

ORDINANCE NO. 15- 2016

AN ORDINANCE AMENDING SECTIONS 155.002 (DEFINITIONS)
AND 155.033 (SIGNS) OF THE BEDFORD CITY CODE

WHEREAS, Ordinance No. 28-1984 (as amended by Ord. No. 28-1990, Ord. No. 8-2000, and Ord. No. 3-2015 having established certain rules and regulations for signs located within the City of Bedford and having been duly codified in Sections 155.002 (Definitions) and 155.033 (Signs) of the Bedford City Code; and

WHEREAS, the City of Bedford's sign regulations, including provisions to control the design, size, location, motion, illumination, enforcement and maintenance thereof, are established in order to achieve, among others, the following purposes: (a) to maintain high quality districts of all land uses, and attractive public and private facilities of all types, by permitting only signs appropriate to their environs; (b) to provide for reasonable and appropriate methods for identifying establishments in office, business and industrial districts by relating the size, type and design of signs to the size, type and design of the office, business and industrial establishments; (c) to eliminate any conflict between traffic control signs and other signs which would be hazardous to the safety of the motoring public or pedestrians; and (d) to control the design and size of all signs so that their appearance will be aesthetically harmonious with an overall urban design for the area, in accordance with commonly accepted community planning and design practices, and the City's Comprehensive Plan; and

WHEREAS, there is a need to revise said Code sections regarding signs to accomplish the above stated purposes.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the City of Bedford as follows:

Section I. That Section 155.002 (Definitions) of the Bedford City Code shall be amended to add the following definitions, which, for the purposes of this chapter, shall apply unless the context clearly indicates or requires a different meaning:

Banner. A temporary sign of lightweight fabric or similar material that is displayed on a pole, building or attached to a staff or line. For purposes of this definition, a banner is not a flag.

Electric. Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

Flag. A sign made of fabric, bunting, or similar material, containing colors, patterns or symbols, used as a symbol of government, political subdivision, corporation, business or other entity or used for decorative purposes not displaying a commercial message. For purposes of this definition, a flag is not a banner.

Flashing. Any illumined sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Code any moving illumined sign, except digital billboards, shall be considered a flashing sign.

Freestanding. A sign erected and maintained on a freestanding frame, mast or pole not attached to any building, and not including ground mounted signs.

Government Sign. A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

Ground Mounted. A sign which extends from the ground, or has support which places the bottom of the sign less than two (2) feet from the ground.

Highway Sign. A Freestanding sign, Integral Sign or Flat Mounted Sign that is erected and maintained within the view of motorists who are driving on a highway.

Integral. A sign that is embedded, extruded or carved into the material of a building façade. A sign made of bronze, brushed stainless steel or aluminum, or similar material attached to the building façade.

Marquee. A canopy or covering structure bearing a signboard or copy projecting from and attached to a building.

Outdoor Advertising. A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located. Comment: This definition is necessarily content based as it requires one to determine from reading or looking at the sign if a product is being advertised that is not sold, manufactured or distributed on or from the premises.

Portable Sign. Any structure without a permanent foundation or otherwise permanently attached to a fixed location, which can be carried, towed, hauled or driven and is primarily designed to be moved rather than be limited to a fixed location regardless of modifications that limit its movability.

Projecting. A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

Roof Sign. A sign located on or above the roof of any building, not including false mansard roof, canopy, or other fascia.

Sign. Any surface, substrate, fabric, or device bearing any lettering, pictorial representation, logo, illustration, emblem, symbol, design, sculptured matter, or other figure of similar character designed to convey information visually for purposes of advertisement, announcement, declaration, demonstration, identification or expression and exposed to public view; or any structure, including billboards, poster panels, or other graphic displays, designed to carry the above visual information.

Sign Surface Area. The surface of the sign upon, against, or through which the message is displayed or illustrated that completely contains the sign message, background of the message and contiguous trims or frames. Any sign supports or structure other than exposed steel framing, which is clad in finished wood, stone, masonry, stucco, or metal, and which does not bear any lettering, pictorial representation, logo, illustration, emblem, symbol, design, sculptured matter, or other figure of similar character designed to convey information visually shall not be included in the sign surface area.

Temporary. A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time.

Flat Wall (Façade-Mounted). A sign affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than twelve (12) inches at all points.

Digital Billboard. A sign that is static and changes messages by any electronic process or remote control.

