

VILLAGE COUNCIL
VILLAGE OF MACKINAW CITY
Cheboygan and Emmet Counties, Michigan

Trustee Belinda Mollen supported by Trustee Janelle Bancroft, moved the adoption of the following Ordinance:

ORDINANCE NO. 120

AN ORDINANCE TO AMEND SECTIONS 16.005, 16.009 AND 16.012 THROUGH 16.019, AND ADD SECTION 16.020, TO THE COMPILED CODE OF THE VILLAGE OF MACKINAW CITY TO REGULATE THE MAINTENANCE OF SIGNS IN THE VILLAGE

The Village of Mackinaw City ordains:

Sec. 1. Amendment of Compiled Code. Sections 16.005, 16.009 and 16.012 through 16.019 of the Compiled Code of the Village of Mackinaw City (Ord. No. 120, Effective April 6, 1994) are amended, and Section 16.020 is added, to read as follows:

Sec. 16.005 Prohibited and Restricted Signs.

It shall be unlawful to erect or maintain the following signs, including their associated structures, unless otherwise permitted in this ordinance.

A. Any sign which contains calcium fluoride (fluorite) or any other transparent, crystalline mineral for the purpose of displaying a fluorescent character on any part of any sign.

B. More than one (1) sign per premise for each full 150 feet of road frontage on one public street. If a premise is situated on a corner or a through lot, it may have the permitted number of signs on each public street which it borders, including those premises which may have road frontage on three (3) streets. Property owner may choose which sign type they desire for each allowable sign.

C. More than two (2) signs on one premise facing on one street regardless of the number of businesses located on the premises, for each 150 feet of frontage on that street. If two distinct commercial uses occupy one premise under the same ownership, each business may have a separate sign. The two-sign limit includes any street signs adjoining the premises if they advertise the businesses located on the premises.

D. Any sign that has any blinking, moving, rotating or flashing parts; plastic signs shall not oscillate; inflatable signs; animated signs.

E. Any sign that is illuminated in such a manner so as to create a hazard in any public right-of-way. If the light source is from the outside, the light shall be so directed and shaded that it does not shine into the eyes of drivers or pedestrians, or into adjacent residential areas. All lighted signs must be illuminated by artificial white light only and shall not use a flame as a source of light.

F. Any sign attached to any natural growth, such as trees, shrubs or other natural foliage.

G. Exterior banners, pennants, streamers, pinwheels, balloons, searchlights, animal characters, theme paraphernalia or other similar attention getting device, logos or ornamentation which advertise or promote a product or service.

H. Any sign exceeding six (6) square feet in size and painted or placed on or in a motor vehicle or trailer which is parked within ten (10) feet of the street right-of-way for the purpose of advertising a business or product or service of a business located on or off the premises where the vehicle is parked. Nor shall the vehicle be allowed to operate or park on public streets with such a sign.

I. Any sign containing lewd, indecent, or otherwise offensive words or symbols.

J. Any portable or freestanding sign, except those granted a temporary sign permit under the provisions of this ordinance.

K. Any other sign which is not specifically included as permissible under the provisions of this Ordinance.

L. Roof signs.

M. Any sign which advertises an activity, business or product which has been discontinued or no longer exists, including signs advertising prices for fuel at a gasoline filling station as defined in the Village's Zoning Ordinance. Such signs shall not be reestablished or displayed after the activity, business, product or usage to which they relate has been discontinued for 30 days or longer.

N. Awning or canopy signs where the total number of signs for the premise is at the maximum allowed.

O. Any sign along commercial property lines that adjoin residentially zoned property, provided that the judgment of the Village Council [is] that the placement does not negatively impact the residentially zoned property.

P. Any sign or part thereof, including sign anchors, braces or guide rods attached, fastened or anchored to any fire escape, fire ladder or standpipe.

Q. Any sign placed in such a manner so as to obstruct or interfere with traffic visibility or to prevent the placement of ladders against the building by the fire department as necessity may require.

