

STATE OF WISCONSIN

TOWN OF DELAFIELD

WAUKESHA COUNTY

ORDINANCE NO. 2017-05

AN ORDINANCE TO REPEAL AND RE-CREATE SECTION 17.08
OF THE TOWN OF DELAFIELD MUNICIPAL CODE,
REGARDING TO SIGNS TO CREATE SECTION 17.055.Z-5 REGARDING MASTER
SIGN PROGRAM CONDITIONAL USES, AND TO REPEAL AND RE-CREATE THE
DEFINITION OF "CODE ENFORCEMENT OFFICER" IN SECTION 17.022. OF THE
TOWN OF DELAFIELD MUNICIPAL CODE

WHEREAS, following the decision of the United States Supreme Court in the case of *Reed v. Town of Gilbert, Arizona* (135 S.Ct. 2218 (U.S. 2015), sign codes throughout nation have come under close scrutiny; and

WHEREAS, the Town of Delafield, Town Attorney has recommended that Section 17.08 of the Town of Delafield Zoning Code be amended in light of this recent U.S. Supreme Court decision, to ensure that the Town regulation of signs complies with constitutional free speech guarantees; and

WHEREAS, the Town of Delafield Plan Commission has carefully considered the matter along with Town Staff and has initiated this zoning amendment procedure pursuant to Section 17.10 5. B. of the Town of Delafield Zoning Code; and

WHEREAS, the Town Plan Commission for the Town of Delafield has recommended that the Town Board revise the Town Zoning Code in this regard to update Section 17.08 of the Town of Delafield Zoning Code, along with related amendments as described herein, to appropriately regulate signs in the Town of Delafield; and

WHEREAS, following Class 2 notice, the Town Board of the Town of Delafield held a public hearing concerning the recommendation of the Town Plan Commission, as provided in Section 62.23(7)(d) of the Wisconsin Statutes and Section 17.10(6) of the Town of Delafield Code of Ordinances; and

WHEREAS, the Town Board finds that this change to the Town Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Town Board has determined that the adoption of the Plan Commission's recommendation will promote the public health, safety and general welfare of the community, and will be consistent with the Town of Delafield Comprehensive Plan.

NOW, THEREFORE, the Town Board of the Town of Delafield, Waukesha County, Wisconsin, DOES HEREBY ORDAIN as follows:

SECTION 1: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Code," Section 17.08 entitled "Signs," is hereby repealed and re-created as follows:

SECTION 17.08

SIGNS

A. PURPOSE.

It is declared that the regulation of signs within the Town is necessary and in the public interest to: (a) protect property values within the Town; (b) preserve the beauty and the unique character of the Town; (c) aesthetically complement the development which a sign identifies; (d) promote a healthy and properly designed business environment; (e) safeguard the general public from damage and injury which may be caused by the faulty and uncontrolled construction of signs within the Town; (f) protect against hazards to vehicular traffic movement through improper placement of signs; and (g) promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the Town; (h) prevent blight; (i) prevent clutter; and (j) encourage free speech.

B. REQUIREMENT OF CONFORMITY.

A sign permit is required before the erection, re-erection, construction, alteration, placement, maintenance or location of all signs except as otherwise provided in this chapter. Where signs are illuminated electrically, a separate electrical permit shall be obtained as required by the Electrical Code of the Town. It shall be illegal for a sign to be erected, constructed, repaired, altered, located or maintained in the Town except as provided in this chapter. All new signs constructed or maintained contrary to the provisions of this chapter are declared to be illegal and a public nuisance. Any person or entity violating any provisions of this chapter or failing to comply with any orders or regulations made hereunder shall be subject to the penalties hereof, and those otherwise provided by law.

3. SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT.

A permit shall not be required for the following signs or activities; provided, however, that such signs or activities shall be subject to any and all applicable provisions of this chapter.

- A.** Any temporary sign eleven (11) square feet or less in area, subject to compliance with all applicable total sign area limitations of the applicable lot.
- B.** Repainting of signs without changing wording, composition or colors, or minor non-structural repairs of signs (except electrical repair).
- C.** Relocation of signs if required by the Town.
- D.** Window signs, as permitted under subsection 6.G.

- E. Signs located in the interior of any building or structure, not visible from the exterior.
- F. Government signs, as defined herein.
- G. The United States flag, State of Wisconsin flag, Waukesha County flag, or flag bearing the official emblem or insignia of the Town of Delafield, and associated poles; as such signs are tantamount to government signs for the observance of the applicable institutions of our participatory democracy.
- H. Address markers and nameplate signs, not to exceed 4 sq. ft. in total area; as such signs are tantamount to government signs, to assist with the provision of emergency services.

