

Village of Royal Palm Beach
Village Council
Agenda Item Summary

Agenda Item:

PUBLIC HEARING FOR FIRST READING AND APPROVAL OF ORDINANCE NO. 1014, AMENDING CHAPTER 20. SIGNS. AT SECTIONS 20-1. DEFINITIONS. TO AMEND AND CREATE DEFINITIONS FOR SELECT TERMS RELATED TO SIGN IDENTIFICATION AND REGULATIONS; AND AT SECTIONS 20-2, 20-22, 20-25, 20-27, 20-41, 20-54, 20-57, 20-65, 20-71, AND 20-73 TO CONFORM VILLAGE CODE TO RECENT LEGAL PRECEDENT REGARDING SIGNS AND TO PROVIDE INTERNAL CONSISTENCY. BY VILLAGE ATTORNEY KEITH W. DAVIS, ESQ.

Issue:

The U.S. Supreme Court case of Reed v. Gilbert changed the way local governments can regulate signage. Signs are protected under the free speech guarantees of the First Amendment of the U.S. Constitution. Accordingly, local government sign regulations must conform to the First Amendment, cannot vary based on the content of speech that the sign is intended to express, and cannot favor or punish particular points of view or topics.

“Content-based” regulations are presumptively unconstitutional. A strict scrutiny standard applies, meaning the regulation must be justified by a compelling governmental interest. If a sign regulation is content-based on its face, its purpose, justification and function do not matter. If the regulation is “content neutral,” then these factors (purpose, justification and function) can be considered in evaluating the constitutionality of the regulation. However, courts have been unclear about exactly how to determine whether a particular regulation is “content-based.”

Sign regulations must be narrowly tailored to achieve the Village’s governmental purposes for regulating signs, which are generally characterized as aesthetics and traffic safety. The regulations must not be substantially overbroad (exceeding the scope of the Village’s governmental interests justifying regulation), nor can the regulations be substantially underinclusive (so narrow or exception-ridden that they fail to further a governmental interest).

Court decisions since Reed have followed the Reed decision and provided additional clarity, further evidencing the need for local governments to revise their sign codes to conform with this legal precedent. Accordingly, Ordinance No. 1014 proposes revisions to Chapter 20 of the Village Code to conform with Reed and subsequent decisions, at the following sections:

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Section 20-1. - Definitions:

- Revises existing definitions of the terms “directional sign” and “flag” to remove content-based language and replace with content-neutral language.
- Makes consistency edits to the definitions of the terms “freestanding sign,” “ground sign,” “monument sign,” “pole sign,” and “temporary sign” to ensure internal consistency with cross-referenced defined terms in the Village Code.
- Removes the impermissible content-based definition of the term “political campaign sign.”
- Adds a definition of the term “obscene.”

Section 20-2. – Scope, purpose, and intent:

- Amends the section title to ‘Scope, purpose, and intent.’
- Revises the previous ‘purpose and scope’ section to provide expanded legislative intent and better articulate the compelling and substantial governmental interests that justify the regulation of signs: traffic safety and preserving the Village’s aesthetics.
- Provides for specific reference to governing case law, and articulates that the requirement for local government sign regulation in Florida Statutes, the Florida Constitution’s protection of scenic beauty, and the relevant goals, objectives and policies of the Village’s Comprehensive Plan; all factors that were missing from the Reed decision; all present compelling governmental interests supporting sign regulation in the event of an ordinance challenge.

Section 20-22. – Application:

- One minor revision to correct a typographical error making the existing cross reference inaccurate.

Section 20-25. – Signs not requiring permit or permit fee:

- Replaces existing content-based language with content-neutral language; does not revise size, number, etc. regulations.

Section 20-27. – Review of application by building officials; review of application by planning and zoning commission; issuance of building permit and inspection:

- One minor revision to update cross reference.

Section 20-41. – List of prohibited signs:

- One minor revision to correct a typographical error.
- Replaces existing content-based language with content-neutral language.

Section 20-54. – Temporary noncommercial signs:

- Amends the section title to ‘Temporary noncommercial signs.’
- Replaces existing content-based language regarding political signs with language differentiating between ‘temporary noncommercial signs associated with a definite event’ and ‘temporary noncommercial signs not associated with a definite event.’
- Relocates existing regulations relative to such signs on private property and Village-owned property but does not revise the regulations themselves.

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- Establishes regulations for ‘temporary noncommercial signs not associated with a definite event’ which are consistent with the size and place or location regulations throughout the Village Code.

Section 20-57. – Public ownership district (PO) or other village-owned property:

- Removes existing content-based language regarding political signs and adds ‘temporary noncommercial signs associated with a definite event’ as a permitted sign on Village property.

Section 20-65. – Off-site entrance signs:

- Amends the section title to ‘Off-site entrance signs’ and revises language to ensure content neutrality.

Section 20-71. – Temporary special event signs:

- Provides cross-reference to existing code to clarify between temporary special event signs displayed as part of a Village-approved special event permit and those not permitted by the Village as special events.

Section 20-73. – Temporary seasonal sale signs:

- Removes the existing permit requirement to ensure consistency with Section 16-12(b) of the Village Code.

The Local Planning Agency considered Ordinance No. 1014 on August 24, 2021 and recommended Approval by a vote of 5-0.

Recommended Action:

Upon Council review, staff recommends a motion to approve Ordinance No. 1014 on first reading.