Section II. That Section 155.033 (Signs) of the Bedford City Code shall be amended as follows:

I. Prohibited Signs.

A. Signs are prohibited in all Districts unless constructed pursuant to a valid building permit when required under this Code and authorized under this Code.

B. No sign larger than 12 square feet, except as specified herein, shall hereafter be erected unless a sign permit has been issued by the Building Commissioner.

C. An illuminated sign with flashing reflective spots or flood lamps of 25-watt tungsten or greater intensity shall be deemed a traffic hazard and are prohibited. The City Building Commissioner shall notify the property owner of a violation and grant the property owner five (5) days to remove the sign. If the property owner fails to remove the sign within the five (5) day period, the Building Commissioner may remove and store the sign. The property owner shall be responsible for all costs associated with removing and storing the sign.

D. No sign shall be constructed, altered, located, or illuminated in any manner which causes undue glare, distraction, confusion, nuisance, or hazard to traffic or to other properties. No sign shall be located in a tree plat nor shall any notice, poster, or other paper or device, calculated to attract the attention to the public, be affixed to any lamp post, public utility pole, or shade tree, or upon any public structure or building, except as may be authorized by law. No sign may be illuminated after 11:00 p.m. if it is located within or adjacent to any residential district, except those businesses remaining open beyond that time in which case illumination shall cease upon closing. If any sign is deemed a nuisance, it may be removed by the City upon authority of the Building Commissioner.

II. Authorized Signs. The following signs are authorized under Section I in every District:

A. Government signs in every zoning district which form the expression of this government when erected and maintained according to law and include the signs described and regulated in Sections II(A)(1), II(A)(2), II(A)(3) and II(A)(4) below.

1. Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state and if not adopted by this state with the Manual on Uniform Traffic Control Devices adopted by the Federal Highway Administration.

2. Each property owner must mark their property using numerals that identify the address of the property so that public safety departments can easily identify the address from the public street. Where required under this code or other law the identification must be on the curb and may be on the principal building on the property. The size and location of the identifying numerals and letters if any must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, the identifier shall be located on the mailbox or other suitable device such that it is visible from the street.

3. Where a federal, state or local law requires a property owner to post a sign on the owner's property to warn of a danger or to prohibit access to the property either generally or specifically, the owner must comply with the federal, state or local law to exercise that authority by posting a sign on the property.

4. A flag that has been adopted by the United States federal government, the State of Indiana, the local government or any branch of the United States military may be displayed as provided under the law that adopts or regulates its use.

5. The signs described in Sections II(A)(1), II(A)(2) and II(A)(3), are necessary to protect the public safety and serve the compelling governmental interest of protecting traffic safety, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

6. The flags described in Section II(A)(4) are permitted to serve a compelling governmental interest in promoting the rule of law by establishing symbolic representations of the governments who pass, protect and preserve those laws.

B. Temporary Signs, Generally.

1. Temporary signs allowed at any time: a) A property owner may place one sign with a sign face no larger than six (6) square feet on the property at any time. b) A property owner may place a sign no larger than 8.5 inches by 11 inches in one window on the property at any time.
2. Temporary signs may be located on the owner's property for a period of thirty (30) days prior to an event and shall be removed within ten (10) days following the event.
3. One temporary sign may be located on the owner's property when that property is being offered for sale or rent and shall be removed within 15 days following the date on which a contract of sale or rent has been executed by a person purchasing or renting the property.
4. One temporary sign may be located on the owner's property on a day when the property owner is opening the property to the public; provided, however, the owner may not use this type of sign in a Residential District on more than two days in a year and the days must be consecutive and may not use this type of sign in any Business District for more than 14 days in a year and the days must be consecutive. For purposes of this Section II(B)(4), a year is counted from the first day on which the sign is erected counting backwards and from the last day on which the sign exists counting forward.
5. A person exercising the right to place any combination of temporary signs listed above in Sections II(B)(1), II(B)(2), II(B)(3) and II(B)(4) on a property as described in this Section II(B) must limit the total number of signs on the property per residential lot at any one time to six (6) plus one sign allowed in II(B)(1)(b).
6. The sign surface area of any temporary sign shall not exceed six (6) square feet in any residential district, thirty-two (32) square feet in any business or commercial district, and sixty-four (64) square feet in any industrial district.

