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TOWN OF WESTMINSTER

Town of Westminster

ZONING BYLAWS APPROVED AT ANNUAL TOWN MEETING MAY 4, 2019

**Changes approved by Attorney General on August 14, 2019
For Article 29 Only**

**Ellen M. Sheehan
Westminster Town Clerk**



**TOWN OF WESTMINSTER
OFFICE OF THE TOWN CLERK**

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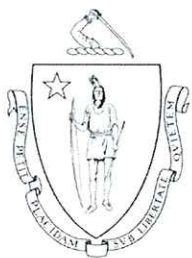
August 28, 2019

On the date above written, I have posted copies of the Zoning Bylaw amendments passed at the Annual Town Meeting of May 4, 2019, and approved by the Attorney General of Massachusetts on August 14, 2019, at the following public places in the Town of Westminster:

Senior/Community Center
Town Hall
Public Safety Building
Forbush Memorial Library
U.S. Post Office

The above amendment is also posted on our Town of Westminster Website.

Ellen M. Sheehan
Town Clerk



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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August 14, 2019

Ellen M. Sheehan, Town Clerk
Town of Westminster
11 South Street
Westminster, MA 01473

Re: Westminster Annual Town Meeting of May 4, 2019 -- Case # 9449
Warrant Articles # 29, 30 and 32 (Zoning)
Warrant Article # 33 (General)

Dear Ms. Sheehan:

Article 29 - We approve Article 29 from the May 4, 2019 Westminster Annual Town Meeting.¹ Our comments on Article 29 are provided below.

Article 29 amends the Town's zoning by-laws Chapter 205 by replacing Article X, with a new Article X, "Signs." The new by-law imposes regulations on signs, including regulations applicable to specific zoning districts in which the sign is located. Our comments on the new Chapter 205 are provided below.

I. Sign By-laws in General - The Reed Test

In Reed v. Gilbert, Arizona, 135 S. Ct. 2218 (2015), the United State Supreme Court held that the Town's content-based sign regulation was unconstitutional because it was not narrowly tailored to serve a compelling state interest.

The Town of Gilbert, Arizona adopted a comprehensive sign ordinance that required a sign permit for outdoor signs. The sign ordinance exempted 23 types of signs from the permit requirement, including three types of signs that were the focus of the Court's decision: (1) ideological signs; (2) political signs; and (3) temporary directional signs relating to a qualifying

¹ In a decision issued June 12, 2019, we approved Articles 30 and 32 and took no action on Article 33.

event.² However, such signs were subject to specific restrictions, including durational and size limitations.

The Petitioners in Reed were the Good News Community Church and its pastor, who placed 15 to 20 signs around the Town informing the public of its worship services. The Petitioners were cited twice for violating the Town's temporary directional sign restrictions. Specifically, the Petitioners were cited for (1) displaying the signs past the time limit required under the ordinance and (2) for omitting the date of the event on the signs. After failing to resolve the matter with the Town, the Petitioners filed a complaint alleging that the sign ordinance violated their free speech rights guaranteed under the First and Fourteenth Amendments to the U.S. Constitution. The Ninth Circuit Court of Appeals held that the sign ordinance's provisions were content-neutral and did not violate the First Amendment. The United State Supreme Court granted certiorari and reversed the Ninth Circuit's decision.

The Supreme Court focused on three categories of signs that, in the Town's ordinance, were exempt from the sign permit requirement but subject to specific durational and size limitations: (1) ideological signs; (2) political signs; and (3) temporary directional signs relating to a qualifying event. First, the Court reiterated that the First Amendment prohibits local governments from restricting expression because of the message, idea, subject matter, or content. Id. at 2226. A regulation is content-based if it applies to a particular speech because of the topic discussed or the idea or message expressed. "This commonsense meaning of the phrase 'content-based' requires a court to consider whether a regulation of speech 'on its face' draws distinctions based on the message a speaker conveys." Id. at 2227. Content-based laws are subject to strict scrutiny and are presumptively unconstitutional. Strict scrutiny requires the government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest. Id. at 2227.

