

VILLAGE PRESIDENT
Ray Danford

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Rita Baker
Seth Speiser
Charlie Mattern
Ray Matchett, Jr.
Steve Smith
Mike Blaies

VILLAGE OF FREEBURG

FREEBURG MUNICIPAL CENTER
14 SOUTHGATE CENTER, FREEBURG, IL 62243
PHONE: (618) 539-5545 • FAX: (618) 539-5590
Web Site: www.freeburg.com

VILLAGE ADMINISTRATOR
Dennis Herzing

VILLAGE TREASURER
Bryan A. Vogel

PUBLIC WORKS DIRECTOR
Ronald Dintelmann

POLICE CHIEF
Melvin E. Woodruff, Jr.

VILLAGE ATTORNEY
Weilmuenster Law Group, P.C

January 27, 2012

NOTICE

MEETING OF LEGAL AND ORDINANCE COMMITTEES Annexation; Building; Zoning; Subdivision (Speiser/Baker/Mattern)

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Tuesday, January 31, 2012, at 4:30 p.m.**

LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items to be Discussed:

- A. Old Business
 - 1. Approval of January 4, 2012 Minutes and Executive Session Minutes
 - 2. Status of Public Hazard Homes
 - 3. Unionization
 - 4. Update Code Book
 - 5. Nuisance Abatement Code
 - 6. Resident complaint about dust from high school parking lot
 - 7. Noise Ordinance
 - 8. Sign permit for Bredeaux
 - 9. Kaiser purchase of lot at Industrial Park
- B. New Business
 - 1. Political sign ordinance
 - 2. Ordinance Regarding Electronic Attendance at Meetings
- C. General Concerns
- D. Public Participation
- E. Adjourn

At said Legal and Ordinance Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss the selection of a person to fill a public office [5 ILCS, 120/2 - (c)(3)], litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 - (c) (1) a.]; collective negotiating matters between the public body and its employees or their representatives [5 ILCS 120/2 (C)(2). or real estate transactions [5 ILCS, 120/2 - (c)(5)].

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Legal and Ordinance Committee Meeting
(Annexation; Building; Zoning; Subdivision)
(Speiser/Baker/Mattern)
Tuesday, January 31, 2012 at 4:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 4:32 p.m. by Chairman Seth Speiser on Tuesday, January 31, 2012, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Trustee Charlie Mattern, Village Administrator Dennis Herzing and Office Manager Julie Polson.

A. OLD BUSINESS:

1. Approval of January 4, 2012 minutes and Executive Session minutes: Trustee Rita Baker motioned to approve the January 4, 2012 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried. Trustee Rita Baker motioned to approve the August 6, 2008 Executive Session minutes and Trustee Charlie Mattern seconded the motion. With two aye votes, the motion carried.

2. Status of Public Hazard Homes: Dennis doesn't have anything new on Sheets. He said the Kinzinger home is moving along, cleanup work has been done on the Clossen home and it looks okay, and the trailer on W. Apple Street is gone. Seth said there is a house behind Bill's Autobody that is about ready to fall down.

3. Unionization: Dennis said the police contract should be done. The final contract has been sent to the police union for ratification. We are still working on some outstanding issues with the public works contract, the major one being the on-call status.

4. Update Code Book: This is on old for now. Dennis needs to review Frank's proposed sample chapter.

5. Nuisance Abatement Code: Seth passed out a list of items that need to be addressed. Julie will get a copy to Phil. We need to talk to Phil about the nuisance checklist.

6. Resident complaint about dust from high school parking lot: Seth talked to Ron about this and Ron told him there is a contact at the Department of Education and Dennis should know who that is. Our zoning code says that parking lot should be blacktopped.

7. Noise Ordinance: Julie is gathering information from other municipalities on their noise ordinance.

8. Sign permit for Bredeaux: Seth will call Clayton and invite him to the next committee meeting.

9. Kaiser purchase of lot at Industrial Park: Dennis spoke with Dennis Kaiser today and said he is ready to buy the lot. He would like specific language in the contract that would allow him to

Legal and Ordinance Committee Meeting

Tuesday, January 31, 2012

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

develop the lot but that the development may not necessarily be a building. Dennis Kaiser may want to expand his lay down yard first. Dennis said he did not see a problem with the request and the committee agreed. Dennis will revise the contract.

B. NEW BUSINESS:

1. Political sign ordinance: Dennis said Ray had asked him to bring this issue to Legal/Ordinance committee a while back. He provided copies of our current code as well as the proposed change to the code with respect to temporary signs. Also provided was a copy of the IML legal brief concerning the limitations on local regulations of political signs. Dennis said the U.S. constitution guarantees free speech and we don't have too much control over political signs. We can limit the size and total square feet of the sign. Dennis said all temporary signs need to have the same controls. Temporary signs cannot be on public property but can be on private property. He also wrote into the suggested ordinance that only permanent signs will require a permit. He would like the committee to review all of the information provided and discuss at the next committee meeting.