C. For purposes of this Section II the lessor of a property is considered the property owner as to the property the lessor holds a right to use exclusive of others (or the sole right to occupy). If there are multiple lessors of a property then each lessor shall have the same rights and duties as the property owner as to the property the lessor leases and has the sole right to occupy and the size of the property shall be deemed to be the property that the lessor has the sole right to occupy under the lease.

D. In all residential districts, commercial signs are prohibited except for properties for which a home business variance use has been approved.

III. Specific Sign Regulations

The following sign regulations shall apply to all Zoning Districts as indicated.

A. Residential Districts

1. Scope: This Section III(A) shall apply to all Residential Districts.
2. Size:
 - a. When a sign is authorized on a property, the sign must not exceed six (6) square feet in area. Where attached dwellings exist on a property the total square footage of signs must not exceed six (6) square feet per dwelling unit and must not exceed a total of twelve (12) square feet in area per structure.
 - b. For Residential Developments (including subdivision identification) the maximum size and number of signs that the owner or owners of the residential

development may erect and maintain at the entrances to the development shall be controlled according to the following:

(i) Residential developments four (4) acres or less in area may have a sign or signs with a total area of no more than thirty-two (32) square feet.

(ii) Residential developments over four (4) acres but less than forty (40) acres in area may have a sign or signs which have a total area of no more than forty-eight (48) square feet.

(iii) Residential developments of forty (40) acres or more in area may have a sign or signs with a total area of no more than one hundred two (102) square feet.

3. Location: Permitted signs may be anywhere on the premises, in a required side yard or within ten (10) feet of a City street right-of-way.

4. Height: The following maximum heights shall apply to signs:

a. If ground-mounted, the top shall not be over four (4) feet above the ground; and

b. If building mounted, shall be flush mounted and shall not project above the roof line.

c. Illumination: Illumination if used shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign and upon the property within the premises.

d. The following signs are not allowed: Highway Signs, Portable Signs, Marquee Signs, Digital Billboard, Outdoor Advertising Sign, Business signs and Projecting Signs.

B. Non-Residential Districts

1. Business Signs. Business signs shall be permitted subject to the following standards:

a. One sign mounted on the building occupied by the business shall be permitted if, and only if, the following requirements are met:

(i) The business sign shall not have a sign surface area greater than two (2) square feet for each foot of frontage of the building and shall not project above the ridge line of a sloping roof nor above the eave line of a flat roof.

(ii) No sign shall project more than twelve (12) inches over public property.

b. Additional business signs are permitted if one of the following conditions are met:

(i) The business fronts on more than one thoroughfare. In that instance an additional sign shall be permitted to face each thoroughfare;

(ii) More than one business is located in one building. In that instance, one sign per business shall be permitted so long as the combined total sign surface area shall not exceed two (2) square feet for each foot of the building's frontage; or

(iii) More than one building is located at the business. In that instance an additional sign shall be permitted for each building.

c. In addition to an attached business sign or signs, one single- or doubled-sided, freestanding sign may be erected on a business or industrial site.

d. The sign surface area shall not exceed one hundred (100) square feet.

e. Height and setback of signs.

(i) No sign shall exceed thirty-five (35) feet in height, measured from the crown of the road directly in front of the sign.

(ii) Business signs within ten (10) feet of the street right-of-way shall be at least nine (9) feet above the ground and vision beneath the sign must be clear except for supporting members.

(iii) No sign shall be located on or project over public property.

f. Exception for Business Signs and Structures. Where a business sign or structure is nonconforming by reason of restrictions on area, lot coverage, height, yards, and other characteristics of the structure or its location on the lot, the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(i) No such structure may be enlarged or altered in a way which increases its nonconformity.

(ii) Any nonconforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if the reconstruction is performed within three months of the casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before the casualty, subject to approval of required variances by the Board of Zoning Appeals.

2. Off-Premises Signs.

a. *Permitted.* Off-premises (third party or outdoor advertising) signs may be erected on ground or wall location in B-1, B-3, I-1, and I-2 Zones. Only wall signs are permitted in B-2 Zones.

b. *Exemptions:* All governmental, educational, and religious organizations are exempt.

c. *Prohibitions.* Off-premises signs shall be prohibited in all "R" Zones. All off-premises roof signs shall be prohibited in all zones.

d. *Size, height, and setback.*

(i) Off-premises signs shall not exceed one hundred (100) square feet of total surface area per side.

(ii) The maximum height of an off-premises sign shall be thirty-five (35) feet.