The Supreme Court held that Gilbert's sign ordinance was content-based on its face because the restrictions placed on signs were based entirely on the communicative content of the sign. For example, the sign ordinance defined an ideological sign as a sign that communicates a message or idea that does not fit within another category in the sign ordinance. The ordinance defined a political sign as a sign that is designed to influence the outcome of an election. Finally, a temporary directional sign was defined as a sign that directs the public to church or some other qualifying event. Each of these signs was then subject to different size and durational limitations. Because the sign ordinance was content-based, the Court analyzed it using strict scrutiny.

Strict scrutiny requires the Court to determine whether: (1) the municipality demonstrated a compelling governmental interest and (2) whether the restriction is narrowly tailored to achieve that governmental interest. The Town of Gilbert offered two governmental interests for adopting its sign ordinance: (1) preserving the Town's aesthetic appeal; and (2) traffic safety. Reed, 135 S.Ct. at 2231. The Court assumed for the sake of argument that those were compelling governmental interests but found that the sign ordinance's distinctions were under-inclusive. The sign ordinance was under-inclusive because temporary directional signs are "no greater [an]

²"Qualifying event" was defined in the ordinance as any "assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization." Id. at 2225.

eyesore” than ideological or political signs, yet, the ordinance allowed unlimited ideological signs while imposing greater restrictions on temporary directional signs. As to traffic safety, the Court found that temporary directional signs did not pose a greater threat to traffic safety than ideological or political signs.³ *Id.* at 2231-32. Because of this under-inclusiveness, the ordinance was not narrowly tailored to further a compelling governmental interest and therefore failed strict scrutiny review. *Id.* at 2232.

In holding that the Town’s sign ordinance was unconstitutional, the Court offered guidance on the types of sign regulations that may be adopted consistent with the First Amendment. The Court noted that the Town had ample content-neutral options to regulate signs. In a concurring opinion, Justice Alito offered specific examples of sign regulations that could be imposed so long as they are not content-based:

- Rules regulating size;
- Rules regulating location;
- Rules distinguishing between lighted and unlighted signs;
- Rules distinguishing between signs with fixed messages and electronic signs with messages that change;
- Rules that distinguish between the placement of signs on commercial and residential property;
- Rules distinguishing between on premises and off-premises signs;
- Rules restricting the total number of signs allowed per mile of roadway; and
- Rules imposing time restrictions on signs advertising a time event.

Reed, 135 S.Ct. at 2233.

If a sign by-law is challenged in court, it is the municipality’s burden to demonstrate that the sign by-law is narrowly tailored to achieve a compelling government interest. Reed, 135 S.Ct. at 2231. A municipality usually attempts to meet that burden by citing to a statement of purpose or findings in the by-law itself. *See, e.g., Commonwealth v. Weston W.*, 455 Mass. 24, 27-28, 36 (2009) (ordinance included a series of findings made by the council followed by a statement of purpose, supporting the trial court judge’s finding that the council adopted the ordinance only ‘after months of planning, debating, and researching models from other cities’). Only after the community demonstrates the legitimate goals of the by-law can the court determine whether the by-law is narrowly tailored to achieve those goals.

Certain provisions in the new Chapter 205 could be considered content-based regulations and subject to strict scrutiny under Reed. *See e.g.,* Sections 205.44.3 and 205.44.5 exempting from the by-law’s regulations certain temporary signs provided they are maintained for a period of less than 60 days and that they are removed “within one week after the event to which it relates.” The Town may wish to discuss with Town Counsel the application of the Reed decision to the Chapter 205.

³ In fact, the Court observed that a “sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.” *Id.* at 2232.

II. Comments on the New Chapter 205

1. Section 205.44.8 - Prohibited Signs

Section 205.44.8 sets forth several types of signs that are prohibited. Specifically, Section 205.44.8 (B) prohibits: “Billboards: an off-premise sign used for the display of printed or painted advertising matter.” The power to regulate billboards is granted to the Outdoor Advertising Board (“OAB”) pursuant to G.L. c. 93, §§ 29-33. However, the OAB’s powers are exercised by the Office of Outdoor Advertising (“OOA”) within the Massachusetts Department of Transportation. *See* Chapter 25 of the Acts of 2009 (creating the Massachusetts Department of Transportation). The Town must apply any regulation of billboards in a manner consistent with G.L. c. 93, §§ 29-33 and the regulations promulgated by the OOA at 700 C.M.R. 3.00 *et seq.* General Laws Chapter 93, Section 29, authorizes the State to “make, amend or repeal rules and regulations for the proper control and restriction of billboards, signs and other advertising devices . . . on public ways or on private property within public view of any highway, public park or reservation.” In addition, Section 29 establishes that billboards may be licensed by the OOA through the issuance of permits; however, no permit shall issue unless written notice of an application is given at least thirty days earlier to the city or town in which the proposed billboard, sign or other advertising device is to be located.

