

NOTICE

Please Take Notice that the following Ordinance was adopted on first reading by the Township Committee of the Township of Union, County of Hunterdon, State of New Jersey, at a meeting held on the 7th day of November 2007. The Ordinance was then ordered to be published according to law. Notice is hereby given that the said Ordinance will be considered for final passage at a public hearing to be held on the 28th day of November 2007, at 7:00 p.m., or as soon thereafter as the matter may be reached, at the Township Municipal Building, 140 Perryville Road, Hampton, New Jersey, at which time all interested parties will be heard.

Ella Malecki Ruta, RMC
Municipal Clerk

ORDINANCE #2007-9

AN ORDINANCE ESTABLISHING A NEW CHAPTER 30-8, SIGNS, IN THE LAND USE CODE OF THE TOWNSHIP OF UNION, HUNTERDON COUNTY, NEW JERSEY, AND REPEALING THE CURRENT PROVISIONS OF CHAPTER 30-8, SIGNS, IN THE LAND USE CODE, OF THE TOWNSHIP OF UNION, HUNTERDON COUNTY, NEW JERSEY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Township Committee of the Township of Union in Hunterdon County finds and determines that the Township's Land Use Code and its signage regulations were intended to maintain and improve the quality of life for all citizens of the Township;

WHEREAS, the Township Committee desires to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction;

WHEREAS, the Township Committee has determined the need to update and revise its Land Use Code relative to signs;

WHEREAS, the Township Committee wishes to ensure that the Township's Land Use Code as it relates to signs is in compliance with all constitutional and other legal requirements;

WHEREAS, the Township Committee wishes to prohibit certain sign types, including commercial billboards;

WHEREAS, the Township Committee finds that certain types of signs, particularly large signs, create a safety hazard by distracting motorists, pedestrians, and others;

WHEREAS, the Township Committee wishes to protect the safety of motorists, pedestrians, and others from distraction caused by signs;

WHEREAS, the Township Committee finds that some signs, particularly large signs, detract from the aesthetic beauty of the landscape;

WHEREAS, the Township Committee wishes to preserve the aesthetic and natural beauty of the Township;

WHEREAS, the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare;

WHEREAS, as far back as 1954, the United States Supreme Court recognized that “the concept of the public welfare is broad and inclusive,” that the values it represents are “spiritual as well as physical, aesthetic as well as monetary,” and that it is within the power of the legislature “to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled” [Justice Douglas in *Berman v. Parker*, 348 U.S. 26, 33 (1954)];

WHEREAS, the regulation of signage for purposes of aesthetics directly serves the policy of this state;

WHEREAS, the Township Committee finds and determines that the Township has adopted a Land Use Code in order to implement its Comprehensive Master Plan, and comply with the requirements in the Municipal Land Use Law, including the regulation of sign structures in conjunction with the development of land;

WHEREAS, consistent with New Jersey’s Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union’s Land Use Code regulates land development so as to guide the appropriate use and development of land within the Township and in a manner which will promote the public safety and general welfare, per Section 30-1.2.a., Land Use Code;

WHEREAS, consistent with New Jersey’s Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union’s Land Use Code regulates land development so as to provide open space, per Section 30-1.2.c., Land Use Code;

WHEREAS, consistent with New Jersey’s Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union’s Land Use Code regulates land development so as to promote a community land use pattern which recognizes the natural features of the Township which make it unique, per Section 30-1.2.e., Land Use Code;

WHEREAS, consistent with New Jersey’s Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union’s Land Use Code regulates land development so as to encourage the design

of transportation routes in such a way as to discourage the routes that result in congestion or blight, per Section 30-1.2.h., Land Use Code;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union's Land Use Code regulates land development so as to promote a visual environment by protecting historic features, including structures, sites and landscapes, which a special character or use and which affect or are affected by their environment, per Section 30-1.2.i., Land Use Code;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union's Land Use Code regulates land development so as to promote the conservation of open space, per Section 30-1.2.j., Land Use Code;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union's Land Use Code regulates land development so as to prevent urban sprawl and degradation of the environment through improper use of land by providing for the protection of critical natural resources, including topographic features, per Section 30-1.2.j., Land Use Code;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union's Land Use Code regulates land development so as to promote the conservation of energy through the use of planning practices designed to reduce energy consumption, per Section 30-1.2.n., Land Use Code;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, Township of Union's Land Use Code regulates land development so as to assist orderly, efficient and integrated development of land, per Section 30-1.2.o., Land Use Code;

WHEREAS, in order to carry out the purposes of New Jersey's Municipal Land Use Law and the purposes of the Township's Land Use Code, the Township Committee finds and determines that the Township's Land Use Code is required to regulate signage, including designating prohibited sign-types that are inconsistent with one or more of the purposes of the Land Use Code and to prescribe the height, size (area), setback, spacing, location, and number of other sign-types that are not inconsistent with the Land Use Code provided that they conform to appropriate dimensional and other content-neutral criteria for their placement on land within the Township, taking into account the nature of the land use and the function served by the sign-type;

WHEREAS, the Township Committee finds and determines that the Township has allowed noncommercial speech to appear wherever commercial speech appears; and the Township Committee desires to codify that practice through the specific inclusion of a substitution clause that expressly allows non-commercial messages to be substituted for commercial messages;

WHEREAS, the Township Committee finds and determines that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare [*see United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362 (N.J. 1952); *Merritt v. Peters*, 65 So. 2d

861 (Fla. 1953); *Dade Town v. Gould*, 99 So. 2d 236 (Fla. 1957); *United Advertising Corp. v. Borough of Metuchen*, 42 N.J. 1, 198 A.2d 447 (N.J. 1964); *E.B. Elliott Advertising Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970); *Westfield Motor Sales Co. v. Town of Westfield*, 129 N.J. Super. 528, 324 A.2d 113 (N.J. Super. Ct. Law Div. 1974)];

WHEREAS, the Township Committee finds and determines that the size, height, and other characteristics of signs can magnify their adverse impacts on both traffic safety and aesthetics;

WHEREAS, the Township Committee finds and determines that this ordinance will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by the proliferation, improper placement, excessive height, excessive size, and distracting characteristics of signs which compete for the attention of pedestrian and vehicular traffic;

WHEREAS, the Township Committee finds and determines that this ordinance will enhance the attractiveness and economic well-being of the Township as a place to live, visit, and conduct business;

WHEREAS, the Township Committee finds that billboards detract from the natural and manmade beauty of the Township, and have never been allowed as a sign type or an allowed business use within the Township [*see, e.g., United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362 (N.J. 1952); *United Advertising Corp. v. Borough of Metuchen*, 42 N.J. 1, 198 A.2d 447 (N.J. 1964)];

WHEREAS, the Township Committee agrees that the aesthetic impact of billboards is an economic fact and is a relevant zoning consideration, that reasonable men and women can conclude that the addition of off-premise signs would disserve the general welfare, and that such a policy question is appropriately committed to the judgment of a local legislative body, such as the Township Committee [*see, United Advertising Corp. v. Borough of Metuchen*, 42 N.J. 1, 198 A.2d 447 (N.J. 1964)];

WHEREAS, the Township Committee agrees with the New Jersey Supreme Court that a business sign (sometimes referred to as an on-site sign or on-premises sign) is in actuality a part of the business itself, just as the structure housing the business is a part of it, and the authority to conduct the business in a district carries with it a right to maintain a business sign on the premises subject to reasonable regulations, but that the placement of outdoor advertising signs, known as commercial billboards, is made pursuant to the conduct of the business of outdoor advertising itself, and further agrees with the New Jersey Supreme Court that it has long been settled that the unique nature of outdoor advertising and the nuisances fostered by billboards and similar outdoor structures located by persons in the business of outdoor advertising, justify the separate classification of such structures for purposes of governmental regulation and restriction [*see, United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362 (N.J. 1952)];

WHEREAS, the Township Committee finds that the preservation of the Township's scenic beauty promotes tourism by establishing a visual attractiveness for the Township and promoting its general economic and cultural development consistent with the Township's interest in beauty;

WHEREAS, the Township Committee agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built, rural or urban, and that this characteristic is inconsistent with all of the land use categories and actual land uses within the Township;

WHEREAS, the Township Committee agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement [*see E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970); *John Donnelly & Sons, Inc. v. Outdoor Advertising Bd.*, 339 N.E.2d 709, 720 (Mass. 1975)];

WHEREAS, the Township Committee finds that billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected;

WHEREAS, the Township Committee recognizes that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer [*see Packer v. Utah*, 285 U.S. 105 (1932); and *General Outdoor Advertising Co. v. Department of Public Works*, 289 Mass. 149, 193 N.E. 799 (1935)], and the Township Committee acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area. [*see Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981); *National Advertising Co. v. City & Town of Denver*, 912 F.2d 405, 409 (10th Cir. 1990), and *Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 1231, 1239 (D. Kan. 1999)];

