign area shall not exceed the permitted maximums established by the following table:

Setback from right-of-way of structure to which wall sign will be affixed	Area maximum per building or tenant space
0 feet to 299.9 feet	100 square feet
300 feet to 599.9 feet	200 square feet
600 feet or greater	300 square feet





6A.17 Sign Area

- Sign Area Calculation;

Linear Frontage of Building or Tennant Space X
 one square foot = Total square foot of Wall Sign
 (A x B)

Sign Area

Refer to Section 6A.23, Sign bonuses, to determine whether the building or tenant space qualifies for additional wall sign area.

6A.18. Portable and temporary community non-profit event signs.

- A. *On-site portable signs:* Nonprofit religious organizations and other similar community non-profit organizations may utilize a portable sign for the purpose of advertising the time and place of worship services or other meetings or special events open to the public. Such sign may not exceed six square feet in area or four feet in total height. The sign shall not exceed two feet in horizontal width. The sign must be located so as not to disrupt or create a safety hazard for pedestrian or vehicular

movement. A sign permit is required. However, such portable sign will be permitted only if the nonprofit organization is not permitted other permanent ground signs on the property. The portable sign utilized by the nonprofit organization may not be placed closer than three feet to any road right-of-way.

- B. *Off-site community event signs:* Signs proposed to be placed off-site shall meet the same size and placement requirements as on-site portable signs as described in paragraph A above. The signs may only be placed in conjunction with an special event approved pursuant to section 2.07B. A sign permit shall be required and the sign plan shall indicate on a map all of the locations the community event organizer has owner approval to place the signs. The signs may be erected no earlier than one week prior to the event and shall be removed within 48 hours after the end of the event.

6A.19. Gasoline service station signs.

Gasoline service stations may display the following special signs which are deemed customary and necessary to their respective businesses. None of the following signs shall have commercial messages or represent an add-on sign as defined by this Ordinance [Ordinance of September 26, 2006]. Sign permits shall be required for such signs.

1. No more than two signs, each sign not exceeding six square feet in area, may be placed on a gasoline pump island for the purpose of displaying gasoline prices.

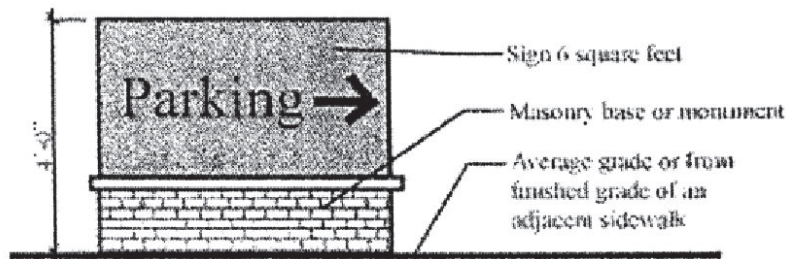
2. No more than two signs, each sign not exceeding six square feet in area, may be placed on a gasoline pump island for the purpose of designating “attendant served” or “self-serve.”

6A.20. Theater signs.

A single wall sign not exceeding 12 square feet in area may be permitted in addition to other permitted wall signage for theaters to allow the changeable display of feature shows, films, or other performances. The copy on the sign may not be changed more than once daily. Such signs shall require permits.

6A.21. Directional signs.

Signs not exceeding six square feet and four feet in height which contain only noncommercial messages including designation of restrooms, drive entrances and exits, telephone locations and directions to door openings are directional signs. Such signs shall require permits.



6A.21 Directional Sign

6A.22. Master sign plans.

For multiple-tenant nonresidential development in the commercial and industrial districts, a master sign plan shall be submitted as part of a required site

plan submission, a building addition to an existing site, or revision to an approved site plan. Multiple tenant signs and directional signs with tenant commercial enterprises are allowed only when approved as part of a master sign plan. A master sign plan shall include all proposed signs or sign locations for the entire multiple-tenant nonresidential development, including defined wall sign spaces for tenants (tenant sign space), a ground sign or multiple tenant sign, directional signs, etc.