It is not inconsistent with the provisions of G.L. c. 93, §§ 29-33, or the rules and regulations of the OOA, for a town to regulate billboards. *See John Donnelly & Sons, Inc. v. Outdoor Advertising Board*, 369 Mass. 206, 215 (1975) (town by-law which had effect of prohibiting off-premises signs, was consistent with G.L. c. 93, §§ 29-33, which explicitly provides for local regulation of billboards). However, Section 205.44.8 (B) must be applied in a manner consistent with G.L. c. 93, §§ 29-33, and the rules and regulations of the OOA. We suggest that the Town consult with Town Counsel before applying Section 205.44.8 (B) to a billboard prohibition.

2. Section 205.44.11 - Penalties and Enforcement

Section 205.44.11 (B)(1) provides that the Sign Bylaw Officer (SBO):

may require design changes for any sign or decline to issue a Building Permit if he/she determines the sign would be inappropriate as measured by the purposes of this bylaw. His decision shall be subject to appeal as is provided in Chapter 40A, Section 8 of the Massachusetts General Laws. (emphasis added)

The SBO is defined in Section 205.44.3, “Definitions,” as “[t]he person appointed by the Board of Selectmen to enforce this bylaw, referenced within the bylaw as the SBO.” There is nothing in the by-law designating the Town’s Inspector of Buildings or Building Commissioner (“Building Inspector”) as the SBO. In accordance with the Building Code, building permits are granted by the Inspector of Buildings or Building Commissioner. *See* G.L. c. 143, § 3 (“The building commissioner or inspector of buildings shall be the administrative chief in a...town responsible for administering and enforcing the state building code...”) *See also* State Building Code, 9th Edition, 780 CMR § 105.1. Thus, only the Building Inspector, not the SBO, is authorized to issue (or decline to issue) a building permit. The Town must apply this Section of

the by-law consistent with the Building Code. The Town should consult with Town Counsel with any questions on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
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VOTE TAKEN AT THE ANNUAL TOWN MEETING, MAY 4, 2019

An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Annual Town Meeting.

ARTICLE 29. Voted to amend the Westminister Zoning Bylaw (Chapter 205 of the Code of the Town of Westminister, Massachusetts) by replacing Article X, Signs, with a new Article X that will read as follows:

Article X. Signs

205.44.1 Compliance Required.

No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure in Westminister, except as specifically permitted in this section.

205.44.2 Purpose.

The purposes of this bylaw are to:

- Encourage signs that provide information and advertising to the public in an orderly, effective and safe manner.
- Help simplify the permitting process for signs that require permits.
- Encourage signs that are harmonious and compatible with the architectural and environmental character of the property.
- Encourage signs that complement the rural character and natural beauty of the Town.