4. TEMPORARY SIGNS.

Temporary signs shall be placed in conformance with this Code for no longer than 120 days, unless a longer time is expressly allowed by Wisconsin Statutes Section 12.04, or other applicable laws, or as follows. In the event a longer time is expressly allowed by Wisconsin Statutes Section 12.04 such sign shall be placed for no longer than the time expressly allowed by such statute.

- A. **Signs on Property Under Construction.** Temporary signs may be permitted by the Code Enforcement Officer in any district for the duration of a building permit, where a building permit is in effect and construction is occurring. The Code Enforcement Officer may restrict the number, size, and location of temporary signs on any property to ensure safety for traffic and pedestrians.
- B. **Signs on Property Marketed for Sale or Lease.** Temporary signs may remain on a property for all time that the property is actively marketed, as defined herein, for sale or lease. Whether the property is being actively marketed for sale or lease shall be subject to the determination of the Code Enforcement Officer. Any such sign that would exceed 11 square feet in area shall require a permit, and such sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the marketing of the property is concluded. The sign must be removed no later than ten calendar days after the marketing of the property is concluded. The total sign area requirements of the district in which the sign is located shall apply.
- C. **Signs on Property Under Development.** Temporary signs may remain on a property under some circumstances while the property is under development, subject to the following limitations. A sign permit is required for any Development Sign. A Development Sign shall be treated as a permanent sign for purposes of permitting, but shall remain a temporary sign for purposes of removal once the approval for the Development Sign expires. All Development Signs may remain on the lot for one year following the date the sign permit is granted, unless otherwise restricted in the grant of the sign permit. Prior to expiration of the sign permit or any extension thereof, upon request of the owner or developer, the Plan Commission may extend the sign permit for successive periods of up to one year each, if the Plan Commission finds the development is actively proceeding and the sign is not otherwise in violation of the standards of this Section. The Development Sign must be removed no later than thirty calendar days following the expiration of the permit unless specified otherwise by the Plan Commission. The total sign area requirements of the district in which the sign is located shall apply, except as follows: if during the process of development, the property is rezoned, the sign area calculations of the original zoning district shall continue to

apply for the duration of the development; and if the property being developed includes multiple contiguous parcels, the calculation of sign area shall include all such contiguous parcels as though they were one parcel.

5. MAXIMUM SIGN AREA PERMITTED BY ZONING DISTRICT.

- a) **Residential Districts (R-1, R-1(A), R-2, R-3, R-L, and A-3).** The total sign area allowed on a lot that is zoned R-1, R-1(A), R-2, R-3 R-L, or A-3, shall be eleven (11) sq. ft., subject to such additional square footage as may be permitted by the standards of this Section. Monument signs may be allowed to exceed the foregoing size limitations, subject to Section 6(E), below. Unless specifically approved as a Monument Sign pursuant to Section 6(E), below, or pursuant to the grant of a conditional use permit for a use described in Section 17.05 5. of this Code, all of the following are prohibited: awning signs; changeable copy signs; electrical message boards; permanent signs; projecting signs; roof signs; seasonal signs; shingle signs; and wall signs.
- b) **Agricultural Districts (A-1, A-E, and A-2).** The total sign area allowed on a lot that is zoned A-1, A-E, and A-2 shall be 11 square feet for every 200 lineal front feet of the lot line abutting a public roadway. In making this calculation, the lineal front feet of the lot line shall be rounded down to the nearest number divisible by 200. Notwithstanding the foregoing, if the lot abuts less than 200 feet of public roadway, the total sign area allowed on the lot is 11 square feet.
- c) **Business Districts (B-1, B-2, and B-3), Industrial Districts (M-1), Park & Conservancy Districts (P-1 and WF-1).** The total sign area allowed on a lot that is zoned B-1, B-2, B-3, M-1, P-1 and WF-1 shall be computed as either .5 sq. ft. x the lineal front foot of the lot line or .65 sq. ft. x the building or structure front foot, whichever is greater, to a maximum of 120 sq. ft. for retail and 80 sq. ft. for office, mixed use, or other uses, as allowed by the Plan Commission in its consideration of the site plan.

6. SIGN REQUIREMENTS FOR SPECIFIC TYPES OF SIGNS.

Particular types of signs are subject to the following requirements, which are in addition to, and not in lieu of, the other requirements of this Section 17.08.

