

BROWN COUNTY ORDINANCE No. 2024-11-06-001

AN ORDINANCE AMENDING THE ILLUMINATION AND PLACEMENT REQUIREMENTS FOR SIGNS

The purpose of this ordinance is to revise the illumination and placement regulation for signs, as set forth in the Brown County Zoning Ordinance.

WHEREAS, Indiana Code 36-7-4-601 and 36-7-4-602 authorizes the Board of Commissioners of Brown County, Indiana ("Board of Commissioners"), to adopt planning and zoning ordinances, and amendments thereto, for the following purposes: securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general welfare; and otherwise accomplishing the purposes of Indiana Code Chapter 36-7-4; and

WHEREAS, the Board of Commissioners have established and amended the Brown County Zoning Ordinance and Maps (Zoning Ordinance), through the adoption of numerous ordinances since the mid-1960s; and

WHEREAS, Indiana Code 36-7-4-602 requires local plan commissions to prepare, conduct public hearings on, approve and certify planning and zoning ordinances, and amendments thereto, for consideration by the local board of commissioners;

WHEREAS, certain amendments ("Proposed Amendments") to section 4.15 Miscellaneous Sign Provisions of the Brown County Zoning Ordinance were proposed by the Board of Commissioners to address the illumination performance standards of signs in order to allow for more effective business advertisements; and

WHEREAS, the Plan Commission advertised for and conducted a public hearing on the Proposed Amendments on September 24, 2024; and

WHEREAS, following the public hearing, the Plan Commission voted to forward the Proposed Amendments to the Board of Commissioners with a unfavorable recommendation; and

WHEREAS, on September 27, 2024, the Director of the Brown County Area Plan Commission certified the Proposed Rezoning to the Board of Commissioners for consideration pursuant to Indiana Code Sections 36-7-4-602 through 607; and

WHEREAS, in accordance with Indiana Code 5-14-1.5-5, the Board of Commissioners provided public notice of its intention to consider the Proposed Amendments in ordinance form during its October 2 and October 16, 2024 meetings; and

WHEREAS, the Board of Commissioners received public comment on the Proposed Amendments during its October 2, 2024 meeting, and decided to continue its consideration of the Proposed Amendments to its October 16, 2024 meeting; and

WHEREAS, the Board of Commissioners finds that the adoption of the Proposed Amendments, as additionally amended, would reasonably and efficiently advance the statutorily

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recognized zoning ordinance purposes, which include, among other purposes, the promotion of the health, safety, morals, convenience, order, and general welfare of the citizens of Brown County, Indiana; and

WHEREAS, the Board of Commissioners finds and confirms that in the preparation and consideration of the Proposed Amendments, the Board of Commissioners gave reasonable regard to: the Comprehensive Land Use Plan of Brown County, Indiana; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible development and growth.

NOW, THEREFORE, be it ordained by the Board of Commissioners as follows:

Section 1. Chapter 4, Section 15 of the Brown County Zoning Ordinance shall be, and hereby is, comprehensively amended to read as follows:

4.15 MISCELLANEOUS SIGN PROVISIONS

Basic Prohibitions

There shall be no animated, electronic, internally lit, edge lighted, neon or other gas-filled, revolving or rotating, strings of light, beams, beacons or flashing signs, except as expressly allowed in this section.

Purpose and Intent

The purpose and intent of this section is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, consistent, content and viewpoint-neutral, and nondiscretionary sign standards and requirements, including the following purposes and objectives:

1. providing guidelines for the placing, number, size and general characteristics of all signs throughout the unincorporated areas of Brown County;
2. encouraging the effective use of signs as a means of communication within the County;
3. maintaining and enhancing the aesthetic environment and the County's ability to continue to attract tourism and other sources of economic development and growth;
4. improving pedestrian and traffic movement and safety (e.g., maintaining appropriate sight distances at intersections and reducing distractions);
5. minimizing the possible adverse effect of signs on nearby public and private property (e.g., the adverse effect of obstructing natural scenic vistas);
6. enabling and promoting the fair and consistent enforcement of these sign restrictions;

7. promoting the general purposes set forth in the Zoning Ordinance and the land use planning goals set forth in the Comprehensive Plan;
8. establishing an efficient permit system to expeditiously approve the location and design of signs, subject to the standards and permit procedures of this section;
9. allowing certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
10. prohibiting all signs not expressly permitted by this ordinance;
11. restricting the continued existence of abandoned or nonconforming signs unless in compliance with the terms of this article and to eliminate, over time, all nonconforming signs;
12. encouraging signs that are well-designed and compatible with their surroundings and with the buildings to which they are appurtenant, and encourage signs that are integrated with and harmonious to the buildings and sites they occupy; and,
13. recognizing that the size of signs that provide adequate identification in residential and in pedestrian oriented business areas differ from those that are necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in residential and pedestrian area.