WHEREAS, the Township Committee finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the Township will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech noncommercial speech [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1236-1237 (D. Kan. 1999)];

WHEREAS, the Township Committee finds that in order to reconfirm that its regulations meet constitutional scrutiny, it is appropriate to amend the ordinance code to emphasize the fact that noncommercial messages may be placed wherever commercial messages appear, that commercial speech is not favored over noncommercial speech, and that any on-site or off-site sign

permitted or allowed by law is allowed to contain noncommercial speech in lieu of any other speech;

WHEREAS, the Township Committee hereby finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and that signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [*see In re Opinion of the Justices*, 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle*, 268 N.W.2d 741 (N.D.1978)];

WHEREAS, the Township Committee finds that local governments may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution [*see City of Lake Wales v. Lamar Advertising Association of Lakeland Florida*, 414 So.2d 1030, 1032 (Fla. 1982)];

WHEREAS, the Township Committee recognizes that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and finds and determines that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by commercial billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions [*see, e.g., United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362, 365 (N.J. 1952), and *E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141, 1153 (5th Cir. 1970), *cert. denied*, 400 U.S. 878, 91 S.Ct. 12, 27 L. Ed. 2d 35 (1970), quoting *United Advertising Corp. v. Borough of Raritan*, 93 A.2d 362, 365 (1952)];

WHEREAS, the Township Committee finds and determines that a prohibition on the erection of off-site outdoor advertising signs will limit the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the Town [*see, e.g., E. B. Elliott Adv. Co. v. Metropolitan Dade Town*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied*, 400 U.S. 878 (1970)];

WHEREAS, the Township Committee finds and determines that commercial billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics;

WHEREAS, the Township Committee finds and determines that a prohibition on billboard signs and structures is consistent with the Use Regulations in Chapter 30, Section 30-5, of the Code of the Township of Union, inasmuch no zoning district in the Township permits the business of outdoor advertising as use permitted by right or conditional approval;

WHEREAS, the Township Committee finds and determines that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms [*see Outdoor Systems, Inc. v. City of Lenexa*, 67 F.Supp.2d 1231, 1239 (D. Kan. 1999)];

WHEREAS, the Township Committee finds and determines that the presence of billboards along the federal interstate and the federal-aid primary highway systems, or the state highway systems, may prevent public property from being used for beautification purposes due to view zones established by the state, which would be detrimental to the land use policies of the Township;

WHEREAS, Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of billboards, and by setting height, size and other standards for on-premise signs [*see* Scenic America's Seven Principles for Scenic Conservation, Principle #5];

WHEREAS, states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of billboards in their states and are now billboard-free in an effort to promote aesthetics and scenic beauty;

WHEREAS, the Township Committee finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the Township, it is necessary to regulate off-site advertising signs, commonly known as billboard signs or billboards or commercial billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable;

WHEREAS, the Township Committee finds and determines that the prohibition of billboards as set forth herein will preserve the beauty of the Township, maintain the aesthetic and visual appearance of the Township, preserve and keep open up areas for beautification on public property adjoining the public roadways, will keep such signage from interfering with the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, will enhance the Township as an attractive place to live and/or work, reduce blighting influences, and will benefit traffic safety by reducing driver distractions;

WHEREAS, the Township Committee finds and determines that the following amendments are consistent with all applicable policies of the Township's adopted Master Plan;

WHEREAS, the Township Committee finds and determines that the business of outdoor advertising in the form of off-site signs, commonly known as billboards or commercial billboards, is not an approved use within the Township or any of its zoning districts;

WHEREAS, the Township Committee finds and determines that the prohibition of portable signs reasonably advances the governmental goal of protecting the aesthetic environment of the Township [*see Harnish v. Manatee Town*, 783 F.2d 1535 (11th Cir. 1986) and *Don's Porta Signs, Inc. v. City of Clearwater*, 298 F.2d 1051 (11th Cir. 1987), *cert. denied* 485 U.S. 98 (1988)];

WHEREAS, the Township Committee finds and determines that the Township has consistently adopted and enacted severability provisions in connection with its ordinance code

provisions, and that the Township Committee wishes to ensure that severability provisions apply to its land development regulations, including its sign regulations;

WHEREAS, the Township Committee finds and determines that off-site signs, also known and commonly referred to as “billboards” or “commercial billboards,” are not compatible with adjacent areas and are not an approved land use within any of the Township’s zoning districts;

WHEREAS, the Township Committee finds and determines that the following amendments are consistent with all applicable policies of the Township’s adopted Comprehensive Plan;

WHEREAS, the Township Committee finds and determines that the following amendments are not in conflict with the public interest;

WHEREAS, the Township Committee finds and determines that the following amendments will not result in incompatible land uses;

WHEREAS, various arguments have been advanced in recent years that the permitting of signs is subject to “prior restraint” scrutiny under the First Amendment;

WHEREAS, the Township Committee finds and determines that the Township’s sign regulations are concerned with the secondary effects of speech, including but not limited to aesthetics and traffic safety, and are not intended to regulate viewpoints or censor speech, and for those and other reasons that the foregoing provisions are not subject to, or would not fail, a “prior restraint” analysis;

WHEREAS, the Township Committee finds and determines that there have never been delays in the Township in connection with the permitting of signs, and there have never been delays in the Township in connection with any appeals from adverse permitting decisions involving signs;

WHEREAS, the Township Committee finds and determines that there is no indication that appropriate action on sign permit applications have ever been unreasonably delayed, and to the best knowledge of the responsible officials permit applications have always been acted upon within twenty days, which is sufficient to meet due process requirements [*see State, Tp. Of Pennsauken v. Schad*, 160 N.J. 156, 733 A.2d 1159 (1999)];

WHEREAS, the Township Committee recognizes that frivolous challenges to its provisions regulating signage might be advanced under the pretext that the Township is unconstitutionally restraining free speech, and the Township Committee desires to amend and modify the Land Use Code to ensure that a prior restraint claim cannot be advanced in good faith against the Township’s sign regulations;

WHEREAS, the severability clause in the Code of the Township of Union, at Chapter I, Section 1-4, was adopted with the intent of upholding and sustaining as much of the Township’s

regulations, including its sign regulations, as possible in the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction;

WHEREAS, the Township Committee has determined that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

WHEREAS, the Township Committee is aware that the failure of some courts to uphold severability clauses has led to an increase in litigation by billboard developers seeking to strike down sign ordinances in their *entirety* so as to argue, even when there is no vested right under state law, that the developers' applications to erect billboards must be granted;

WHEREAS, the Township Committee desires that there be an ample record of its intention that the presence of a severability clause in connection with the Township's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever;

WHEREAS, the Township Committee desires that there be an ample record that it intends that each prohibited sign-type continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the Township's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

WHEREAS, the Township Committee desires that the prohibition on billboards continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the Township's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

WHEREAS, the Township Committee desires that there be an ample record that it intends that the height, size (area), spacing, setback and number limitations on free-standing signs continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the Township's sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

WHEREAS, the Township Committee is aware that billboard developers seeking to attack a sign ordinance, either in its entirety or as to some lesser portion, have often advanced an argument that the billboard developer has a so-called "vested" right to erect a billboard through the submission of one or more prior permit applications, so that in the event that the billboard developer is successful in obtaining a judicial decision that the entirety or some lesser portion of a sign ordinance or its permitting provisions are invalid or unconstitutional, the billboard developer may then seek to compel the local governmental unit to issue a permit to allow the billboard developers to erect a permanent billboard structure within the local government's jurisdiction;

WHEREAS, the Township Committee desires to make it clear that billboards are not a compatible land use within the Town and that there can be no good faith reliance by any prospective billboard developer under New Jersey “vested rights” law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the Township;

WHEREAS, the Township Committee has determined that the purpose and intent provisions of its signage regulations should be even more detailed than they are now so as to further describe the beneficial aesthetic and other effects of the Township’s sign regulations, and to reaffirm that the sign regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker;

WHEREAS, the Township Committee has determined the need to revise its Land Use Code relative to signs;

WHEREAS, the Township Committee wishes to ensure that the Township’s Land Use Code relative to signs is in compliance with all constitutional and other legal requirements;

WHEREAS, the Township Committee wishes to continue to restrict the height, size (area), spacing, setback, and number of free-standing signs, other than traffic control device signs as identified or described in the Manual on Uniform Traffic Control Devices;

WHEREAS, the Township Committee wishes to continue to assure that new billboards are effectively prohibited as a sign-type within the Township, consistent with the District Regulations and Use Regulations set forth in Sections 30-3.4 and 30-3.5, Land Use Code;