A. Changeable Copy Signs.

1. The computation of sign area for changeable copy signs shall be included in the total permitted sign area allowed for the building or development, where changeable copy signs are permitted by this chapter and/or by the Plan Commission.
2. Changeable copy signs must be integrated into the free-standing or wall sign for such building or development.
3. In addition to the uses specifically enumerated elsewhere in this chapter, changeable copy signs may be permitted for businesses of a seasonal nature, public uses, institutional uses, schools, churches, motels/hotels and theaters, if approved by the Plan Commission to be justified at such location and for such use. Unless in the discretion of the Plan Commission such use is justified, changeable copy signs shall not be permitted for retail use.
4. Where changeable copy signs are allowed, the following restrictions apply in all cases, subject to further restriction as may be imposed by the Plan Commission to particular applications:

- a. There shall be only one changeable copy sign on each lot or parcel of land.
- b. If free-standing, the sign may be double-faced.
- c. Each sign shall be permanently installed or located.
- d. Each sign shall be placed in such a manner so as to not interfere with, confuse, or present any hazard to traffic.

B. Flags. Except as excluded by subsection 3(G), all flags are subject to the following limitations.

- 1. Maximum area of a flag shall be 24 square feet.
- 2. Flags may be suspended on a pole no higher than 35 feet.
- 3. The flag pole shall be located in a setting of meaningful open space, as defined in this chapter.

C. Free-standing Signs.

- 1. Application. All applications for free-standing signs shall be filed with the Code Enforcement Officer and forwarded to the Plan Commission for consideration pursuant to the procedure outlined in subsection 7.B.2.
- 2. Placement and Construction Requirements.
 - a. A free-standing sign shall be permanent in construction and subject to the requirements of the Building Code of the Town as determined, imposed and inspected by the Code Enforcement Officer.
 - b. The sign may be double-faced if so permitted by the Plan Commission. Only one face of a double-faced sign shall contribute to the calculation of total sign area.
 - c. The height of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a master sign plan, if any, and such other facts as the Plan Commission deems appropriate, provided that the height shall not exceed the limits shown in subsection d., below.
 - d. The allowable height of a free-standing sign at a particular site is to be established by drawing a line from the height of the building or structure at setback to a theoretical wall of five (5) feet at the center line of the adjacent road. A free-standing sign must be of no greater height than what can be placed within the area of the resulting geometric figure. (See Figure 1). However, in no event shall the height of such sign be greater than twelve (12) feet for office, retail or mixed use. Notwithstanding the foregoing, the Plan Commission may allow a sign to exceed the limits provided in this subsection if the topography of the lot slopes down from the center line of the adjacent road, by adding the difference between the elevation at the centerline of the adjacent road and the elevation where the sign will be located to the sign height limitations, so that the intent of this subsection is maintained. Dimensions shall be provided by the applicant. An offset of no less than five (5) feet from the ultimate right-of-way line should be maintained.

** INSERT Figure 1: Sign height/setback standards. **

- e. The area of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the factors enumerated in subsection c., above, subject to the maximum sign area limitations of the district in which it is located. Should the Plan Commission approve both a free-standing sign and a wall sign for a given building or center, the area allowed must be apportioned between these signs.
- f. The sign shall be located in an area of meaningful open space, which shall be appropriately landscaped.
- g. Free-standing signs located on the subject property or adjoining or abutting properties must be at least 150 feet apart.
- h. The sign structure or post of a free-standing sign must be wrapped in or constructed of a material compatible with the materials utilized in the construction of the building or structure to which the sign refers. The sign must also be architecturally compatible with the building or structure to which it refers.

D. Master Sign Program.

A Master Sign Program is required for multi-tenant operations, office parks, industrial parks, multi-tenant office and retail buildings, and commercial developments that include separate commercial activities, and shall be considered by conditional use per Section 17.05 of this Code. The requirements of this Section may be modified by the express terms of the Master Sign Program conditional use order.

E. Monument Signs.

Monument Signs placed at the entrance to a subdivision, residential development or commercial development shall be not less than 5 feet from a side or rear lot line and may be placed in the right-of-way only within an easement granted for said purpose and upon approval of the Town for the same. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign, its impact on traffic safety and its compatibility with adjacent land uses.

F. Wall Signs.

- 1. Application. All applications for wall signs shall be filed with the Code Enforcement Officer and forwarded to the Plan Commission for consideration pursuant to the procedure outlined in subsection 7.B.2.
- 2. Total Area. The area of a wall sign shall be regulated and approved by the Plan commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a master sign plan, if any, and such other facts as the Plan Commission deems appropriate.
- 3. Placement.
 - a. A wall sign may not project more than twelve (12) inches from the wall surface.
 - b. A wall sign must be placed on an exterior wall of the business which the sign identifies.
 - c. No part of a wall sign shall extend more than four (4) feet above the plate line, nor shall a wall sign extend above a roof line except when it is erected on a parapet wall or fascia which extends above the roof line of a flat roof on at least three (3) sides of a building.