Applicability and Message Substitution

A sign may be erected, placed, established, painted, created, or maintained in the unincorporated areas of Brown County only in conformance with the standards, procedures, exemptions, and other requirements of this section and with other Brown County ordinances and resolutions.

A noncommercial message of any type may be substituted, in whole or in part, for any commercial message or any other noncommercial message, subject to the same regulations that apply to such signs. Substitution of message may be made without any additional approval or permitting.

Severability

The provisions of this ordinance are separable. If any part or provision of this ordinance or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction on procedural or any other grounds, the judgment shall be confined in its operation to the part, provision, procedure or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances. The Board of Commissioners of the County of Brown, Indiana, hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision, procedure or application.

I. Definitions:

- A. Sign means any object, device, display, or structure, or part thereof situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, idea, opinion, position, proposition or plan of action, person, institution, organization, business, product, service, event, or location by any means, including, without limitation, words, letters, figures, design, symbols, fixtures, colors, illumination, projected images, or movement.
- B. Animated sign means any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an electronic sign, an animated sign produces the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through using the characteristics of one (1) or both of the following classifications: 1) flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds; 2) patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.
- C. Lot means any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purpose of transfer of ownership.
- D. Electronic sign means any sign or portion of a sign that uses changing lights or form a sign message or messages in text or picture form, wherein the sequences of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- E. Vehicle sign means a sign that is affixed to a motor vehicle or trailer.
- F. County Road means those roads within Brown County, Indiana, that have been accepted into the State of Indiana Department of Transportation criteria for assigning credit such that Brown County, Indiana, does, in fact, receive credit or State payments for those roads.

II. Permitted Signs

Signs are allowed in all districts, but only if they comply with all relevant provisions of the Brown County Zoning Ordinance (e.g., sign area, height, performance standards, etc.).

III. Sign Area, Sign Height, and Setback Regulations

- A. In FP, FR, R1, R2 and LR districts, the maximum total sign area per lot is twenty-four (24) square feet and the maximum total sign area of any sign located on the lot is twelve (12) square feet.

- B. In GB, AB and I districts, the maximum total sign area per lot is one hundred forty-four (144) square feet, and the maximum total sign area of any sign located on the lot is one hundred (100) square feet.
- C. In FP, FR, R1, R2 and LR districts, the maximum sign height is eight (8') feet.
- D. In GB, AB and I districts, the maximum sign height is twenty (20') feet.
- E. In all districts, signs shall be set back, from road and highway right-of-way and from lot boundary lines, a distance that is equal to the height of the sign.
- F. In all districts, signs may not be placed within the sight triangle (see section D-2 of this Chapter).

IV. Computation of Sign Area and Height

The following principals shall control the computation of sign area and sign height:

- A. The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall (when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself).
- B. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back-to-back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart, the sign area shall be computed by the measurement of the larger of the faces.
- C. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be constructed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined or on a steeply sloping terrain, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

V. Performance Standards

All signs shall adhere to the following regulations:

A. Illumination

1. The source of light for any sign may not be directed into any residential area. The source of illumination by whatever means shall not reflect directly on to residential property. The source of illumination by whatever means shall not reflect directly on to residential property. The source of light may not point towards any oncoming traffic unless it is internally illuminated and nine thousand (9,000) lumen or less. Signs that are externally illuminated may not point towards any oncoming traffic.
2. In no instance shall any illuminated sign be located closer than twenty-five (25') feet to any residence.
3. Commercial property located on or near a state road in Brown County, IN may display a qualifying illuminated sign to promote a business.
4. A source of light may be used to illuminate a sign to promote a business within the county if the illumination level does not exceed the manufacturer's original maximum lumens specification for the sign. In no circumstance may a sign exceed nine thousand (9,000) lumens.
5. For an electronic sign that flashes multiple illuminated messages, each message must stay continuous for at least ten (10) seconds before changing to a subsequent message.

B. Maintenance

1. All signs must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety.

C. Placement

1. No sign shall be placed so as to pose a traffic hazard, and the county highway superintendent shall be vested with authority to rescind any sign permit under this section if he deems that sign placement would cause a traffic hazard, subject only to review by the County Commissioners, if requested within thirty days of written notice of any such decision.