205.44.3 Definitions.

- Abandoned Sign: A sign that no longer identifies a bona fide business, lessor, service, owner, product or activity for which the time of event passed, and/or for which no legal owner can be found. This definition also includes any structure which no longer supports the sign for which it was designed.
- Accessory Sign: A sign that is subordinate to the principle sign and customarily incidental to, and on the same lot as the principal use.
- Awning: A non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame. Only business names and/or logos may be attached to, painted, stenciled or otherwise placed on an awning.
- Banner: A temporary or permanent sign made of flexible material that may be free hanging or attached to poles and/or structures.
- Cornice: The exterior trim of a structure at the meeting of a roof and a wall.
- Directional Sign: A sign erected and maintained by local officials within the public right-of-way used to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of interest. Such signs shall conform to all applicable State regulations regarding the placement of signs within the public right-of-way.
- Double-faced Sign: A sign with two faces or panels, which are not visible at the same time and which, unlike a V-shaped sign, are directly back to back.
- Façade: The exterior face of a building.
- Exempt Sign: A sign that does not require a permit.
- Free-standing Sign: A sign self-supported by a pole or post and not attached to any building, wall or fence, but in a fixed location. Types of free-standing signs include post and arm, monument, and pole signs.
- Home Occupation Sign: An on-premises sign indicating a business, trade, occupation or profession conducted at the proprietor's residence or within a structure accessory to a residence.
- Illuminated Sign: A sign lighted or exposed to artificial light either by lights on or in the sign and directed towards the sign including halo lighting, direct/external lighting, indirect lighting, or internal illumination.
- Internal Illumination: Illumination by means of a light source completely enclosed by the sign panel(s).
- Ladder Sign: A freestanding ground sign with two vertical supports and two or more crosspieces serving as individual signs.
- Marquee Sign: A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter that projects from the face of a building.
- Monument Sign: An outside sign identifying a development, business, service, or homes made of brick, masonry or stone, the bottom is attached directly and permanently to the ground and physically separated from any other structure.
- Non-conforming Sign: Any sign or advertising device legally erected as of September 2018 (insert date the public hearing appears in paper), but not abiding by this bylaw.
- Off-premise Sign: Any sign that advertises or indicates a person/business that is not located on the same premises as the person/business.
- On-premise Sign: Any sign that advertises or indicates the person/business occupying the premise on which the sign is located, the merchandise for sale or the activity conducted thereon.

- Permanent Sign: A sign, including its support and structure, used for a period of time greater than sixty (60) days.
- Portable Sign: Any sign designed to be moved easily and not affixed to the ground or structure.
- Roof Sign: A sign attached to the roof of a building.
- Seasonal Sign: A sole sign for a business displayed at least sixty (60) days but no more than one hundred and twenty (120) days each year. Such signs shall be governed by the same regulations as all other permitted non-temporary signs.
- Sign Requiring a Permit: A permanent sign requiring a permit that conforms to a permitted use as described in Section 205-44.6 and requiring approval by the Sign Bylaw Officer (SBO).
- Prohibited Sign: A sign that is not allowed in the Town of Westminster as described in Section 205-44.8.
- Sign: Any permanent or temporary object, device, structure, billboard, placard, painting, drawing, poster, design, letter, work, banner, pennant, insignia, trade flag, picture or representation, or the painting of any of the foregoing on the surface of a building or structure used as, or which is in the nature of, an advertisement, announcement, or direction or for the calling of attention to the premises, which is on a public way or on private property within public view from a public or private way or public park, public or private parking lot, or property available for public use.
- Sign Surface Area: Includes all letters and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign, any cutouts or extensions, but shall not include any support structure or bracing. Only one side of a double-faced sign is used for computing sign square footage.
- Sign Bylaw Officer: The person appointed by the Board of Selectmen to enforce this bylaw, referenced within the bylaw as the SBO.
- Sign Master Plan: A plan for all signs referring to a single building or group of contiguous commercial, industrial and/or residential units.
- Temporary Sign: A sign, including its support structure, intended to be maintained for a continuous period of sixty (60) days or less in any calendar year.
- Trademarks: A registered graphic or logo for a specific commodity.
- Variance: A departure from the requirements of this bylaw as the Zoning Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of this bylaw.
- V-Shaped Sign: A sandwich sign that is connected at a side edge, with two panels, neither of which is visible at the same time, and which unlike a double-faced sign, are not flush or parallel.
- Wall Sign: A sign mounted parallel to the exterior surface of a building.
- Window Sign: Any sign, picture, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is permanently affixed inside a window or upon the window panes or glass, and is visible from the exterior of a window.

205.44.4 General Design Guidelines for All Signs.

- A. Construction: All signs must be constructed according to these guidelines.
 1. Letters shall be carefully formed and adequately spaced, so that the message is easily readable and the overall appearance is neat, orderly and uncluttered.
 2. No more than 60% of the total sign area shall be accompanied by lettering.

3. Sign materials should be durable and easy to maintain. These may include wood, paper, metal, slate, marble, gold leaf, glass, canvas, stained glass, or other natural looking materials.
4. All free-standing signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square inch of surface area.
5. Signs shall be designed to be compatible with the surroundings and appropriate to the architectural character of the building on, or near, which they are placed.
6. Trademarks that are registered for a specific commodity and do not reflect the name of the business may occupy no more than 10% of the sign area.