Initiator:	Village Manager	Agenda Date	Village Council
Village Attorney	Approval	9-2-2021	Action

ORDINANCE NO. 1014

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 20. SIGNS. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH AT SECTIONS 20-1. DEFINITIONS. TO AMEND AND CREATE DEFINITIONS FOR SELECT TERMS RELATED TO SIGN IDENTIFICATION AND REGULATIONS; AND AT SECTIONS 20-2, 20-22, 20-25, 20-27, 20-41, 20-54, 20-57, 20-65, 20-71, AND 20-73 TO CONFORM VILLAGE CODE TO RECENT LEGAL PRECEDENT REGARDING SIGNS AND TO PROVIDE INTERNAL CONSISTENCY; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 20. SIGNS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council of the Village of Royal Palm Beach (the "Village") finds and determines that the Village's land development regulations are required to regulate signs as provided by Section 163.3202(2)(f), *Florida Statutes*; and

WHEREAS, the Village Council does not wish to censor speech, but rather to promote public welfare by regulating signs in a manner that enhances aesthetics, reduces visual pollution, and provides clear information with few distractions in the interests of traffic safety; and

WHEREAS, Article II, Section 7 of the Florida Constitution provides that "[i]t shall be the policy of the state to conserve and protect its natural resources and scenic beauty . . ." A beautiful environment preserves the desirability of the Village as a place to live and to do business, and implementing the Florida Constitution is a compelling governmental interest; and

WHEREAS, Florida law requires local governments to implement their adopted comprehensive plan through land development regulations that are consistent with the comprehensive plan. *See* Chapter 163, Part II *Florida Statutes*. Florida law specifically requires that the Village adopt sign regulations, *see* Section 163.3202(2)(f), *Florida Statutes*, and the Village finds that complying with state law is a compelling governmental interest; and

WHEREAS, the Village's Comprehensive Plan requires the Village to maintain its aesthetic quality and traffic safety through land development regulations and actions and implementing the Village's Comprehensive Plan is a compelling governmental interest; and

WHEREAS, the Village finds that excessive signage and sign clutter impairs the legibility of the environment, and undermines the effectiveness of governmental, traffic control,

and other required signs (such as directional signs, identification signs, onsite or on-premise wayfinding signs, and warning signs) that are essential to identifying locations for the delivery of emergency services and other compelling governmental purposes; and

WHEREAS, the Village finds and determines that the scope, purpose, and intent provisions of its signage regulations should be detailed so as to further describe the beneficial aesthetic, traffic safety, and other effects of the Village'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; and

WHEREAS, the Village finds and determines that the sign regulations adopted hereby allow and leave open adequate alternative means of communications, such advertising via newspaper, internet and other telecommunications; advertising in shoppers, pamphlets, or telephone books; advertising on cable television, on UHF and/or VHF television, and on AM and/or FM radio; advertising on satellite radio or internet radio; advertising via direct mail, and other avenues of communication available in the Village [*see State Univ. of New York v. Fox*, 492 U.S. 469, 477 (1989)]; and

WHEREAS, the Village Council desires to modify and update its regulation of signs in order to respond to recent caselaw including *Reed v. Town of Gilbert*, 576 U.S. 155 (2015); and

WHEREAS, in *Reed*, the U.S. Supreme Court, in an opinion authored by Justice Thomas, addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs; and

WHEREAS, in *Reed*, Justice Alito in a concurring opinion detailed that municipalities still have authority to enact and enforce reasonable sign regulations; and

WHEREAS, under established Supreme Court precedent and Eleventh Circuit precedent, commercial speech may be subject to greater restrictions than noncommercial speech and that doctrine is true for both temporary signs as well as for permanent signs; and

WHEREAS, the Village finds that the U.S. Supreme Court has recognized that "the concept of the public welfare is broad and inclusive," and that it is within the legislature's power "to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled" [citing *Berman v. Parker*, 348 U.S. 26 (1954), as followed by *State v. Miami Beach Redvlnmt. Agency*, 392 So. 2d 875 (Fla. 1980)]; and

WHEREAS, the Village determines that aesthetics is a valid basis for zoning, and that the regulation of the size and appearance of signs and prohibition of certain types of signs can be based upon aesthetic grounds as promoting the general welfare [*Merritt v. Peters*, 65 So. 2d 861 (Fla. 1953); *Dade Cty. v. Gould*, 99 So. 2d 236 (Fla. 1957); *E.B. Elliott Advert. Co. v. Metro. Dade Cty.*, 425 F.2d 1141 (5th Cir. 1970), *cert. dismissed*, 400 U.S. 878 (1970)]; and

WHEREAS, the Village finds that the purpose of sign regulations as set forth in this Ordinance is to promote the public health, safety and welfare through a comprehensive system of reasonable and nondiscriminatory sign standards and requirements; and

WHEREAS, the Village 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 Advert. Ass'n*, 414 So. 2d 1030, 1032 (Fla. 1982)]; and

WHEREAS, the Village finds and determines that a prohibition on the erection of off-site outdoor advertising signs will reduce the number of driver distractions and aesthetic eyesores along Village roadways [*see, e.g., E. B. Elliott Advert. Co.*, 425 F.2d at 1154]; and

WHEREAS, the Village finds and determines that in order to preserve, protect and promote the safety and general welfare of the Village's residents, it is necessary to regulate off-premises signs, so as to generally prohibit the construction of off-premises signs and billboards in all zoning districts, and to provide that the foregoing provisions shall be severable; and