R. Any sign, including a changeable sign such as a reader board, which advertises or publicizes any products or services not sold on the premises or any other activity not conducted on the premises upon which such sign is located (off-premise billboards see Article 8).

S. Any Electronic Message Center or Indexing Sign or Electronic Changeable Copy Sign except for signs which display public service information such as time, date, temperature, weather, or similar information. Except as otherwise provided above, also exempt from these requirements are signs advertising prices for fuel at a gasoline filling station as defined in the Village's Zoning Ordinance.

Signs prohibited by this section shall be removed in accordance with section 16.013.

Sec. 16.009 Illumination.

No sign shall be illuminated except in accordance with the following restrictions:

A. No sign shall contain any moving, flashing or animated lights except such portions of a sign as consists solely of indicators of time, day, date and temperature in Fahrenheit and/or Celsius.

B. Signs may have accent lighting limited to a maximum of eleven (11) watt per bulb.

C. Lighting external to the sign shall consist of one color: white.

D. Illumination shall be so arranged as to reflect light away from residential premises and in such a manner so as not to cast glare.

E. No temporary lighting other than holiday decorations shall be permitted.

F. Unless open for business and serving customers beyond the following hours, interior illuminated signs designed or placed to show through the windows or doors of any building shall not be visible from the exterior of any such building between the hours of 12:00 a.m. and 6:00 a.m., EST.

G. The provisions of this section shall apply not only to exterior signs, but also the interior signs which are designed or placed to show through windows or doors of buildings.

H. Maximum brightness levels for illuminated signs shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness during daylight hours and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn. For purposes of this Ordinance, the term "nits" shall describe a metric unit of luminance defined as candela per square meter (cd/m), based on the candela, the modern metric unit of luminous intensity, and the square meter.

Sec. 16.012 Maintenance.

All signs, together with their structural elements and supporting framework, shall be maintained and kept in good repair, free from peeling, rust, decay, structural weakness, physical deterioration or similar condition. All metal, wood, or other material components shall be kept neatly painted, stained, sealed or preserved and free from corrosion.

Sec. 16.013 Prohibited and Restricted Signs; Improper Maintenance.

A. If any sign, structural element or supporting framework is determined by the Village Manager or Village Zoning Administrator to be in violation of section 16.005 and/or 16.012 of this ordinance, a notice may be served on the owner of the premises on which said sign, structural element or supporting framework is located. The notice shall specify:

1. The reason(s) why the Village Manager or Village Zoning Administrator has determined that the sign, structural element or supporting framework is in violation of section 16.005 and/or section 16.012.
2. The time and place of a hearing before the Village Council. The owner(s) shall be given the opportunity to show cause at the hearing why the sign, structural element or supporting framework should not be removed, demolished, otherwise made safe, or properly maintained.

B. The notice shall be in writing and shall be served either personally or by certified mail, return receipt requested, addressed to the owner(s) address as shown on the Village's tax assessment records. The notice shall be served upon the owner(s) at least 10 days before the date of the hearing.

C. At the hearing required by subsection B above, the Village Council shall take testimony of the Village Manager or Village Zoning Administrator, the owner(s) of the premises, and any interested party. Not more than 5 days after completion of the hearing, the Village Council shall render a decision either closing the proceedings or ordering the sign, structural element or supporting framework removed, demolished, otherwise made safe, or properly maintained. The Village Council's order shall specify what action the owner(s) shall take and set a date by which the owner(s) shall comply with the order.

D. If the owner(s) fails to appear or neglects or refuses to comply with the order issued under this section, the Village Manager or Village Zoning Administrator shall take all necessary action to enforce the order, including seeking an order from a court of competent jurisdiction authorizing entrance onto the property to employ the necessary labor and materials to perform any removal, demolition, abatement, repairs, maintenance or other required work to bring the sign, structural element or supporting framework into compliance with this ordinance. The court's order should specify that the costs of removal, demolition, abatement, repair, maintenance or other work performed under this subsection shall be billed to the owner(s), and may be assessed as provided under section 12.121 of the Village Code of Ordinances.

E. Notwithstanding other provisions of this section, whenever, in the opinion of the Village Manager or Village Zoning Administrator, there is imminent danger due to an unsafe sign, structural element or supporting framework, the Village Manager or Village Zoning Administrator may immediately take any action necessary to abate the danger caused by the unsafe sign, structural element or supporting framework.

1. Prior to the initiation of the emergency measures provided above, the Village Manager or Village Zoning Administrator shall, if possible, attempt to contact the owner of the premises on which said sign, structural element or supporting framework is located to provide the owner opportunity to immediately address the imminent danger. If the owner cannot be reached, or if the owner refuses to address or addresses in an unsatisfactory manner the danger caused by the unsafe sign, structural element or supporting framework, the Village Manager or Village Zoning Administrator may immediately proceed with emergency measures.

2. For the purposes of this subsection, the Village Manager or the Village Zoning Administrator shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

3. All costs for the abatement of the imminent danger caused by an unsafe sign, structural element or supporting framework pursuant to this subsection shall be the responsibility of the owner.

Sec. 16.014 Nonconforming Signs.

A. Nonconforming signs are those which do not conform to the provisions or requirements of this ordinance or any subsequent amendments thereto, but which were lawfully placed and established prior to the time of adoption of this ordinance or amendment. Signs are considered nonconforming if not in compliance with any requirement or provision of this ordinance or amendment, including the location of the sign, such as those placed in public rights-of-way. The intent of this section is to recognize that the eventual elimination, as expeditiously as is reasonable, of existing signs that are not in conformity with the provisions of this ordinance is as much a subject of health, safety and welfare as is the prohibition of new signs that would violate the provisions of this ordinance.

B. Any enlargement or expansion of nonconforming signs shall not be allowed. Additionally, the movement or relocation of any nonconforming sign shall not be allowed.

C. Maintenance and repair of nonconforming signs, including the structure and display area, shall be allowed only in compliance with the following requirements:

1. Minor repairs or maintenance to the structure of nonconforming signs or structures, to keep it structurally safe and sound is permitted. However, such repairs shall not be

allowed when the cost of such repair or improvement exceeds 25% of the structure's replacement cost. The replacement cost shall be determined prior to any repairs or improvements by a qualified appraiser of the cost of replacing signs, said appraiser to be selected by the Village. This provision is intended to apply to structural repair and maintenance and not painting or cosmetic maintenance and repair.

2. Any nonconforming sign or structure damaged by fire, explosion, flood, erosion or other means shall not be rebuilt, repaired or reconstructed if damaged in excess of 50% of the structure's pre-catastrophe replacement cost.

D. The message conveyed on a nonconforming sign can be changed so long as such face change does not increase the nonconformity of the sign, provided a new permit to do so is obtained prior to making said face change.

E. Nonconforming signs that are nonconforming due to their location in a public street right-of-way shall be eliminated if the property it serves is redeveloped. Redeveloped shall be defined as voluntary destruction or replacement of the building(s) served by the nonconforming sign, or a 50% or more addition of square footage to the building(s) served by the nonconforming sign. The intent of this provision is that such a demolition or addition would reasonably allow a relocation of the right-of-way sign.

Sec. 16.015 Appeals.

A. A person aggrieved by an order, decision or requirement of the Village Manager or the Village Zoning Administrator under this ordinance may appeal to the Village Zoning Board of Appeals.

B. Except for an order of the Village Council or an order issued by a court of competent jurisdiction, the Village Zoning Board of Appeals shall hear and decide appeals from and review any order, decision, requirement or determination of this ordinance.

Sec. 16.016 Variances.

The Zoning Board of Appeals, after a public hearing, shall have the power to decide applications filed as hereafter provided for sign variances:

1. Where, by reason of exceptional physical layout and conditions of the real estate and improvements thereon, or due to the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this sign ordinance would involve unduly practical difficulties or unnecessary hardship.

2. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the sign ordinance as long as the spirit of the ordinance can be served as well as public safety secured and substantial justice done.