B. Maintenance: All signs shall be maintained in good condition and repair at all times.

1. All signs, supports and electrical work shall be kept clean, neatly painted, and free from hazards, such as, but not limited to, faulty wiring and loose supports, braces, guys and anchors.
2. Failure to maintain: any sign may be examined by the SBO and, if found in disrepair, the SBO shall give written notice of failure to maintain. If the sign is not repaired within thirty (30) days from the receipt of the notice, then the SBO may order the sign be removed.

C. Location:

1. Signs must be placed at least five feet (5) from any property line.
2. No sign shall obstruct the vision between a height of three (3) feet and ten (10) feet above the surface of the street on a corner of two (2) street right-of-ways.
3. No private sign shall be placed on public property.
4. No sign shall be placed on private property without written permission of the property owner.
5. Signs mounted on a roof shall not extend above the ridge line.
6. No sign together with any supporting device shall extend to a height above twenty (20) feet.
7. Signs must not dominate building facades or obscure any architectural details (including but not limited to arches, sills, moldings or cornices).
8. Signs shall be placed so as not to obstruct the view of traffic.

9. If a building fronts on two or more streets, the sign area for each street frontage will be computed separately.

10. Supports and brackets shall not extend needlessly above the cornice line of the building to which the sign is attached.

11. Except as otherwise permitted, all information conveyed by any sign shall pertain to the premises on which the sign is located.

D. Signs in the Commercial/Village Center/Industrial Zoning Districts:

1. The total number of signs requiring permits on a single business or industrial complex is two (2), of which one may be free standing.

2. A wall sign for each business may be a maximum of thirty two (32) square feet.

3. The total cumulative area of all signs permitted on any lot shall be two (2) square feet of sign area per lineal foot of building frontage, but in no case shall exceed eighty (80) square feet, whichever is less. Thirty two (32) square feet shall be permitted on any lot regardless of building frontage.

4. The top edge of any free standing sign may be no higher than twenty (20) feet vertical measure above ground.

5. Signs must be at least five (5) feet from any lot line.

6. In addition to the above provisions, signs in the Village Center zoning district shall also comply with the following standards:

a. Sign cabinets, moving signs, and other internally illuminated signs are prohibited.

b. Window and door signs shall not conceal more than 30% (thirty percent) of the total area of the windows and doors on a building façade that an individual business occupies.

E. Signs in Residential Zoning Districts:

1. One sign, except for mailbox identification, the letters of which shall not exceed four inches in height and shall identify only the box holder, displaying the street number, or name of the occupant of premises, or both, not exceeding two square feet in area. Such sign may be attached to a building or may be on a rod or post not more than six (6) feet high and not less than ten (10) feet from the street line. Such sign may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupations.

2. One bulletin or announcement board or identification sign for a permitted nonresidential building or use, with not more than six (6) square feet of signboard area. For churches and institutions, two bulletin or announcement boards or identification signs are permitted for each building. Each such church or institution sign shall have not more than ten (10) square feet of signboard area. No such signs shall be located nearer street than one-half (1/2) the required front yard depth.
3. On the premises with a lawfully nonconforming nonresidential use, one sign with not more than six (6) square feet of signboard area.
4. Two "for sale" or "for rent" or "for lease" signs with not more than six (6) square feet of signboard area each and advertising only the premises on which the sign is located.
5. Two building contractor's signs on a building while actually under construction not exceeding six (6) square feet of signboard area each.
6. In residential districts, all signs or advertising devices shall be stationary and shall not contain any visible moving or movable parts. No sign or advertising device in such districts shall be of neon or illuminated-tube type. Lighting of any sign or advertising device shall be continuous (not intermittent nor flashing nor changing) and shall be so placed or hooded as to prevent direct light from shining onto any street or adjacent property. No sign or advertising device shall be illuminated after 11:00 p.m.

F. Sign Master Plans: Owners of single businesses or groups of contiguous commercial, industrial or residential units located together in a development may adopt a Sign Master Plan to govern advertising. Application of these provisions should not detract from the rural character of the Town.