WHEREAS, the Village Council finds and determines that the Village has allowed noncommercial speech to appear wherever commercial speech appears; and the Village desires to continue that practice through the specific inclusion of a substitution clause that expressly allows non-commercial messages to be substituted for commercial messages, so that the Village may continue to overcome any objection that the Village impermissibly favors commercial over noncommercial speech [*see Outdoor Sys., Inc. v. City of Lenexa*, 67 F. Supp. 2d 1231, 1236-1237 (D. Kan. 1999)]; and

WHEREAS, the Village finds and determines that under Florida law, whenever a portion of a statute or ordinance is declared unconstitutional, the remainder of the act will be permitted to stand provided (1) the unconstitutional provisions can be separated from the remaining valid provisions, (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void, (3) the good and the bad features are not so inseparable in substance that it can be said that the legislative body would have passed the one without the

other, and (4) an act complete in itself remains after the valid provisions are stricken [*see, e.g., Waldrup v. Dugger*, 562 So. 2d 687 (Fla. 1990)]; and

WHEREAS, the Village Council makes the detailed findings set forth in Section 20-2 of the Village Code, amended in Section 3 of this Ordinance, as to the scope, purpose, and intent of the Village's reasonable sign regulations, and the substantial and compelling governmental interests that are advanced by these regulations; and

WHEREAS, the Village Council has determined that this Ordinance is consistent with all applicable policies of the Village's adopted Comprehensive Plan and is in the best interest of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, THAT:

Section 1: The foregoing "Whereas" clauses are ratified and confirmed as being true, correct, and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

Section 2: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article I. In General., Sec. 20-1. Definitions., to amend and create definitions for select terms related to sign identification and regulation; providing that Sec. 20-1. Definitions. shall hereafter read as follows:

Sec. 20-1. - Definitions.

The following phrases, words and terms shall have the following meanings and basic limitations:

Directional sign (also known as an "informational sign"):

- (1) A sign erected by a governmental agency to denote the name of any thoroughfare; to point out the route to any city, educational institution, public building, historic place or hospital, or other use, facility, or attraction; to direct and regulate traffic; and to denote any railroad crossing, bridge or other transportation facility for the convenience and safety of the general public;

- (2) A notice or symbol as to the time and place of regular noncommercial-civic meetings, and activities, events, or ~~and religious activities and services,~~ subject to the requirements of section 20-25(17);
- (3) An on-premises sign which identifies and provides directions to facilities, service areas, and/or structures located on the premises, and which may include copy such as "enter", "caution", "exit", "drive-through", "parking", "no trespassing" or similar terms, and/or a directional arrow(s); with commercial copy limited to logo and business name.
- (4) An on-premises sign identifying the address, number, or name of a structure, and parking area(s) therefor; with commercial copy limited to logo and business name.

Flag: A piece of material, typically cloth, on which is depicted a national, state, or municipal; governmental agency, ~~civil~~ or any civil, business, institutional, or other commercial or noncommercial entity or idea, ~~house of worship symbol, nautical symbol, commercial~~ name, information, ~~or~~ logo, or ~~internationally recognized~~ symbol and which is properly displayed pursuant to applicable guidelines.

Freestanding sign: A sign affixed to the ground and not attached to any building for support; all freestanding signs, except for Village informational signs~~municipal public service signs~~, must be set back a minimum of ten (10) feet from the right-of-way or property line, whichever is further from the adjacent roadway. (Freestanding signs are also called detached, pole or ground signs.)

Ground sign: A freestanding sign which is erected flush to the ground; all ground signs, except for Village informational signs~~municipal public service signs~~, must be set back a minimum of ten (10) feet from the right-of-way or property line, whichever is further from the adjacent roadway.

Monument sign: A low-profile freestanding sign with a solid base located on the ground, typically designed to incorporate materials which complement the architecture of the principal structure(s) on the site. All monument signs, except for Village informational signs~~municipal public service signs~~, must be set back a minimum of ten (10) feet from the right-of-way or property line, whichever is further from the adjacent roadway. The maximum dimensions listed for monument signs in each section of this Code shall include the sign base.

Obscene: The term should be construed in conformance with the most recent developments in controlling statutory or case law, but which otherwise can be defined as the status of material which:

- (1) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- (2) Depicts or describes sexual conduct in a patently offensive way; and
- (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Pole sign: A freestanding sign which is supported by one (1) or more poles, posts, columns, pyramids or other extensions from ground level. All pole signs, except for Village informational signs~~municipal public service signs~~, must be set back a minimum of ten (10) feet from the right-of-way or property line, whichever is further from the adjacent roadway.

~~*Political campaign sign:* Any sign used in connection with a local, state, or national election campaign; also referred to as a "political campaign advertisement".~~

Special event sign: A sign which calls attention to a ~~civic~~ village-permitted special event, or activity, or other similar activity of a temporary nature.

Temporary sign: A sign designed, constructed, and intended to be used on a short-term basis. All temporary signs, except for Village informational signs~~municipal service signs~~, must be set back a minimum of ten (10) feet from the right-of-way or property line, whichever is further from the adjacent roadway.

[All other definitions shall remain the same as previously adopted.]

Section 3: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article I. In General., Sec. 20-2. Purpose and scope of regulations., in order to rename the Section as "Scope, purpose and intent." and to establish the legislative findings and compelling government interests supporting updates to the Village's sign code; providing that Sec. 20-2. Scope, purpose and intent. shall hereafter read as follows:

Sec. 20-2. – Scope, purpose, and intent.~~Purpose and scope of regulations.~~

(a) Scope.