WHEREAS, the Township Committee finds and determines that a prohibition on billboards accomplishes each of the following goals: (1) promotes the public safety and general welfare, per Section 30-1.2.a., Land Use Code, (2) complements and assists in the preservation of open space, per Section 30-1.2.c., Land Use Code, (3) continues to promote a community land use pattern which recognizes the natural features of the Township which make it unique, per Section 30-1.2.e., Land Use Code, (4) encourages the design of transportation routes in such a way as to discourage routes that result in congestion or blight, per Section 30-1.2.h., Land Use Code, (5) promotes a visual environment that protects historic features, including structures, sites and landscapes, which a special character or use and which both affect and are affected by their environment, per Section 30-1.2.i., Land Use Code, (6) complements as well as promotes the conservation of open space, per Section 30-1.2.j., Land Use Code, (7) prevents urban sprawl and degradation of the environment through improper use of land by providing for the protection of topographic features, per Section 30-1.2.j., Land Use Code, and (8) continues to assist in the orderly, efficient and integrated development of land, per Section 30-1.2.o., Land Use Code, by limiting commercial signage to on-site commercial signage;

WHEREAS, the Township Committee wishes to continue to assure that animated signs and flashing signs are effectively prohibited as sign-types within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-

1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., 30-1.2.n., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to assure that portable signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that snipe signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that wind (wind-activated) signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that flashing signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., 30-1.2.n., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that revolving and rotating signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that oscillating signs are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., 30-1.2.n., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, the Township Committee wishes to continue to assure that signs that emit smoke, visible vapor or particles, sound or odor, are effectively prohibited as a sign-type within the Township, and finds and determines that this prohibition furthers the purposes set forth in Sections 30-1.2.a., 30-1.2.a., 30-1.2.c., 30-1.2.e., 30-1.2.h., 30-1.2.i., 30-1.2.j., and 30-1.2.o., Township of Union's Land Use Code;

WHEREAS, each of the Township's five commercial zoning districts, including the Village Commercial (VC) District, the Planned Commercial (PC) District, the Professional Office (PO) District, the Office Research / Highway (OR) District, and the Quarry (Q) District, provide that "signage shall be minimized to preserve and protect the rural and agricultural environment of the Township as well as its scenic vistas," at Section 30-3.5.g., h., i., j., and k., Land Use Code,

and the Township Committee finds and determines that the prohibition on billboards, animated signs, portable signs, snipe signs, wind-activated signs, flashing signs, revolving signs, rotating signs, and oscillating signs, as well as the dimensional and other content-neutral criteria for permissible freestanding signs are necessary to preserve and protect the rural and agricultural environment of the Township, as well as its scenic vistas, in the aforementioned districts;

WHEREAS, the Township Committee finds and determines that Union Township is a rural community with a population per square mile of only 325 persons;

WHEREAS, the Township Committee finds and determines that Union Township has a predominant rural and historic character, including sites that are on or eligible for the New Jersey and National Historic Registers;

WHEREAS, the Township Committee finds and determines that the rural quality of the Township is exceptional with hills, valleys and mountains, which is enhanced by the views of the Spruce Run Reservoir and its preserved parkland;

WHEREAS, allowing exemptions or exceptions for certain signage based upon the function served by the sign (*e.g.*, warning signs, directional signs, real estate signs, and other sign types described herein), is preferred to requiring permits for all such signs or alternatively, banning all such signs;

WHEREAS, the Township Committee finds and determines that the dimensional criteria, including but not limited to size (area) and height, established for certain signs and sign-types as set forth in the Land Use Code are not based upon any arbitrary determination but are based upon the function served by the sign and sign-type involved, are serve a legitimate governmental interest of balancing aesthetics and safety with the need for signage that serves a necessary purpose;

WHEREAS, under current jurisprudence [*see, e.g., Linmark Associates v. Town of Willingboro*, 431 U.S. 85 (1977)], on-site real estate signs, such as “for sale” signs, should be allowed given the important role and unique function that real estate signs, such as “for sale” signs, perform on the premises where they are located;

WHEREAS, under current jurisprudence [*see, e.g., Ladue v. Gilleo*, 512 U.S. 43 (1994)], signs that allow property owners, especially residential homeowners, to freely express a particular point of view on their own property should be reasonably accommodated and may be uniquely valuable, and the Township Committee wishes to codify current practices that has allowed residential property owners to free express their point of view on their own property consistent with current jurisprudence set forth in *Ladue v. Gilleo*, 512 U.S. 43 (1994) [*see also, e.g., State v. Miller*, 162 N.J.Super. 333, 392 A.2d 122 (1978), *aff’d*, 83 N.J. 402, 416 A.2d 821 (1980); *Berg Agency v. Township of Maplewood*, 163 N.J.Super. 542, 395 A.2d 261 (Super. Ct. Law Div. 1978)];

WHEREAS, under current jurisprudence, election signs are generally accorded a higher level of protection under the First Amendment than any other classification or type of speech;

WHEREAS, durational limitations on election signs, sometimes referred to as political signs, are frequently problematic when the limitations affect the posting of election signs *prior* to the election concerning the candidate or ballot issue to which they pertain, but durational limits requiring the removal of election signs following such election are generally permissible [*see, e.g., Election Signs and Time Limits, Evolving Voices in Land Use Law*, 3 Wash. U.J.L. & Pol’y 379 (2000); *McCormack v. Township of Clinton*, 872 F.Supp. 1320 (D.N.J. 1994)];

WHEREAS, the Township Committee wishes to codify its current practices of (1) no longer requiring either permit fees or permits for the display of temporary political signs before an election and (2) not requiring any durational limitation on the placement of temporary political signs prior to an election and only requiring removal of temporary political signs after the conclusion of an election;

WHEREAS, free expression signs are sufficient to allow for political speech unrelated to particular candidates or ballot issues;

WHEREAS, the Township Committee intends to expressly provide that property owners may display at least one sign for free expression at all times, a codification of longstanding actual practice, and to expressly provide that property owners may maintain signs displaying their support or opposition to political candidates and ballot issues before the election to which they pertain;

WHEREAS, the exceptions and/or exemptions for real estate signs, free expression signs, political signs, and certain other sign types are not intended to diminish or lessen the Township’s interests in aesthetics or traffic safety, but the same are adopted in recognition of the useful functions and practical needs served by such signage in the Township’s commerce and/or in the political freedom that must be accorded its citizens to freely express their points of view and political desires;

WHEREAS, the Township Committee recognizes that under current jurisprudence its sign regulations may be under-inclusive in their reach to serve the Township’s interests in aesthetics and traffic safety, while at the same time balancing the interests protected by the First Amendment [*see, e.g., Members of City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984); Cordes, *Sign Regulation After Ladue: Examining the Evolving Limits of First Amendment Protection*, 74 Neb.L.Rev. 36 (1995)], and the Township Committee may from time to time modify the sign regulations herein so as to provide additional limitations to further serve the Township’s interests in aesthetics and/or traffic safety;

WHEREAS, in the context of the Municipal Land Use Law, the Township Committee agrees that considerations of aesthetics and economics are intimately related in the context of conserving property values, and further agrees that an inability to prohibit off-site commercial billboards for the purpose of protecting and preserving the beauty of the environment would be “to succumb to a bleak materialism” [*State v. Miller*, 83 N.J. 402, 416 A.2d 821, 825 (1980), quoting *Metromedia, Inc. v. City of San Diego*, 592 P.2d 728, 735, 154 Cal.Rptr. 212, 219 (1979)];

WHEREAS, the limitations on the height, size (area), number, location, spacing, and setback of signage, adopted herein, is based upon the sign types and sign functions (*e.g.*, a temporary “garage-yard sale” sign requires less sign area than a temporary “grand opening sign”), and the Township Committee finds and determines that the dimensional criteria specified in the sign regulations for different sign-types are adequate and do not impair the free flow of protected speech;

WHEREAS, sign types described herein are related in other ways to the functions they serve and the properties to which they relate (*e.g.*, temporary subdivision entrance signs are allowed at subdivision entrances, real estate signs are directly related to the property on which they are posted or, in the case of directional signs, are limited to a certain distance from the property to which they relate [*see* Bond, Making Sense of Billboard Law: Justifying Prohibitions and Exemptions, 88 Mich.L.Rev. 2482 (1980)]), and exceptions to temporary political signs, for sale signs, and the like are founded upon rational and reasonable bases clearly justifying the difference of treatment [*see State v. J & J Painting*, 167 N.J.Super. 384, 400 A.2d 1204 (Super. Ct. App. Div. 1979)] ;

WHEREAS, limitations on various types of signs are also related to the zoning districts for the properties on which they are located;

WHEREAS, the Township Committee’s predominant concern in establishing sign regulations for the development and use of land is with adverse secondary effects, and not with the content of speech;

WHEREAS, various signs that serve and function as signage for particular land uses, in recognition of the differing or special functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse; and

WHEREAS, the Township Committee finds that the sign regulations adopted hereby still allow and leave open adequate alternative means of communications, such as newspaper advertising, internet advertising and communications, advertising in shoppers and pamphlets, advertising in telephone books, advertising on cable television, advertising on UHF and/or VHF television, advertising on AM and/or FM radio, advertising on satellite radio, advertising on internet radio, advertising via direct mail, and other avenues of communication available in the Township of Union [*see State v. J & J Painting*, 167 N.J.Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979)];

NOW THEREFORE,

Be It Ordained by the Township Committee of the Township of Union, Hunterdon County:

Section 1. The current Chapter 30-8 of the Township of Union’s Land Use Code, relating to Signs, is hereby repealed, and a new Chapter 30-8 in the form attached hereto as “Attachment A” is hereby adopted as part of the Land Use Code.