1. Total sign area permitted for the entire development shall be calculated at the rate of two (2) square feet per foot of lineal building frontage.
2. Each planned development may have one common free standing sign denoting the name of the facility not exceeding eighty (80) square feet per side and with the bottom panel not less than five (5) feet above road level and a maximum height of fifteen (15) feet.
3. All other signs shall be attached to buildings, a wall, projecting or soffit type, and coordinated in material, shape, lettering, color, and or decorative elements.
4. Information and directional signage shall be consistent with the general sign design of the development and is exempt from the sign area calculation provided that it does not contain advertising.
5. Groups of signs shall express uniformity, create a harmonious appearance, and provide a visual and aesthetic coordination of the information presented to the public.

6. Height and physical placement of signs shall be consistent throughout the master plan area.

7. The sign master plan shall be approved by the Planning Board through the Site Plan Review process specified in Section 205-43, at a public hearing, and give details regarding sign placement, design, color, coordination, visibility, information messages and compatibility with the general design of the development.

205.44.5 Exempt Signs.

Signs that require no permit may be erected and maintained without permits or fees, provided that such signs comply with the general requirements of this bylaw and other conditions specifically imposed by other regulations. If in question, the SBO shall determine whether or not a sign is exempt. The following types of signs, permanent and temporary, are exempt from needing a permit:

A. Temporary or permanent signs, including banners, erected and maintained by the Town, County, State or Federal Government for traffic direction, direction to or identification of an historic site or structure, government facility or event as approved by the Board of Selectmen.

B. Permanent: Signs used for a period of time greater than sixty (60) days.

1. Historic markers, tablets, statues, memorial signs and plaques containing the names of buildings, and dates of erection when cut into any masonry surface or when installed on the building that do not exceed six (6) square feet in total size.

2. Flags and insignia of any government, except when displayed in connection with commercial promotion.

3. On-premise directional signs as long as they do not exceed six (6) square feet per face and six (6) feet in height when included as an integral part of an approved sign master plan for a development or complex. Business names and personal names shall be allowed not to exceed one (1) square foot in area.

4. Non-illuminated warning and private drive signs shall be no larger than two (2) square feet.

5. Posted or no trespassing signs shall be no larger than two (2) square feet. One sign per fifty (50) feet of frontage is allowed.

6. Name plates identifying residents and numbers identifying houses, mounted on a house, apartments or mailboxes, not exceeding two (2) square feet in area.

7. Lamppost signs identifying residents, with no more than two faces and not exceeding one square foot per face. Such signs are to be non-illuminated, except by a light which is an integral part of the lamppost.

C. Temporary Signs: Signs intended to be maintained for a continuous period of less than sixty (60) days in any calendar year. A maximum of two temporary signs per lot are allowed in each of the following cases, unless specified otherwise in this bylaw.

1. Within residential zones, the sign must be less than four (4) square feet in area.
2. Temporary identification signs for approved subdivisions shall not exceed thirty-two (32) square feet and shall be removed upon the sale of the last remaining lot within the subdivision.
3. Within commercial and industrial zones, the sign must not to exceed thirty-two (32) square feet, set back at least five (5) feet from all property lines and highway rights-of-way.
4. Temporary non-illuminated window signs and posters must not exceed sixteen (16) square feet in area or thirty (30%) of the window surface area.
5. The sign must be removed within one week after the event to which it relates.
6. Flag business signs made of fabric provided that:
 - a. Only one such flag is permitted per business.
 - b. Flag size shall be no greater than three (3) feet by five (5) feet.
 - c. The flag is displayed only during business hours of operation.
 - d. Pole or support for the flag shall not exceed ten (10) feet in height.
 - e. Such flags shall not project or hang over a public right-of-way, including the sidewalk.
7. New business signs or new business location.
 - a. While awaiting installation of a permanent sign, a business may utilize a temporary sign for a period of not more than thirty (30) days or until the installation of a permanent sign, whichever occurs first.
 - b. Grand opening signs: pennants, banners, and flags may be displayed for a period not to exceed thirty (30) days after the business first opens, as long as these temporary signs do not create a safety hazard.
8. Flags or decorations which are considered to be home flags that are placed to show spirit, pride or some type of seasonal activity.

205.44.6 Signs Requiring Permits.

The following signs shall require the issuance of a Sign Permit from the SBO:

- A. Projecting sign: Any affixed perpendicularly to a wall surface, building or structure.