(iii) All off-premises sign structures shall be set back from any public right-of-way a distance equal to or greater than the parking setback for the zoning district for that sign and shall not be erected within a two hundred fifty (250) linear feet of any other off-premise sign. Signs located on streets classified as local shall conform to the prevailing building setback for that zone.

e. *Construction and maintenance.*

- (i) Structures for off-premises signs shall be of vertical construction, and, where the back is visible, shall be suitably painted or otherwise covered to present a neat and clean appearance.
- (ii) Only one sign face shall be permitted per sign structure except that back-to-back (double-sided signs) may be permitted. Signs more than one sign-face high or more than one sign-face wide are expressly prohibited.
- (iii) The area around off-premise sign structures shall be kept clean and all scrub brush, tall grass, and the like, shall be cleared away to a distance of at least ten feet to the rear and sides of structures as well as to the front property line and, if on a corner site, to both property lines.

3. Shopping centers with more than ten (10) acres.

(1) Only one detached main sign shall be permitted consisting of the Center's name and the Center tenants' names (all attached to the same pole structure).

(2) All other signs shall be attached to buildings or store fronts as provided in the section for B-2 classifications; provided, however:

- (a) In the event that a shopping center has outlots or satellite store buildings, each said outlot or satellite store building may have a free standing sign not exceeding a sign surface area of one hundred (100) square feet.

4. Abandonment. Any sign that is located on property that becomes vacant and unoccupied for a period of three (3) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed abandoned. Permanent signs applicable to a business temporarily suspended because of a change in ownership or management of the business shall not be deemed abandoned unless the property remains vacant for a period of six (6) months or more. An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises upon notice to the owner by the City Building Commissioner.

5. Maintenance and Repair. Every sign shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of defective parts, painting, repainting, cleaning, and other acts required for maintenance of the sign. Compliance shall be required with all standards of this chapter. If the sign is not made to comply with adequate safety standards, the owner shall remove the sign upon notice by the City Building Commissioner.

III. Permits.

- A. Applications for a sign permit shall be processed through the City Planning Department. Applications for sign permits shall include drawings or sketches of the construction and design of the sign and shall be accompanied by such fee as may be established by the Common Council.

IV. Nonconformity and Modification.

- A. Except as provided in Section IV(A)(2), signs lawfully in existence on the date the provisions of this Code were first advertised, which do not conform to the provisions of this Code, but which were in compliance with the applicable regulations at the time they were constructed, erected, affixed or maintained shall be regarded as nonconforming. Provided, however, a sign constructed during the period of time following the day on which the Supreme Court released its opinion in *Reed v. Town of Gilbert*, ___ U.S. ___, 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444 (U.S. 2015) and the date the provisions of this Code were first advertised for adoption shall not be considered a non-conforming sign unless it conformed to the regulations in effect on the day immediately preceding the release of the Supreme Court's decision in *Reed v. Town of Gilbert*, ___ U.S. ___, 135 S. Ct. 2218, 192 L. Ed. 2d 236, 2015 U.S. LEXIS 4061, 83 U.S.L.W. 4444 (U.S. 2015).

1. For the purpose of amortization, these signs may be continued from the effective date of this Code for a period not to exceed ten (10) years unless under a previous regulation the signs were to be amortized and in that case the amortization period shall be as previously required or ten years whichever is less.
2. Signs which were nonconforming to the prior Ordinance and which do not conform to this Code shall be removed immediately.
3. Any sign which is altered, relocated or replaced shall be brought immediately into compliance with all provisions of this Code.

Section III. Unless specifically modified herein, all other parts of City Code §§ 155.002 and 155.033 shall remain in full force and effect.

Section IV. This ordinance shall be in full force and effect from and after its passage, approval by the Mayor and proper publication as required by Indiana law.

ADOPTED and APPROVED by the Common Council of the City of Bedford,
 Indiana this 13th day of September, 2016.

NAY

AYE

Byron E. Becken
Paul B. Hall, Sr.
Judy Carlisle
Myrtle Murphy
Fabian R. [unclear]
Adele Bowden Pull

[Signature]
 Presiding Officer

ATTEST:

Marsha Pfeiffer
 Marsha Pfeiffer, Clerk-Treasurer

Presented to the Mayor of the City of Bedford, Indiana on the 13th day of September, 2016.

Marsha Pfeiffer
 Marsha Pfeiffer, Clerk-Treasurer

Approved and signed by me this 13th day of September, 2016.

[Signature]
 Shawna Girgis, Mayor