- d. A wall sign may be allowed on a roof surface only if the roof surface is within twenty-five (25) degrees of vertical (such as a mansard roof), and only if the Code Enforcement Officer deems that such use is acceptable.
- e. The height of a free-standing sign shall be regulated and approved by the Plan Commission in consideration of the location of the proposed sign, the height, size, appearance, number and location of other signs in the vicinity of the proposed sign, the propriety of the proposed sign with respect to a Master Sign Plan, if any, and such other factors as the Plan Commission deems appropriate, provided that the height shall not exceed the height that could be allowed for a free-standing sign per Section 6.C.2.d.

G. **Window Signs.** Permanent window signs do not need a permit if less than ten (10) percent of all of the windows are covered by all of the window signs. If greater than ten (10) percent of the window is covered, a sign permit must be obtained pursuant to the procedures outlined in subsection 7.B. In no instance, may more than twenty-five (25) percent of the window space be covered by window signs. All window signs which are to be illuminated must be inspected and cannot be installed except upon prior written approval by the Code Enforcement Officer.

7. PERMITS, REQUIREMENTS AND PROCEDURES.

A. **Permit Application and Expiration.**

1. **Application.** All applications to obtain a sign permit shall be made on forms furnished by the Code Enforcement Officer. All such applications shall be signed by the owner(s) of the premises on which the sign is to be located and the lessee(s) of the premises to which the sign pertains, which signatures shall indicate agreement to be bound by the terms of this ordinance. Throughout this chapter, these owner(s) and lessee(s) may be referred to collectively as holders of the permit, as defined herein.
2. **Requirement of Plans.** Two copies of specifications, plans, renderings, or other visual representations of nonresidential signs shall be submitted with the application. One copy shall be returned to the applicant(s) at the time the permit is granted. Such submissions shall detail the size of the sign, the method of attachment or support, the location of the proposed sign, the location of any building(s) on the premises and any other signs located or proposed to be located on the premises or within 150 feet of the proposed sign, the materials to be used, and the name, address and profession of the person designing plans and specifications for such sign. The content of the sign message is not required, and need not be submitted. Plans for supports for any sign subject to excessive stress as determined by the Code Enforcement Officer shall be accompanied by structural computations. Sufficient data shall be submitted to show that the supporting surface and other members of an existing building to which the sign is to be attached are in good condition and are adequate to support the load, including the proposed sign.
3. **Permit Fees.** In conjunction with the filing of an application for a sign permit, the applicants must tender a fee as set from time-to-time by separate resolution of the Town Board, except as follows. No fee is required to bring a legal nonconforming sign into compliance with the terms of this Section. If work for which a permit is required by this

Section began before a permit was obtained, the fees specified shall be quadrupled, but the payment of such quadrupled fee shall not relieve any persons from complying fully with the requirements of this Section in the execution of the work or from any penalties prescribed herein.

B. Procedure.

1. Initial Review. All applications for sign permits shall be reviewed initially by the Code Enforcement Officer, who may issue permits for temporary signs and such other signs which pursuant to this chapter can be issued without review by the Plan Commission. The Code Enforcement Officer shall have the authority to deny such permits if the proposed signs do not comport with the requirements of this chapter.
2. Plan Commission. Should the Code Enforcement Officer conclude, in his discretion, that the Plan Commission should review an application for a sign permit, or should this chapter require such review for a particular sign, the application will be forwarded to the Plan Commission for review at its next regularly scheduled meeting subject to established agenda length limits. The Plan Commission may vote to approve or deny the application based on the following factors:
 - a. The exterior architectural presentation and functional plan of the proposed sign will not be so at variance with or so similar to the exterior architectural presentation and functional plan of signs already constructed or in the course of construction in the area, or so out of harmony with the area, as to potentially contribute to substantial depreciation in the property values of said area.
 - b. The proposed sign conforms to the location, size and style requirements set forth in this chapter.
 - c. The proposed sign conforms to the Town's long-range planning for the area as set forth in the Town's Master Plan as that term is defined in Section 62.23(3), Wis. Stats., and Comprehensive Plan per Section 66.1001, Wis. Stats., or relevant portions thereof.
 - d. The Plan Commission may establish guidelines, with the confirmation of the Town Board, which further define and interpret this chapter. Those guidelines, if any, shall be made available to all sign applicants.