1. Application: an application for master sign plan approval shall include:
 - a. A master sign plan, drawn to scale showing the location and dimensions of all proposed signs;
 - b. Technical descriptions and color illustrations of all signs indicating their materials, structural and electrical specifications, and any additional information necessary to satisfy the requirements of state and local construction codes; and
 - c. Facade elevations in color with full dimensions of any structures upon which wall signs are proposed, indicating the intended general location of the proposed signs.
2. From the effective date of this ordinance [Ordinance of September 26, 2006], no signs for any multiple-tenant non-residential development shall be erected or altered (not including the changing of tenant space signs) without an approved master sign plan. If the structure,

dimensions, location, or number of any existing signs of an existing multiple-tenant nonresidential development are altered in any way, master sign plan approval shall be required. All new multiple-tenant non-residential developments shall require master sign plan approval.

3. A master sign plan shall be reviewed and approved by the planning commission. The planning services division may review and approve master sign plans for existing developments. No permits for the construction of signs on any multiple-tenant nonresidential development shall be issued until a master sign plan has been approved for the site in question, unless the permit involves only the changing of a tenant sign in a defined tenant sign space on ground sign or the changing of a wall sign to accommodate a new or former tenant.
4. Design requirements for sign types only permitted as part of a master sign plan:
 - a. Multiple tenant signs for projects of less than 40,000 square feet. Small site multiple tenant signs area and maximum dimensions for small-site multiple tenant signs for projects less than 40,000 square feet in gross floor area shall be permitted pursuant to this section in accordance with the following:

Zoning Category	Number of signs permitted	Area maximum	Height maximum	Width maximum	Design Requirements
C-1	1	30 sq. ft.	8 feet	10 feet	Must meet all other

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					normal ground sign requirements
C-2, C-3, C-4	1	42 sq. ft.	8 feet	10 feet	Must meet legibility per section 6A.25
Note: C-2, C-3, and C-4 include areas under the Central Business District and Corporate Overlay Districts.					

- b. Multiple tenant signs for projects 40,000 square feet or greater or a minimum of four acres. Multiple tenant signs for large projects meet the general requirements in the table and subparagraphs below, and shall be built in accordance with the multiple-tenant sign specification approved by the township board on file with the planning services division.

Zoning Category	Gross leasable area of primary building	Number of Signs Permitted	Height Maximum (Total Sign)	Width (Sign Face)	Height (Sign Face)
C-2, C-3	40,000 sq. ft.	1	15 feet	8 feet 4 in.	11 feet
C-4, LI, LI-R	200,000 sq. ft.	2	15 feet	8 feet 4 in.	11 feet

- 1) Minimum acreage or floor area requirement: to qualify for a standard multiple

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tenant sign, the site must be at least 4 acres in area or the proposed building must have at least 40,000 square feet of gross leasable area.

- 2) Standard multiple tenant sign standard: the township board shall adopt a multiple tenant sign standard, which shall be held on file with the building and planning services divisions.
- 3) Number of standard multiple tenant signs: no more than one multiple tenant sign per site shall be allowed in any instance for developments with less than 200,000 square feet of floor area; projects having 200,000 square feet of floor area or more may have two standard multiple tenant signs.
- 4) Other signs: should an owner elect to construct a multiple tenant sign on a site, the multiple tenant sign shall constitute the only permitted ground sign; no other ground signs shall be allowed in addition to a multiple tenant sign
- 5) Maximum dimensions: a standard multiple tenant sign must not exceed a structure width of 10 feet. The sign face shall have width of 8 feet 4 inches and a height of 11 feet. The overall sign structure shall not exceed 15 feet in height.
- 6) Legibility: all lettering on a multiple tenant sign must meet the legibility requirements of section 6A.25