Section 2. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance is declared or held invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word shall be deemed a separate, distinct, and independent provision, and such declaration or holding shall not affect the validity or constitutionality of any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance, , and this ordinance is declared severable.

Section 3. This Ordinance shall take effect after proper passage and publication in accordance with law.

BY: _____
Frank T. Mazza, Mayor

ATTEST:

Ella M. Ruta, Municipal Clerk

First Reading: _____
Publication/in Full: _____
Second Reading: _____
Publication/Title Only: _____

“ATTACHMENT A”

30-8. Signs.

- Sec. 30-8.1. Short Title.
- Sec. 30-8.2. Purpose, Intent and Scope.
- Sec. 30-8.3. Definitions.
- Sec. 30-8.4. Illustrations.
- Sec. 30-8.5. Prohibited Signs.
- Sec. 30-8.6. Nonconforming Signs.
- Sec. 30-8.7. Exemptions.
- Sec. 30-8.8. Building Permits.
- Sec. 30-8.9. Shielding of Illumination.
- Sec. 30-8.10. Substitution of Noncommercial Speech for Commercial Speech.
- Sec. 30-8.11. Content Neutrality as to Sign Message (Viewpoint).
- Sec. 30-8.12. Permit Required.
- Sec. 30-8.13. Sign Permit Application and Issuance of Sign Permit.
- Sec. 30-8.14. Fees.
- Sec. 30-8.15. Conditions.
- Sec. 30-8.16. Appeals to Board of Adjustment.
- Sec. 30-8.17. Appellate Decisions Deemed Final, Subject to Judicial Review.
- Sec. 30-8.18. Administration and Enforcing Official.
- Sec. 30-8.19. Adoption of Zoning Regulations.
- Sec. 30-8.20. Freestanding Signs (Temporary and Permanent) - Setback and Sight Clearance.
- Sec. 30-8.21. Setback Measurement.
- Sec. 30-8.22. Double-Faced Signs.
- Sec. 30-8.23. Illumination.

Sec. 30-8.24. Time and Temperature Signs.

Sec. 30-8.25. All Districts.

Sec. 30-8.26. WM Watershed Management, CM Conservation Management, AP Agricultural Preservation, CR County Residential, VR Village Residential, RM Multi-Family Residential, and I [INS] Institutional.

Sec. 30-8.27. VC Village Commercial Districts.

Sec. 30-8.28. PC Planned Commercial, OR Office Research, PO Professional Office, and Q Quarry.

Sec. 30-8.29. U Utility and P Parkland.

Sec. 30-8.30. Transition Rules.

Sec. 30-8.31. Severability.

Sec. 30-8.1. Short Title.

This Section shall be known as the “Sign Regulations of the Township of Union, Hunterdon County, New Jersey.”

Sec. 30-8.2. Purpose, Intent and Scope.

It is the purpose of this Section to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this Section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the secondary effects of speech and especially insofar as those secondary effects may adversely affect aesthetics and traffic and pedestrian safety. In order to preserve and enhance the Township as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance. The regulation of signs within the Township is a highly contributive means by which to achieve this desired end. These sign regulations have been prepared with the intent of enhancing the visual environment of the Township and promoting its continued well-being, and are intended to:

- (1) Encourage the effective use of signs as a means of communications in the Township;
- (2) Maintain and enhance the aesthetic environment and the Township’s ability to attract sources of economic development and growth;
- (3) Improve pedestrian and traffic safety;
- (4) Minimize the possible adverse affect of signs on nearby public and private property;
- (5) Foster the integration of signage with architectural and landscape designs;

- (6) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;
- (7) Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;
- (8) Encourage and allow signs that are appropriate to the zoning district in which they are located and consistent with the category of use and function to which they pertain;
- (9) Curtail the size and number of signs and sign messages to the minimum reasonably necessary to identify a residential or business location and the nature of any such business;
- (10) Establish sign size in relationship to the scale of the lot and building on which the sign is to be placed or to which it pertains;
- (11) Categorize signs based upon the function that they serve and tailor the regulation of signs based upon their function;
- (12) Preclude signs from conflicting with the principal permitted use of the site and adjoining sites;
- (13) Regulate signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;
- (14) Except to the extent expressly preempted by state or federal law, ensure that signs are constructed, installed and maintained in a safe and satisfactory manner, and protect the public from unsafe signs;
- (15) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all districts of the Township;
- (16) Allow for traffic control devices consistent with national standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream;
- (17) Protect property values by precluding to the maximum extent possible sign-types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- (18) Protect property values by ensuring that sign-types, as well as the number of signs, are in harmony with buildings, neighborhoods, and conforming signs in the area;

(19) Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the Township and that complements the natural surroundings in recognition of this Township's reliance on its natural surroundings and beautification efforts in retaining economic advantage for the community;

(20) Preserve and enhance the rural and historic character of the Township; and

(21) Enable the fair and consistent enforcement of these Sign Regulations.

Sec. 30-8.3. Definitions.

All words used in this Section shall carry their customary dictionary meanings, except that the following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Abandoned or discontinued sign or sign structure means a sign or sign structure is considered abandoned or discontinued when its owner fails to operate or maintain a sign for a period of six months or longer. The following conditions shall be considered as the failure to operate or maintain a sign: (i) a sign displaying advertising for a product or service which is no longer available or displaying advertising for a business which is no longer licensed, or (2) a sign which is blank.

Advertising means sign copy intended to aid, directly or indirectly, in the sale, use or promotion of a product, commodity, service, activity, entertainment, or real or personal property.

Agricultural sign means a sign in a WM, CM, AP VT, or RM District with a permitted agricultural use and whose function is exclusively for advertising for the normal, incidental and customary sale of products, produce or livestock raised on the premises.

Animated sign means a sign which includes action, motion, or color changes, or the optical illusion of action, motion, or color changes, including signs set in motion by movement of the atmosphere, or made up of a series of sections that turn.

Artwork means a two- or three-dimensional representation of a creative idea that is expressed in a form and manner as to provide aesthetic enjoyment for the viewer rather than to specifically convey the name of the business or a commercial message about the products or services offered on the property upon which the artwork is displayed.

Attached sign means a wall sign, a marquee sign, a window sign, but not a canopy sign.

Bandit sign. See *Snipe sign.*

Banner means any sign or string of one or more signs, usually made of cloth or other lightweight material, which is used to attract attention, whether or not imprinted with words or characters, including but not limited to balloons and pennants. Flags shall not be considered banners.

Beacon means a stationary or revolving light which flashes or projects illumination, single color or multicolored, in any manner which has the effect of attracting or diverting attention, except, however, this term does not include any kind of lighting device which is required or necessary under the safety regulations of the Federal Aviation Administration or other similar agency. This definition does apply to any similar type of lighting device contained entirely within a structure and which does not project light to the exterior of the structure.

Billboard means a sign structure and/or sign utilized for advertising an establishment, an activity, a product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which said sign structure and/or sign is located.

Building frontage means the length of the single face of a building or that portion of a building occupied by a single office, business or enterprise, commonly referred to as “store-front,” which is abutting a street, parking area, or other means of customer access such as an arcade, a mall or a walkway. The building frontage for a side façade shall be the length of the single face of a side of building or that portion of a side of a building occupied by a single office, business or enterprise.

Canopy sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

Commercial message means any sign wording, logo, or other representation or image that directly or indirectly names, advertises, or calls attention to a product, service, sale or sales event or other commercial activity.

Construction sign means a temporary on-premise sign identifying the ongoing construction activity during the time that a building permit is active and prior to completion of the work for which the permit was issued, containing sign copy that is limited to the ongoing construction activity and identifying the contractor and/or any subcontractor engaged to perform construction activity on the site.

Copy means the linguistic or graphic content of a sign.

Double-faced sign means a single sign with items of information on both sides of the sign and mounted as a single structure.