3. The criteria that must be determined to grant such a variance will include all of the following findings:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

(b) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same

zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(c) That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this ordinance or the public interest.

(d) That the condition or situation of the specific property to be served by the sign for which the variance is sought is not of a general or recurrent nature as to make reasonably practical the formulation of a general regulation for such conditions or situation.

4. In authorizing a variance for a sign, the Zoning Board of Appeals may attach conditions to such variance in furtherance of the intent and spirit of this ordinance and the protection of the public interest.

5. The procedures for a variance area as follows:

(a) An application for a sign variance together with an application fee, in an amount set from time to time by resolution of the Village Council, shall be filed with the Village Zoning Administrator, who shall transmit the same, together with all plans, specifications and other documents pertaining to the application, and his/her written recommendation, to the Village Clerk.

(b) Upon receipt of the application, written recommendation and pertaining documents from the Zoning Administrator regarding a sign variance, the Village Clerk shall immediately place said variance application on the agenda of the Zoning Board of Appeals for the next meeting that can be held in compliance with the notice requirements of this ordinance. Before granting any variance, the Zoning Board of Appeals shall hold a public hearing. Notice of such hearing shall be served personally or by mail at least fifteen (15) days prior to the date of such hearing, upon the applicant, the record owners of property within 300 feet of the premises in question, which notices, if by mail, shall be addressed to the respective property owner of record at the address given in the last assessment roll. Any party may appear at such hearing in person or by an agent or attorney.

(d) On the day of the hearing of the variance application, the Zoning Board of Appeals may adjourn the hearing in order to permit the gathering of additional information, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in the variance application. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.

6. The Village Zoning Board of Appeals may, by variance, allow replacement nonconforming signs or alterations to an existing nonconforming sign, otherwise not allowed by this ordinance, if it determines that said replacement sign or alteration provides a substantial improvement in the form of a lessened nonconformity with the requirements of this ordinance.

Sec. 16.017 Fees.

A permit fee shall be paid to the Village of Mackinaw City for each sign permit issued under this ordinance. The permit fee amount shall be set from time to time by resolution of the Village Council.

Sec. 16.018 Enforcement and Penalties.

A. Any violation of this ordinance shall be a municipal civil infraction punishable by a fine in an amount set from time to time by resolution of the Village Council.

B. Each day of continued violation shall constitute a separate offense.

C. In addition to the penalties provided by this section, the district court shall have equitable jurisdiction to enforce any judgment, writ, or order necessary to enforce any provision of this ordinance, including, but not limited to, abatement of the violating condition or the granting of injunctive relief.

D. Contested hearings under this section before the district court may be conducted as an informal hearing and as a formal hearing, as may be applicable, as provided by the Revised Judicature Act of 1961, 1961 PA 236, as amended, MCL 600.101 *et seq.*

Sec. 16.019 Limitations on Permitted Signs.

Where a sign is defined or listed as a permitted sign, or as a permanent sign permitted in a specific district, such sign shall only be permitted as specifically provided in this ordinance and shall not be permitted in any district where it is not listed nor shall it be modified or otherwise expanded except as expressly provided herein. This is true even if such sign might be similar to a listed permitted sign.

Sec. 16.020 Severability.

If any part or parts of this ordinance is, or are, held to be invalid, such shall not affect the remaining portions herein.

Sec. 2. Effective Date. This ordinance shall take effect immediately upon its publication in a newspaper circulated within the Village.

Yeas: Pres. J. Hingston, Trustees, J. Bancroft, B. Mollen, M. Yoder., P. Michalak. R. Perlick, R. Glenn

Nays: None

Abstain: None

Absent: None

Ordinance declared adopted.

Jeff Hingston, Village President
March 07, 2013

Lana Jaggi, Clerk
March 07, 2013

CERTIFICATION

As the Clerk of the Village of Mackinaw City, Michigan, I certify this is a true and complete copy of an ordinance adopted at a meeting of the Village Council held on March 07, 2013, with notice provided as required by law.

March 07, 2013

Lana Jaggi, Clerk