

This audit of the North Olmsted, Ohio, sign code is intended to outline the strengths and issues with the current Chapter 1163 (Signs) of the North Olmsted Code of Ordinances prior to the drafting of an updated sign code in order to provide an opportunity for feedback on suggested improvements. Additionally, in certain instances, information is provided on different approaches the City can take with the update and this audit will give the public an opportunity to provide additional feedback prior to the drafting of the new text. This audit was prepared after Wendy Moeller, FAICP, of Compass Point Planning reviewed the existing code and met with staff, various stakeholders (e.g., sign industry representatives, local businesses, franchise businesses, and residents) as well as a steering committee tasked with providing a detailed review of this audit and the draft new code prior to the adoption process. This audit includes both general recommendations and a section-by-section evaluation of the existing code.

### **General Recommendations**

The following are some general recommendations for improvements that relate to the overall code or are suggesting a significant shift in direction from the current sign regulations.

#### **1. Content Neutrality**

In 2015, the United States Supreme Court ruled on a case called *Reed v. Town of Gilbert* that had widespread implications for signs codes across the nation. The court ruled that, for the most part, communities could not regulate signs based on the actual message of the sign but rather should focus on the structural and timing aspect of the signs. For example, many communities had very specific regulations for real estate signs but the definition of a real estate sign was that of a temporary sign with “for sale” or “for lease” on it and that meant that the sign was regulated by the message. As the alternative, if a community simply regulated temporary yard signs, then the regulations would be in keeping with the court’s opinion because a temporary yard sign is a structure type. The latter example is what courts refer to as content-neutral sign regulations. However, like many court cases, the opinion left some gray areas because the *Reed* opinion did not speak to previous case law that allowed two different general distinctions that are based on the message.

- (1) The *Reed* opinion did not clearly overrule a previous opinion that allowed communities to make a distinction between the regulation of a sign with a commercial message (e.g., real estate signs, construction signs, business signs, etc.) versus that of a sign with a noncommercial message (e.g., political or opinion signs, etc.) provided that the regulations for a noncommercial message sign were not as restrictive as that for a commercial message sign.
- (2) The *Reed* opinion also did not speak to previous case law that allowed for a distinction between an on-premise sign and off-premise sign (typically billboards). For North Olmsted, billboards are specifically prohibited.

Fortunately, the current sign code does not have many references to the message of sign with the exception of the regulation of billboards in Section 1163.30 and the regulation of temporary signs under Section 1163.34. Under the updated sign code, the language will be cleaned up to remove any references to the regulation of signs by message with the exception of maintaining a distinction between noncommercial message signs and commercial message signs. The purpose of this distinction will be to ensure that all property owners have a reasonable amount of allowance for signs that contain political, opinion, or other noncommercial speech. The focus of the new regulations will be on the sign type, placement, and size.

The one distinction that we suggest removing is any reference to on-premise or off-premise messaging. Currently, the main reason the City maintains this distinction is to prohibit billboards. However, many communities are eliminating this type of distinction realizing that businesses are not likely willing to give up any of their sign area allowance to advertise for an off-premise business and if so, is the City truly concerned about that messaging if the size of the sign and height of the sign does not change? Because the maximum ground sign area allowed on any lot is 50 square feet with a maximum height of 12 feet (or 65 square feet if the signs is eight feet tall or less), billboards are already essentially prohibited. The new code will include language that will only allow permanent signs as accessory to principal uses that will only further the intent to prohibit billboards. As far as temporary signs go, many temporary signs located in residential districts can be off-premise (e.g., advertising a local community event) but most communities are not concerned about whether the temporary signs contain an on-premise or off-premise message so this is another reason while the on- versus off-premise requirement can be eliminated.

## **2. *Art, Murals, and Flags***

The one challenge that has come with the Reed case is trying to figure out how to address public art, wall murals, and flags that can sometimes be used as signs, but not always. North Olmsted currently regulates flag poles in the sign regulations and the intent of these regulations is on the flag pole itself, and not the message of the flag but government flags and the like are not traditionally treated as signs so this audit suggests that the flag pole regulations be removed from signage and dealt with as a structural regulation. On the same note, public art and murals sometimes contains a message that could potentially be interpreted as a sign whether it is “Welcome to North Olmsted” or simply a historic image of the community. The City has long supported public art and as such, the updated code will incorporate an exemption that any work of art, which could include murals or public installations, that is commissioned by or authorized by the North Olmsted Arts Commission is considered public art and not a sign subject to the regulation of the new code. Furthermore, the update sign code will prohibit signs that are painted directly on to walls but will expand the list of sign structures that can be attached to a building.