- (1) The provisions of this chapter shall govern the number, size, location, and character of all signs which may be permitted under the terms of this chapter. No signs shall be permitted on a plot or parcel except in accordance with the provisions of this chapter.
- (2) In the event of any conflict between this chapter and any declaration of covenants, bylaws, or other restrictions applying to any property within the village, the language affording the more restrictive interpretation shall apply.
- (3) The village specifically finds that these sign regulations are narrowly tailored to achieve the compelling and substantial governmental interests of traffic safety, aesthetics, and compliance with state and local law, and that there is no other way for the village to further these interests.

(b)-(a) *Purpose.*~~*In general.*~~ The purpose of this chapter is to encourage the effective use of signs as a means of communications in the village; to maintain and enhance the aesthetic environment and the village's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; to foster the integration of signage with architectural and landscape designs; and to enable the fair and consistent enforcement of these sign regulations. Additionally, this chapter provides for regulations to achieve the following:

- (1) Property value protection.* Signs should not create a nuisance to the occupancy or use of other properties as a result of their size, height, brightness or movement. They should be in harmony with buildings, the neighborhood and other conforming signs in the area.
- (2) Communication.* Signs should deny other persons or groups the use of sight lines on public rights-of-way, should not obscure important public messages and should not overwhelm readers with too many messages. Signs can and should help individuals to identify and understand the jurisdiction and the character of its subareas.
- (3) Preservation of [the] community's beauty.* Villages such as this which include commercial development as well as small office, retail, residential and industrial uses rely heavily on their natural surroundings and beautification efforts to retain their economic viability. This concern is reflected by the active and objective regulations of the appearance and design of signs.

(c) Intent.

(1) Florida Constitution. Article II, Section 7 of the Florida Constitution provides that "[i]t shall be the policy of the state to conserve and protect its natural resources and scenic beauty..." A beautiful environment preserves and enhances the desirability of the village as a place to live and to do business. Implementing the Florida Constitution is a compelling governmental interest.

(2) Florida Statutes. Florida law requires local governments to adopt comprehensive plans and implement them through land development regulations (also known as zoning regulations) and approval of development orders that are consistent with the comprehensive plan. See F.S. Ch. 163, Part II. Florida law specifically requires that the Village adopt sign regulations. See F.S. § 163.3202(2)(f). Complying with state law is a compelling governmental interest.

(3) Village Comprehensive Plan. The village's Comprehensive Plan requires the village to create and enforce development regulations that improve and promote the aesthetic quality of village neighborhoods and which ensure safe traffic flow within village roadways, through the regulation of signs as set forth in detail below. Implementing the village Comprehensive Plan is a compelling governmental interest.

a. Future Land Use Element

GOAL: A mix of compatible land uses which meets the needs of the village residents, maintains and enhances the community character, does not adversely impact existing neighborhood and is developed concurrently with the needed infrastructure and facilities.

Objective: Future growth and development will be managed through the land development regulations as they are periodically revised.

Policy: Continue to monitor and amend existing land development regulations to ensure that they contain specific and detailed provisions intended to implement the adopted Comprehensive Plan, and which as a minimum:

g. Regulate signage;

h. Ensure safe and convenient on-site traffic flow and vehicle parking needs.

b. Transportation Element

GOAL: Provide safe, convenient, and efficient movement of people and goods, at reasonable cost and minimum detriment to the environment.

Objective: Review and coordinate traffic circulation planning with the future land use map of this plan.

Policy: Require all future land use amendments to demonstrate that roadway improvements required to maintain levels of service identified in Policy T1.1.6 [as may be amended] will be in place to accommodate projected traffic impacts through participation in the Countywide Palm Beach County Traffic Performance Standards Ordinance.

(4) *Specific legislative intent.* In addition to implementing and complying with state and local law as provided above, the sign regulations in this chapter are intended to:

- a. Encourage the effective use of signs as a means of communication in the village;
- b. Maintain and enhance the scenic beauty of the aesthetic environment and the village's ability to preserve sources of economic development;
- c. Ensure pedestrian and traffic safety;
- d. Minimize the possible adverse effect of signs on nearby public and private property;
- e. Foster the integration of signage with architectural and landscape designs;
- f. Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive area of signs which compete for the attention of pedestrian and vehicular traffic and are not necessary to aid in wayfinding;
- g. 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;
- h. Encourage and allow signs that are appropriate to the zoning district in which they are located, consistent with and serving the needs of the land uses, activities and functions to which they pertain;

- i. Curtail the size and number of signs to the minimum reasonably necessary to identify a residential or business location, and the nature of such use, and to allow smooth navigation to these locations;
- j. Establish dimensional limits and placement criteria for signs that are legible and proportional to the size of the lot and building on which the sign is to be placed, or to which it pertains;
- k. Regulate signs so that they are effective in performing the function of identifying and safely directing pedestrian and vehicular traffic to a destination;
- l. Preclude signs from conflicting with the principal permitted use of the lot and adjoining lots;
- m. Regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;
- n. 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;
- o. Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the village;
- p. Allow for traffic control devices without regulation consistent with national standards, because they promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and by notifying road users of regulations and providing nationally consistent warnings and guidance needed for the safe, uniform and efficient operation of all elements of the traffic stream and modes of travel, while regulating private signs to ensure that their size, location and other attributes do not impair the effectiveness of such traffic control devices;
- q. Protect property values by precluding, to the maximum extent possible, signs that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;
- r. Protect property values by ensuring that the size, number and appearance of signs are in harmony with buildings, neighborhoods, structures, and conforming signs in the area;