Election sign means a temporary sign erected or displayed for the purpose of expressing support for or opposition to a candidate or stating a position regarding an issue upon which the voters of the Township shall vote.

Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign.

Facade means the side of a building, either front or side; and a building façade may be less than the entire side of a building if limited to the occupancy of a portion of a building.

Flag means any fabric, or bunting containing distinct colors, patterns or symbols, used as an ornamental flag or as a symbol of government, political subdivision, corporation or business or other entity. (See also *Ornamental flag*.)

Flagpole shall mean a pole on which to raise a flag.

Flashing sign means a sign which permits light to be turned on or off intermittently more frequently than once per minute or any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including a LED (light emitting diode) or digital sign and changes more frequently than once per minute.

Free expression sign means a sign, not in excess of three (3) square feet in size (area) per side and the top of the sign is not more than six (6) feet off the ground, communicating information or views on matters of public policy concern or containing any other noncommercial message, that is otherwise lawful.

Freestanding sign means a sign supported by structures or supports that are placed on or anchored in the ground or at ground level and which are independent of any building or other structure. Unless otherwise limited or restricted, a freestanding sign may be either a freestanding monument sign or a freestanding pole sign.

Freestanding monument sign means a freestanding sign whose ratio of width of sign to width of support is less than 3 to 1.

Freestanding pole sign means a freestanding sign whose ratio of width of sign to width of support is equal to or greater than 3 to 1.

Frontage means the length of the property line of a parcel of land, which runs parallel with and along a road right-of-way or street, exclusive of alleyways.

Future development sign means a sign that functions to advertise the future or proposed development of the premises upon which the sign is erected.

Garage or yard sale sign (garage-yard sale sign) means any onsite temporary sign pertaining to the sale of personal property in, at or upon any residentially-zoned property located in the Township. Garage or yard sales shall include but not be limited to all such sales, and shall include the advertising of the holding of any such sale, or the offering to make any sale, whether made under any name such as garage sale, lawn sale, yard sale, front yard sale, back yard sale, home sale, attic sale, rummage sale, patio sale, flea market sale, or any similar designation.

Ground level means the finished grade of a parcel of land exclusive of any filling, berming or mounding.

Height means vertical distance measured from ground level nearest the base of the sign to the highest point on the sign.

Holiday and seasonal decorations mean decorations that pertain to legal or other recognized holidays or to a season of the year.

Illuminated sign means any sign or portion thereof, which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign.

Incidental sign means a sign not exceeding one square foot in size attached to a freestanding sign or affixed to a wall, that either (a) identifies credit cards accepted by the owner, tenant, or occupant of the parcel where the incidental sign is located, or (b) provides an official notice of services required by law or trade affiliation.

Illegal sign means any sign, which has been determined to be in violation of any provision of this Section 30-8.

Intermittent sign means a sign which permits light to be turned on or off intermittently more frequently than once every twelve hours or which is operated in a way whereby light is turned on or off intermittently more frequently than once every twelve hours, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including a LED (light emitting diode) or digital sign, and which varies in intensity or color more frequently than once every twelve hours.

Lot. See definition of *Parcel*.

Maintenance means the replacing, repairing or repainting of a portion of sign structure, periodically changing changeable copy or renewing copy, which has been made unusable by ordinary wear.

Marquee means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign means any sign attached to a marquee.

Menu display sign means a fully enclosed or otherwise protected from the elements sign structure, including but not limited to a box, shadow box or cabinet, attached to a wall or freestanding, which is used solely for the purpose of displaying restaurant menus or announcements of activities within the establishment for which the menu or announcement is displayed. A menu display may be used for transient lodging facilities which have restaurant facilities open to the general public in addition to the registered guests. Menu display sign structures shall be limited to one per establishment, having a maximum surface area of twelve (12) square feet in the zoning districts in which they are permitted.

Nameplate sign or *occupant identification sign* means a sign indicating the name and/or profession or address of a person or persons residing on the premises or legally occupying the premises.

Noncommercial message means any message which is not a commercial message.

Noncommercial on-site directional sign means an on-site sign providing direction or information to pedestrian or vehicular traffic that is related or reasonably necessary to the movement of pedestrian or vehicular traffic on the premises, and not displaying a commercial message, e.g., “entrance,” “exit,” “caution,” “no parking,” “one way only,” “no trespassing,” and the like.

Nonconforming sign means a sign, which does not conform to the regulations provided in this Section 30-8.

Off-premise sign or *off-site sign* means any sign relating in its subject matter to commodities, accommodations, services or activities on a premises other than the premises on which the sign is located.

On-premise sign or *on-site sign* means any sign relating in its subject matter to the commodities, accommodations, service or activities on the premises on which it is located.

Ornamental flag means any fabric or similar material containing patterns, drawings or symbols used for decorative purposes and designed to be flown as a flag.

Parcel means land which has been or which is proposed to be used, developed, or built upon as a unit under single ownership.

Parapet means a false front or wall extension above the roofline of a building.

Pennant means any series of small flag-like or streamer-like pieces of cloth, plastic, paper or similar material attached in a row to any staff, cord, building, or at only one or two edges, the remainder hanging loosely.

Permanent sign means any sign which, when installed, is intended for permanent use. For the purposes of this Section any sign with an intended use in excess of twelve (12) months from the date of installation shall be deemed a permanent sign.

Portable sign means any sign, banner, or poster that is not permanently attached to the ground or structure. For purposes of this Section, a cold air inflatable sign shall be considered to be a portable sign.

Premises means any property owned, leased or controlled by the person actively engaged in business at that location.

Principal use means the use, which constitutes the primary activity, function or purpose to which a parcel of land or a building is put.

Projecting sign means any sign affixed perpendicularly to a building or wall in such a manner that its leading edge extends more than ten inches beyond the surface of such building or wall.

Real estate sign means a sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed temporarily.

Revolving sign or *rotating sign* means any sign that revolves or rotates.

Roof sign means any sign erected and constructed wholly on or over the roof of a building, which is supported by the roof structure, or any sign that extends in whole or in part above the roofline of a building.

Roofline means the highest continuous horizontal line of a roof. On a sloping roof, the roofline is the principal ridgeline or the highest line common to one or more principal slopes of roof. On a flat roof, the roofline is the highest continuous line of a roof or parapet, whichever is higher.

Safety sign. See *Warning sign.*

Sandwich board sign means a temporary portable double-faced, freestanding sign.

Sight visibility triangle means a triangular shaped portion of land established at street intersections or street and driveway intersections in which nothing is erected, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. For street intersections, this triangle is measured 30 feet in length from the intersection along the abutting right-of-way lines to form a triangle, although that these distances may vary based on the type of intersecting road; and for driveway intersections, this triangle is measured ten feet from the intersection along the right-of-way line and along the driveway line to form a triangle.

Sign means any device, fixture, placard or structure which uses color, form, graphics, illumination, architectural style or design with text, or writing to advertise, attract attention, announce the purpose of, or identify the purpose of any person or entity or to communicate information of any kind to the public. The term “sign” includes sign structure. The following shall not be considered signs subject to the regulations of Section: artwork, holiday or seasonal decorations, cemetery markers, machinery or equipment signs, memorial signs or tablets.

Sign area means the total square foot area of sign surface, including all parts thereof devoted to the background, computed by bounding the exterior of the sign structure or surface with a series of straight or curved lines tangent thereto (see illustrative examples referenced in Section 30-8.4). The area of a sign painted directly on a wall or awning and signs with letters attached directly to walls or awnings shall be calculated by constructing an imaginary series of straight lines or lines formed, bounded or characterized by curves around the outside of all elements of the sign.

Sign face means the part of the sign that is or can be used to identify, display, advertise, communicate information, or for the visual representation, which attracts or intends to attract the attention of the public for any purpose.

Sign structure mean any structure which is designed specifically for the purpose of supporting a sign, which has supports or which is capable of supporting a sign. The definition shall include any decorative covers, braces, wires, supports, or other components attached to or placed around the sign structure.

Snipe sign (bandit sign) means any sign tacked, nailed, posted, pasted, glued or otherwise attached to trees, rocks, or other natural features, or poles, stakes, or fences, with the message appearing thereon not applicable to the present use of the premises upon which the sign is located.

Special event sign means a content-neutral sign providing notice of, or direction to, an event, gathering, assembly or meeting that is open to the public at large.

Statutory sign means a sign required by any statute or regulation of the State of New Jersey or the United States.

Street address sign means any sign denoting the street address of the premises on which it is attached or located.

Substantially damaged or destroyed, as it pertains to a nonconforming sign, means that (a) fifty percent (50%) or more of the upright supports of a sign structure are physically damaged such that normal repair practices of the sign industry would call for, in the case of wooden structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least twenty-five (25%) of the length above ground of each broken, bent, or twisted support, or (b) that more than fifty percent (50%) of a wall or attached sign is physically damaged such that normal repair practices of the sign industry would call for the same to be replaced or repaired.