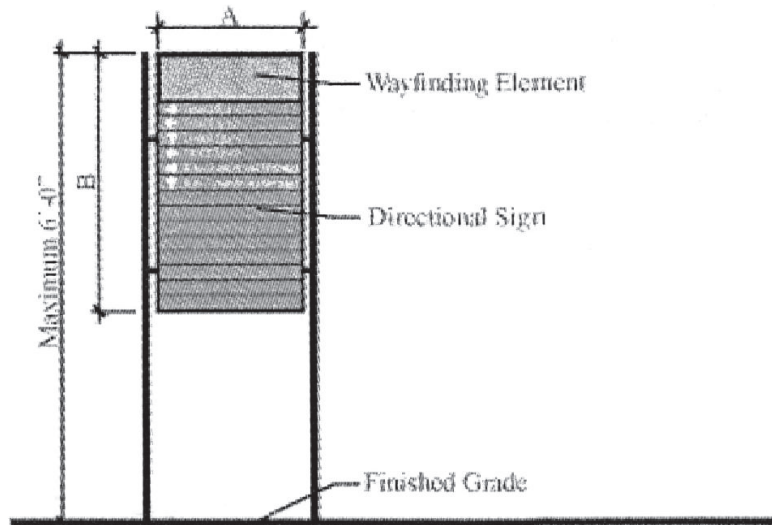
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- 7) Wayfinding: a multiple tenant sign shall incorporate wayfinding elements as identified by the currently adopted Canton Township multiple tenant sign standard, which shall be established by the township board and on file with the building official and planning services division; such wayfinding elements may include, but shall not necessarily be limited to, color coordination with a defined community branding or wayfinding district, address range of the tenants, or graphic elements of the corridor or district in which the sign is located.
- 8) Design and construction: the design and construction specifications of multiple tenant signs must comply with the currently adopted Canton Township multiple tenant sign standard, which shall be established by the township board and on file with the building and planning services divisions.
- 9) The minimum setback for a multiple tenant sign shall be three feet from the right-of-way or not less than the setback of an adjacent or adjoining downtown development authority wall.
- 10) Maximum area permitted for tenant space: the sign face shall maintain a panel of at least 2 feet 9 inches to accommodate the wayfinding elements as defined in paragraph 7) as shown in the diagram.

c. Directory signs.

- 1) Shopping center directory sign standard: The township board shall adopt a shopping center directory sign standard, which shall be held on file with the building and planning services division.
- 2) Location: Directory signs may be located only at internal intersections with a multiple tenant site.
- 3) Maximum dimensions and area: Directory signs shall not exceed 6 feet in area or six feet in height.
- 4) Wayfinding: A directory signs shall incorporate wayfinding elements as identified by the currently adopted Canton Township shopping center directional sign standard, which shall be established by the planning commission and on file with the building official and planning department; such wayfinding elements may include, but shall not necessarily be limited to, color coordination with a defined community branding or wayfinding district or graphic elements of the corridor or district in which the sign is located.
- 5) Design and construction: The design and construction specifications of directory signs must comply with the currently adopted Canton Township shopping center directional sign standard, which shall be established by the township board and

on file with the building and planning services divisions.



6A.22 Directory Sign

- Sign Area Calculation

A x B – Maximum of 6 square feet

Directory Sign

6A.23. Sign bonuses.

In certain unique circumstances, in addition to any signs permitted by this ordinance [Ordinance of September 26, 2006], permits for the following special signs or sign bonuses may be approved in accordance with the provisions established below:

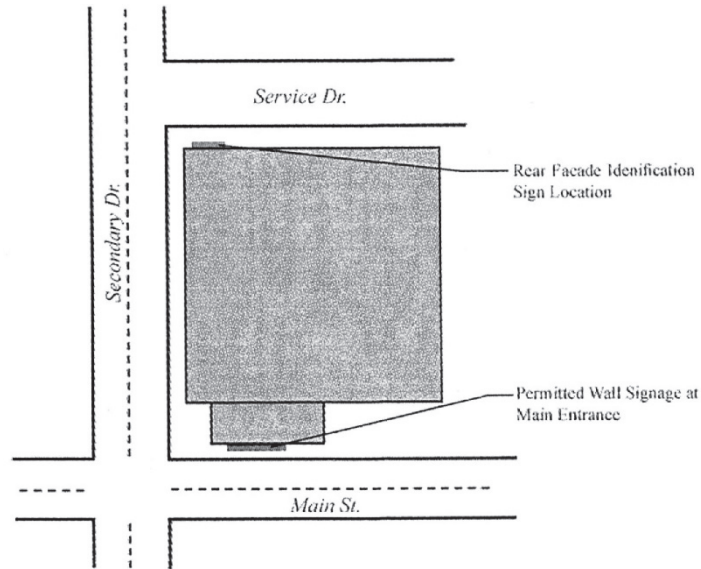
1. Rear facade identification signs: In instances where three or more frontages of a commercial structure in a commercial or industrial zoning district directly visible to a dedicated right-of-way, service drive, or circulation lane, a bonus wall sign

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to identify the rear facade of the structure may be permitted. To qualify for the rear facade identification sign bonus, the site must:

- a. Be directly bordered on at least three sides by dedicated circulation routes intended primarily for consumer traffic; rear alleys and loading and unloading access drives do not qualify.
- b. The drive aisles may not be located exclusively on the same site as the structure to which the bonus would be applied, though it may be shared between two or more separate and distinct sites.
- c. The wall sign bonus must not exceed ten square feet in area distributed over one or two wall signs.
- d. If two signs are proposed, they must be located on separate facades.
- e. To qualify for the rear facade identification sign bonus, no other wall signage may be present on the rear facades having the bonus signage.
- f. The primary permitted wall signage must be located on the facade facing the major thoroughfare or other primary roadway serving the site, or for corner lots, the two frontage facing such thoroughfares or roadways.
- g. Rear facade identification signs may not face a residentially zoned or used property.

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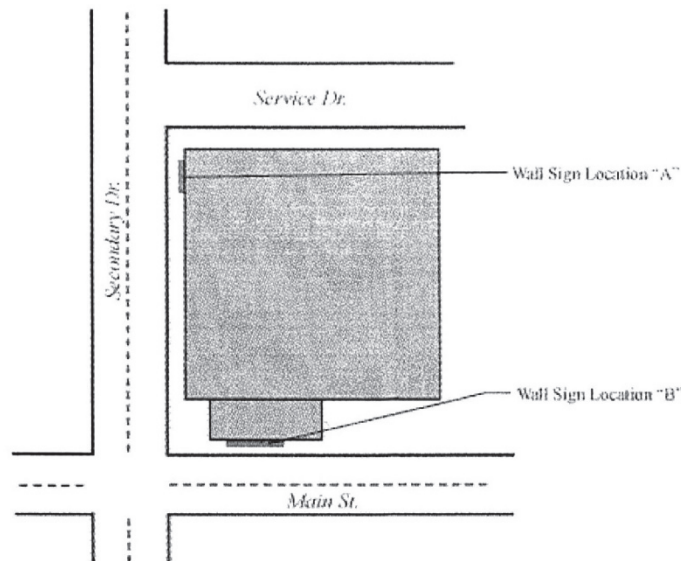
6A.23.01 Rear Facade Identification Sign

Rear Facade Identification Sign

2. Wall sign area bonus: In commercial districts only, in the event that a ground sign otherwise permitted by the ordinance [Ordinance of September 26, 2006] can not be located in compliance with the location requirements of the ordinance [Ordinance of September 26, 2006] due to existing natural or manmade features, proximity to an existing sign or otherwise, additional wall sign area may be awarded above the permitted maximum wall sign area as determined by section 6A.17 This bonus may only be applied when the applicant, in the course of seeking a sign permit, has satisfactorily demonstrated that the development of an otherwise permitted ground sign is not possible in compliance with other provisions of this ordinance [Ordinance of September 26, 2006] or if no location

for the sign which allows the sign to serve its intended purpose due to existing natural or manmade features. The wall sign area bonus shall not be over 24 additional square feet beyond that permitted by section 6A.17.