2. Ordinance Regarding Electronic Attendance at Meetings: The committee reviewed the ordinance. Dennis said Attorney Manion sent three ordinances from other municipalities. He had Brian review the attached ordinance and he had no problems with it. Dennis said the language in the ordinance came straight out of the statute.

Trustee Rita Baker motioned to recommend the Ordinance Regarding Electronic Attendance at Meetings to the full Board for approval and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

C. GENERAL CONCERNS: The committee discussed the pool renovation. Dennis said the pool plans have been resubmitted and it will take another 2 - 3 weeks before we get a review of the submittal.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn at 5:09 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson
Office Manager

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Ray Danford

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Legal and Ordinance Committee Meeting
(Annexation; Building; Zoning; Subdivision)
(Speiser/Baker/Mattern)

Wednesday, January 4, 2012 at 4:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 4:30 p.m. by Chairman Seth Speiser on Wednesday, January 4, 2012, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Trustee Charlie Mattern, Village Clerk Jerry Menard, Village Administrator Dennis Herzing and Office Manager Julie Polson. Guest present: Janet Baechle.

A. OLD BUSINESS:

1. Approval of December 7, 2011 Minutes: Trustee Rita Baker motioned to approve the December 7, 2011 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.

2. Status of Public Hazard Homes: Dennis doesn't have anything new on Sheets. He said Phil is still talking to Kinzinger about Furtak purchasing her home. Rita said the trailer on W. Apple is being torn down.

3. Unionization: Dennis said the police contract should be done. The final contract has been sent to the police union for ratification. We are still working on some outstanding issues with the public works contract.

4. Update Code Book: This is on hold for now. Dennis needs to review Frank's proposed sample chapter.

5. Nuisance Abatement Code: Rita and Seth will work on a list of items we want Bill Herr to address. Seth said he would try to get this done this week.

6. Resident complaint about dust from high school parking lot: We haven't heard anything back from the complainant. Seth will talk to Greg Frerking and see what he knows about this. Dennis thought they might be waiting to pave the lots after the construction is done.

7. Noise Ordinance: The committee discussed this at length. Charlie questioned whether or not we really want to set time limits by ordinance. Are we willing to apply those limits to everyone? Seth said if we do change the ordinance to include those time limits, you would still have to sign a complaint. Seth asked Julie to check other towns to see if they had any time restrictions.

8. Sign permit for Breadeaux: Seth talked to Clayton about the sign permit. Clayton told Seth Joe Koppies said he could put signs out. Dennis told the committee when the big sign went in for the Market Place, one of the conditions was the individual businesses could not put out any other signs. Julie will get a copy of those meeting's minutes to Seth.

Legal and Ordinance Committee Meeting

Wednesday, January 4, 2012

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

B. NEW BUSINESS: Dennis advised the committee that he talked to Dennis Kaiser about his purchase of the additional lot. Dennis Kaiser would like to move forward but asked if the Village would continue to mow that property and also asked if he could extend the time to build on the lot from 18 months to 36 months. Dennis said he would have John come up with a price to mow the lot and also said we would mow that lot on our regular scheduling of mowing the Industrial Park. Rita said since Dennis already has a business out there, she is fine with the 36 month extension request. The committee agreed to both requests.

C. GENERAL CONCERNS: None.

D. PUBLIC PARTICIPATION: None.

E. ADJOURN: *Trustee Rita Baker motioned to adjourn at 4:57 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson
Office Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE III, CHAPTER 30 OF THE REVISED
CODE OF THE VILLAGE OF FREEBURG, ST. CLAIR
COUNTY, ILLINOIS (Electronic Attendance at Meetings)

WHEREAS, effective January 1, 2007, the Open Meetings Act was amended to define a meeting to mean any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business, and it permits attendance of members of the public body at public meetings by a means other than physical presence; and

WHEREAS, to permit attendance by a means other than physical presence, the Village must adopt rules that conform to the requirements of the Open Meetings Act, 5 ILCS 120/7; and

WHEREAS, the Board of Trustees of the Village desires to permit attendance at a meeting by means other than physical presence in compliance with the Open Meetings Act; and

WHEREAS, the Board of Trustees of the Village finds that it is necessary that any existing ordinances, resolutions or policies be amended to conform to the definition of the term "meeting" to include electronic gatherings as defined in the Open Meetings Act.

NOW, THEREFORE, BE IT RESOLVED by the President and the Board of Trustees of the Village of Freeburg, Illinois, as follows:

Section 1. Recitals. The preliminary paragraphs set forth above are incorporated herein as part of this Ordinance.

Section 2. TITLE III, CHAPTER 30 Form of Government; Ordinances, is hereby amended to add a new section 30.50 as follows:

30.50 ELECTRONIC ATTENDANCE AT MEETINGS

A. **Rules Statement.**

The President or any Trustee of the Village of Freeburg, Illinois (the "Village"), may attend any open or closed meeting of the Village via electronic means (such as by telephone, video or internet connection) provided that such attendance is in compliance with these rules and any applicable laws.