Subdivision monument identification sign means a monument sign, which contains only the name of a platted subdivision or other residential development. A *subdivision monument identification sign* at a platted subdivision or neighborhood entrance shall not be considered a *billboard*.

Temporary sign means a sign intended for a use not permanent in nature. For the purposes of this Section, a sign with an intended use of one year or less shall be deemed a temporary sign.

Time and temperature sign means a sign, which functions only to display the current time and temperature at intervals no more frequently than once per minute and which contains no other messages. Time and temperature signs are regulated within the zoning districts in which they are expressly allowed.

Township means the Township Committee of the Township of Union, Hunterdon County, New Jersey.

Traffic control device sign means any sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard. A *traffic control device sign* includes those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information).

Vehicle sign means any sign or signs where the total sign area covers more than ten square feet of the vehicle.

Visibility triangle. See *Sight visibility triangle.*

Wall sign means a sign, which is painted on, fastened to, or erected against the wall of a building with its face in a parallel plane with the plane of the building facade or wall, which is used for advertising.

Warning sign or *safety sign* means a sign that functions to provide a warning of a dangerous condition or situation that might not be readily apparent or that poses a threat of serious injury (e.g., gas line, high voltage, condemned building, etc.) or that functions to provide a warning of a violation of law (e.g., no trespassing, no hunting allowed, etc.).

Window sign means any sign mounted in any fashion on the interior or exterior of the surface of a window.

Wind sign means a sign, which uses objects or material fastened in such a manner as to move upon being subjected to pressure by wind, and shall include banners, pennants, ribbons, spinners, streamers or captive balloons; however, the term *wind sign* shall not include *flags*.

Sec. 30-8.4. Illustrations.

Diagrams appended to the end of this Section illustrate methods of measurement.

Sec. 30-8.5. Prohibited signs.

The following signs and sign-types are prohibited within the Township and shall not be erected. Any lawfully existing permanent sign or sign-type which is among the prohibited signs and sign-types listed below shall be deemed a nonconforming sign subject to the provisions of Section 30-8.6.

- (a) Billboards.
- (b) Revolving signs.
- (c) Flashing signs.

- (d) Animated signs.
- (e) Wind signs.
- (f) Portable signs.
- (g) Roof signs.
- (h) Abandoned and discontinued signs.
- (i) Snipe signs; bandit signs.
- (j) Projecting signs, except as expressly allowed.
- (k) Bus bench advertising signs; bus shelter advertising signs.
- (l) Signs that emit smoke, visible vapor or smoke, sound, odor, or visible particles or gaseous matter.
- (m) Signs that have unshielded illuminating devices.
- (n) Signs that obstruct, conceal, hide or otherwise obscure from view any official traffic or governmental sign, signal or device.
- (o) Any attached sign, including a wall sign, that exceeds fifty (50) square feet in sign area.
- (p) Any freestanding sign that is higher than fourteen (14) feet.
- (q) Any sign within a sight visibility triangle that obstructs a clear view of pedestrian or vehicular traffic.
- (r) Any sign in the public right of way, other than Traffic Control Device Signs, warning signs or safety signs.
- (s) Any sign other than a Traffic Control Device Sign that uses the word “stop” or “danger,” or presents or implies the need or requirement of stopping or the existence of danger, or which is a copy or imitation of official traffic control device signs, and which is adjacent to the right-of-way of any road, street, or highway.
- (t) Any sign nailed, fastened or affixed to any tree.
- (u) Any sign prohibited by state or federal law.
- (v) Vehicle sign or signs which have a total sign area on any vehicle in excess of ten square feet, when the vehicle is not “regularly used in the conduct of the business or activity” advertised on the vehicle, and (a) is visible from a street right-of-way within one hundred feet of the vehicle, and (b) is parked for more than two consecutive hours within

one hundred feet of any street right of way. A vehicle shall not be considered “regularly used in the conduct of the business or activity” if the vehicle is used primarily (i) for advertising, or (ii) for the purpose of advertising, or (iii) for the purpose of providing transportation for owners or employees of the business or activity advertised on the vehicle.

- (w) Any sign located on real property without the permission of the property owner.
- (x) Beacons, except as required by federal or state law.
- (y) Intermittent signs, except time and temperature signs as expressly permitted herein.
- (z) Sandwich board signs.

Sec. 30-8.6. Nonconforming signs.

A nonconforming sign that was lawfully erected may continue to be maintained until the nonconforming sign is substantially damaged or destroyed. At such time that the nonconforming sign is substantially damaged or destroyed, the nonconforming sign must either (a) be removed or (b) be brought into conformity with this Section and with any other applicable law or regulation.

Sec. 30-8.7. Exemptions.

This Section does not pertain to the following:

- a. A sign, other than a window sign, located entirely inside the premises of a building or enclosed space.
- b. A sign on a car, other than a prohibited vehicle sign or signs.
- c. A statutory sign.
- d. A traffic control device sign.
- e. Any sign not visible from a public street, sidewalk or right-of-way; except that the foregoing does not exempt a sign for a commercial use that is visible from an abutting residential use.

Sec. 30-8.8. Building Permits.

It shall be unlawful for any person or business or the person in charge of the business to erect, construct, or alter a permanent sign structure whose construction is subject to the New Jersey Uniform Construction Code, without first obtaining such building permit from the Township as may be required by the New Jersey Uniform Construction Code.. Permit fees, if any, shall be paid in accordance with the applicable fee schedules. The requirement of a building permit under the New Jersey Uniform Construction Code is separate and independent of the requirement for a sign permit under this Section.

Sec. 30-8.9. Shielding of illumination.

Illuminated signs, in addition to conforming to all other requirements of this Section, shall be shielded in such a manner so that no direct source of light is cast into residential properties or into a public street or right-of-way. Illuminated signs shall not interfere with pedestrian or motorist vision. The illumination shall not be reflective or phosphorescent and shall perform in a steady non-fluctuating or non-undulating manner and shall be placed in a manner that will not create a nuisance to other premises or interfere with vehicular movements.

Sec. 30-8.10. Substitution of noncommercial speech for commercial speech.

Notwithstanding anything contained in this Section or the Code to the contrary, any sign erected pursuant to the provisions of this Section or the Code with a commercial message may, at the option of the owner, contain a noncommercial message unrelated to the business located on the premises where the sign is erected. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the owner of the sign, provided that the sign is not a prohibited sign or sign-type and provided that the size, height, setback and other dimensional criteria contained in this Section and Code have been satisfied.

Sec. 30-8.11. Content neutrality as to sign message (viewpoint).

Notwithstanding anything in this Section or the Code to the contrary, no sign or sign structure shall be subject to any limitation based upon the content (viewpoint) of the message contained on such sign or displayed on such sign structure.

Sec. 30-8.12. Permit Required.

- (a) Allowed temporary and allowed permanent signs of the type described in Subsection 30-8.25 shall be exempt from sign permitting hereunder.
- (b) No sign permit shall be issued for the erection of a prohibited sign.
- (c) Unless exempt from permitting, no permanent sign shall be erected, altered, relocated, maintained or displayed until a sign permit is obtained from and appropriate fee, if any, paid to the Township.
- (d) A sign lawfully erected under permit may be repainted or have ordinary and customary repairs performed, including replacement of plastic or glass panels, without a new sign permit; however, if such sign is to be structurally altered in any manner, a new sign permit shall be required and the altered sign must meet all requirements of this Section and this Code.

Sec. 30-8.13. Sign Permit Application and Issuance of Sign Permit.

(a) A sign permit application for a permanent sign shall be made upon a form provided by the Township. The sign permit application is in addition to any building permit application required by the New Jersey Uniform Construction Code. The sign permit application shall be accompanied by plans and specifications drawn to scale, together with any site plan required by this Section or the Code. The applicant shall furnish the following information on or with the sign permit application form:

(1) The legal description of the real property where the sign is proposed to be located.

(2) The zoning district for the real property on which the sign will be located.

(3) The name, mailing address and telephone number (where available) of the owner(s) of the real property where the sign is proposed to be located.

(4) A notarized statement of authorization signed by the owner(s) consenting to the placement of the proposed sign on the real property.

(5) The name, mailing address and telephone number of the sign contractor.

(6) Type of proposed sign (*e.g.*, wall sign or freestanding sign).

(7) The square footage of the surface area of the proposed sign.

(8) The value of the proposed sign.

(9) If the proposed sign is a freestanding sign:

(i) The height of the proposed freestanding sign.

(ii) The size (sign area) of the freestanding sign, and the dimensions utilized to calculate the size.