## **3. *Clarification of Rules and Definitions***

One of the comments identified by almost every stakeholder was a need to simply establish clear and predictable standards. Many of the ongoing issues stem from the fact that the current regulations do not specifically address signs such as drive-through signs. Because of this, staff is forced to classify signs as best as they can and these interpretations have resulted in numerous variance requests. Many of these issues can be addressed with the changes suggested in this audit, the inclusion of more graphics to illustrate measurements, and an overall clarification of all standards and definitions. For example, the current definition of a “pole sign” establishes rules to distinguish it from a ground sign but some stakeholders have had difficulties understanding how the staff has made this determination. The sub-statement of this definition includes “to allow pedestrian or vehicular clearance beneath any of the sign’s message area...” as a way of defining a pole sign but this could be interpreted in many different ways depending on the user. The new code will greatly enhance the standards and definitions to provide clear and predictable standards.

#### **4. Sign Height and Area Provisions**

While some businesses want to see provisions for larger ground signs and allowances for pole signs, the general direction for this update is to focus on clarification of rules, incorporation of some flexibility in sign type allowances, and modernizing the code. This means that the current provisions for ground signs (50 square feet of sign area and 12 feet in height or 65 square feet for signs 8 feet tall or less) will remain the same. However, the code update will make a cleaner distinction of what types of signs count toward the ground sign area, which may in fact give some property owners the ability to install more signage than currently permitted without variances. For example, later in this audit, we recommend incorporating allowances for drive-through signage and for driveway entrance signs that would be separate from the ground signs so that a restaurant or bank would not be penalized on their main ground sign because they wanted to install a sign near their drive-through, not intended to be readable from the street.

There is one place where we recommend reevaluating provisions that would result in a potential increase in the amount of sign area allowed and that is the revision of Section 1163.25 (Maximum Sign Face Area). Having a maximum sign face area per lot, per building, and per building unit, as established in this section, has created difficult issues in administering the current code because every time there is a change to a sign on a lot, there has to be a complete recalculation of all signs, especially for multi-tenant buildings. In order to address this complicated system, we recommend the following suggested improvements:

- Establish distinct maximum sign area allowances for the various types of freestanding ground signs (ground signs, drive through signs, driveway entrance signs, etc.) that is completely separate from the maximum sign face area for buildings.
- Establish one maximum sign area for all building signs (e.g., wall, projecting, canopy, marquee, etc.) and allow the building owner to decide what is the appropriate type of building sign for the building or tenant. This will give an owner more flexibility in designing their sign package.
- Establish sign-specific standards for each type of sign allowed in the code. For example, drive-through signs would only be allowed when adjacent to the drive-through facility. Driveway entrance signs may only be allowed at driveways used for drive-throughs or limited access driveways (e.g., right-in or right-out). Additional sign-specific standards will be included for each sign type.
- Focus on a maximum sign area per tenant rather than the overall building. If there is only one tenant in the building, then this will not be an issue but where there are multiple tenants, this will prevent an issue where a landlord dedicates most of the signage to one tenant over others. Furthermore, this will allow staff to focus on just the signage proposed for the one tenant rather than having to recalculate how much signage is on the entire building.
- Section 1163.25 allows for up to 40% of a second building frontage to be included in the building calculation. This allowance needs to be clarified and we recommend simply establishing a maximum sign area for the primary façade (1.00 square feet per foot of lineal tenant frontage). For secondary façades (all other façades other than the one primary façade), we recommend incorporating one of the following suggested changes:
  - Allow 0.50 square feet per foot of lineal tenant frontage on any façade that faces another road; or
  - Allow 0.50 square feet per foot of lineal tenant front on any secondary façade, regardless if it faces a street or not. This latter change would address properties like the mall, where not all the facades face a street, as well as other unique lot setups where there is a need for building signage but not necessary visibility from a street.

- Regarding the mall and other large development, the city might want to incorporate a sliding scale on the amount of building signage allowed based on total building size so that there is a slight increase for buildings over a certain square footage. There is an additional discussion on the amount of building sign area allowance in the next section on addressing modern signage.