- s. Regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the village and that complements the natural surroundings in recognition of this village's reliance on its natural surroundings and beautification efforts as a source of economic advantage as an attractive place to live, work and visit;
 - t. Classify and categorize signs by type;
 - u. Not regulate signs more than necessary to accomplish the compelling and substantial governmental objectives described herein;
 - v. Enable the fair and consistent enforcement of these sign regulations;
 - w. Permit, regulate and encourage the use of signs with a scale, graphic character, and type of lighting compatible with buildings and uses in the area;
 - x. Establish regulations for the design, erection and maintenance of signs for the purpose of ensuring equitable access to graphic communication, while maintaining a harmonious and aesthetically pleasing visual environment within the village, recognizing that signs form an integral part of architectural building and site design and require equal attention in their design, placement and construction; and
 - y. Be considered the maximum standards allowed for signage, and regulate signs in a permissive manner so that any sign is not allowed unless expressly permitted and not expressly prohibited.
- (d) Case law. In accordance with the U.S. Supreme Court's cases on sign regulation, the regulations in this chapter are not intended to regulate or censor speech based on its content or viewpoint, but rather to regulate the secondary effects of speech that may adversely affect the village's substantial and compelling governmental interests in preserving scenic beauty and community aesthetics, and in vehicular and pedestrian safety in conformance with the First Amendment. These cases and their holdings include, but are not limited to:
- (1) Reed v. Town of Gilbert, 576 U.S. 155, 135 S. Ct. 2218, 192 L. Ed. 2d 236 (2015)
on the topic on noncommercial temporary signs;
 - (2) Metromedia, Inc. v. City of San Diego, 453 U.S. 490 (1981) on the topic of commercial signs and off-premise signs;

(3) *City of Ladue v. Gilleo*, 512 U.S. 43 (1994) on the topic of political protest signs in residential areas;

(4) *Linmark Assocs., Inc. v. Township of Willingboro*, 431 U.S. 85 (1977) on the topic of real estate signs in residential areas;

(5) *Burson v. Freeman*, 504 U.S. 191 (1992) on the topic of election signs near polling places;

(6) *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980) on the topic of regulation of commercial speech; and

(7) *City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984) on the topic of signs on public property.

~~(e)(b)~~ *Regulations strictly enforced.* It shall be unlawful for any persons to post, display, change or erect a sign or sign structure that requires a permit without first having obtained a permit therefor in accordance with article II. Signs or sign structures erected without a valid permit shall be deemed in violation of this chapter and it shall be mandatory to obtain the applicable permit, or remove the sign or sign structure immediately. All signs not expressly permitted by this chapter are strictly prohibited.

~~(f)(e)~~ *Substitution clause; Noncommercial message.* Notwithstanding any provision of this chapter ~~anything contained in subsections (a) and (b) above~~, to the contrary, any sign erected pursuant to the provisions of this chapter may, at the option of the applicant, contain either a noncommercial message unrelated to the business located on the premises where the sign is erected or a commercial message related to the business and located on the business premises. The noncommercial message may occupy the entire sign face or portion thereof. The sign face may be changed from commercial to noncommercial messages as frequently as desired by the owner of the sign, provided that the size and design criteria conform to the applicable portions of this chapter, the sign is allowed by this chapter, the sign conforms to the requirements of the applicable zoning designation and the appropriate permits are obtained. For the purposes of this sign code, noncommercial messages, by their very nature, shall never be deemed off-premises.

~~(g)(d)~~ *Severability.* ~~Should any section or provision of this chapter or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be~~

~~invalid, such decision shall not affect the validity of the remainder hereof as a whole or any part thereof other than the part to be declared invalid.~~

(1) *General intent.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter.

(2) *Specific intent.* The following subparagraphs expressing specific intent shall not be interpreted to limit the effect of paragraph 20-2(g)(1) above, or any other applicable severability provisions in the village code of ordinances or any adopting ordinance.

a. *Severability where less speech results.* The village council specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the village, whether by subjecting currently exempt signs to permitting or by some other means.

b. *Severability of provisions pertaining to prohibited signs.* The village council specifically intends that severability shall be applied to chapter 20, article III “Prohibited Signs,” so that each of the prohibited sign types listed in that article shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

c. *Severability of prohibition on off-premises signs.* If any or all of chapter 20 “Signs,” or any other provision of the village code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the village council specifically intends that the declaration shall not affect the prohibition on off-premises signs in chapter 20, article III “Prohibited Signs”.

Section 4: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Permits., Sec. 20-22. Application., to amend a cross-reference for internal consistency; providing that Sec. 20-22. Application. shall hereafter read as follows:

Sec. 20-22. - Application.

All plans and layouts for a sign shall be accompanied by an application which shall be filed with the planning, zoning and building director prior to the issuance of any sign permit. The application shall be on a form approved by the planning, zoning and building director or designee and shall describe and set forth the following:

- (1) — (4) [These subsections shall remain in full force and effect as previously enacted.]
- (5) A sketch, blueprint or similar presentation drawn to scale, showing the square footage of the sign area as well as the sign face, height of letters, colors, materials, lighting, equipment, if any, and the proposed sign's position relative to structures and/or property lines, showing all pertinent structural details, wind pressure requirements and display materials in accordance with all requirements of the building code. The seal of a Florida registered engineer or architect shall be affixed to any sketch, blueprint or similar presentation on signs over thirty (30) square feet in area. These requirements do not pertain to real estate signs (section 20-~~6870~~), remodeling contractor signs, temporary signs, other types of signs when and to the extent deemed unnecessary by the building official;
- (6) [This subsection shall remain in full force and effect as previously enacted.]