C. Construction Requirements.

1. Wind Pressure and Dead Load Requirements. All signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square feet of area and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the Town.
2. Lighting. Illumination shall be so installed to avoid any glare or reflection into any adjacent property, or onto a street or alley to create a traffic hazard as determined by the Code Enforcement Officer.
3. Town of Delafield Marking. Permanent signs shall be marked prominently with the words "Town of Delafield" beneath the sign content, to aid in the purpose of this chapter, including promotion of the public safety, welfare, convenience, and enjoyment of travel in the Town of Delafield, except as follows: this is not required for signs that require no permit, per subsection 3 or that are temporary signs per Section 4, or may be waived by the Plan Commission if it finds that the purpose of this

subsection would not be met by the Town of Delafield Marking in the circumstances applicable to any particular sign.

D. Prohibitions.

1. Lighting. Bare light bulbs shall not be permitted. No flashing, blinking, or rotating lights shall be permitted for either permanent or temporary signs other than for Time and Temperature signs if so permitted by the Plan Commission.
2. Action Signs. No sign shall be permitted which moves by any means, except flags as permitted in subsection 6.B.
3. Prohibited Signs. It shall be unlawful to erect or maintain the following signs:
 - a. Electronic Message Boards
 - b. Portable Signs
 - c. Projecting Signs
 - d. Off Premise Signs
 - e. Roof Signs
 - f. Pennants or Streamers
 - g. Sandwich Boards

E. Required Signs. Every building or group of buildings must be identified by a street number.

F. Location Requirements.

1. Obstruction of Exits. No sign shall be constructed or maintained so as to obstruct any door, window, stairway or fire escape of any building.
2. Obstruction and interference prohibited. No sign shall be erected, placed, located or maintained at or near the intersection of any streets, roads or highways so as to obstruct free and clear vision; or at any location where, by reason of position, shape and color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "STOP", "LOOK", "DANGER" or other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.
3. Signs Prohibited Within or in Proximity to Limits of any Street or Highway.
 - a. No sign shall be erected, placed, located, or maintained within the limits of any street, road or highway, except as allowed by subsections d., below. Street, road or highway limits include all the dedicated right-of-way, encompassing the travelled portion of the street, road or highway, the shoulders, ditches and adjacent dedicated areas. This prohibition applies to free-standing signs and those placed on trees, utility poles, fence post stakes, and all other structures within the right-of-way limits.
 - b. Failure to comply with the provisions of this subsection shall be a violation of Section 86.19, Wis. Stats., as well as this chapter.
 - c. Any sign in violation of this subsection shall be removed without notice by the Highway Department or the Police Department.
 - d. This prohibition shall not apply to signs placed within the limits of streets, roads or highways by duly constituted municipal, county, or state authorities for the guidance or warning of traffic, as provided in Sections 86.19(1) and (4), Wis. Stats., or to mail boxes and paper boxes. This prohibition also does not apply to approved Monument Signs.
4. Construction Over Public Property. No person or entity shall erect or cause to be erected any sign which projects over any public sidewalk, street, road, highway, alley or public place.

G. Inspections. Unless waived by the Code Enforcement Officer, all signs for which a permit is required shall be subject to the following inspections:

1. Electrical Inspection on all illuminated signs.
2. Site inspection to ensure that the sign has been constructed according to an approved application and a valid sign permit.

H. Maintenance. Each sign, including those specifically exempt from the permit requirements of this code, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports thereof that are not galvanized or of rust-resistant material. The Code Enforcement Officer shall have the authority at any time to inspect and order the painting, repair, alteration, or removal of a sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or change in local conditions. The Code Enforcement Officer shall follow the procedure of notification concerning such maintenance or removal as outlined in subsection 13.

8. CONFLICT OF LAWS.

In the event that Wisconsin Statutes Section 12.04 would permit a sign that is larger than the size limitations described in this Section, such sign, regardless of sign content, is allowed only for the period described in Wisconsin Statutes Section 12.04.

9. NON-COMMERCIAL SIGNS PERMITTED.

Any sign authorized or otherwise permitted under this ordinance shall be allowed to contain non-commercial copy in lieu of any other copy.

10. SIGN ORDINANCE VARIANCES.

A. Purpose. Sign Ordinance variances are intended to allow flexibility in sign regulation while fulfilling the purpose of the ordinance. Nothing in this Section, however, is intended to permit the erection or maintenance of signs which create the potential of public harm or for which there is no public benefit or which are in conflict with the Town's Master Plan or relevant portions thereof.

B. Procedure.

1. Any applicant who desires a variance from any provision or requirement of this chapter may request an oral hearing before the Plan Commission by submitting a written request therefor to the Town Clerk not less than twenty one (21) days before the next regularly scheduled meeting of the Plan Commission. A fee of \$75.00 shall be required of the applicant at the time that a request for a hearing before the Plan Commission is made.
2. The Plan Commission shall review such requests for variances using the following criteria:
 - a. Area Enhancements.
 - (1) The sign as proposed will not result in an undue concentration of signage which renders it difficult or confusing to read existing signs;
 - (2) The proposed sign is unique and of exceptional design or style, so as to enhance the area.
 - b. Site Difficulties. Unusual site factors preclude the construction of a sign in accordance with this chapter which would be visible to the roadway adjacent to the site frontage.