## **5. Addressing Modern Signage**

The current North Olmsted sign regulations are fairly simple compared to other communities. Each property and/or business gets a certain amount of permanent signage that is either a ground sign or a certain type of signage attached to the building. However, recent modern development trends have led to a demand for more signage that doesn't fall quite as simply into those two categories and as noted above, has required the City to make certain determinations leading to more and more variances. It appears that there are two main issues related to these interpretations. The first is how to deal with drive-through signs, driveway signs, and similar freestanding signs (currently classified as ground signs) without creating a major issue for the actual main ground sign. The second issue is how to deal with new approaches to signage such as how some business put signage on canopies over their customer entrances, drive-through aisles, or the covering of entire windows with transparent screens that have images related to the business but not necessarily logos or words. To address these issues, we recommend the following changes:

- On the question of ground signs, we recommend creating separate standards for drive-through signs and for driveway signs that sets unique standards for each type of freestanding ground sign without taking away from the main ground sign that is allowed on each property. These types of signs will be allowed as an accessory to drive-through facilities and/or limited-access driveways with restrictions so as to maintain the desired aesthetic of the corridors. The permitted area for each sign type will be developed based on additional analysis of current development in the City as well as further discussions with the steering committee.
- For building signage, the previous section of this audit includes recommendations that the City move to an overall regulation of total building sign area (defined as signs attached to buildings or other non-sign structures). The primary reasoning behind this approach is it gives the property owner or tenant a little more flexibility in determining the best use of the sign allowance. In this case, if the applicable business has a drive-through with canopies over the vehicle aisle, where they would like to attach some signage, they could use some of the allowance for the canopy sign whereas if they wanted to use all the sign allowance for a wall signage, they could do that as an alternative. In doing this, we also recommend that the City consider slightly increasing the amount of building signage allowed. Currently the standard stands at 1.00 square foot per lineal foot of building frontage. This is not an uncommon ratio but it is slightly on the lower-end of the spectrum when you consider the typical types of businesses along North Olmsted's business corridors. Again, we suggest allowing staff, the consultants, and the steering committee to work through refining the numbers based on the evaluation of recent developments. Furthermore, part of that consideration and discussion will also include looking at the idea of developing a sliding scale based on the size of a building as suggested in the previous section of this audit.
- As part of these updates, there will be a need for enhanced definitions to make it clear how the City defines different sign types as well as structures. For example, the sign code update will make a clear distinction between canopies, such as gas canopies, that are self-supporting roof structures over vehicle use areas as compared to awnings or signs posted above canopies that are attached to buildings (e.g., canopies over a customer entrance).

## **6. Digital Signage**

The one main issue where there is a significant discrepancy in viewpoints is that on digital signage. The City currently prohibits digital signage now, however, there are two existing digital signs in the City including one that is owned by the City of North Olmsted. While the general policy direction has been to continue to prohibit digital signage, many of the local businesses have expressed a desire to allow them in some form. For digital sign users, the pros are that the signs can express a multitude of messages within a small area. For example, a multi-tenant building can have a digital sign that shows each tenant in a large-sign format, because the message changes, versus giving each tenant a much smaller stationary sign on a traditional ground sign. For those opposed to digital signs, the concerns are the brightness of the digital signs and the fact that if there is a street frontage full of digital signage, there could be an appearance of flashing signs since the individual signs are not synchronized to one another. Staff has noted that a major issue with digital signs is enforcement because while the City can set forth multiple standards to minimize brightness and how often the message changes, it is still very easy to change the programming of the signs to be out of compliance and the staff has limited resources to enforce all of those regulations. It is important to note that the City can continue to prohibit these types of signs because they are a structure type and the regulations do not relate to the message. If the City does want to allow some portion of the permitted ground sign to be digital, they cannot allow them for certain users and not other such as allowing them for gas stations but not for an adjacent business in the same zoning district. For this reason, we recommend the City consider one of the following options:

- (1) Continue to prohibit digital signage with the exception of drive-through signage, which may be internally illuminated and utilize LED screens. Unlike other digital signage used on ground signs, these types of digital signs do not require movement or changing messages so they are stationary signs. There will still be general provisions on illumination to prevent excessive lighting onto adjacent residential properties. Under this scenario, the two existing digital signs will be nonconforming signs.
- (2) Allow digital signs with very strict standards that would prevent excessive message changes, movement (e.g., video type displays) and could even require display of text only on black backgrounds rather than allowing the display to be fully illuminated. Regulations similar to the latter provision are in place in adjacent Westlake, although they are not completely clear. However, it does appear that their regulations are the reason why all digital signs in the community are of one-color text or images on a black background. Other communities have similarly restrictive regulations. While it is our understanding that the City of Westlake only allows the changing of messaging once every day, we would suggest allowing for a shorter time frame to benefit multi-tenant spaces.