(iii) The minimum spacing distance calculated by multiplying the greatest dimension of the proposed freestanding sign by a factor of twenty.

(iv) The distance of the closest freestanding sign to the proposed freestanding sign.

(v) Whether there is an existing freestanding sign on the same lot where the proposed freestanding sign will be located.

(iv) The front and side yard setbacks for the proposed sign

(11) If the proposed sign is an attached sign, the building frontage for the building to which the attached sign shall be affixed.

(12) The number, type, location, and surface area for all existing signs on the same lot and/or building on which the sign will be located.

(13) Whether the proposed sign will be an illuminated or non-illuminated sign.

(b) An applicant shall deliver a sign permit application for a permanent sign to the Township's Zoning Officer or his or her designee, or such other person as may be designated by the Township. The sign permit application shall be reviewed for a determination of whether the proposed sign meets the applicable requirements of this Section and any applicable zoning law. The review of the sign permit application shall be completed within ten (10) calendar days, and the application shall be granted or denied within that time frame. In the event that no decision is rendered within ten (10) calendar days following submission, the application shall be deemed denied and the applicant may appeal to the Board of Adjustment. Any appeal shall be heard and a decision rendered within the time frames specified in this Section or otherwise set forth or provided for appeals.

Sec. 30-8.14. Fees.

- (a) *Sign permit fees.* Every person making an initial application for a sign permit shall pay any required sign permit fee, if any, to the Township at the time of the application. The permit fee, if any, shall be established by resolution of the Township and shall be as stated in an appendix to this Section.
- (b) *Building permit fees distinguished.* The sign permit fee, if any, shall be separate and apart from any required fee for a building permit for the erection of a sign covered by the New Jersey Uniform Construction Code.
- (c) *Enforcement of this Section.* Nothing contained in this Section shall be construed as prohibiting the Township from taking appropriate legal action, including the filing of legal proceedings in a court of competent jurisdiction, to enforce this Section.

Sec. 30-8.15. Conditions.

(a) *Duration of permit.* If the work authorized under a sign permit has not been completed within six months after the date of issuance, the permit shall become null and void and a new application for a sign permit shall be required.

(b) *Maintenance of signs.*

(1) All visible portions of a sign and its supporting structure shall be maintained in a safe condition, and neat appearance according to the following:

a. If the sign is lighted, all lights shall be maintained in working order and functioning in a safe manner.

- b. If the sign is painted, the painted surface shall be kept in good condition.
 - c. Every sign shall be kept in such manner as to constitute a complete or whole sign.
- (2) Lawfully erected nonconforming signs may suffer only ordinary and customary repairs and maintenance. As provided in Subsection 30-8.12, a lawfully-erected non-conforming sign shall not be structurally altered except in full conformance with this Section.

Sec. 30-8.16. Appeals to the Board of Adjustment.

(a) Whenever it is alleged that there has been an error in any order, action, decision, determination, or requirement by an administrative official in the enforcement and application of any provision contained within this Section or any other provision of this Code pertaining to sign permits (including any allegation that an administrative official has failed to act within applicable time frames), the aggrieved party shall file a written appeal with the Board of Adjustment.

(b) The written appeal shall be filed with the Board of Adjustment in accordance with Section 30-11.

(c) The Board of Adjustment shall hold a hearing within forty-five days following receipt of the written appeal.

(d) The Board of Adjustment shall render a written decision within ten days following the hearing.

Sec. 30-8.17. Appellate Decisions Deemed Final, Subject to Judicial Review.

The appellate decisions of the Board of Adjustment pursuant to Subsection 30-8.16, above, shall be deemed final, subject to judicial review as provided by law.

Sec. 30-8.18. Administration and Enforcing Official.

The Zoning Official shall be the enforcing official of this Section, and enforcement shall be governed by Section 30-12.

Sec. 30-8.19. Adoption of Zoning Regulations.

The boundaries of the various districts shown upon the official zoning map and the regulations of the Land Use Code governing the use of land and buildings and other matters set forth therein, as the same may be amended from time to time, are made part of this Section. Except provided in this Section, no sign shall be erected, enlarged, reconstructed or structurally altered which does not comply with all the district regulations established by this Section for the zoning district in which it is located.

Sec. 30-8.20. Freestanding Signs (Temporary and Permanent) - Setbacks and Sight Clearance. Freestanding signs, temporary and permanent, shall comply with the following setback and sight clearance standards.

(a) *Setback.* Freestanding signs shall be set back (i) at least five feet from any property line, or (ii) by a distance equal to the height of the freestanding sign, whichever is greater.

(b) *Sight clearance.* Freestanding signs shall have a minimum sight clearance from three feet above grade to eight feet above grade when located within fifty feet of any public right-of-way intersection or within thirty feet of any driveway or other point of ingress or egress.

Sec. 30-8.21. Setback Measurement.

Required setbacks for signs in all zoning districts shall be measured from the property line to the nearest part of the sign.

Sec. 30-8.22. Double-Faced Signs.

Double-faced signs shall be permitted in all zoning districts, provided the signs are designed and constructed such that the two sign faces are back to back and directionally oriented 180 degrees from each other. The maximum sign area allowed shall be permitted for each sign face.

Sec. 30-8.23. Illumination.

Freestanding and attached signs may be illuminated unless stated otherwise in the specific zoning district regulations, provided the illumination is designed and installed in such a manner that light from the sign meets all requirements of this Section, the Code, and the New Jersey Uniform Construction Code.

Sec. 30-8.24. Time and Temperature Signs.

Time and temperature signs may be utilized as part of an otherwise allowed freestanding or attached sign in nonresidential zoning districts; otherwise they are prohibited.

Sec. 30-8.25. All Districts.

The regulations in this section apply in every zoning district, except where otherwise specified or indicated. Sign permits are not required for signs and sign-types described and identified in this section.

(a) **Street address signs.** For each parcel, residence or business, one street address sign may be displayed. For each residence, the street address sign shall not exceed two square feet in sign area unless required by applicable law. For each business or parcel in nonresidential use, the street address sign shall not exceed six square feet in sign area unless required by applicable law.

(b) Nameplate or occupant identification signs. For each residence, business or other occupancy, one nameplate sign may be displayed. For residences the nameplate or occupant identification signs shall not exceed two square feet in sign area. For any nonresidential use, the nameplate or occupant identification sign shall not exceed six square feet in sign area.

(c) Noncommercial onsite directional signs. Noncommercial onsite directional signs, not exceeding four square feet in sign area, shall be allowed on each parcel.

(d) Noncommercial onsite parking space signs.

Noncommercial onsite parking space number signs, not exceeding one square foot of sign face per sign, shall be allowed on each parcel in noncommercial use having multiple parking spaces onsite. One such sign shall be allowed for each parking space.

(e) Free expression signs.

For each parcel, one free expression sign not exceeding three square feet in size (sign area) may be displayed. The free expression sign may be displayed as an attached sign or as a freestanding sign; if displayed as a freestanding sign, the freestanding sign shall not exceed three feet in height. A free expression sign is in addition to any other sign permitted under this Section and is permitted in any zoning district. Only one such sign shall be permitted on each parcel.

(f) Election signs.

For each parcel, one election sign for each candidate and each issue may be displayed. An election sign may be displayed as an attached sign or as a freestanding sign. The election sign shall not exceed three square feet in size (sign area); and, if the election sign is displayed as a freestanding sign on the parcel, the election sign shall not exceed three feet in height. An election sign shall be removed within seven (7) calendar days following the election to which it pertains.

(g) Flagpoles.

One flagpole is allowed for each parcel, except parcels greater than one-half acre in size shall be allowed up to three flagpoles. Flagpoles in residential districts shall not exceed twenty-five feet in height, and flagpoles in nonresidential districts shall not exceed thirty-five feet in height.

(h) Flags.

For each detached dwelling unit in a residential district, two flags not greater than twenty-four square feet in sign area (each) may be displayed. For each parcel in a multi-family residential district and in a nonresidential district, three flags not greater than forty-eight square feet in sign area (each) may be displayed.

(i) Warning signs and safety signs.

Warning signs and safety signs, not exceeding four square feet in size (sign area), shall be allowed in all districts.

(j) Temporary construction signs.

One temporary construction sign shall be allowed on each parcel. Temporary construction signs shall not exceed six square feet in size (sign area).

(k) Temporary real estate signs - generally.

(1) *Number.* For each parcel, one temporary real estate sign may be displayed on each parcel of land or part thereof that is for sale, lease, or rent; however, when more than one dwelling unit or nonresidential space on a parcel of land is for sale, lease, or rent, there may be one real estate sign for each such unit or space. For a parcel with dual street frontage, such parcels may have one additional temporary real estate sign per frontage.