B. **Prerequisites.**

The President or any Trustee of the Village (“member”) may attend a meeting electronically only if the member meets the following conditions:

(a) The member must notify the Clerk and Office Manager at least one (1) day before the meeting, unless impractical, so that necessary communications equipment can be arranged. Inability to make the necessary technical arrangements will result in denial of a request for remote attendance.

(b) The member must assert one of the following three reasons why he or she is unable to physically attend the meeting,

(1) The member cannot attend because of personal illness or disability; or

(2) The member cannot attend because of employment purposes or the business of the Village; or

(3) The member cannot attend because of a family or other emergency.

C. **Authorization to Participate.**

The Clerk or Office Manager, after receiving the electronic attendance request, shall inform the President and the Board of Trustees of the Village of the request for electronic attendance.

(a) After establishing that there is a quorum physically present at a meeting where a member desires to attend electronically, the presiding officer shall state that (i) a notice was received by a member in accordance with these Rules, and (ii) the member will be deemed authorized to attend the meeting electronically unless a motion objecting to the member's electronic attendance is made, seconded, and approved by two-thirds of the members of the Board of Trustees of the Village physically present at the meeting. If no such motion is made and seconded or if any such motion fails to achieve the required vote by the members of the Board of Trustees physically present at the meeting, then the request by the member to attend the meeting electronically shall be deemed approved and the presiding officer shall declare the requesting member present. After such declaration by the presiding officer, the question of a member's electronic attendance may not be reconsidered.

D. **Adequate Equipment Required.**

The member participating electronically and other members of the Board of Trustees must be able to communicate effectively, and members of the audience must be able to hear all communications at the meeting site. Before allowing electronic attendance at any meeting, the Village shall provide equipment adequate to accomplish this objective at the meeting site.

E. **Minutes.**

Any member attending electronically shall be considered an off-site attendee and counted as present electronically for that meeting if the member is allowed to attend. The meeting minutes shall also reflect and state specifically whether each member is physically present or present by electronic means.

F. **Rights of Remote Member.**

A member permitted to attend electronically will be able to express his or her comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and procedures previously adopted and adhered to. The member attending electronically shall be heard, considered, and counted as to any vote taken. Accordingly, the name of any member attending electronically shall be called during any vote taken, and his or her vote counted and recorded by the Clerk and placed in the minutes for the corresponding meeting. A member attending electronically may leave a meeting and return as in the case of any member, provided the member attending electronically shall announce his or her leaving and returning.

Section 3. Effective Date. This Ordinance shall be in full force and effect after its passage and approval, and publication according to law.

Section 4. Severability. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

PASSED by the President and Board of Trustees of the Village of Freeburg, Illinois on the _____ day of _____, 2012.

AYES _____

NAYS _____

ABSENT _____

ABSTAIN _____

Jerry Menard, Village Clerk

Approved this _____ day of _____, 2012.

VILLAGE OF FREEBURG, ILLINOIS

Raymond S. Danford, Village President

ATTEST:

Jerry Menard, Village Clerk

Approval as to Legal Form:

Village Attorney

1-31-12

ITEMS THAT NEED ATTENTION AT BILLS AUTO SERVICE

1. REPAIR REAR FENCING
2. INSTALL REAR GATE
3. REPAIR FRONT GARAGE DOOR ON RIGHT BAY
4. FIX DRAINAGE PROBLEM (FRONT SW CORNER)
5. ALL NON-OPERABLE VEHICLES TO BE STORED IN REAR
BEHIND FENCE
6. FENCE TO BE EXTENDED TO PROPERTY LINE IN FRONT
7. MISC DEBRIS TO BE CLEANED UP
8. SIDING WAS NEVER INSTALLED ON REAR OF BUILDING
9. HOLES IN INSULATION BOARD ON REAR OF BUILDING

ten (10) days after said notice to remove said objections. If Seller cannot remove objections, contract shall terminate.

EXPENSES: Seller shall pay the usual Seller's expenses, including title company premium for preliminary title report, recording of release documents, and one-half of the title company's escrow closing costs. Buyers shall pay the usual Buyers' expenses, including deed recording fee and mortgage recording fee, title company later date search, premium for mortgage insurance policy and one-half of the title company's escrow closing costs.

AS IS CONDITION: Buyers have had ample opportunity to examine the premises and accepts the premises "AS IS". Seller makes no warranties or guarantees, express or implied, concerning the condition of this property including any warranty of habitability.

USE: Buyer shall use the subject premises for the expansion of the Professional Metal Works facility currently located on the adjacent Lot 14 (Common Address – 9 Industrial Drive) of the Freeburg Industrial Park. Construction shall be commenced within 36 months of the closing of this transaction, unless an extension is requested by Buyer and granted by Seller, or the subject premises shall revert to the Seller and the Buyer's purchase money, less the expenses incurred by Seller as referenced above shall be returned to the Buyer upon receipt of an executed deed from Buyer conveying the property to Seller. Prior to construction of the expansion, the property may not be sold or transferred to any other person or entity for any other purpose without the express written authorization of the corporate authorities of the Village of Freeburg. Buyer represents and warrants that Buyer intends to construct a building **and/or other improvements, such as expanded staging yard areas,** necessary to expand its current operations and that the property is not being purchased to hold for speculative purposes.