### **Section-by-Section Analysis**

The following is a very brief analysis of each section of the existing sign code to identify how the information will be addressed in the updated sign code. Where this part of the audit notes that language will be maintained in the new code, it is not intended to imply that the language will be maintained word-for-word, only that the overall intent of the section will be carried forward but there may be some wordsmithing as part of the update.

#### ***Section 1163.01 – Purpose and Intent***

This section is important to maintain as the establishment of legislative intent. This section will be updated to further clarify the intent, particularly related to the protection of free speech.

***Section 1163.02 - Definitions***

As described in the general regulations, this section will be completely updated to clarify definitions. Additionally, any standards or regulations that are in the definitions will be updated and relocated to a more appropriate section. An example of this is how the definition of a pole sign includes standards that attempt to set it apart from a ground sign. This distinction will be clarified in the definitions but the regulatory element of it will be addressed under the rules for measurement section of the updated code.

***Section 1163.03 – Permit Required***

This section requiring a permit, except for a limited number of signs, will be maintained in the updated code.

***Section 1163.04 – Exemptions to Permit Requirement***

This section that sets the exemptions for a sign permit will be carried forward and likely combined with the sign permit requirement under a general applicability section.

***Section 1163.05 – Application for Erection Permit***

We recommend that this language be eliminated from the code and that the City establish this as a checklist with any sign permit application.

***Section 1163.06 – Permit Issuance***

This procedure for reviewing a permit will be carried forward with some reformatting to clarify the steps in the review process.

***Section 1163.07 – Permit Fee***

This language will be carried forward as part of the updated code.

***Section 1163.08 – Appeal***

This language will be carried forward as part of the updated code.

***Section 1163.09 – Revocation of Permit***

This language will be carried forward as part of the updated code.

***Section 1163.10 – Nonconforming Signs***

This section will be incorporated into the updated code with a change to remove the reference to 50% of the sign's replacement value. Determining the replacement value can be a challenge and most communities do not allow any structural change to a nonconforming sign, regardless of the replacement value. This section will also likely be consolidated with the existing Section 1163.14 (Outdated Signs) and 1163.15 (Abandoned Signs) as they all related to signs that are either noncompliance or are not associated with current businesses. Instead, this section will be updated to state what changes may be permitted (e.g., sign face change provided no cabinet or structural support change, or a sign face change where there is a change of use that occurred within six months) without losing the legal nonconforming status. The provision regarding loss of nonconforming status after a voluntary discontinuance of six months will be maintained.

***Section 1163.11 – Removal of Signs***

This language will be carried forward as part of the updated code with a clarification that signs illegally placed in the right-of-way can be immediately removed without written notice.

***Section 1163.12 – Number, Date, and Voltage***

This language requiring the display of certain permit information shall be removed from the updated code because it is not currently enforced.

***Section 1163.13 – Maintenance***

This language will be carried forward as part of the updated code with a clarification that general maintenance does not require a permit and what is defined as general maintenance.

***Section 1163.14 – Outdated Signs Prohibited***

This language will be carried forward as part of the updated code. This language will most likely be consolidated with other provisions into a new section on prohibited signs that will also prohibit any specific sign type not expressly permitted by the code.

***Section 1163.15 – Abandoned Signs Prohibited***

This language will be carried forward as part of the updated code and combined with the provisions on outdated signs found in Section 1163.14.

***Section 1163.16 – Obstructions Prohibited***

This language will be carried forward as part of the updated code.

***Section 1163.17 – Traffic Hazards***

This language will be carried forward as part of the updated code and combined with the provision prohibiting obstructions found in Section 1163.16. This information will be supplemented with illustrations to show a diagram of the visibility requirements.

***Section 1163.18 – Unsafe Signs***

This language will be carried forward as part of the updated code.

***Section 1163.19 – Illuminated Signs***

This language will be completed updated to provide better rules for determining what kind of illumination would be deemed “objectionable.” If the City chooses to move forward with digital signs, this language will have to be further expanded to address the illumination of digital signs.

***Section 1163.20 – Obscene Signs***

This language should be removed as obscenity is a difficult term to define and should nevertheless be controlled by any state obscenity laws.

***Section 1163.21 – Vehicular Signs***

This language will be carried forward as part of the updated code with some clarification on how the City defines a vehicle sign as compared to signs on delivery or fleet vehicles.

***Section 1163.22 – Moving Signs***

This language will be carried forward as part of the updated code.

***Section 1163.23 – Flashing Signs***

This language will be carried forward as part of the updated code.

***Section 1163.24 – Windblown Devices***

This language will be carried forward as part of the updated code.