3. Corner lot/tenant space bonus: Buildings which are located on corner lots or tenant spaces which occupy end or corner units of a multi-tenant structure shall be provided 150 percent of the otherwise permitted total wall sign area for the applicable building or tenant space. The corner lot/tenant space bonus shall only be permitted when a sign is proposed on more than one wall of the building or tenant space.



6A.23.03 Wall Sign Area Plan

- Wall Sign Location "A" + Wall Sign Location "B" can not exceed 150% of the permitted area

Wall Sign Area Plan**6A.24. Billboards.**

In the GI district, billboards may be permitted adjacent to limited access interstate freeways. Such signs shall be set back a minimum of 1,000 feet from any right-of-way and shall not be erected closer than 2,000 feet to any other billboard. The structure of the sign shall be exclusively steel, and no wood or other combustible material shall be permitted. The sign shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m. No billboard shall be permitted on a parcel in conjunction with a ground sign. The maximum permitted area of a billboard shall be 160 square feet, and the sign shall not exceed 12 feet in height as measured from average grade at the base of the sign.

(Ord. of 9-26-2006)

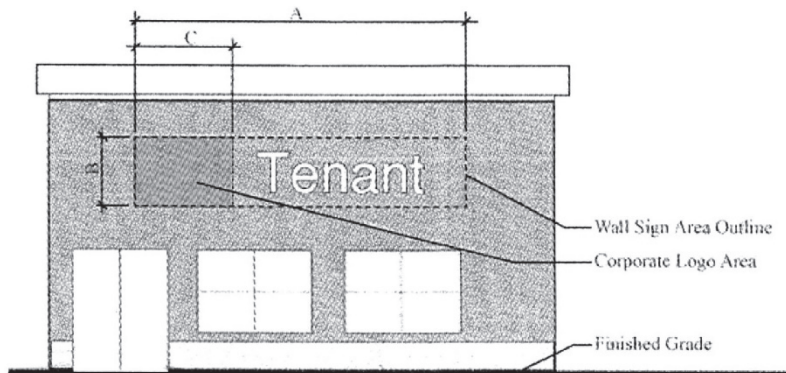
6A.25. Legibility and design.

All commercial wall and ground signage within the township must meet the legibility and design requirements of this section.

1. Wall signs:
 - a. Contrast: all lettering on wall signs shall significantly contrast the background to which they are applied.
 - b. Construction type: wall signs may be of a free-floating channel letter or other applied letter either internally or externally illuminated. If a raceway is used, it must be painted or

manufactured to match the color of the wall to which is mounted.

- c. Lettering: minimum required lettering sizes established as follows for wall signs shall apply to all lettering on any wall sign:
- 1) Sans serif fonts: “block” style or sans-serif lettering shall be at least 14 inches in size on any wall sign.
 - 2) Serif fonts: “script” or other serif lettering shall be at least 17 inches in size on any wall sign.
- d. Where corporate logos are proposed for use as a wall sign or as part of the overall wall sign, the logo shall not exceed 30 percent of the maximum permitted area.