3. Should the Plan Commission find that a variance should be granted, the application will be forwarded to the Code Enforcement Officer with directions to issue a permit in accordance with its decision. If the Plan Commission finds that a variance should not be granted, it shall inform the applicant of the reasons for such decision in writing within ten (10) days of the date of such decision. The decision of the Plan Commission shall be final unless the Plan Commission requests review of same by the Town Board.

11. SIGN ORDINANCE MODIFICATION BY CONDITIONAL USE.

Additional sign square footage and alteration of otherwise applicable height, setback, offset or other standards of this Chapter may be granted by the Town Board in its consideration and grant of a conditional use pursuant to Section 17.05 of this Code. In considering this possible grant, the Plan Commission and Town Board shall be guided by the purpose of this Section 17.08 along with the basis for approval described in Section 17.05(2), without consideration of the content of any such signage.

12. LEGAL NONCONFORMING SIGNS.

- A. Reasonable repairs and alterations may be made to legal nonconforming signs provided that they may not be relocated, expanded, enlarged, repositioned or raised in height. However, in the event any such sign and/or its supporting structure is hereafter damaged or altered to an extent exceeding fifty (50) percent of the reproduction value according to appraisal thereof by competent appraisers, or is removed by any means whatsoever, including an act of God, such sign must be restored, reconstructed, altered or repaired to conform with the provisions of this chapter, subject to the following. Repair, maintenance, reconstruction or replacement is permitted if, and to the extent that, Wisconsin Statutes Section 62.23(7)(hb) or (hc) (applicable per 60.62, and 61.35, Wis. Stats.) specifically preempt local control and permit the same.
- B. Any change in ownership or tenancy of premises which is accompanied by any change in the signs for the premises shall necessitate that the signs for the premises be brought into compliance with the provisions of this chapter.

13. REMOVAL OF SIGNS.

- A. The Code Enforcement Officer is hereby authorized to remove any illegal sign as defined by this chapter.
- B. Except as described in subsection H, below, before taking action to require removal of any illegal sign, the Code Enforcement Officer shall give a written compliance notice to the holders of the permit for the sign or, if no permit has been issued, to the owner(s) of the premises on which such sign is located and to the lessee(s) of the premises to which such sign pertains. The notice shall state the reasons and grounds for removal, specifying the deficiencies or defects in such sign with reasonable definiteness, and the violations charged, if any. Such notice shall specify what repairs, if any, will make the sign conform to the requirements of this chapter and specify that the sign must be removed or made to conform with the provisions of this chapter within the compliance period provided below. Service of notice shall be made on the parties specified above (a) by delivering personally copies of the notice to said parties, or (b) by leaving a copy of the notice with any person in charge of the premises, or (c) in the event that no such person

can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of copies of the notice to the post office addresses of the holders of the permit as specified in the application for the permit, if any, or to the last known post office addresses of the parties specified above.

- C. Except as described in subsection H, below, the compliance period shall be:
 - 1. Ten (10) days for permanent signs.
 - 2. Forty-eight (48) hours for temporary signs.
- D. Re-erection of any sign or any substantially similar sign on the same premises after a compliance notice has been issued shall be deemed a continuance of the original violation.
- E. If the holders of the permit or the owner(s) and lessee(s) of the premises upon which the sign is located have not demonstrated to the satisfaction of the Code Enforcement Officer that the sign has been removed or brought into compliance with the provisions of the chapter by the end of the compliance period, the Code Enforcement Officer shall certify the violations to the Town Attorney for prosecution.
- F. The Code Enforcement Officer is authorized to cause the removal of any sign adjudged to be illegal by a court of competent jurisdiction if the court so orders. The actual cost and expense of any such removal by the Code Enforcement Officer shall be borne by the holders of the permit or, if no permit had been issued, by the owner(s) of the premises on which the sign is located and the lessee(s) of the premises to which such sign pertains. All such parties shall be jointly and severally liable for such cost and expense and subject to the penalties provided by the provisions of this chapter.
- G. In addition to any remedies and penalties noted above, any person who fails to remove a sign after being notified to remove the sign by the Code Enforcement Officer shall be subject to penalties as provided in Section 17.10 of this chapter.
- H. Notwithstanding the foregoing procedures, any temporary sign located in violation of this chapter on Town property or within any right-of-way may be summarily removed by the Code Enforcement Officer immediately upon observing the noncompliant sign. The Code Enforcement Officer shall retain the sign for a period of 48 hours and if the sign is claimed by the owner during such time, the Code Enforcement Officer shall make the sign available to the owner for return. Any such sign not claimed within 48 hours may be summarily destroyed. This exception is intended to preserve the Town's authority as proprietor of Town property, and also to preserve the health, safety and welfare of the traveling public along public rights-of-way.