1. All parts of such signs and the brackets which attach it to the wall shall be higher in height than then (10) feet and lower in height than fifteen (15) feet above the pedestrian traffic area. However, such signs must be located below the bottom of the second floor window sills. On a one story building, the top of the sign must be lower than the lowest point of the roof.

2. Such signs and the brackets that attach it to a wall must project no more than four (4) feet from the building face and shall not extend over the sidewalk or public way.

3. Such signs must hang at least six (6) inches away from the wall.

4. Such signs must not extend into vehicle traffic areas, such as parking lots or driveways, excluding drive-thru facilities.

5. The total surface area of such signs must not exceed twelve (12) square feet each side.

B. Wall-hung sign: Any sign incorporated into, or attached to, the wall of a building or structure with the face of the sign parallel to the wall. This may include three dimensional letters applied directly to the surface.

1. Such signs shall be mounted no more than six (6) inches from the wall surface and extend no more than fifteen (15) inches from the wall.

2. Such signs can be no larger than one square foot for each linear foot of building face parallel to the street on the front of the building to a maximum of eighty (80) square feet.

3. Such signs cannot obscure architectural details of the buildings, such as cornices, windows, arches, lintels, and transoms.

4. Such signs must be attached to the building, not the parapet, cornice or trim.

5. Such signs cannot extend over the top of the walls or beyond the ends of the walls to which they are attached. On a two story building, all parts of such signs must be located below the sill of the second floor windows.

C. Free-standing signs: Any self-supporting sign in a fixed location and not attached to any building or structure.

1. Such signs shall have no more than two faces.

2. The area of each face shall not exceed thirty (30) square feet.

3. The top of such signs must be less than fifteen (15) feet in height, as long as the sign does not obstruct the visibility for vehicles and pedestrians.

4. A lot with frontage of three hundred (300) feet or more may have two (2) such signs, which be located at least one hundred (100) feet from the other.

5. Such signs shall be erected so that free egress to and from any building public right-of-way is not obstructed.

6. Such signs shall not extend over or into the public right-of-way, pedestrian walkway or driveway (excluding drive-thru facilities), nor shall they hang over any property line.

7. Such signs shall be located no less than five (5) feet from any property line.

D. Multiple sign: More than one sign clustered into a single group, and usually sharing a common heading. It can be wall-mounted, projecting, or free-standing.

1. The display boards shall be an integrated and uniform design.

2. The allowable sign area for each side shall be computed at 10% of the building front face square footage (the length times the height of the building façade), to achieve the base square footage, or thirty-two (32) square feet, whichever is smaller.

F. Painted wall sign: A permanent message painted directly on the outside surface of a building or structure.

G. Portable sign: Any sign designed to be transported.

1. These signs include but are not limited to the following:

a. Sandwich board signs in an A-shape with a message on both sides.

b. Signs converted to an A or T-frame signs.

c. Signs with wheels removed.

d. Signs with chassis or support constructed without wheels.

e. Signs designed to be transported by trailer or wheels.

f. Signs attached temporarily to the ground, structure, or other sign.

g. Signs mounted on a vehicle for advertising purposes, parked, and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operations of said business.

2. Only one of this type of sign is allowed per business.

3. Such signs shall not be located within a street or public right-of-way.

4. The sign shall not obstruct visibility of vehicles or pedestrians.

5. Such signs shall not obstruct pedestrian traffic. If located on a sidewalk, it shall be placed adjacent to the building so as to allow for a thirty-six (36) inch minimum walkway.

6. The total height of such signs will be less than six (6) feet.
7. The total area of each side is not to exceed twelve (12) square feet.
8. Such signs must be an on-premises sign.

205.44.7 Illumination for Signs.

- A. All electrically illuminated signs shall conform to the MA Electrical Code and be inspected by the Town's Wiring Inspector.
- B. All illumination must be a continuous external white light (spot, track, over-hang, or wall lamps are acceptable).
- C. No signs shall be illuminated between the hours of 11 PM and 7 AM unless the commercial or industrial establishment on which it is located is open for business at that time.
- D. No form of illumination that is flashing, moving, animated or intermittent is allowed.
- E. Neon signs are not allowed.
- F. Internally illuminated signs are not allowed.
- G. No connecting wires shall be exposed.
- H. Illumination must not produce direct glare beyond the limits of the property line.

205.44.8 Prohibited Signs.

- A. Awning signs: Any sign painted on or attached to fabric over a frame.
- B. Billboards: An off-premises sign used for the display of printed or painted advertising matter.
- C. Internally illuminated signs: Signs with flashing, intermittent, rotating, moving or animated lights, except to show time and temperature.
- D. Signs with moving parts.
- E. Any sign or sign structure that is structurally unsafe, or constitutes a hazard to safety or health because of inadequate maintenance, dilapidation, or abandonment.
- F. Any sign advertising or identifying a business, service, or organization that is either defunct or no longer located on the premises.

205.44.9 Non-Conforming Signs.

Any sign located within the political boundaries of Westminster as of October 5, 2019 that does not conform to this bylaw is a "legal non-conforming" sign, if the sign was in compliance with the applicable bylaw at the time the sign was erected.

- A. A legal non-conforming sign shall lose its non-conforming status if:
 - 1. The sign is altered in any way that makes the sign substantially different from its structure prior to alterations.
 - 2. The sign is relocated.
 - 3. The sign is abandoned based on circumstances indicative of an intention to abandon the use and vested rights.
 - 4. All legal, non-conforming signs may be expanded upon a Finding from the Zoning Board of Appeals that the expansion is not more detrimental to the neighborhood than the existing sign.

205.44.10 Sign Permit Application Procedure.

- A. A Sign Permit is to be obtained from the SBO.
- B. Applications may be filed by the property owner, business owner or any person who has the authority to erect a sign on the premises.
- C. The SBO will review the permit application and accompanying materials to ensure that the proposed sign complies with all applicable sections of this bylaw, other Town bylaws, and the State Building Code.
- D. The SBO shall act within thirty (30) days of receipt of a completed application. The SBO's failure to act may be appealed to the Zoning Board of Appeals.
- E. Fees: A schedule of fees for sign permits may be established and amended from time to time by the Board of Selectmen.
- F. If the erection of a sign authorized under a sign permit has not been completed within two (2) years from the date of permit issuance, the permit shall become null and void, but may be renewed upon filing a subsequent sign permit application.

205.44.11 Penalties and Enforcement.

- A. Violation of any provision of this bylaw or any lawful order of the SBO shall be subject to a fine of not more than fifty (\$50) per day for each offense for the first five days. Each day thereafter that such violation continues shall incur a fine of one hundred dollars (\$100) per day for each offense.

B. A sign shall be designed, erected, altered, reconstructed, moved and maintained in accordance with the provisions of this section unless specifically modified by another section of the Zoning Bylaw.

1. The SBO may require design changes for any sign or decline to issue a Building Permit if he/she determines the sign would be inappropriate as measured by the purposes of this bylaw. His decision shall be subject to appeal as is provided in Chapter 40A, Section 8 of the Massachusetts General Laws.

2. Permits Required: A Building Permit shall be required for the construction, erection, relocation or alteration of any sign except as specifically exempted by this section. A sign shall comply with all applicable zoning, building, electrical and fire codes.

3. Maintenance of Signs: Every sign, whether requiring a permit or not, shall be maintained in a safe, presentable and structurally sound condition at all times, including the replacement of defective parts and painting and cleaning of said sign.

4. Removal of Dangerous or Defective Signs: The SBO may immediately remove or cause to be removed any sign deemed to be defective and/or to be a danger to public health and/or safety. The cost of said removal shall be charged to the owner of the property where said sign is located.

5. Removal of unlawful signs in the Public Right of Way: The SBO may remove or cause to be removed any unlawful sign located in the public right of way. Fines per sign may be levied against the owner of said sign(s) under the provisions of Chapter 40, Section 21D of the Massachusetts General Laws.

205.44.12 Appeal Process.

Any person aggrieved by a decision by the SBO relative to the provisions of this bylaw may appeal such decision, in writing, to the Zoning Board of Appeals as provided by the Zoning Bylaw (Section 205-49) and shall comply with all procedural requirements prescribed by the Board.

(2/3 vote required)
2/3 VOTE RECOGNIZED

A True Copy, Attest:



Ellen M. Sheehan
Westminster Town Clerk