WATER RETENTION: Buyer shall be responsible for compliance with all local, state and federal rules and regulations relating to water run-off retention.

<i>Use</i>	<i>Parking Spaces Required</i>	<i>Loading Spaces Required (if any)</i>
(D) Industrial:		
Any manufacturing, warehousing, or other industrial use	Employee parking (1 space per 1.5 employees) plus 1 space per company vehicle; plus 1 visitor space per 25 employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001-50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.

(Former Code, § 40-5-7)

SIGN REGULATIONS

§ 155.270 GENERAL PROHIBITION.

Any sign not expressly permitted in this subchapter shall be deemed prohibited.
(Former Code, § 40-6-1) Penalty, see § 155.999

§ 155.271 COMPUTATION OF SIGN AREA ALLOWANCE.

(A) Within the limitations and restrictions as further provided in this subchapter, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One square foot of sign area per one foot of street frontage or two square feet of sign for each lineal foot of the front width of the business.

(B) Provided, however, that no establishment in any district shall display more than 300 square feet of sign on any street front.
(Former Code, § 40-6-2) Penalty, see § 155.99

§ 155.272 DEFINITION OF SIGN AREA.

As used in this subchapter, the term *SIGN AREA* means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign (see Appendixes C and D). (Former Code, § 40-6-2.1)

§ 155.273 SPECIAL SITUATIONS.

(A) Except as specifically provided otherwise in this subchapter, if an establishment has frontage on two or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this subchapter. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any one frontage a greater area of signs than would be permitted by application of the formula set forth in § 155.271.

(B) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

(Former Code, § 40-6-2.2)

§ 155.274 SIGNS TO BE NONHAZARDOUS, WELL MAINTAINED.

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic-control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

(Former Code, § 40-6-3) Penalty, see § 155.99

§ 155.275 ILLUMINATION.

Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

(Former Code, § 40-6-4) Penalty, see § 155.99

§ 155.276 NONCONFORMING SIGNS.

A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this subchapter or any amendment thereto.
(Former Code, § 40-6-5)

§ 155.277 RESTRICTIONS.

Any nonconforming sign as defined in § 155.276 that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in §§ 155.320 through 155.326; provided as follows:

(A) Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B) Whenever any sign is nonconforming solely because it is appurtenant to an nonconforming commercial/industrial use located in the Agricultural District or in any residential district, the sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.
(Former Code, § 40-6-6)

§ 155.278 STRICTLY PROHIBITED SIGNS.

Except as specifically noted otherwise, the following signs and street graphics are strictly prohibited throughout the village:

(A) Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(B) Defunct signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.

(C) Roof-mounted signs, that project or protrude above the highest point of the roof.

(D) Mobile/portable marquees; except that they may be permitted as a temporary sign (see § 155.288).
(Former Code, § 40-6-7) Penalty, see § 155.99

§ 155.279 SIGNS PERMITTED IN ANY DISTRICT.

Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the village. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance (see § 155.271).

(A) *Construction signs.* Construction signs identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product. Such signs shall not exceed 24 square feet in area, shall be confined to the site of the construction, and shall be removed within 14 days after the intended use of the project has begun.

(B) *Real estate signs.* Real estate signs indicating the sale, rental, or lease of the premises on which they are located. Such signs on residential property shall not exceed six square feet; on other property, such signs shall not exceed 16 square feet. Not more than one real estate sign per street front shall be erected on any lot. Such signs shall be removed within seven days of the sale, rental or lease.

(C) *Political signs.* Political signs announcing candidates seeking public office and/or political issues or questions to be voted upon at an upcoming election or referendum:

(1) In any Agricultural or Residential Districts, signs may be displayed on any lot or premises. Individual signs may not exceed two feet in height or width and total signage may not exceed 16 square feet.

(2) In all other districts, signs may be displayed on any lot or premises and total signage shall not exceed 32 square feet.

(3) In all districts, the display of political signs is limited to 60 days before and seven days after the election or referendum to which they pertain. Compliance with this section shall be the responsibility of the land owner. Limitations set forth in this section shall apply to flush mounted signs, window signs and all other political signs, interior or exterior, displayed to the public.

(D) *Garage sale signs.* Garage sale signs advertising a garage or yard sale to be held on private residential property. Such signs shall not exceed four square feet, and shall not be pasted for longer than five days.

(E) *Public interest signs and street banners.* Public interest signs and street banners publicizing a charitable or non-profit event of general public interest. In the Agricultural District, and in any Residential District, public interest signs shall not exceed 32 square feet. Public interest signs and street banners shall be permitted only for 60 days before and seven days after the event.

(F) *Governmental, public, and directional signs.* Such as traffic-control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones, restrooms, and the like and so forth.

(G) *Institutional signs.* Institutional signs identifying a public, charitable, or religious institution. Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed 24 square feet.

(H) *Integral signs.* Integral signs carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) *Home occupation signs identifying only the name and occupation of the residents.* Home occupation signs shall not be illuminated and shall not exceed four square feet.