6A.25.01 Wall Sign

- Maximum 30% of a Wall Sign can be a Corporate Logo
- Calculation: $(A \times B) \times 30\% = B \times C$

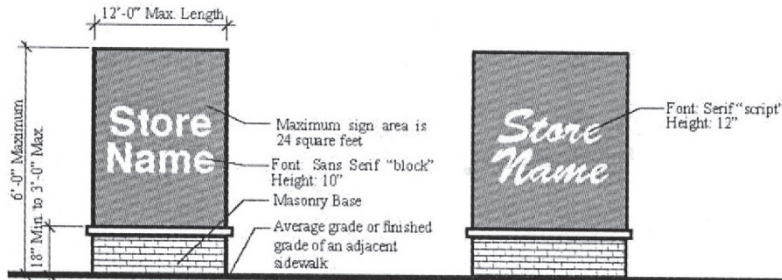
Wall Sign

2. Ground signs:
 - a. Ground signs shall be integrated into landscape buffer design and shall be compatible with the design and materials used for the structures on the site.
 - b. Ground signs shall be located on a masonry base; the masonry base shall have a minimum height of 18 inches and shall not exceed a height of 36 inches; the masonry base, at a minimum, shall be equal to the length of the sign; masonry or other decorative features enclosing the sides or top of the face of the sign shall not extend beyond the maximum allowable width and height of the sign; in the downtown development authority (DDA), the height of the masonry base shall be equal to the finished height of the nearest garden wall.
 - c. Contrast: all lettering on cabinet-style ground signs shall be lighter than the background on which they are located. The background on a cabinet-style ground sign shall be opaque with translucent lettering, to allow only the lettering or logos to be illuminated. Free-floating channel letters or other applied letters shall significantly contrast the background to which they are applied.
 - d. Construction type: ground signs may be of a cabinet, internally-illuminated style; however:
 - 1) Only the lettering or trademarked logo shall be translucent.

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- 2) The background shall be of opaque material in a color darker than the lettering and logo.
- e. Lettering: minimum required lettering sizes established as follows for ground signs shall apply to all lettering for the primary identification of the business or facility on any ground sign.
- 1) Sans serif fonts: “block” style or sans serif lettering shall be at least 10 inches on any ground sign.
 - 2) Serif fonts: “script” or other serif lettering shall be at least 12 inches in size on any ground sign.
 - 3) Supplemental, secondary, or auxiliary information on a sign may utilize lettering which is not less than 50 percent of the minimum font size required for the primary identification of the business of the facility and shall be limited to no more than 25 percent of the sign surface area.

Minimum lettering size is based on capital or upper-case letters. Lower case letters used in combination with capital letters shall be proportional in size based on industry graphic standards.



6A.25.02 Ground Sign

Ground Sign

6A.26. Permit approval.

Sign permits shall be issued by the building division. Signs shall be identified and adequately described on any site plan submitted for review to the township. For signs permitted only when part of a master sign plan or any sign on a multiple-tenant site, no permit shall be issued unless a master sign plan has been approved for the project. For all other signs, the building official shall review and issue permits for signs only when such signs are in compliance with this article.

Planning services division or planning commission approval of a sign permit application or master sign plan or a site plan having signage as part of the approved development shall not necessarily guarantee the issuance of a sign permit from the building official.

6A.27. Zoning board of appeals.

Any component of this chapter [article] is subject to appeal by the zoning board of appeals in accordance with section 28.04.E.6.

6A.28. Planning commission.

The planning commission shall be responsible for the review and approval of master sign plans as part of a concurrent site plan and/or special land use review for any multiple tenant site development or redevelopment. The planning commission shall also be responsible for ensuring that signage is identified and adequately described on any site plan, and that such signage meets with the requirements of this ordinance [Ordinance of September 26, 2006]. Planning commission approval of a master sign plan or a site plan having signage as part of the approved development shall not necessarily guarantee the issuance of a sign permit from the building official. During administrative review, the planning services division shall have the authority to send any freestanding application for a master sign plan to the planning commission for its review and approval prior to the issuance of the permit from the building official.

6A.29. Canton Township Historic District Commission.

The historic district commission shall have the authority to approve modifications to the requirements for the design of signs within the boundaries of the Canton Township Historic District in the interest of permitting historically appropriate signage that may or may not be in full compliance with the dimensional or structural requirements of herein. Such authority shall not allow the historic district commission to approve a sign that does not meet minimum requirements for safety. Approval of a sign by the historic

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district commission shall not necessarily guarantee
the issuance of a sign permit from the building official.