***Section 1163.25 – Maximum Sign Face Area***

This language will be carried forward with the revisions as discussed in the first section of this code audit related to general recommendations.

***Section 1163.26 – Types of Signs Permitted***

This language will be carried forward with the revisions suggested in the first part of this code audit related to general recommendations. Furthermore, there will be enhanced definitions of each sign type.

***Section 1163.27 – Ground Signs***

This language will be carried forward with the revisions suggested in the first part of this code audit related to general recommendations, specifically related to the distinction of different ground sign types.

***Section 1163.28 – Wall Signs***

This language will be carried forward with the revisions suggested in the first part of this code audit related to general recommendations, specifically related to the allowances of building signs. In addition to those suggested changes, we also recommend eliminating the cap on the size or height of any single sign or at least allowing for some flexibility. For example, there are several cases where a wall sign of over 100 square feet would be appropriate, if such size sign was allowed, including signs mounted to the façade of the mall. The same applies to the mandate that no wall sign can be taller than 4 feet because there could be instances where the mounting of a sign in a horizontal format would work based on the sign shape or the size of the façade. Given that the City has certain mounting setback requirements from what are essentially the sides of the building and from other signs, eliminating these requirements could provide even more flexibility on building signage.

***Section 1163.29 – Canopy Signs***

This language will be carried forward with the revisions suggested in the first part of this code audit related to general recommendations, specifically related to the allowances of building signs. As stated earlier, we suggested regulating canopy signs as a form of a building sign but with a better definition of how signs apply to a stand-alone canopy (e.g., gas island canopy) versus a canopy or awning connected to the principal building, over an entrance. There should continue to be special regulations for the size and total coverage of signs on canopies, along with standards on if the signs can extend above a canopy, but evaluating these signs as part of the building signage package should provide some simplicity in calculation of sign area while given the business owner flexibility in utilizing their sign allowances.

***Section 1163.30 - Billboards***

This section will be eliminated. Because the new code will not make a distinction between on-premise and off-premise signage, there simply will not be any lot where a sign as large as a billboard will be allowed, which ultimately results in the same prohibition without calling out billboards.

***Section 1163.31 – Pole Signs***

The prohibition of pole signs will be maintained in the updated code.

**Section 1163.32 – Window Signs**

We recommend that the City allow up to 50% of a window area (to be defined with examples) be utilized for signage. Many of the existing window signs are in violation of the current allowance of 25% and most communities allow 50% coverage for window signs with the exception of historic districts or walkable areas. Window signs should be calculated separately from building or ground sign areas and most communities do not require a permit for window signs provided they comply with the sign code standards.

**Section 1163.33 – Flags**

We have recommended that the regulation of flagpoles be moved outside of the sign code.

**Section 1163.34 – Temporary Signs**

The temporary sign regulations are the regulations that will change the most due to the *Reed v. Town of Gilbert* court case described in the first section of this audit because temporary signs are the ones traditionally regulated by message. For the purposes of this section, we recommend separating out temporary signs with noncommercial messaging from temporary signs with commercial messages. We recommend the following changes to this section of the sign code:

Sign Type	Residential Districts	Nonresidential Districts
Temporary yard or window sign with a <b>noncommercial message</b>	<u>Allowed year-round</u> There will be a maximum square footage of all signs combined plus maximum sign area and height standards for individual signs.	
Temporary yard or window sign with a <b>commercial message</b>	<u>Allowed year-round</u> Two signs, each with a maximum area of six square feet <sup>1</sup>	<u>Allowed year-round</u> One sign with a maximum area of twelve square feet (or two signs with a maximum area of six square feet each)
Additional temporary yard or banner signs with a <b>commercial message</b>	Not applicable	<u>Allowed for 30 days</u> One sign with a maximum area of 20 square feet

- There will be additional discussions with the steering committee on the square footage allowances and timing but the above is a general summary of the approach.
- In no case will temporary signs be allowed to be posted in rights-of-way.
- Temporary signs with a noncommercial message include political, opinion, religious, and other noncommercial messages. They can no longer be tied to just elections as people have the right to Free Speech any time, not just around election time. and not just related to elections so there has to be an allowance for such signage all year.
- Temporary signs with a commercial message could include messages related to real estate, construction, grand opening, special events, community events, etc.
- Additional provisions will be added to allow for a temporary banner sign to cover an existing permanent sign in a case where there is a change of use and the new use will be operating before a new permanent sign can be installed.

<sup>1</sup> This would allow for any combination of real estate, garage sale, community event sign, etc. on residential lots.