VI. Permits

- A. Unless exempted below, no sign may be erected until the Executive Director of the Brown County Area Plan Commission has issued a permit therefore. (See Chapter 8 for appropriate permit fee).
- B. Prior to the issuance of a sign permit the Director shall be furnished written proof of permission from the landowner upon whose land the sign is to be located, on a

form prescribed by the Commission, and a scale drawing of the proposed sign or the sign itself. Sign applications that are complete and that propose signs which comply with the provisions of this Chapter, shall be approved by the Director within seven (7) business days of receipt. Sign applications that are incomplete or that do not propose signs which comply with the provision of this Chapter, shall be denied by the Director within seven (7) business days of receipt.

- C. Following the erection of a sign, the Zoning Inspector shall inspect the same, and issue a certificate of compliance in the event the sign complies with that for which the permit was issued. In the event that it does not, the Inspector shall promptly notify the permittee in writing of the lack of compliance and reason(s) therefore. Failure by the permittee to correct any non-compliance within ten (10) days from the date of written notice shall result in revocation of the sign permit, as well as other remedies under this ordinance. Notice sent to the address on the sign permit application shall be deemed sufficient.
- D. Signs that have a total sign area of four (4) square feet or less are exempt from the permit requirement.

VII. Signs in the Public Right-of-Way

No signs shall be allowed in the public right-of-way, except:

- A. Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic;
- B. Bus stop signs erected by a public transit company;
- C. Informational signs of a public utility regarding its poles, lines, pipes, or facilities; and,
- D. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way shall be allowed in the public right-of-way.

Any sign installed or placed in the public right-of-way (state or county), except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation by the Plan Commission staff. In the event of confiscation, the Plan Commission staff shall: store the sign in a County building; make a reasonable attempt to notify the owner of the sign of the confiscation; provide owner with ten (10) days to recover the sign after notification. After such ten day period, the Plan Commission staff may dispose of the sign. In addition to other remedies, hereunder, the Commission shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

VIII. Signs Exempt from Regulation under this Chapter

The following signs shall be exempt from regulation under this chapter:

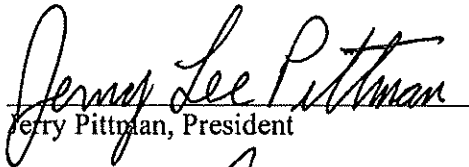
- A. Any government notice or warning required or authorized by a valid and applicable federal, state, or local law, regulation, or ordinance shall be exempt from regulation under this chapter.
- B. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three (3) feet beyond the lot line of the lot or parcel on which such sign is located shall be exempt from regulation under this chapter.
- C. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets Department of Transportation standards, which contain no commercial message of any sort, and which do not exceed three (3) square feet in area, or which are flush with the roadway pavement, are exempt from regulation under this chapter.
- D. Signs incorporated on vending machines (including fuel pump housings) shall be exempt from regulation under this chapter, except that the signs must comply with the performance standards of Part VIII above.
- E. Neon or gas-filled signs that are two square feet or less in sign area per lot.

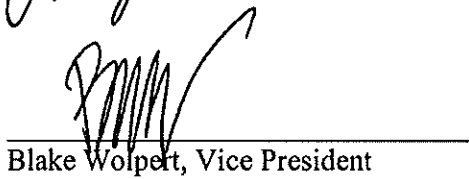
Section 2. The terms and provisions of this ordinance are separable. If any part or provision of this ordinance or the application thereof to any persons or circumstances is adjudged invalid by a court of competent jurisdiction on procedural grounds, or on any other grounds, such judgment shall be confined in its operation to the part, provision, procedure or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the applications thereof to other persons or circumstances. The Board of Commissioners hereby declares that it would have enacted the remainder of this ordinance even without any such part, provision, procedure or application.

Section 3. This ordinance shall take effect upon adoption.

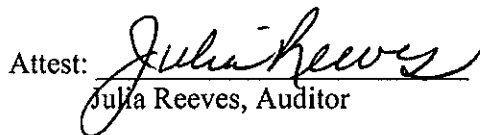
SO APPROVED AND ADOPTED by the Board of Commissioners of the County of Brown, Indiana, this 6 day of November, 2024.

Board of Commissioners:


Jerry Pittman, President


Blake Wolpert, Vice President

Ron Sanders, Member

Attest: 
Julia Reeves, Auditor