27.05. Variances and appeals.

- A. *Intent.* The purpose of this section is to provide guidelines and standards to be followed by the zoning board of appeals in considering requests for variances and appeals, where the jurisdiction of the board of appeals has been established by section 601 of the Michigan Zoning Enabling Act (P.A. 110 of 2006), as amended.

Generally, an appeal may be taken to the zoning board of appeals by any person, firm, or corporation, or by any office, department, board, or bureau aggrieved by a decision of the planning commission or any administrative official or body charged with enforcement of this ordinance. Furthermore, where due to special conditions a literal enforcement of the provisions of this ordinance would involve practical difficulties or cause unnecessary hardships, within the meaning of this ordinance, the zoning board of appeals, shall have the power to authorize certain variances from the rules or provisions of this ordinance, with such conditions and safeguards as it may determine are necessary so that the spirit of this ordinance is observed, public safety secured, and substantial justice done.

- B. *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the building official certifies to the zoning board of appeals, after notice of appeal has been filed, that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the zoning board of appeals or by the circuit court, on application, and upon

notification of the building official, and on due cause shown.

C. *Application procedures.*

1. *Application to the zoning board of appeals.* Variances and appeals of any nature in which zoning board of appeals action is sought shall be commenced by a person filing an “Application to the Zoning Board of Appeals” with the township clerk, on such forms and accompanied by such fees as may be specified. The application shall specify the grounds upon which the appeal is based and shall be signed. Applications involving a request for a variance shall specify the requirements from which a variance is sought and the nature and extent of such variance. Applications involving a specific site shall be accompanied by a sketch which includes the following information, where applicable:

- Applicant’s name, address, and telephone number.
- The address of the parcel that is the subject of the appeal.
- Scale, north point, and dates of submission and revisions.
- Zoning classification of petitioner’s parcel and all abutting parcels.
- Existing lot lines, building lines, structures, parking areas, driveways, and

other improvements on the site and within 50 feet of the site.

- Proposed lot lines and lot dimensions, and general layout of proposed structures, parking areas, driveways, and other improvements on the site.
- Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys.
- Location of existing drainage courses, floodplains, lakes and streams, and woodlots.
- All existing and proposed easements.
- Location of sanitary sewer or septic systems, existing and proposed.
- Location and size of water mains, well sites, and building service, existing and proposed.
- Any additional information required by the zoning board of appeals to make the determination requested based on the criteria set forth in section 27.05, subsection D.

Where an application involves a variance sought in conjunction with a regular site plan review, the application data requirements for site plan review as set forth in section 27.02 shall be complied with.

2. *Review by the zoning board of appeals.* The township clerk shall forward the application,

along with any supporting materials and plans to the zoning board of appeals.

In accordance with section 103 of the Michigan Zoning Enabling Act (P.A. 110 of 2006), as amended, the zoning board of appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties involved, and decide the appeal within a reasonable time not less than 15 days before the application will be considered for approval. At the hearing, a party may appear in person or by agent or by attorney.

3. *Decision by the zoning board of appeals.* The concurring vote of a majority of the members of the Board shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under, or to effect any variation in an ordinance adopted pursuant to Michigan Public Act 184 of 1943, as amended.

The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, in accordance with the guidelines set forth herein. To that end, the zoning board of appeals shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. The board may impose conditions with an affirmative decision, pursuant to section 603 of the Michigan Zoning Enabling Act (P.A. 110 of 2006) as amended.

The decision of the zoning board of appeals shall be final, but a person having an interest affected by the zoning ordinance may appeal to the circuit court.

4. *Record of appeal.* The zoning board of appeals shall prepare and retain a record of each appeal, and shall base its decision on this record. This record shall include:
 - The relevant administrative records and the administrative orders issued thereon relating to the appeal.
 - The notice of the appeal.
 - Such documents, exhibits, plans, photographs, or written reports as may be submitted to the board for its consideration.