(J) *Subdivision entrance signs identifying a residential subdivision or apartment complex.* Such signs shall contain no commercial advertising and shall not exceed 20 square feet.

(K) *Permanent house numbers and/or permanent name of occupant signs located on the lot to which the sign applies.* Such signs shall not exceed two square feet for single-family dwellings, nor six square feet for multiple-family dwellings.

(L) Signs located in the interior of any building or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

(Former Code, § 40-6-8)

§ 155.280 AGRICULTURAL; RESIDENTIAL DISTRICTS.

No sign other than those listed in § 155.279 shall be erected in the Agricultural District or in any Residential District.

(Former Code, § 40-6-9) Penalty, see § 155.999

§ 155.281 BUSINESS; INDUSTRIAL DISTRICTS.

(A) No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in §§ 155.271 and 155.279. (See Appendix B)

(B) Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in §§ 155.282 through 155.287.

(Former Code, § 4-6-10)

§ 155.282 FLUSH-MOUNTED SIGNS.

No flush-mounted (wall) sign shall:

(A) Project more than 18 inches from the wall or surface to which it is attached; or

(B) Extend above the roof line of the building to which it is attached.
(Former Code, § 4-6-10.1) Penalty, see § 155.999

§ 155.283 WINDOW SIGNS.

Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.
(Former Code, § 4-6-10.2)

§ 155.284 PROJECTING SIGNS.

No establishment shall display more than one projecting sign on any street front. No projecting sign shall:

- (A) Project above the roof line of the building to which it is attached;
- (B) Extend below a point eight feet above the ground or pavement;
- (C) Project over a driveway or beyond the curblines of any public street;
- (D) Project more than four feet from the building to which it is attached; or

(E) Extend to a point higher than 12 feet above ground level. (See Appendix B)
(Former Code, § 4-6-10.3) Penalty, see § 155.999

§ 155.285 CANOPY OR MARQUEE SIGNS.

Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs and shall meet the requirements of § 155.282. Signs suspended beneath a canopy or marquee shall be considered projecting signs and shall meet the requirements of § 155.284.
(Former Code, § 4-6-10.4)

§ 155.286 FREESTANDING SIGNS.

No establishment shall display more than one freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

(A) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point ten feet above the ground or pavement shall be located closer than ten feet from the public right-of-way line.

(B) The area of any freestanding sign, calculated in accordance with § 155.272 shall not exceed 100 square feet in a "B-1" District or 150 square feet in a "B-2" District.

(C) When attached to its structural supports, no part of any freestanding sign shall extend more than 35 feet above the ground or pavement.

(D) The length or width of any freestanding sign shall not exceed 12 feet. (See Appendix B) (Former Code, § 4-6-10.5) Penalty, see § 155.999

§ 155.287 BILLBOARDS.

Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

(A) Be stacked on top of another billboard;

(B) Be located closer than 25 feet to any lot line or any public right-of-way;

(C) Be located closer than 500 feet from any other billboard on the same side of the roadway;

(D) Extend more than 20 feet above the ground or pavement; or

(E) Exceed 300 square feet in area.

(Former Code, § 40-6-10.6) Penalty, see § 155.999

§ 155.288 TEMPORARY SIGNS.

Temporary signs shall not remain in place for a period or more than thirty days except when the Zoning Administrator extends the time period for an additional 30 days. Any further time extension shall thereafter be applied for through the Zoning Board of Appeals, and the Board may grant such time extension as seems reasonable and necessary in compliance with this subchapter. (A permit is required). (Former Code, § 40-6-11) Penalty, see § 155.999

ADDITIONAL SUPPLEMENTARY REGULATIONS

§ 155.300 APPLICABILITY.

This subchapter establishes lot and structure requirements and design/operational standards for specific, potentially troublesome structures and uses. These regulations apply in every zoning district

PERMANENT SIGN REGULATIONS

§ 155.270 GENERAL PROHIBITION

No permanent sign shall be erected without a zoning permit issued by the Zoning Administrator. Penalty, see § 155.99

§ 155.271 COMPUTATION OF SIGN AREA ALLOWANCE.

- A. Within the limitations and restrictions as further provided in this subchapter, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One square foot of sign area per one foot of street frontage or two square feet of sign for each lineal foot of the front width of the business.

- B. Provided, however, that no establishment in any district shall display more than 300 square feet of sign on any street front. (Former Code, § 40-6-2) Penalty, see § 155.99

§ 155.272 DEFINITION OF SIGN AREA.

- A. As used in this subchapter, the term **SIGN AREA** means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign (see Appendixes C and D). (Former Code § 40-6-2.1)

§ 155.273 SPECIAL SITUATIONS.

- A. Except as specifically provided otherwise in this subchapter, if an establishment has frontage on two or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this subchapter. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any one frontage a greater area of signs that would be permitted by application of the formula set forth in § 155.271.
- B. The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage. (Former Code § 40-6-2.2)

§ 155.274 SIGNS TO BE NONHAZARDOUS, WELL MAINTAINED.