14. DEFINITIONS.

The following definitions, unless further defined or applied herein, specifically apply to this Section 17.08:

"Actively Marketed" means (1) proactive measures are being taken to connect and engage with potential customers, which may include listing with a real estate agent,

publishing advertisements in a newspaper or other print publications, or engaging in online advertising activities, such as posting on a website; and (2) these actions are repeated, updated, and modified regularly to continue to seek engagement with potential purchasers. The mere fact of placing a sign on a lot does not itself demonstrate that the property is being actively marketed.

"Awning Sign" means a fireproof space frame structure with translucent flexible reinforced vinyl or similar covering designed in awning form, but whose principal purpose and use is signage. Such signs may be internally illuminated by fluorescent or other light sources in fixtures approved under national and local electrical codes.

"Area of Sign" means that area enclosed by one continuous line, connecting the extreme limits or edges of writing, representation or similar figures or characters together with any material forming an integral part of the display or forming the backing surface or background on which the message or symbols are displayed on a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any point. This area does not include the main supporting sign structure, but other ornamental attachments are to be included in determining area of sign.

"Banner Sign" means any sign intended to be hung either with or without frames, possessing characters, letters, illustrations or ornamentations applied to paper, plastic, fabric, or similar flexible material of any kind.

"Building Front Foot" means the maximum building width measured at grade on a straight line parallel to the street on which the building is addressed.

"Business Front Foot" means the lineal distance of the building space occupied by the particular business measured on a straight line parallel to the street. Where a business does not parallel a street, the front foot shall be measured along the exterior of the building space occupied by the particular business.

"Changeable Copy Sign" means a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign.

"Commission" means the Plan Commission of the Town.

"Development Sign" means any temporary sign used to identify future residential or nonresidential development, or such a development under construction or completed.

"Double-faced Sign" means one sign that is constructed in a single plane that has two faces or sides designed for use.

"Electronic Message Board" means a type of changeable copy sign whose message or display is presented with patterns of lights or other means that may be changed at intermittent intervals by an electronic process.

"Flag" means banner sign as defined above.

"Free-Standing Sign" means any sign which is supported by structures or supports in or upon the ground and independent from any building.

"Government Sign" means any sign that is owned, operated, or required by a governmental entity having jurisdiction, including, but not limited to, the signs designated in this chapter as government signs, and signs that are required by applicable laws.

Such signs include official traffic, fire and police signs, signals, devices, and markings of the State of Wisconsin and the Town or other public authorities, or posted notices required by law.

"Height of Sign" means the overall height of a sign and/or the supporting structure of a sign, where applicable, measured from the nearest adjacent road grade at the edge of the pavement to the highest point of the sign and/or supporting structure of the sign.

"Holders of Permit" means collectively the owner(s) of the premises on which a sign is located and the lessee(s) of the premises to which such sign pertains, all of whom must sign the application for a sign permit. (See subsection 7.)

"Illegal Sign" means any sign except the following:

- i) A sign allowed by this chapter and not requiring a permit.
- ii) A sign allowed by this chapter carrying a valid permit.
- iii) A sign not allowed by this chapter but which has been legalized by variance or conditional use and proper permit granted.

"Legal Nonconforming Sign" means a sign that met code regulations when it was originally erected, either by adherence to a previous sign ordinance or by a variance granted to that ordinance, but which does not comply with all the present regulations of this chapter.

"Maintenance" means the replacing or repairing of a part or portion of a sign made unusable by ordinary wear, tear or damage beyond the control of the owner, or the reprinting of existing copy without changing the wording, composition or color of said copy.

"Master Sign Program" means the establishment of an identification program for any multi-tenant operation within the town, including but not limited to office parks, industrial parks and multi-tenant office and retail buildings. A Master Sign Program may also include a commercial development in which there exists a number of separate commercial activities, in which there are appurtenant facilities (such as parking or pedestrian mall), and which is designed to provide a single area in which the public can obtain varied products and services. The intent of a Master Sign Program is to give a uniform theme of size, color and style to signs in such a development.

"Meaningful Open Space" means the area around the base of a sign, determined to be necessary for aesthetics and safety by the Board. Meaningful Open Space shall be no less than 250 square feet and shall be landscaped with plantings and grass or ground cover as per site development standards.

"Monument Sign" means a sign placed upon or supported by the ground independent of any other structure for the purpose of delineating a neighborhood or a commercial development area. Monument signs are tantamount to government signs, to identify neighborhoods or commercial development areas, and assist with the provision of emergency services.

"Off-Premise Sign" means a sign which is not appurtenant to the use of the property or to a product sold or a service offered upon the property where the sign is located, and which does not identify the property where the sign is located as a purveyor or source of the merchandise or services advertised upon the sign.

"Pennant" means a tapered or dove-tailed banner, sign, streamer or flag, with or without any representation or writing thereon.

"Permanent Sign" means any sign which is intended to be and is so constructed as to be lasting and enduring, remaining unchanged in character, condition (beyond normal wear) and position, and in some permanent manner affixed to the ground, wall or building.

"Portable Sign" means any sign not permanently attached to the ground or a building or designed to be permanently attached to the ground or a building, including but not limited to trailorized signs and vehicles.

"Projecting Sign" means any sign other than a wall sign affixed to any structure, building or wall whose leading edge extends beyond such structure, building or wall.

"Roof Line" means the highest point of the main roof structure or highest point on a parapet but shall not include cupolas, pylons, projections or minor raised portions of the roof.

"Roof Sign" means a sign extending above the roof line.

"Sandwich Board" means a two-sided portable sign constructed of wood, cardboard or similar rigid material generally displayed outside of a commercial establishment to identify a product or service.

"Seasonal Sign" means a sign for seasonal commercial establishments, including but not limited to garden centers, Christmas tree lots and fruit and vegetable stands.

"Shingle Sign" means a sign whose front is under a roof overhang, covered walkway, covered porch, or open lattice walkway.

"Sign" means any device for visual communications and the structure which supports it, which is used or is intended to attract the attention of the public, when the display of this device is visible beyond the boundaries of the property upon which the display is made.

"Streamer" means pennant as defined above.

"Temporary Sign" means any sign constructed of cloth, canvas, wood, light fabric, cardboard, wallboard, plastic or other like materials, with or without frames, and any type of sign not permanently attached to the ground, wall or building which is permitted for display for a limited period of time only.

"Wall Sign" means any sign painted on, or attached to and erected parallel to the face of, or erected and confined within the limits of, the exterior wall of any building or structure and supported by such wall, building or structure and which displays only one advertising surface. This definition includes signs composed of individual letters or symbols.

"Window Sign" means any sign placed inside or upon a window facing the outside of a building and which is usually intended to be seen from the exterior of the building. Signs displayed on glass panels which are integral to doors visible from the exterior of the building will be considered to be window signs for purposes of this chapter.

SECTION 2: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Code," Section 17.05 entitled "Conditional Uses," subsection 5 entitled "Conditional Uses Permitted," subsection Z-5 entitled "Master Sign Program" is

hereby created and inserted between the conditional uses for "Marina" and "Mobile Home Parks" as follows:

17.05 5. Z-5
NEW CONDITIONAL USE

Z-5 Master Sign Program.

1. Where Permitted.

- A-1 Agricultural District
- A-E Exclusive Agricultural District
- A-2 Rural Home District
- B-1 Restricted Business District
- B-2 Shopping Center District
- B-3 Business Park District
- M-1 Industrial District
- P-1 Park and Recreation District
- WF-1 Wetland-Floodplain District

2. Conditions Under Which Permitted.

A Master Sign Program is necessary to establish the uniform theme of size, color and style to signs in multi-tenant operations, office parks, industrial parks, multi-tenant office and retail buildings, and commercial developments that include separate commercial activities. The requirements of Section 17.08 may be modified by the express terms of the Master Sign Program conditional use order.

SECTION 3: Chapter 17 of the Town of Delafield Municipal Code entitled "Zoning Code," Section 17.02 entitled "Rules and Definitions," subsection 2. entitled "Specific Words and Phrases," the definition of "Code Enforcement Officer" is hereby repealed and re-created as follows:

Code enforcement officer. The Town employee or Town contractor charged by the Town Board with the application and interpretation of this chapter

SECTION 4 SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section

or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 5: CONTINUATION OF EXISTING PROVISIONS.

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, for the time that such provision was in effect.

SECTION 6: EFFECTIVE DATE.


This ordinance shall be effective upon publication or posting as provided by law.

Dated this 23rd day of May, 2017.

TOWN OF DELAFIELD


Lawrence G. Krause, Town Chair

ATTEST:


Mary Elsner, Town Clerk

This ordinance ~~posted or published~~ 9/26/2017
C:\MyFiles\Delafield\Sign Ordinance\Sign Ordinance 4.10.17.docx