The written findings of fact, the decisions, and the conditions imposed by the zoning board of appeals in acting on the appeal shall be entered into the official record, after being signed by the chairman of the board, thereby effectuating decisions and any conditions imposed thereon.

5. *Approval period.* If construction has not commenced within 24 months after the zoning board of appeals grants a variance to permit the erection or alteration of a building, then the variance becomes null and void. The period of approval may be automatically extended by 12 months if the variance was sought in conjunction with a site plan for which approval has been extended by the township board.

D. *Standards for variances and appeals.* Variances and appeals shall be granted only in accordance with Michigan Public Act No. 184 of 1943 (MCL 125.271 et seq.), as amended, and based on the findings set forth in this section.

1. *General criteria.*

- Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions would create practical difficulties, unreasonably prevent the use of the property for a permitted purpose, or render conformity with such restrictions unnecessarily burdensome. The showing of mere inconvenience is insufficient to justify a variance.
- Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district; or, as an alternative, granting of a lesser variance than requested would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
- The requested variance or appeal can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.
- There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties or other similar uses in the same

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zoning district. The conditions resulting in a variance request cannot be self-created.

- A variance is necessary for the preservation and enjoyment of a substantial property rights possessed by other property owners in the same zoning district.
- The granting of a variance or appeal will not be materially detrimental to the public welfare or materially injurious to other nearby properties or improvements.
- The granting of a variance or appeal will not increase the hazard of fire or flood or endanger public safety.
- The granting of a variance or appeal will not unreasonably diminish or impair the value of surrounding properties.
- The granting of a variance or appeal will not impair public health, safety, comfort, morals, or welfare.
- The granting of a variance or appeal will not alter the essential character of the neighborhood.
- The granting of a variance or appeal will not impair the adequate supply of light and air to adjacent property or increase congestion on public streets.
- In deciding upon an appeal from an action taken by an administrative official or body, the zoning board of appeals shall determine if the administrative official or body has made an error in any order, requirement, decision,

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or determination in the enforcement and/or interpretation of the zoning ordinance.

2. *Specific criteria applicable to variances.* In consideration of all requests for variances, the zoning board of appeals shall review each case individually in relation to the following criteria:

- The size, character and location of a development permitted after granting of a variance shall be in harmony with the surrounding land use and shall promote orderly development in the zoning district in which it is located.
- The zoning board of appeals is not authorized to grant variances related to the use of land, buildings or structures.
- A development permitted upon granting of a variance shall make vehicular and pedestrian traffic no more hazardous than is normal for the district in which it is located, taking into consideration vehicular turning movements, adequacy of sight lines for drivers, location and accessibility of off-street parking, provisions for pedestrian traffic, and measures to reduce contact between pedestrian and vehicular traffic.
- A development permitted upon granting of a variance shall be designed so as to eliminate any dust, noise, fumes, vibration, smoke, lights, or other undesirable impacts on surrounding properties.

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- The location, design, and height of buildings, structures, fences, or landscaping permitted upon granting of a variance shall not interfere with or discourage the appropriate development, continued use, or value of adjacent land or buildings.
 - The development permitted upon granting of a variance shall relate harmoniously in a physical and economic sense with adjacent land uses. In evaluating this criterion, consideration shall be given to prevailing shopping patterns, convenience of access for patrons, continuity of development, and the need for particular services and facilities in specific areas of the township.
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27.09. Violations and penalties.

2. *Violation.* Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this ordinance by the building official or other enforcement official, shall be deemed in violation of this ordinance.
 3. *Penalties.* Any violation of this ordinance shall constitute a misdemeanor. Any person who is convicted shall be subject to punishment by a fine not exceeding \$500.00 or by imprisonment not exceeding 90 days for each offense, or both, at the discretion of the court. Each day a violation occurs or continues shall constitute a separate offense. Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of the ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.
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