(2) *Size and height.* Temporary real estate signs shall not exceed six square feet in size (area) and three feet in height for a property two acres or less in size, and shall not exceed fifteen square feet in size (area) and four feet in height for a property greater than two acres in size.

(3) *Duration.* Temporary real estate signs shall be removed within seven (7) days following the closing or settlement of a sale, lease or rental of the real estate that was offered for sale, lease, or rent.

(l) Temporary garage-yard sale signs.

For each parcel with a lawful residential use, one temporary garage-yard sale sign may be displayed. A temporary garage-yard sale sign shall not exceed three square feet in size and three feet in height. A temporary garage-yard sale sign may not be displayed for a period longer than three days twice a year.

(m) Temporary window signs.

For each parcel, one or more temporary window signs may be displayed. On parcels that are in residential use, the temporary window sign(s) shall not exceed an aggregate of three square feet in sign area. On parcels that are in nonresidential use, the temporary window sign(s) shall not exceed an aggregate of twenty-four square feet in sign area. Temporary window signs shall not cover more than twenty-five percent of any window surface.

(n) Temporary future development signs.

A temporary future development sign shall be allowed in new subdivisions, subject to the following limitations.

(1) *Number.* No more than one such sign shall be allowed upon any property held in single and separate ownership, unless the property fronts upon more than one public street, in which event one sign may be erected on each street frontage.

(2) *Size.* For a subdivision containing less than ten (10) lots, the temporary future development sign shall not exceed twenty-four (24) square feet in sign area. For a subdivision containing ten (10) lots or more, the temporary future development sign shall not exceed thirty-five (35) square feet in sign area.

(3) *Height.* A temporary future development sign shall not exceed six (6) feet in height.

(4) *Duration.* Temporary future development signs shall be removed within seven (7) days after the last dwelling has been initially occupied.

(o) Temporary special event signs.

Temporary special event signs as approved by the Zoning Officer as meeting the following content-neutral criteria: (a) the signs are temporary signs for a limited time and frequency, (b) the signs are for a special event as defined herein (see *special event sign*), (c) the temporary signs will not exceed three square feet in size (area) and three feet in height, (d) the temporary signs will not conceal or obstruct adjacent land uses or signs, (e) the temporary signs will not conflict with the principal permitted use of the site or adjoining sites, (f) the temporary signs will not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians, (g) the temporary signs will be installed and maintained in a safe manner, and (h) the display of temporary signs for a special event shall not begin any earlier than one week before the event and shall be removed within two business days after the event. Consistent with Subsection 30-8.11, approval or disapproval shall not be based on the content of the message contained (*i.e.*, the viewpoint expressed) on such signs. The Zoning Officer shall render a decision within ten (10) days after an application is made for such signs. Such a decision shall be deemed an administrative interpretation and any person adversely affected has the right to appeal the decision to the Board of Adjustment.

Sec. 30-8.26. WM Watershed Management, CM Conservation Management, AP Agricultural Preservation, CR County Residential, VR Village Residential, RM Multi-Family Residential, and I Institutional. In addition to the permanent and temporary signs and sign-types that are allowed pursuant to Subsection 30-8.25, the following permanent and temporary signs are also allowed within the districts designated in the Union Township Land Use Code, as amended from time to time, as WM, CM, AP, CR, VR, RM, and I, as set forth below. The permanent signs described below require a sign permit.

(a) Subdivision monument identification signs.

For each platted subdivision or neighborhood entrance, two subdivision monument identification signs not exceeding six feet in height and twenty square feet in sign area shall be allowed.

(b) Monument signs and mounted wall signs.

For each parcel with a permitted non-residential permitted use in the WM Watershed Management, CM Conservation Management, AP Agricultural Preservation, CR County Residential, VR Village Residential, RM Multi-Family Residential, and I Institutional Districts,

there may be one permanent monument sign or one permanent wall sign not exceeding twelve (12) square feet in size.

(c) Temporary agricultural signs.

For each parcel allowed a permitted agricultural use, up to two temporary agricultural signs may be displayed per business establishment on parcel or lot.

Sec. 30-8.27. VC Village Commercial Districts. In addition to the permanent and temporary signs and sign-types that are allowed pursuant to Subsection 30-8.25, the following permanent signs are also allowed within the VC Village Commercial Districts. Other than incidental signs, the permanent signs described below require a sign permit.

(a) Permanent wall (mounted) signs.

(1) For the premises on which a building is located, there may be attached one permanent wall (mounted) sign not exceeding twenty (20) square feet.

(2) For each professional or office use located on the premises, there may be one additional permanent wall (mounted) sign not exceeding four square feet. Such signs shall not be illuminated.

(3) A projecting sign may be used in lieu of a permanent wall (mounted) sign, provided that the projecting sign (i) does not extend more than two feet from the wall or building surface (ii) does not exceed four square feet in size (area) and (iii) is at least eight feet above grade level.

(b) Monument signs. For each parcel with a permitted non-residential permitted use, there may be one permanent monument sign not exceeding twelve (12) square feet in size.

(c) Incidental signs. Up to four incidental signs may be permitted to be attached (i) to a freestanding sign structure or (ii) to a building wall, but not perpendicular to the wall. An incidental sign shall not exceed one square foot in size.

Sec. 30-8.28. PC Planned Commercial, OR-1 and OR-2 Office Research, PO Professional Office, LI Light Industrial, Q Quarry, and SC Special Commercial Districts. In addition to the permanent and temporary signs and sign-types that are allowed pursuant to Subsection 30-8.25, the following permanent signs are also allowed within PC Planned Commercial, OR-1 and OR-2 Office Research, PO Professional Office, LI Light Industrial, Q Quarry, and SC Special Commercial Districts. Other than incidental signs, the permanent signs described below require a sign permit.

(a) Permanent wall signs.

(1) **Maximum Size for Front Facades.** For each building, a permanent wall sign may be mounted on the front façade of the building provided that the size (area) does not exceed five percent (5%) of the building façade (inclusive of all doors and window openings); however, for

each ten feet or fraction thereof that the building façade is located behind the building setback line, the aggregate maximum square footage for a permanent wall sign shall increase by one percent (1%) up to a limit of ten percent (10%) of the building facade.

(2) **Maximum Size for Side Facades.** For each building, a permanent wall sign may be mounted on a side façade of the building provided that the size (area) shall not exceed five percent (5%) of the side façade (inclusive of all doors and window openings).

(b) **Permanent freestanding signs.** For each lot or tract, a freestanding sign is allowed subject to the following limitations as to height, size (area), spacing, setback, number, and location:

(1) **Maximum Height.** The maximum height of a freestanding sign shall not exceed fourteen feet.

(2) **Maximum Size.** The maximum size (area) of the sign face of a freestanding sign shall not exceed twenty square feet per side, provided that the combined surface area shall not exceed forty square feet.

(3) **Minimum Spacing.** There shall be a minimum spacing between freestanding signs. A freestanding sign shall not be constructed any closer to another freestanding sign than the following of (a) 100 linear feet, or (b) a linear distance equal to twenty times the largest dimension of the size face, either height or width, whichever is greater.

(4) **Minimum Setback.** There shall be a minimum setback between a freestanding and side property lines. A freestanding sign shall be setback a minimum of twenty feet from any side property line.

(5) **Maximum Number.** There shall only be one freestanding sign structure per tract or lot.

(6) **Front Yard Location.** A freestanding sign may only be erected in the front yard of the tract or lot on which it is located.

(c) **Incidental signs.** Up to four incidental signs may be permitted to be attached (i) to a freestanding sign structure or (ii) to a building wall, but not perpendicular to the wall. An incidental sign shall not exceed one square foot in size.

Sec. 30-8.29. U Utility and P Parkland Districts. In addition to the permanent and temporary signs and sign-types that are allowed pursuant to Subsection 30-8.25, no other permanent or temporary signs are also allowed within the U Utility and P Parkland Districts.

Sec. 30-8.30. Transition Rules.

Any permit actually issued prior to the effective date of the adoption of the sign regulations that comprise this Section shall remain valid but only until the earlier of the following

dates: (a) the date that said permit expires by its own terms or expired under the operation of the former ordinance, or (b) ninety days after the effective date of the adoption of this Section.

Sec. 30-8.31. Severability.

(a) **Generally.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section.

(b) **Severability where less speech results.** Without diminishing or limiting in any way the declaration of severability set forth above in Subsection 30-8.31(a), or elsewhere in this Section, this code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(c) **Severability of provisions pertaining to prohibited signs.** Without diminishing or limiting in any way the declaration of severability set forth above in Subsection 30-8.31(a), or elsewhere in this Section, this code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under Subsection 30-8.5. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Subsection 30-8.5 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of Subsection 30-8.5.

(d) **Severability of prohibition on billboards.** If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Section and/or any other code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on billboards as contained herein.