Section 5: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Permits., Sec. 20-25. Signs not requiring permit or permit fee., to amend sign permit exemption categories; providing that Sec. 20-25. Signs not requiring permit or permit fee. shall hereafter read as follows:

Sec. 20-25. - Signs not requiring permit or permit fee.

The following signs or types of signs shall be subject to and be in compliance with all applicable provisions of this chapter, but no permit application is required and the sign shall be exempt from the payment of any permit fees:

- (1) — (15) [These subsections shall remain in full force and effect as previously enacted.]
- (16) Temporary noncommercial signs associated with a definite event ~~Political campaign signs~~ (see section 20-54).
- (17) ~~Civic, religious and public service temporary~~ Directional signs which are displayed on the day of any regular noncommercial event-meeting, activity, event, or service for no

longer than a twenty-four (24) hour period. Such signs shall be limited to two (2) per ~~event-meeting, activity, event, or service~~ and may be no larger than four (4) square feet each; the top of such signs shall be no higher than three (3) feet from average grade.

Section 6: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article II. Permits. Sec. 20-27. Review of application by building officials; review of application by planning and zoning commission; issuance of permits and inspection. to address a scrivener's error and amend a cross-reference for internal consistency; providing that Sec. 20-27. Review of application by building officials; review of application by planning and zoning commission; issuance of permits and inspection. shall hereafter read as follows:

Sec. 20-27. - Review of application by building officials; review of application by planning and zoning commission; issuance of permits and inspection.

- (a) — (b) [These subsections shall remain in full force and effect as previously enacted.]
- (c) After submittal of a complete application and the requisite application fee(s), the following signs shall be reviewed and approved by the planning and zoning commission prior to issuance of a building permit by the building official:
 - (1) — (2) [These paragraphs shall remain in full force and effect as previously enacted.]
 - (3) Awning or marquee signs;
 - (4) Signs containing vertical or diagonal written copy;
 - (5) Signs engraved on a structure;
 - (6) Signs or buildings with multiple light bulbs, neon tubes or tubing, either interior or exterior, outlining, highlighting or drawing attention to the sign, building, or portion(s) thereof;
 - (7) Building identification signs;
 - (8) Changeable copy signs permitted pursuant to section 20-41(23)(24).
- (d) — (f) [These subsections shall remain in full force and effect as previously enacted.]

Section 7: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article III. Prohibited Signs., Sec. 20-41. List of prohibited signs., to

amend prohibited sign categories; providing that Sec. 20-41. List of prohibited signs. shall hereafter read as follows:

Sec. 20-41. - List of prohibited signs.

The following signs or types of signs shall be prohibited in the village. Should the prohibition of any sign or type of sign listed hereinbelow be declared by a court of competent jurisdiction to be an invalid regulation, such court decision shall not affect the validity of the prohibition against the remainder of signs listed herein, other than the prohibition for the specific sign(s) declared to be invalid:

- (1) — (10) [These subsections shall remain in full force and effect as previously enacted.]
- (11) Vehicular signs with a total sign area on any one (1) side of the vehicle in excess of the square footage specified below, (except as set forth at [subsections] c. and d. below) when the vehicle:
 - a. Meets the following criteria when parked in business districts: 1) is in excess of ten (10) square feet; 2) is parked for more than sixty (60) consecutive minutes within one hundred (100) feet of any street right-of-way; 3) is parked within one hundred (100) feet from the street right-of-way such that it is also visible from the street right-of-way; and 4) either it is not regularly used in the conduct of the business advertised on the vehicle or it is being utilized primarily for advertising purposes (i.e., box truck(s) with rotating signage on the side(s) or vehicle(s) with banner(s) or signage attached thereto).
 - b. Meets the following criteria when parked in residential districts: 1) is in excess of one hundred twenty (120) square feet; 2) is parked for more than sixty (60) consecutive minutes within one hundred (100) feet of any street right-of-way; 3) is parked within one hundred (100) feet from the street right-of-way such that it is also visible from the street right-of-way; and 4) either it is not regularly used in the conduct of the business advertised on the vehicle or it is being utilized primarily for advertising purposes (i.e., box truck(s) with rotating signage on the side(s) or vehicle(s) with banner(s) or signage attached thereto).
 - c. — d. [These paragraphs shall remain in full force and effect as previously enacted.]
- ~~(12) Signs which copy or imitate official signs or which purport to have official status;~~

- ~~(12)~~~~(13)~~ Signs which display any obscene or illegal written or graphic message;
- ~~(13)~~~~(14)~~ Signs which project into or over any dedicated public rights-of-way;
- ~~(14)~~~~(15)~~ Signs which obstruct or interfere with any door, fire exit, stairway, ladder or opening intended to provide light, air, ingress or egress for any building;
- ~~(15)~~~~(16)~~ Signs which are not properly maintained, or are in a dilapidated or hazardous condition. The basis of judgment for this determination shall be the specifications as set forth in the building code and/or in this chapter as applied by the building official;
- ~~(16)~~~~(17)~~ Signs which constitute a traffic safety or fire hazard by reason of size, location, coloring or method of illumination, obstruct vision of motorists or pedestrians; and which obstruct or detract from any official traffic control devices; or which copy or imitate official signs which purport to have official status, including utilization of ~~utilize the~~ words like "stop", "look", "danger", or any other word or phrase, symbol or character in such a manner as to interfere with, mislead or confuse traffic;
- ~~(17)~~~~(18)~~ Painted wall signs (lettering on walls shall be raised design);
- ~~(18)~~~~(19)~~ Balloons used for advertising purposes;
- ~~(19)~~~~(20)~~ Cube signs;
- ~~(20)~~~~(21)~~ Three-dimensional product display signs in excess of forty-two (42) square feet of apparent surface area;
- ~~(21)~~~~(22)~~ Pole signs (excepting those directional, real estate, ~~political campaign~~, temporary, (including temporary noncommercial signs associated with a definite event), public convenience, public utility, public warning, remodeling, contractor, and announcing signs which are permitted herein);
- ~~(22)~~~~(23)~~ Signs in excess of thirty-two (32) inches in width;
- ~~(23)~~~~(24)~~ Changeable copy signs, with the exception of the following which may be displayed as set forth herein:
- a. Gasoline price signs located on pump islands or on monument signs (see section 20-55);
 - b. Window signs (see sections 20-59 to 20-65);
 - c. Informational signage located on property zoned public ownership or utility (see section 20-57);
 - d. Menu pricing signs.