- A. No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape or driveway.
- B. No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic-control device.
- C. Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building code.
- D. Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration. (Former Code, § 40-6-3) Penalty, see § 155.99

§ 155.275 ILLUMINATION.

Illumination of signs is permitted, subject to the following requirements:

- A. No sign shall employ red, yellow or green lights in such a manner as to confuse or interfere with vehicular traffic.
- B. No sign other than those providing time and temperature information shall have blinking, flashing or fluttering lights or any other illuminating device which has a changing light intensity, brightness or color; provided however, that this provision shall not apply to any message on any electronically operated, changeable sign.
- C. The light from any illuminated sign shall be shaded, shielded or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard. (Former Code, § 40-6-4) Penalty, see § 155.99

§ 155.276 NONCONFORMING SIGNS.

A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this subchapter or any amendment thereto. (Former Code, § 40-6-5) Penalty, see § 155.99

§ 155.277 RESTRICTIONS.

Any nonconforming sign as defined in § 155.276 that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in §§ 155.320 through 155.326; provided as follows:

- A. Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;
- B. Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the

Agricultural District or in any residential district, the sign shall be located in any Business district or in the Industrial District. (Former Code, § 40-6-6)

§ 155.278 STRICTLY PROHIBITED SIGNS.

Except as specifically noted otherwise, the following signs and street graphics are strictly prohibited throughout the village:

- A. Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.
- B. Defunct signs, including the posts or other supports therefore that advertise or identify an activity, business, product or service no longer conducted on the premises where such sign is located.
- C. Roof-mounted signs that project or protrude above the highest point of the roof.
- D. Mobile/portable marquees, except that they may be permitted as a temporary sign. (Former Code, § 40-6-7) Penalty, see § 155.99

§ 155.279 BUSINESS; INDUSTRIAL DISTRICTS.

- A. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in §155.271 . (See Appendix B)
- B. Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in §§ 155.280 through 155.285. (Former Code, § 40-6-10)

§ 155.280 FLUSH MOUNTED SIGNS.

No flush-mounted (wall) sign shall:

- A. Project more than 18 inches from the wall or surface to which it attached; or
- B. Extend above the roof line of the building to which it is attached. (Former Code, § 40-6-10.1) Penalty, see § 155.99

§ 155.281 WINDOW SIGNS.

Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment. (Former Code, § 40-6-10.2)

§ 155.282 PROJECTING SIGNS.

- A. Project above the roof line of the building to which it is attached;
- B. Extend below a point eight feet above the ground or pavement;
- C. Project over a driveway or beyond the curb line of any public street;
- D. Project more than four feet from the building to which it is attached; or
- E. Extend to a point higher than 12 feet above ground level. (See Appendix B) (Former Code, § 40-6-10.3) Penalty, see § 155.99

§ 155.283 CANOPY OR MARQUEE SIGNS.

Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs and shall meet the requirements of § 155.282. Signs suspended beneath a canopy or marquee shall be considered projecting signs and shall meet the requirements of § 155.284. (Former Code, § 40-6-10.4)

§ 155.284 FREESTANDING SIGNS.

No establishment shall display more than one freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations.

- A. No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point ten feet above the ground or pavement shall be located closer than ten feet from the public right-of-way line.
- B. The area of any freestanding sign, calculated in accordance with § 155.272 shall not exceed 100 square feet in a "B-1" District or 150 square feet in a "B-2" District.
- C. When attached to its structural supports, no part of any freestanding sign shall extend more than 35 feet above the ground or pavement.
- D. The length or width of any freestanding sign shall not exceed 12 feet. (See Appendix B) (Former Code, § 40-6-10.5) Penalty, see § 155.99

§ 155.285 BILLBOARDS.

Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

- A. Be stacked on top of another billboard;
- B. Be located closer than 25 feet to any lot line or any public right-of-way;
- C. Be located closer than 500 feet from any other billboard on the same side of the roadway;
- D. Extend more than 20 feet above the ground or pavement; or
- E. Exceed 300 square feet in area. (Former Code, § 40-6-10.6) Penalty, see § 155.99

TEMPORARY SIGN REGULATIONS

§ 155.286 TEMPORARY SIGNS

Any temporary sign that complies with the indicated requirements is permitted on private property in any district of the village.

- A. No individual temporary sign shall exceed 16 square feet in size and the total square footage of temporary signs displayed on any one lot shall not exceed 80 square feet.

- B. No temporary signs shall be permitted on any public right-of-way or other publicly owned areas except for governmental, public and directional signs such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground utilities; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones, restrooms and the like.



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IML Legal Brief: Limitations on the Local Regulation of Political Signs

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By [Brian Day](#), Lead Staff Attorney, IML
[Ashley Niebur](#), Staff Attorney, IML
[Jerry Zarley](#), Legal Analyst, IML

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1. Illinois Municipal League Review Magazine
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Election season is upon us. This November, we will have the general election for federal, state and certain local offices. The consolidated elections for local offices begin with the consolidated primaries next February and the general consolidated election next April. As a result, we can expect to see the usual collage of temporary campaign signs adorning the municipal landscape. Some see these campaign signs as an expression of their political values, many others simply see them as an eyesore. Communities often want to regulate these signs in order to protect the public safety, preserve property values, promote tourism and generally improve the appearance of the community. But there are limits to how far a community can go to regulate campaign signs.

The most obvious limitation to sign regulation is the U.S. Constitution. The First Amendment protects free speech—including speech printed on temporary cardboard signs. While some regulation of these signs is allowed, there are constitutional limits as to how far those regulations can go.

The Constitution is not the only limitation on sign regulation. Illinois statute also restricts the regulation of campaign signs. During the last legislative session, the Illinois General Assembly passed Public Act 96-904, which takes effect on January 1, 2011. That new statute prohibits communities from prohibiting the display of outdoor political campaign signs on residential property.

The purpose of this article is to discuss the constitutional and statutory limitations on temporary campaign signs. It also discusses possible constitutional problems and pitfalls with the recently enacted Public Act 96-904.

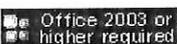
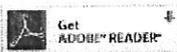
A. CONSTITUTIONAL CONSIDERATIONS

The Free Speech Clause of the First Amendment protects the freedom of expression. The U.S. Supreme Court has recognized that political signs are a form of expression that is protected under the First Amendment.¹ But that protection is not absolute. According to the Court, signs, unlike other forms of communication, pose "distinctive problems that are subject to municipalities' police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land and pose other problems that legitimately call for regulation."² Courts from around the country have grappled with the issue of how far that regulation can go. While not all of these courts have a binding authority over Illinois communities, their decisions illustrate the way in which the law has been shaped up to this point.

1. Content-Neutral v. Content-Based Regulations

A regulation that is content-neutral has an easier constitutional standard to meet than does a regulation that is  content-based on the contents or message of the sign.

A regulation is content-neutral if it applies regardless of the message. Content-neutral regulations are typically referred to as "time, place and manner restrictions." These regulations do not govern what message is communicated—they govern how the message is communicated. The courts have established a three-part test to determine the constitutionality of a content-neutral regulation: (1) the restriction must serve a significant or important public interest; (2) the restriction must be narrowly tailored to advance the identified public interest; and (3) the restriction must leave ample alternatives for the speaker to deliver his or her message to the public.³ This is known as "intermediate scrutiny." Federal courts have held that communities have a significant or important interest concerning traffic safety, aesthetics, public safety, order, and cleanliness and administrative convenience.⁴



Conversely, those regulations that are based on the content of a sign face a much steeper hurdle to constitutionality. The judicial standard in these cases is "strict scrutiny" and is the most challenging standard for the government to meet. To survive a strict-scrutiny analysis, the municipality must show that the regulation (1) serves a compelling governmental interest; and (2) is narrowly tailored to achieve that interest.⁵ This is a much harder standard to meet, and the First Amendment has its fullest and most urgent application to speech uttered during a campaign for political office.⁶ The only time that the U.S. Supreme Court has allowed the direct regulation of political campaign signs based on content is in situations of reasonable distance limitations from voting places. For example, the U.S. Supreme Court determined that a Tennessee statute prohibiting the display or distribution of campaign materials within 100 feet of the entrance of a polling place was legitimate. According to the Court, the state has a compelling interest to prevent voter intimidation and election fraud, and the state's "campaign free zone" was necessary and narrowly tailored to serve that compelling interest. This is one of the few situations where a regulation has survived the strict scrutiny process.⁷

There is one caveat to the requirement that all content-based regulations are subject to strict scrutiny. Speech that is purely commercial in nature is subject to intermediate scrutiny rather than strict scrutiny if the government's interest relates to fair bargaining.⁸ A sign regulation that allows only certain types of noncommercial speech is content-based and subject to strict scrutiny.⁹ Similarly, a regulation is invalid if it imposes greater restriction on noncommercial speech than on commercial speech.¹⁰

2. Restrictions of Signs on Public Property

The U.S. Supreme Court has held that a ban on all signs—including campaign signs—on public property did not violate the Constitution because the ban was content-neutral, and it was careful to curtail no more speech than was necessary to accomplish the purpose of eliminating visual clutter.¹¹ A California appellate court also examined the constitutionality of banning campaign signs on public property and found that it did not violate the constitution for the government to prohibit all inanimate forms of communication (signs, leaflets, posters, etc.) on public property.¹²

3. Restrictions on the Size and Number of Temporary Signs

A federal Appeals Court has held that it did not violate the constitution to have a size limit of 16 square feet per political sign or a limit of 80 square feet cumulative for all political signs on property. But it was unconstitutional to impose a cumulative size limit for any one candidate or issue.¹³ Moreover, a court has found that it is constitutionally invalid to place a limit on the number of political signs per parcel.¹⁴

4. Time Limits

In general, courts have held that a regulation may not limit the duration of campaign signs on private property.¹⁵ Most regulations that attempt to impose durational limits require the signs to be removed within a certain number of days of the election. The problem is that these restrictions won't apply to other types of signs and, therefore, the regulation is content-based and subject to strict scrutiny.

In Illinois, a case did uphold a durational restriction for political signs on private property. In that case, the ordinance required that all temporary signs had to be removed within 90 days. According to the court, this regulation was content-neutral because it applied to all temporary signs—not just to political signs. Also, nothing in the ordinance prohibited a person from taking down the sign on the 89th day and putting a new sign in its place.¹⁶

B. NEW ILLINOIS STATUTE REGULATING POLITICAL CAMPAIGN SIGNS

Up until January 1, 2011, municipalities have the authority, under their police powers, to impose legitimate content-neutral, time, place and manner restrictions on political campaign signs. The reasoning behind this authority is that municipalities have a substantial interest in their aesthetic and public safety goals, but they do not have a compelling interest in these goals. However, such regulations must also be narrowly tailored to serve that interest, and leave open ample alternative channels of communicating the information.

Beginning January 1, 2011, however, Public Act 96-904 goes into effect. The Act amends a municipal zoning statute, Section 11-13-1 of the Illinois Municipal Code,¹⁷ and provides as follows:

... the corporate authorities in each municipality have the following powers:

- (12) to establish local standards solely for the review of the exterior design of buildings and structures, excluding utility facilities and outdoor off-premises advertising signs, and designate a board or commission to implement the review process; except that, other than reasonable restrictions as to size, no home rule or non-home rule municipality may prohibit the display of outdoor political signs on residential property during any period of time, the regulation of these signs being a power and function of the State and, therefor, this item (12) is a denial and limitation of concurrent home rule powers and functions under subsection (i) of Section 6 of

165.F./SIGN
809.F./PROPERTY
CAN BAN SIGNS
ON PUBLIC R.O.'S

Article VII of the Illinois Constitution.

The underlined portion is new. Therefore, municipalities in Illinois no longer have the authority to impose durational limitations on political campaign signs on private property beginning January 1, 2011. Thus, this new regulation does not affect the general election in November, but it will affect elections after January 1, 2011.

The new law poses some potential problems for communities. Obviously, there is the issue of the restriction on local authority. Secondly, the law poses a constitutional dilemma because it gives preferential treatment to political signs, and it is unconstitutional to give preferential treatment to one type of noncommercial speech over others.¹⁸ Third, the statute is unclear about the definition of "outdoor political signs." Finally, this statute amends only the zoning statute, but signs may be regulated under broader police powers. The General Assembly should address these questions concerning Public Act 96-904 in future sessions.

C. CONCLUSION

* The laws concerning sign regulation can be complex and fact-specific. To avoid constitutional challenges, it is always advisable to treat all signs alike. Avoid giving special treatment to commercial signs – the restrictions that apply to "For Sale" signs may not be less restrictive than those that apply to all other signs. Any regulation on the content of the signs – political or otherwise – will likely not survive a constitutional challenge. Durational limits of noncommercial signs on private property are always suspect – even more so now with the passage of Public Act 96-904.

Because of the complex nature of sign regulation, it is always advisable to consult with your municipal attorney before attempting to enforce any political sign regulation.

This monthly column examines issues of general concern to municipal officers. It is not meant to provide legal advice and is not a substitute for consulting with your municipal attorney. As always, when confronted with a legal question, contact your municipal attorney as certain unique circumstances may alter any conclusions reached herein.

¹ See, *City of Ladue v. Gilleo*, 512 U.S. 43, 57-58 (1994).

² *Id.* at 48.

³ *Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 805 (1984); *Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

⁴ *City of Ladue*, supra note 1; *Baldwin v. Redwood City*, 540 F.2d 1360 (9th Cir. 1976).

⁵ *Cary v. Brown*, 447 U.S. 445, 461 (1980).

⁶ *Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214, 223 (1989); quoting *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272 (1971).

⁷ *Burson v. Freedman*, 504 U.S. 191 (1992).

⁸ *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980).

⁹ *Desert Outdoor Advertising, Inc. v. City of Moreno Valley*, 103 F.3d 814 (9th Cir. 1996).

¹⁰ *Metromedia v. San Diego*, 453 U.S. 490 (1981).

¹¹ *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466, U.S. 789 (1984).

¹² *Sussli v. San Mateo*, 120 Cal.App.3d 1 (1981).

¹³ *Baldwin*, supra note 4.

¹⁴ *Arlington County Republic Party v. Arlington County*, 983 F.2d 587 (4th Cir. 1993).

¹⁵ *City of Ladue*, supra note 1; See also, *Curry v. Prince George's County, Maryland*, 22, F.Supp.2d 447 (D.Md. 1999), *Dimas v. City of Warren*, 939 F.Supp. 554 (E.D. Mich. 1996), *Whitton v. City of Gladstone, Missouri*, 54 F.3d 1400 (8th Cir. 1995).

¹⁶ *City of Waterloo v. Markham*, 234 Ill. App.3d 744 (5th Dist. 1992).

¹⁷ 65 ILCS 5/11-13-1.

¹⁸ See, *Whitton v. City of Gladstone*, 54 F.3d 1400 (8th Cir. 1995), *McCormack v. Township of Clinton*, 872 F.Supp. 1320 (D. N.J. 1994).