

**VILLAGE OF BOYNE FALLS
ORDINANCE CERTIFICATION**

At a regular meeting of the Village Council of the Village of Boyne Falls, Charlevoix County, Michigan, held in the Village Hall located in Boyne Falls, Michigan on June 9, 2009 at 7:00 p.m.

PRESENT: Tony Securro, James English, Gladys J. Bell, and William Bricker

ABSENT David Gillespie

It was moved by Tony Securro and supported by Gladys J. Bell that the following ordinance be adopted:

(See attached VILLAGE OF BOYNE FALLS ORDINANCE No. 55)

YES: 5
NO: 0

ORDINANCE DECLARED ADOPTED.

VILLAGE OF BOYNE FALLS

BY: *William P. Carson*
William Carson, Village President

I, the undersigned, the Clerk of the Village of Boyne Falls, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by the Boyne Falls Village Council of said County at its regular meeting held on July 14, 2011 relative to adoption of the ordinance therein set forth; that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be made available as required by said Act; this ordinance was published in the Record Eagle.

Dated: July 19, 2011

Debra Taylor
Debra Taylor, Village Clerk

VILLAGE OF BOYNE FALLS

Ordinance No. 55

AN ORDINANCE PURSUANT TO ACT 3 OF THE PUBLIC ACTS OF 1895, AS AMENDED, TO REGULATE SIGNS WITHIN THE VILLAGE AND TO PROVIDE PENALTIES FOR VIOLATIONS THEREOF

THE VILLAGE OF BOYNE FALLS ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Village of Boyne Falls Sign Ordinance.

Section 2. Purpose.

The purpose of this Ordinance is to preserve the desirable character of the Village of Boyne Falls, as well as to recognize the need for and privilege of displaying noncommercial messages and advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by local business places. At the same time, the Village recognizes the right of residents to be free of signs that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all signs shall be subject to all federal, state and local laws and regulations. As a result, these regulations permit signs that are needed for the purposes of displaying noncommercial messages, identification and advertising, subject to the following objectives:

- (a). By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.
- (b). Signs should enhance the aesthetic appeal of the Village. Thus, these regulations are intended to: 1) regulate oversized signs that are out-of-scale with the surrounding buildings and structures; and 2) prevent an excessive accumulation of signs which cause visual clutter and distraction.
- (c). To provide an orderly method for allowing for the modification of the provisions of this Ordinance if certain standards are met. All requests for modifications shall be heard by the Village Council pursuant to Section 10 of this Ordinance.

Section 3. Definitions. As used in this Ordinance:

"Double Faced Sign" means a sign having back-to-back message display areas.

"Electronic Sign Surface" means that portion of a sign surface capable of changing its message or image electronically.

"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

"Freestanding or Ground Sign" means a sign supported by permanent uprights or braces in the ground.

"Identification Sign" means an on premises sign whose copy is limited to the name and address of a building, institution, person and/or the activity or occupation being identified.

"Maintain" means to allow to exist and includes the periodic changing of advertising messages, customary maintenance and repair of a sign.

"Noncommercial Sign" means a sign displaying information pertaining to an idea, belief, or opinion and not pertaining to a product, use, occupancy, function, service, activity, or other commercial purpose.

"Off Premises Billboard" means a sign, whether placed individually or on a V-type or double-faced display, which is located along US-131 and M-75 and which is intended or used to identify or communicate a noncommercial message such as an idea, belief, or opinion, or a commercial message related to an activity conducted, a service rendered, or a commodity sold at a location different than the property on which the billboard is located. However, an off premises billboard shall not include a tourist-oriented directional sign for which a permit has been issued by the Michigan Department of Transportation pursuant to Public Act 299 of the Public Acts of 1996, as amended.

"Off Premises Sign" means any sign relating to subject matter not conducted on the premises on which the sign is located.

"On Premises Sign" means any sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

"Outdoor Business or Informational Sign" means an on premises freestanding or overhanging sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure, on the same property as the sign, or at a location different than the property on which the sign is located.

"Overhanging Sign" means a sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

"Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity.

"Portable Sign" means a sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily to the ground, a structure, or another sign;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the business for which the vehicle is being used in normal day-to-day operations of that business.

"Sign" means a structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of or for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

"Sign Surface" means that portion of a sign excluding its base, foundation and erection supports on which information pertaining to an idea, belief, opinion, product, use, occupancy, function, service, or activity is displayed.

"V-Type Billboard or Sign" means a sign constructed in a "V" pattern but having only one message display area visible to traffic proceeding from any given direction on a highway.

"Visible" means capable of being seen by a person of normal visual acuity.

"Wall Sign" means any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

"Window Sign" means any sign, picture, symbol, or combination thereof, designed to communicate information about any activity, business, commodity, event, sale, or service that is placed on a window pane or glass so that it is visible from the out-of-doors.

Section 4. Permit Required.

Except as provided in Section 5 of this Ordinance, no person shall erect a sign within the Village without first receiving a sign permit from the Village Clerk and paying the required sign permit fee as determined periodically by resolution of the Village Council. Before issuing a sign permit, the Village Clerk shall determine that the proposed sign complies with the regulations within Section 7 of this Ordinance.

Section 5. Signs Not Requiring a Permit.

The following signs may be erected within the Village without a sign permit, provided such signs comply with any applicable federal, state, or local law or regulation, any applicable regulation of this Ordinance, and are located so as not to cause a nuisance or safety hazard:

- (a). One (1) non-illuminated identification sign per use, not exceeding four (4) square feet of sign surface.
- (b). Street name signs, route markers and other traffic control signs erected or approved by state, county or village agencies when necessary to give proper directions or to otherwise safeguard the public.
- (c). Signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards, including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc., provided the sign surface does not exceed four (4) square feet and the sign is no more than four (4) feet in height above the natural grade upon which it will be placed.
- (d). Signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed four (4) square feet and the sign is no more than four (4) feet in height above the natural grade upon which it will be placed.
- (e). Temporary real estate signs on individual lots advertising a premise for sale or rent, provided the sign surface does not exceed four (4) square feet and the sign is no more than four (4) feet in height above the natural grade upon which it will be placed.
- (f). Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, provided the sign surface does not exceed four (4) square feet and the sign is no more than four (4) feet in height above the natural grade upon which it will be placed.
- (g). Political and other noncommercial signs, provided the sign surface does not exceed four (4) square feet and the sign is no more than four (4) feet in height above the natural grade upon which it will be placed. All political signs shall be removed within five (5) days after the election for which they apply.

Section 6. Application.

Any person desiring a permit to construct, enlarge, alter, or reconstruct a sign shall file a written application with the Village Clerk and pay the required fee as established by

resolution of the Village Council. The application shall contain a drawing of the proposed location of the sign on the property, the type of sign to be constructed, enlarged, altered, or reconstructed, the legal description of the property on which the sign will be located, and such other information as may be required by the Village Clerk to determine that the sign is in compliance with the regulations of this Ordinance.

Section 7. Regulations, signs requiring a permit.

- (a). Except for signs prohibited under subsection (b) below, all signs within the Village shall comply with the following applicable regulations.
- (1). All other signs not otherwise forbidden under subsection (b) below or as allowed under Section 5 shall comply with the following applicable size limitations. The computation of the sign surface shall be governed by Section 8 of this Ordinance.
 - (A). The sign surface of an outdoor business or informational sign shall not exceed 24 square feet.
 - (B). The sign surface of a wall sign shall not exceed 24 square feet or ten percent (10%) of the building face to which it is attached, whichever is less.
 - (C). The sign surface of a window sign shall not exceed ten percent (10%) of the building face to which it is attached.
 - (2). The height of an outdoor business or informational sign shall not exceed twenty (20) feet above the natural grade upon which it will be placed.
 - (3). The number of outdoor business or informational signs, wall signs, and window signs shall be limited as follows:
 - (A). Each business located on a parcel shall be allowed no more than one (1) business or informational sign and no more than one (1) wall sign.
 - (B). Each business located on a parcel shall be allowed no more than three (3) window signs.
 - (4). Electronic sign surfaces shall comply with all of the following requirements:
 - (A). The electronic sign surface shall only be within a freestanding sign or a wall sign.

- (B). The area of the electronic sign surface shall not exceed seventy-five percent (75%) of the total sign surface.
 - (C). The message or image shall be static during its display and shall not move or be animated in any way.
 - (D). The message or image displayed shall remain static for no less than three (3) seconds before changing.
 - (E). Any change of message or image shall be completed simultaneously throughout the entire electronic sign surface so that no portion of the new message or image is visible in the electronic sign surface at the same time as the old message or image.
 - (F). Any light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices used to display the message or image within the electronic sign surface shall automatically dim to a light level no greater than 1500 NITS (candelas per square meter) at or before one-half hour following sunset.
- (5). No sign shall be located so as to obstruct or impair a driver's vision of oncoming traffic at driveways and/or intersections and no sign shall obstruct a driver's view of any official traffic sign, traffic signal or traffic marking.
- (6). The illumination of a sign shall be limited to the sign surface(s). All exterior lighting of signs shall be shielded and directed to the sign surface(s) so as not to shine into or otherwise be hazardous to traffic and so as not to shine onto adjoining properties. For internally lighted signs, the sign surface background or field shall be opaque. Letters, numerals, logos and similar message elements may be of a transparent material to permit the internal lighting to reveal the message or image on the sign surface.
- (b). The following signs are prohibited within the Village:
- (1). All off premises billboards as defined in this Ordinance shall not be permitted henceforth from the effective date of this Ordinance.
 - (2). Any sign which by reason of its location, shape, size, or color can be confused with official traffic signs, traffic signals or traffic markings thereby creating a traffic hazard.
 - (3). Any sign affixed to a tree, shrub, utility pole, or other similar object.
 - (4). Any portable sign.

- (5). Any off premises billboard or sign as defined in this Ordinance.
- (c) Once an applicant has obtained a permit, the sign allowed by the permit must be fully installed within ninety (90) days from the date the permit is issued or the permit shall expire. If the applicant has failed to install the sign within ninety (90) days from the date the permit was issued, the applicant may apply for a new permit under the procedures provided in this ordinance for obtaining a permit.

Section 8. Sign Surface Computations.

The following regulations shall apply to the calculation of a sign surface area:

- (a). The maximum sign surface area shall be computed around the perimeter of the frame or border of the sign surface where such exists or around the perimeter of the symbols or letters or other display elements where no border or frame exists. Where a sign surface is composed of letters or images attached directly to a facade, window or door and the letters or images are not enclosed by a border or trimming, the sign surface shall be the area within the smallest rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme external points of the letters or images.
- (b). Double faced signs and V-type signs shall be considered one sign with the area of the sign surface calculated on the larger of the sign surfaces.
- (c). A structure containing multiple sign surfaces shall be considered one sign if all of the sign surfaces are included in the same border or frame of the sign. The maximum sign surface area for such a sign shall be computed around the perimeter of the frame or border of the sign surfaces. Otherwise, each sign surface shall constitute a separate sign.
- (d). The area of a sign surface shall not include the area of its supporting structure or canopy if the supporting structure or canopy contains no message or image.

Section 9. Existing Signs.

Any off premises billboard or any sign lawfully erected and in use on the effective date of this Ordinance may be continued. However, such existing off premises billboards and signs shall not be enlarged, altered, or reconstructed, unless such off premises billboard or sign is made to conform with the provisions of this Ordinance, a permit is obtained, and the required fee is paid. Nothing in this section shall prevent such necessary repairs and maintenance of an existing off premises billboard or sign as may be necessary to secure a reasonable use of it during its natural life, which may be done without a permit.

Section 10. Modification of Regulations.

- (a). The Village Council shall have the authority to modify the sign regulations of this Ordinance following the procedures of this section.
- (b). Before considering a request to modify the sign regulations of this Ordinance, the Village Council shall hold a public hearing on the request. Notice of the public hearing shall be given to the owners and occupants of all adjoining property by first class mail and shall be published in a newspaper of general circulation within the Village no less than fifteen (15) days before the public hearing.
- (c). The Village Council may modify the sign regulations of this Ordinance only if it finds based on competent, material, and substantial evidence presented at the public hearing that the requested modification will not cause an adverse impact on surrounding property or on surrounding property values and further finds that one (1) of the following standards has been met:
 - (1). That there are special circumstances or conditions fully described in the findings applying to the land, buildings or sign for which the modification is sought, which circumstances or condition are peculiar to such land, buildings, or sign and do not apply generally within the neighborhood and the Village at large.
 - (2). That the strict application of the provisions of this Ordinance would cause the Applicant unnecessary hardship if required to comply with the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured and substantial justice done.
 - (3). That the granting of such modification will not constitute an unnecessary hazard to the safety or welfare of any person, persons, or the general public.
 - (4). That the granting of a modification from the provisions of this Ordinance will be in harmony with the general purpose and intent of this Ordinance.
- (d). The Village Council may attach reasonable conditions to the approval of any sign regulation modifications. Any such conditions shall be designed to protect the health, safety and welfare, and the social and economic well being of the applicant, residents and landowners immediately adjacent to the property on which the sign will be located, and the Village as a whole.

Section 11. Violations and Penalties.

Any person who violates any provision of this Ordinance shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a

fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 12. Enforcement.

The Village Police Chief or other person designated by the Village Council is hereby designated as the authorized Village official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

Section 13. Nuisance.

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 14. Injunctive Relief.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 15. Effective Date.

This Ordinance shall become effective twenty (20) days after being published in a newspaper of general circulation within the Village.

VILLAGE OF BOYNE FALLS

By: William P. Carson
William Carson, President

By: Debbie Taylor
Debbie Taylor, Clerk