e. Movie theater marquee signs.

~~(24)(25)~~ Portable signs; except that portable signs which are also A-frame signs may be permitted if they conform with the regulations at section 20-75;

~~(25)(26)~~ Aircraft search lights promoting, advertising, or bringing attention to a business, enterprise, or event;

~~(26)(27)~~ Signs created by colored illumination or shadow casting on structures;

~~(27)(28)~~ Any other sign not specifically permitted by this chapter.

Section 8: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Permitted Signs., Sec. 20-54. Political campaign signs., rename the section to “Temporary noncommercial signs” and revise regulations to conform to recent legal precedent regarding signs and to provide internal consistency; providing that Sec. 20-54. Temporary noncommercial signs. shall hereafter read as follows:

Sec. 20-54. - Temporary noncommercial signs. Political campaign signs.

~~(a) Except for village owned property, political campaign signs may be displayed in any zoning district not more than thirty (30) days prior to an election. For village owned property, political campaign signs may be displayed not more than fourteen (14) days prior to an election and only at designated locations approved by the village. Political campaign signs displayed on village owned property are subject to the number, size, height and area regulations set forth at section 20-57. All other political campaign signs shall not exceed six (6) feet in height, six (6) feet in width, nor ten (10) square feet in area: and the display of such political campaign signs shall be limited to two (2) signs per candidate, ballot item, and/or referendum question, for each frontage.~~

~~(b) Each candidate, whether for a federal, state, county, or village office, shall make a good faith effort to remove all of his political campaign advertisements within ten (10) days after:~~

~~(1) Withdrawal of his candidacy;~~

~~(2) Having been eliminated as a candidate; or~~

~~(3) Being elected to office.~~

~~However, a candidate is not expected to remove those political campaign signs which are in the form of signs used by an outdoor advertising business as provided in Chapter 479,~~

~~Florida Statutes. The provisions herein do not apply to political campaign signs and advertisements placed on motor vehicles or to campaign messages designed to be worn by persons.~~

- ~~(c) If a political campaign advertisements are not removed within the specified period, the building official has the authority to remove such advertisements and may charge the candidate the actual cost for such removal. Funds collected for removing such advertisements shall be deposited to the general revenue of the political subdivision.~~
- ~~(d) No political campaign advertisements shall be erected, posted, painted, tacked, nailed, or otherwise displayed, placed, or located on or above any village, state, or county road right-of-way. Notwithstanding this general prohibition, certain portions of village-owned lands specifically designated by resolution of the village council for campaign signage placement may be utilized for political campaign signs as set forth above in subsection (a), but subject to further regulations at section 20-57.~~
- ~~(e) The village clerk before whom a candidate qualifies for office shall notify the candidate, in writing, of the provisions in this section.~~

(a) Temporary noncommercial signs associated with a definite event. Temporary signs associated with a definite event but which do not advertise or otherwise contain commercial speech may be displayed within the village, subject to the following provisions. By way of example: religious services for a particular holiday are one definite event; Multiple candidates running for political office as well as individual ballot questions related to a particular issue all occurring at the same election are each separate definite events; A birthday party is one definite event.

(1) Private property:

- a. Duration: Temporary noncommercial signs associated with a definite event may be displayed not more than thirty (30) days prior to the event and must be removed upon the event's conclusion or completion.
- b. Location: Any zoning district within the village, except for village-owned property.
- c. Number: Two (2) signs per lot frontage.
- d. Size: Shall not exceed six (6) feet in height, six (6) feet in width, nor ten (10) square feet in area.

e. *Design:* Shall be fastened to a stake or other device installed in the ground, and the temporary sign plus the stake or other device, when measured together, shall not exceed thirty-six (36) inches in height above ground level.

(2) *Village-owned property:*

a. *Duration:* Temporary noncommercial signs associated with a definite event may be displayed not more than fourteen (14) days prior to an event and must be removed upon the event's conclusion or completion.

b. *Location:* May only be displayed at designated locations approved by resolution of the village council for signage on village-owned property. Such signs shall be placed in a manner so they are visible to the passing vehicles but do not create any traffic hazard to vehicle or pedestrian movement along such thoroughfares.

c. *Number:* Number to be approved by resolution of the village council for signage on village-owned property.

d. *Size:* Shall not exceed three (3) square feet in area.

e. *Design & Installation:* Shall be fastened to a stake or other device installed in the ground, and the temporary sign plus the stake or other device, when measured together, shall not exceed thirty-six (36) inches in height above ground level. Stakes or other devices used to secure such signs shall not penetrate the ground deeper than 12 inches.

(3) Other than the signage placement for village-owned property as specified in subsection 20-54(a)(2) above, no temporary noncommercial event-related sign may be erected, posted, painted, tacked, nailed, or otherwise displayed, placed, or located on or above any village, state, or county road right-of-way.

(4) Persons are not expected to remove any temporary, noncommercial, definite-event associated signs which are in the form of signs used by an outdoor advertising business as provided in Chapter 479, Florida Statutes. The provisions herein do not apply to temporary noncommercial event-related signs and advertisements placed on motor vehicles or to noncommercial messages designed to be worn by persons.

(5) For regulations pertaining to temporary special event signs as permitted by the village, see section 20-71, village code.

(b) Temporary noncommercial signs not associated with a definite event. One (1) non-commercial speech temporary sign not associated with any definite event is permitted for each privately-owned lot or parcel within the village. There is no time duration for such non-commercial speech temporary sign. Such signs shall not exceed 18 by 24 inches in size and shall be mounted no higher than four (4) feet above the ground to the top of the sign. By way of example: signs generally expressing allegiance (or opposition) to a school or sports team; or signs generally expressing support (or opposition) to an ideological, social, familial or political concept are not associated with any definite event.

Section 9: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Permitted Signs., Sec. 20-57. Public ownership district (PO) or other village-owned property., to conform to recent legal precedent regarding signs and to provide internal consistency; providing that Sec. 20-57. Public ownership district (PO) or other village-owned property. shall hereafter read as follows:

Sec. 20-57. - Public ownership district (PO) or other village-owned property.

The following signs or types of signs are permitted in the public ownership district (PO) or installed on other village-owned property:

- (1) — (7) [These subsections shall remain in full force and effect as previously enacted.]
- (8) Temporary noncommercial signs associated with a definite event, as provided in Sec. 20-54.~~Political campaign signs displayed on village-owned property. Political campaign signs shall not exceed three (3) square feet in area. Political campaign signs shall be fastened to a stake or other device installed in the ground, and the political campaign sign plus the stake or other device, when measured together, shall not exceed thirty-six (36) inches in height above ground level. Display of political campaign signs shall be limited to one (1) such sign per candidate, ballot item, and/or referendum question, for each location approved by resolution of the village council for campaign signage on village-owned property. Such signs shall be placed in a manner so they are visible to the passing vehicles but do not create any traffic hazard to vehicle or pedestrian movement along such thoroughfares. Stakes or other devices used to secure such signs shall not penetrate the ground deeper than 12 inches.~~

Section 10: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Permitted Signs., Sec. 20-65. Off-site signs for civic organizations and houses of worship., to rename the Section to “Off-site entrance signs” and conform this section to recent legal precedent regarding signs and to provide internal consistency; providing that Sec. 20-65. Off-site entrance signs. shall hereafter read as follows:

Sec. 20-65. - Off-site entrance signs for ~~civic organizations and houses of worship~~.

The commission may approve and permit to be erected, entrance signs at or near the village limits, for the benefit of visitors, on which may be listed ~~institutional names~~ of noncommercial organizations, institutions, houses of worship and points of interest. ~~Civic~~ Such noncommercial organizations or institutions and houses of worship may be permitted to place their insignias thereon.

Section 11: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Permitted Signs., Sec. 20-71. Temporary special event signs., to conform to recent legal precedent regarding signs and to provide internal consistency; providing that Sec. 20-71. Temporary special event signs. shall hereafter read as follows:

Sec. 20-71. - Temporary special event signs.

Special event signs and directional signs of a temporary nature, calling attention to a special civic event, ~~or meeting,~~ or other similar activity, are permitted. Temporary special event signs under this section shall be displayed in conjunction with a village-approved special-events permit as set forth in section 16-12(a). The signs shall be located for the convenience of the traveling public, and shall be limited to thirty-two (32) square feet in area per sign, not to exceed seven (7) feet in height. Such signs may be displayed not more than thirty (30) days prior to the beginning date of the special event, and shall be removed by the person or agent responsible for such sign within three (3) days after the special event. Banners may be utilized for temporary special events but may not be displayed for more than seven (7) days. Banners may not be affixed to trees, utility poles, telephone poles, etc. ~~A permit is required, but no fee is assessed.~~

For regulations pertaining to temporary noncommercial signs associated with a definite event (non-village permitted), such as an election, holiday, or birthday, see section 20-54, village code.

Section 12: Chapter 20. Signs. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended at Article IV. Permitted Signs., Sec 20-73. Temporary seasonal sales signs., to conform to recent legal precedent regarding signs and to provide internal consistency; providing that Sec. 20-73. Temporary seasonal sales signs. shall hereafter read as follows:

Sec. 20-73. - Temporary seasonal sales signs.

Commercial signage of a temporary nature advertising or promoting the sale of seasonal items, which sale has received approval through a seasonal vendors permit as set forth in subsection 16-12(b), is permitted to be displayed fifteen (15) days prior to the event and thereafter only during the duration of the permitted sale, said temporary seasonal sales signage not to exceed seven (7) feet in height and thirty-two (32) square feet in area. Businesses fronting on two (2) or more public rights-of-way may be permitted a maximum of two (2) such signs. Businesses located on out-parcels, may, in addition to the above signage allowance, display an additional temporary seasonal sales sign facing the interior of the planned commercial development. ~~A permit is required, but no fee is assessed.~~

Section 13: Each and every other Section and Sub-section of Chapter 20. Signs. shall remain in full force and effect as previously enacted.

Section 14: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 15: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 16: Specific authority is hereby granted to codify this Ordinance.

FIRST READING this ____ day of September, 2021.

SECOND AND FINAL READING this ____ day of October, 2021.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK