

STATE OF MICHIGAN
IN THE 44TH CIRCUIT COURT FOR LIVINGSTON COUNTY

GENOA CHARTER TOWNSHIP

Plaintiff,

Case No. 21-31255-CZ

v.

Hon. L. Suzanne Geddis

CATHOLIC HEALTHCARE
INTERNATIONAL, INC.,

Defendant.

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**DEFENDANT’S RESPONSE IN OPPOSITION TO REQUEST
FOR PRELIMINARY INJUNCTION**

The Township is engaging in an undisguised frontal attack on religious freedom that violates the Michigan Constitution.¹ The Township and its officials have demonstrated throughout their course of conduct with Defendant Catholic Healthcare International, Inc. (“CHI”) a breathtaking and entirely unreasonable disregard for CHI’s fundamental rights to freedom of speech and religious worship under the Michigan Constitution. The Township’s actions demonstrate a discriminatory and unconstitutional application and enforcement of its Zoning

¹ CHI reserves the right to raise any and all federal claims and defenses in federal court pursuant to *England v. Louisiana Board of Medical Examiners*, 375 U.S. 411, 421-22 (1964).

Ordinance, which includes its Sign Ordinance, to strip CHI's private property of religious symbols and to take the extraordinary step of prohibiting CHI from using its property for religious worship. For the reasons set forth in Defendant's emergency motion to dissolve the *ex parte* TRO, and for those discussed below, the Court should deny the Township's request for a preliminary injunction and dissolve any injunction that prohibits CHI from displaying its religious symbols and using its property for religious worship as it has *for the past year*. The Michigan Constitution demands it.

STATEMENT OF FACTS²

CHI is a nonprofit corporation that is formally recognized as a private association of the faithful by the Catholic Diocese of Lansing, Michigan. CHI uses its property located within Genoa Township (CHI Property) for religious exercise, religious assembly, and religious expression. (Palazzolo Decl. ¶¶ 1-8, 10, Ex. 1).

The 40-acre CHI Property was acquired from the Catholic Diocese of Lansing. The diocese originally acquired the property with the reasonable expectation of building a church on it since places of religious worship are allowed on this property by the Zoning Ordinance.³ When CHI acquired the property, it too had a reasonable expectation of developing it into a prayer campus, which would include an adoration chapel (St. Pio Chapel), prayer trails, a small outdoor altar, and the display of religious images, icons, and symbols, including Stations of the Cross, religious

² CHI's statement of facts is supported by the sworn declarations (Exhibits 1 and 2) of Jere Palazzolo and Ann O'Reilly that were filed in support of Defendant's motion to dissolve the TRO. The statement of facts is further based upon the supplemental declarations of Ms. O'Reilly and Mr. Palazzolo and a copy of the Sign Standards in effect in September 2020, which are filed as Exhibits 6 through 8 respectively in support of this response.

³ The property is zoned Country Estate (CE), and "[c]hurches, temples and similar places of worship" are allowed by the Zoning Ordinance on property zoned CE after special land use approval by the Township. (Palazzolo Decl. ¶ 15, Ex. 1; *see also* VC ¶ 7).

statues, and the display of the image of Santa Maria delle Grazie (“Our Lady of Grace”). (Palazzolo Decl. ¶¶ 9, 11-14, 16-27, Ex. 1).

The current entrance to the CHI Property is the same entrance that has been used by CHI since it acquired the property in October 2020, and it was the entrance used prior to that. CHI applied for a permit with the Livingston County Road Commission to make some modifications to this entrance. However, CHI has not taken any action on this permit. That is, CHI has not constructed a field driveway. The entrance, which the Township has been aware of since well before CHI owned the property, has not changed nor has it been modified. Township officials have used this entrance to enter the property to conduct inspections and have never complained. (Palazzolo Decl. ¶ 90, Ex. 1; O’Reilly Decl. ¶ 31, Ex. 2; *see also* VC ¶ 18 [asserting that the entrance is currently “a commercial driveway”]). Moreover, dirt/gravel driveways at private residences located near the CHI Property have been used for people to “social gather” on these properties in numbers that far exceed the number of people who gather for religious worship on the CHI Property. (O’Reilly Suppl. Decl. ¶ 5, Ex. 6; *see also id.* ¶¶ 12-14 [setting forth evidence regarding entrance to CHI Property], Ex. 6).

Prior to the TRO, the Stations of the Cross, the image of Our Lady of Grace, and a small altar had been displayed on the property since September 2020, and they were used for prayer and worship. Neither wind nor rain nor any other factors caused any safety issues whatsoever. Time and experience refute any claim that the displays were unsafe. Moreover, the displays were not erected along any public right of way or thoroughfare. They could not be seen from the road; they were located in a wooded, isolated area. (Palazzolo Decl. ¶¶ 27, 78, Ex. 1; O’Reilly Decl. ¶¶ 14-15, Ex. 2; O’Reilly Suppl. Decl. ¶ 11, Ex. 6).

On or about October 9, 2020, the Township ordered CHI to remove the Stations of the Cross and the image of Our Lady of Grace, claiming that by displaying these religious symbols and using them for religious worship, CHI had now miraculously converted the secluded, wooded area where they were displayed into a “church or temple” under § 25.02 of the Zoning Ordinance, which defines “church or temple” as “any structure wherein persons regularly assemble for religious activity.” (See VC ¶ 24). To comply with the Township’s (unlawful) demand, CHI would have had to undertake a costly (in excess of \$20,000) and burdensome zoning process.⁴ The Township’s determination was unconstitutional and factually inaccurate, and the Township repeats these allegations in its Verified Compl. (*Id.*). There was no “structure” on the CHI Property “wherein” regular religious assemblies took place. Nor were any of these religious symbols “accessory structures” requiring Township approval. Consequently, CHI rejected the demand on the factual inaccuracies and constitutional grounds. (Palazzolo Decl. ¶¶ 29-32, Ex. 1).

As noted in correspondence from CHI’s counsel to the Township dated October 23, 2020 (in response to the October 9 demand), the Township’s Sign Ordinance

expressly *exempts* certain *permanent* signs (§ 16.03.11), it *exempts* real estate signs (§ 16.03.15), it *exempts all* flags (§ 16.03.03), and it *exempts all* temporary political signs (§ 16.03.14) “provided such signs are not placed within the public street right-of-way line in a manner that obstructs visibility.” CHI’s religious “sign” is not placed within the public street right-of-way—it is not even visible from the road—and thus creates no visibility issues whatsoever. . . . By permitting unlimited, temporary political signs (subject to the “public street right-of-way line” limitation), but prohibiting CHI’s temporary religious “sign,” the Township is engaging in a form of content-based discrimination [in violation of the law, citing

⁴ In October 2020, CHI did not have the benefit of the work that Boss Engineering had completed on its special land use application (which the Township denied). Consequently, at that point in time (October 2020), the cost would have exceeded \$20,000. The current demand by the Township to “appl[y] for and obtain[] all necessary permits, including land use permits and building permits for the structures” (VC, ¶ A(a.)), would cost CHI nearly \$10,000, as approximately \$15,000 of the work already completed (and paid for) in the first failed attempt could be used here. (Palazzolo Suppl. Decl. ¶¶ 4-6, Ex. 7).

Reed v. Town of Gilbert, 576 U.S. 155, 163-64 (2015) and *Int’l Outdoor, Inc. v. City of Troy*, 974 F.3d 690 (6th Cir. 2020)].

(VC ¶ 28, Ex. 5 [2020-10-23 - Ltr. from R. Muise]).⁵ Thus, the Township was using an unconstitutional Sign Ordinance to order the removal of CHI’s religious symbols. CHI, through counsel, properly rejected the Township’s efforts.⁶ (*Id.*). The Township remained mute until May 7, 2021.

The Township’s Zoning Ordinance broadly defines a “structure” as

[a]nything constructed or erected, the use of which requires location on ground or attachment to something having location on the ground. Structures include, *but are not limited to*, principal and accessory buildings, radio, television and cellular phone towers, decks, fences, privacy screens, walls, antennae, swimming pools, signs, gas or liquid storage facility, mobile homes, street directional or street name sign (sic) and billboards.

(VC ¶ 13). Thus, per the Zoning Ordinance, many things could be considered a “structure.” For example, a deer hunter’s tree stand fits this definition. A child’s playset fits this definition. A shepherd’s hook “constructed” with a flower pot fits this definition. A picnic table fits this definition. A birdhouse fits this definition. A *giant skeleton* displayed outside of a home fits this definition. (O’Reilly Suppl. Decl. ¶ 6, Ex. 6). Items that are currently on the property adjacent to CHI’s Property fit this definition, specifically including this “structure” used to field dress deer:



⁵ A copy of the Sign Ordinance in effect at the time CHI’s religious symbols were displayed in September 2020 is attached to this response as Exhibit 8.

⁶ Interestingly, the Township amended its Sign Ordinance on November 2, 2020. (*See* Ex. 4 [Article 16, Sign Standards]). But the constitutional defects remain. *See infra*.

(O'Reilly Suppl. Decl., ¶ 3, Ex. 6). This structure is larger than any of the Stations of the Cross that the Township stripped from the CHI Property pursuant to the *ex parte* TRO. (*Id.*).

The altar on the CHI Property, which the Township claims is a “structure” (VC ¶ 52), is approximately 33 inches tall, 56 1/4 inches long, and 24 inches wide. It is smaller than these picnic tables, which are currently located on the property adjacent to the CHI Property:



(O'Reilly Suppl. Decl. ¶¶ 3-4, Ex. 6; *see also id.* at ¶ 9 [Township picnic tables]). These picnic tables, unlike an altar used for religious worship, have no protection under the Michigan Constitution. Neither the deer hanging structure nor these picnic tables require permits. And they certainly do not require the burdensome and costly site plan review process the Township is imposing upon Defendant for its religious displays.

In order to develop the prayer campus and construct the St. Pio Chapel, CHI submitted an application for special land use. The application met all of the Zoning Ordinance requirements. A traffic study was not required for the development as the proposed use of the property did not meet the threshold traffic generated to require such a study. The Township's engineering consultants did not require a traffic impact study. The County Road Commission did not require a traffic impact study. And the Planning Commission did not require a traffic impact study. (Palazzolo Decl. ¶¶ 48-53, Ex. 1). Indeed, after the Latson Road interchange construction, traffic on Chilson Road decreased significantly to approximately 2,500 vehicles a day. Chilson Road is able to adequately accommodate the proposed development. (O'Reilly Decl. ¶¶ 26-27, Ex. 2). CHI's application was ultimately *approved* by the Township Planning Commission. CHI went

“above and beyond and addressed all of the concerns of the Planning Commission and the consultants.” (Palazzolo Decl. ¶¶ 59-60, Ex. 1). Nonetheless, the Township (unlawfully) *denied* CHI’s application.⁷ (Palazzolo Decl. ¶¶ 61-67, Ex. 2).

As noted in CHI’s application, there are only two events all year that CHI intends to hold on the CHI property that may require an increase in parking above and beyond the 39 parking spaces.⁸ To accommodate this, CHI proposed using the greenspace on their property for overflow parking. (Palazzolo Decl., ¶ 57, Ex. 1; Ltr. to Twp., Ex. 3). The Township denied this request even though (1) the Township permits private residences in the very same area of the Township to hold events that *far* exceed the number of people who will be visiting the CHI property for these two *special* events—St. Pio’s Feast Day (September 23rd) and St. Pio’s Birthday (May 25th), (2) the Township would permit a *secular* park on this property, which, given the property area and a comparable park property within the Township, could have over 200 parking spaces, and (3) the Township’s own “Assembly Ordinance” permits assemblies up to 1,000 people, and once that threshold is met, the host could apply for a special permit.⁹ CHI’s religious assembly that was scheduled for September 23, 2021 (and its other special event) would have far less people attending. (O’Reilly Decl., ¶¶ 20-24, Ex. 2; O’Reilly Suppl. Decl. ¶ 5, Ex. 6). Finally, CHI went above and beyond the legal requirements by proposing least restrictive measures to address traffic for these two *special* events by offering to provide a shuttle service or “staged/multiple receptions.” (Palazzolo Decl., ¶ 57, Ex. 2; Ltr. to Twp., Ex. 3). The Township rejected these measures and

⁷ If the Township Board required a traffic impact study, it could have tabled the matter until one was conducted. But it didn’t do that. Rather, it simply denied CHI’s application *in its entirety*.

⁸ The Township was aware of these events at least since February 2021. (Ltr. to Twp., Ex. 3).

⁹ See <https://www.genoa.org/government/ordinances/ordinance-assembly> (“An ordinance to license, regulate and control, in the interest of the public health, safety and welfare, outdoor assemblies of persons in excess of 1,000 in number, to provide penalties for violations thereof and to repeal all ordinances or parts of ordinances inconsistent therewith.”).

denied the application. Indeed, it again rejected this least restrictive alternative by seeking and obtaining the *ex parte* TRO and pursuing a preliminary injunction even though these measures would mitigate traffic concerns for these special events.

Following the Township’s denial of CHI’s special land use application, the Township, via a letter dated May 7, 2021, demanded that CHI remove the Stations of the Cross and the display of the image of Our Lady of Grace from the CHI property by June 4, 2021. In the May 7, 2021 letter from the Township—which was the ***last*** demand from the Township regarding the religious displays ***before*** it filed its *Verified Complaint and ex parte motion for a TRO*—the Township expressly stated the following:

After denial of the proposed project at 3280 Chilson road, the signs/temporary signs are in violation of the sign ordinance and will need to be removed. Also, the structure/grotto sign does not have a permit and will also need to be removed. . . .

Please have the signs and accessory structure removed by June 4, 2021.

(Palazzolo Suppl. Decl., ¶¶ 2-3, Ex. A [emphasis added], Ex. 7). This unlawful demand prompted CHI to file a federal civil rights lawsuit on June 2, 2021. (*Id.* ¶ 2, Ex. 7).

The displays did not undermine any of the Township’s stated objectives for restricting signage. The displays were not “distracting to motorists and pedestrians.” They did not “create[] a traffic hazard” nor did they “reduce[] the effectiveness of signs needed to direct and warn the public.” They did not “overwhelm the senses, impair sightlines and vistas, create confusion, reduce desired uniform traffic flow, create potential for accidents, affect the tranquility of residential areas, impair aesthetics [or] degrade the quality of a community.” (Sign Standards, Ex. 4).¹⁰ As noted, the religious displays were not placed within the public street right-of-way—they

¹⁰ These are the “sign standards” that were referenced in (and portions of which were attached to) the May 7, 2021, letter sent by the Township demanding removal of the religious displays by June 4, 2021. Also attached to this letter was a portion of the “accessory structure ordinance.” The

were not even visible from the road—and thus created no visibility or public safety issues whatsoever. And they created no visual blight. (Palazzolo Decl. ¶¶ 81-84, Ex. 1). And, as argued further below, the Sign Ordinance (like the version in effect in October 2020) is unconstitutional.

Moreover, § 11.04.01(b) (Accessory Buildings, Structures and Uses in General) of the Township’s Zoning Ordinance, provides as follows: “Permit Required: Any accessory *building* shall require a land use permit, except (1) accessory building one hundred twenty (120) square feet or less *shall be allowed without a land use permit.*” (Zoning Ordinance § 11.04.01 [emphasis added]; see Palazzolo Suppl. Decl. ¶ 2, Ex. A [May 7, 2021 Ltr. with attachments], Ex. 7). Per the language of the ordinance, this is the *floor plan* of a building (*i.e.*, a structure).¹¹ The “floor plan” of the image of Our Lady of Grace is approximately 75 square feet. Moreover, this religious display could easily be reduced in height by reducing or removing the stone base. The image with the existing frame is 8 feet, 2 inches tall (without the base) and 9 feet wide (or just over 72 square feet if measured on its face as opposed to its floor plan). The image without the frame is 6 feet by 6 feet (or only 36 square feet). Demanding removal of the display of this image (particularly in its entirety) as an “accessory structure” was contrary to the Zoning Ordinance (and the Michigan Constitution, as argued below). And ordering it or any of the other religious displays to be removed as signs was also improper because, *inter alia*, the sign ordinance facially and as applied violates the Michigan Constitution, as argued below.

In their filings in this Court, the Township affirms its position that the wooded area of the CHI property (the “grotto”) “is considered a ‘church or temple’ because a grotto is typically a structure that is erected where people worship.” (VC ¶ 24). Therefore, according to the Township,

Township specifically relies upon this letter in its Verified Complaint at ¶ 45, Exhibit 13.

¹¹ “The word ‘building’ includes the word ‘structure.’” (Zoning Ordinance, § 25.01(e)).

the small altar, the Stations of the Cross, and the image of Our Lady of Grace were “accessory structure[s] because they are usually incidental to a church.” (*Id.*). But of course, the wooded area, which the Township asserts is a “church or temple” because it is a place where people worship, is not *physically a structure* that is a “church or temple.” Thus, per the Township, these religious displays were now “accessory structures without a principal structure.” (*Id.*, ¶ 70). And the Township advances this argument after it unlawfully denied CHI’s request to construct the modest “principal structure” (the St. Pio Chapel)—a denial that is a central aspect of CHI’s challenge in its federal case.¹² The Township further asserts that CHI’s “proposed use of the Property for an organized gathering on September 23, 2021, is a violation of the Genoa Township Zoning Ordinance” (*id.*, ¶ 79), relying on incorrect information that CHI has acted upon the County Road Commission permit.¹³ Consequently, the Township has improperly affected the removal of the small altar, Stations of the Cross, and the image of Our Lady of Grace¹⁴ and prevented CHI from using its property for religious worship by pursuing this matter with the Court. The preliminary injunction must be denied and CHI’s right to religious freedom restored by permitting the return of these religious symbols to the property and permitting CHI to once again use its private property for religious worship.

¹² Per the Township, the “necessary permits, including land use permits and building permits for the structures” (“Verified Complaint” ¶ A) necessarily require the approval of CHI’s special land use application to construct the St. Pio Chapel, which, of course, the Township unlawfully denied. Because of this denial, the Township has stripped the CHI Property of any religious symbols, and it is seeking to prevent CHI from using the property for religious worship.

¹³ Under the Township’s logic, ten hunters in a hunting party could enter the CHI Property with vehicles to hunt together, but ten Catholics could not enter the CHI Property with vehicles to pray together, as the latter is apparently an unlawful “social gathering” even though protected by the Michigan Constitution.

¹⁴ As noted from the beginning of this dispute, the base of the image, which is comprised of loose, stacked stones, could be easily modified to lower the image several feet.

ARGUMENT

I. The Requested Injunction Is Overbroad, Vague, and Unconstitutional.

Through the unlawful enforcement of its Zoning Ordinance, the Township is favoring secular “structures” over religious symbols. It is favoring secular “gatherings” over religious “gatherings.” In short, it is seeking to have this Court continue to enforce an overbroad and vague injunction based on the enforcement of the Township’s Zoning Ordinance in a manner that violates CHI’s fundamental rights protected by the Michigan Constitution. As the U.S. Supreme Court noted about restrictions in the First Amendment context (law that is applicable to the Michigan Constitution’s protection of the right to free speech), “[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms.” *NAACP v. Button*, 371 U.S. 415, 438 (1963); *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) (“[W]here a vague statute abuts upon sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of those freedoms.”). Indeed, why remove the altar? Why remove the Stations of the Cross? Why not simply inspect the image of Our Lady of Grace? The Court should end this broad, frontal assault on religious freedom.

A. Right to Free Speech.

The TRO and any subsequent injunction in this case plainly violate the right to free speech protected by the Michigan Constitution. The Michigan Constitution provides that “[e]very person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.” Const. 1963, art. 1, § 5. The rights of free speech under the Michigan and federal constitutions are coterminous. *Woodland v. Mich. Citizens Lobby*, 423 Mich. 188, 202, 378 N.W.2d 337 (1985). Therefore, federal authority construing the First Amendment may be

considered in interpreting Michigan's guarantee of free speech. *Mich. Up & Out of Poverty Now Coalition v. Mich.*, 210 Mich. App. 162, 168-169, 533 N.W.2d 339 (1995); *In re Contempt of Dudzinski*, 257 Mich. App. 96, 100, 667 N.W.2d 68, 71–72 (2003). Accordingly, CHI will rely on federal authority construing the First Amendment to advance its claims under Michigan's guarantee of free speech, as CHI is expressly reserving its right to raise any and all federal claims and defenses in federal court pursuant to *England v. Louisiana Board of Medical Examiners*, 375 U.S. 411, 421-22 (1964).

“Religious worship” is a “form[] of speech and association protected by the First Amendment,” *Widmar v. Vincent*, 454 U.S. 263, 269 (1981), and thus Michigan's guarantee of free speech. And so too is the display of religious symbols. *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995) (“Respondents’ religious display in Capitol Square was private expression. Our precedent establishes that private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression.”); *Satawa v. Macomb Cty. Rd. Comm’n*, 689 F.3d 506, 529 (6th Cir. 2012) (observing that “[t]he crèche . . . is private religious expression, ‘fully protected under the Free Speech Clause’”) (quoting *Pinette*, 515 U.S. at 760).

CHI's prayer, worship, religious assembly for purposes of prayer and worship, and the use of religious symbols are all forms of expression protected by the Michigan Constitution. The Township seeks to restrict CHI's right to freedom of speech through the unlawful enforcement of its Zoning Ordinance, including its Sign Ordinance, which is part of the zoning regulation.

The Township's enforcement of its Zoning Ordinance to restrict CHI's right to freedom of speech triggers constitutional protection. *Reed v. Town of Gilbert*, 576 U.S. 155 (2015). Moreover, the ordinance operates as a prior restraint on speech as it requires CHI to obtain a

permit before being allowed to engage in its religious expression. *See Alexander v. United States*, 509 U.S. 544, 550 (1993) (“The term ‘prior restraint’ is used to describe administrative and judicial orders forbidding certain communications when issued in advance of the time that such communications are to occur.”) (internal quotations and citation omitted); *Int’l Outdoor, Inc. v. City of Troy*, 974 F.3d 690, 698 (6th Cir. 2020) (“The original City of Troy Sign Ordinance *imposed a prior restraint* because the right to display a sign that did not come within an exception as a flag or as a ‘temporary sign’ *depended on obtaining either a permit from the Troy Zoning Administrator or a variance from the Troy Building Code Board of Appeals.*”) (emphasis added). As stated by the Supreme Court, “[a]ny system of prior restraints of expression comes to this Court bearing a *heavy presumption against its constitutional validity.*” *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963) (collecting cases) (emphasis added). The Township cannot overcome this heavy presumption in this case.

Moreover, the Zoning Ordinance, facially and as applied to punish CHI’s religious expression, is content based, thereby triggering strict scrutiny. As stated by the Supreme Court, “[c]ontent-based laws . . . are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Reed*, 576 U.S. at 163. And “[a] law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of ‘animus toward the ideas contained’ in the regulated speech.” *Id.* at 165.

In *International Outdoor, Inc. v. City of Troy*, 974 F.3d 690, 707-08 (6th Cir. 2020), the Sixth Circuit concluded, in relevant part, as follows:

[T]he Sign Ordinance imposed a content-based restriction by exempting certain types of messages from the permitting requirements, such as flags and “temporary signs” that included on- and off-premises real-estate signs, “garage, estate or yard sale” signs, “non-commercial signs[,]” “[p]olitical signs[,]” “holiday or other

seasonal signs[,]” and “constructions signs” Thus, the ordinance regulated both commercial and non-commercial speech but treated them differently, requiring the City of Troy to consider the content of the message before deciding which treatment it should be afforded. But for content-based restrictions on speech, strict and not intermediate scrutiny applies pursuant to *Reed*

The Township’s Sign Ordinance as enforced in the May 7, 2021 letter, expressly *exempts* by way of its definition of a “sign” the following: “Legal notices,” “Decorative displays in connection with a recognized holiday, provided that the display doesn’t exceed 75 days” (an arbitrary number);¹⁵ “Signs required by law”; and “Flags of any country, state, municipality, university, college or school.” (Sign Standards, § 16.02.20, Ex. 4).¹⁶ By its own terms, the Township’s Sign Ordinance exempts from its permit and fee requirement “Historical marker[s],” “Parking lot signs,” “Street address signs,” and “Temporary signs.” (*Id.* § 16.03.02); *see also City of Ladue v. Gilleo*, 512 U.S. 43, 52 (1994) (“Exemptions from an otherwise legitimate regulation . . . may diminish the credibility of the government’s rationale for restricting speech in the first place.”); (*see* O’Reilly Suppl. Decl. ¶¶ 6-8 [depicting signs/holiday decoration], Ex. 6).

Moreover, because CHI’s “signs” are for the purpose of religious worship, the Township is imposing upon CHI the additional burden of having to go through an extensive, costly (in excess of \$20,000 in total, *see* n.4 *supra*), and burdensome zoning process—treating the displays as a “church or temple” or an “accessory structure.” That is, because religious worship is involved (as opposed to hanging and field dressing a deer), CHI’s religious displays have now converted the wooded area of the CHI property into a “church or temple,” thereby requiring special and costly

¹⁵ Under this exemption, CHI could assemble and disassemble the religious displays every 75 days. Why isn’t the St. Pio Feast Day Celebration a recognized holiday, thus permitting CHI’s displays under this exemption? (*See* O’Reilly Decl. ¶ 24, Ex. 2). This further illustrates the fact that the ordinance is content based and unconstitutional.

¹⁶ As noted, the religious symbols were originally displayed under the Sign Standards set forth in Exhibit 8. (*See* VC ¶ 28, Ex. 5 [2020-10-23 - Ltr. from R. Muise]).

approvals. In the final analysis, the ordinance is content based on its face and as applied. *See Telescope Media Grp. v. Lucero*, 936 F.3d 740, 754 (8th Cir. 2019) (“In an as-applied challenge . . . , the focus of the strict-scrutiny test is on the actual speech being regulated, rather than how the law might affect others who are not before the court.”). It cannot satisfy strict scrutiny. *See infra*.

CHI’s religious displays satisfy all of the “interests” asserted by the Township for regulating signage. Thus, the Township does not have a compelling interest in ordering the removal of these symbols from the CHI Property or imposing additional costs and burdens for displaying them. And even if the Zoning Ordinance and its application here were content neutral, the restrictions “still must be narrowly tailored to serve a significant governmental interest.” *McCullen v. Coakley*, 573 U.S. 464, 486 (2014). And “[t]o meet the requirement of narrow tailoring, the government must demonstrate that alternative measures that burden substantially less speech would fail to achieve the government’s interests, not simply that the chosen route is easier.”¹⁷ *Id.* at 495 (emphasis added). Here, the Township does not have a “substantial interest” in ordering the removal of the religious displays or imposing additional costs and burdens for displaying them. The Court should deny the preliminary injunction and restore CHI’s right to free speech by ordering the return of the religious symbols to CHI’s property.

B. Right to Free Exercise of Religion.

The TRO and any subsequent injunction in this case plainly violate the right to free exercise of religion protected by the Michigan Constitution. “The first sentence of article I, section 4 [of the Michigan Constitution] guarantees the free exercise of religion.” *Alexander v. Bartlett*, 14 Mich. App. 177, 181, 165 N.W.2d 445, 448 (1968). “The Michigan Constitution is at least as

¹⁷ The Township could have simply requested an inspection of the mural wall as a least restrictive means of satisfying its safety interest. And that could still be accomplished, under the Court’s supervision, upon ordering the return of the religious symbols.

protective of religious liberty as the United States Constitution.” *People v. Dejonge*, 442 Mich. 266, 273 n.9, 501 N.W.2d 127, 131 (1993). As noted by the Michigan Court of Appeals, courts “apply the compelling state interest test (strict scrutiny) to challenges under the free exercise language in Const. 1963, art. I, § 4, *regardless of whether the statute at issue is generally applicable and religion-neutral.*” *Champion v. Sec’y of State*, 281 Mich. App. 307, 314, 761 N.W.2d 747, 753 (2008) (emphasis added); *see id.* at 314 n.5 (noting also that “under Michigan and federal constitutional analysis, strict scrutiny is applicable in hybrid cases, *i.e.*, cases in which a free exercise claim is made in conjunction with other constitutional protections such as freedom of speech”). Here, there can be no question that the enforcement of the Township’s Zoning Ordinance—the basis for the TRO and preliminary injunction request—infringes CHI’s right to religious exercise (and free speech), thereby requiring the application of strict scrutiny, the most demanding test known to constitutional law. For the reasons argued above and further below, the application of the Township’s Zoning Ordinance has restricted (indeed, it is prohibiting) CHI’s free exercise of religion *and* religious expression, and these restrictions cannot survive strict scrutiny. And the question is not whether the Township has a compelling interest in enforcing its Zoning Ordinance generally, but whether it has such an interest in enforcing it against CHI under the circumstances of this case—circumstances where secular exemptions abound. Accordingly, the Zoning Ordinance is also *not* generally applicable as a result of these exemptions, thus providing another basis for triggering strict scrutiny. *Fulton v. City of Phila.*, 141 S. Ct. 1868, 1877 (2021) (“A law also lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.”). For example, many people (and the Township itself) within the Township have patio tables or picnic tables that are the same size or larger than the small altar that was located on the CHI

Property. There is no special or burdensome permit requirement to have these patio or picnic tables on private property. Birdhouses larger than the Stations of the Cross are allowed in the Township without the need for a special or burdensome permit process. Giant skeletons can be displayed without the need for a special or burdensome permit process. At times, more people will attend a graduation party, a football party, or other allowed secular events in the Township, including such events held on property zoned CE, than will visit the CHI Property during special events or regular use. Many large-scale events (which are allowed up to 1,000 people) are held at private residences located near the CHI Property. For example, on September 18, 2021, a “Family Fun Day” was held on property located near the CHI Property. There were approximately 100 people or more that attended this event, and there were numerous picnic tables. The Township did not require any special permits (nor a special land use application) for this event. In fact, secular events with up to 1,000 people have been held at residences located near the CHI Property without the Township requiring any permits or other official approvals for the events. (O’Reilly Decl. ¶¶ 8, 19-23, Ex. 2). The Township operates a park just 3 miles east of the CHI Property. It is on a parcel of land that is smaller (38 acres) than the CHI Property (40 acres). It includes two playgrounds, a water misting feature, a sled hill, a .66-mile walking path, two regulation sized athletic fields, a swing set for all ages, picnic tables, and a pavilion with accessible heated bathrooms and warming area. It is supported by more than 200 parking spaces. (O’Reilly Decl. ¶ 4, Ex. 2). Consequently, this very park with its *200 plus parking spaces*—whether constructed by the Township or as a “private non-commercial park . . . owned and maintained by a home-owners association”—could be constructed *on the CHI Property* without requiring any special land use approval as it is a permitted use under the Zoning Ordinance. (Zoning Ordinance, § 3.03, Ex. 5). However, CHI’s religious “park” was denied by the Township, and because it was denied, the

Township has now affected the removal of religious symbols from the CHI Property (because, according to the Township, they are “being maintained on the Property without an accompanying principal structure”), and the Township has prevented the property from being used for religious gatherings and worship. As stated by the Supreme Court, “It is established in our strict scrutiny jurisprudence that a law cannot be regarded as protecting an interest ‘of the highest order’ . . . when it leaves appreciable damage to that supposedly vital interest unprohibited.” *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 547 (1993) (internal quotations and citation omitted). The Township’s restrictions, enforced by the TRO, do not satisfy this demanding test.

II. The Township’s Request for Equitable Relief Is Barred by Laches.

Despite the fact that CHI has been litigating against the Township since June 2, 2021 (with the same counsel), the Township moved this Court for the TRO *ex parte*, and it did so specifically to halt a peaceful, religious assembly scheduled for September 23, 2021, on the CHI property—a religious assembly that the Township was aware of since at least February 2021. (Ltr. to Twp., Ex. 3). And the religious symbols that the Township sought to remove had been on display since September 2020 (a year ago) without any incident whatsoever. Based on the principle of laches alone this Court should dissolve the TRO, deny any further injunctive relief, and return to the *status quo ante* in order to protect CHI’s fundamental constitutional rights.

“[P]rejudice occasioned by the delay is an essential element of laches.” *Rachmainoff v. Sym Dev. Corp.*, No. 257394, 2006 Mich. App. LEXIS 330, at *21 (Ct. App. Feb. 9, 2006). As stated by the Michigan Court of Appeals, “[u]nlike the statute of limitations, which is concerned with the time of the delay, the concern of laches is the effect of or prejudice caused by the delay. A passage of time, prejudice to defendant, and lack of diligence by the plaintiff are essential prerequisites to invoking laches.” *Torakis v. Torakis*, 194 Mich. App. 201, 205, 486 N.W.2d 107,

110 (1992) (internal citation omitted). As noted, the religious displays had been on display for a year. To order them removed just three days before an event that had been scheduled and planned for many months caused prejudice and irreparable harm to CHI, and this irreparable harm continues. Meanwhile, permitting the *status quo ante* until final resolution of this case will cause no legitimate harm to the Township or the public interest, as discussed below. Indeed, not permitting the *status quo ante* (i.e., the return of the displays and the use of the CHI Property for religious assemblies) will cause irreparable harm to CHI, and it will harm the public interest. *See infra*. As the Township concedes, CHI has been using this property for religious worship for nearly a year. Moreover, because neighbors have complained (falsely) to the Township about “60-80 cars” parked along Chilson Road during one event, CHI sought to avoid any such (false) claims in the future by shuttling people to the property. Now, however, the Township asserts that CHI is not permitted to do that either. And this latest assertion is based on a falsehood. The current entrance to the CHI property is the same entrance that has been used by CHI since it acquired the property in October 2020, and it was the entrance used prior to that. CHI applied for a permit with the County Road Commission to make some changes or modifications to this entrance. However, CHI has not taken any action on this permit. That is, CHI has not constructed a field driveway. The entrance, which the Township has been aware of since well before CHI owned the property, has not changed nor has it been modified.¹⁸ (See also VC ¶ 18 [asserting that the current entrance is a “commercial driveway” and thus not a “field driveway”]). The injunction should be denied.

¹⁸ The filing of the Verified Complaint was the first notice CHI received about this latest and unconstitutionally vague “social gatherings” restriction that is based upon a permit that CHI never acted upon.

III. Irreparable Harm to CHI.

“The loss of First Amendment freedoms [and thus the guarantee of free speech under the Michigan Constitution], for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir. 2001) (“[I]f it is found that a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated.”); *see, e.g.*, Palazzolo Suppl. Decl. ¶¶ 7, 8, 10, Ex. 7).

IV. The Public Interest Favors Protecting CHI’s Constitutional Rights.

Upholding the unlawful enforcement of the Township’s Zoning Ordinance in this case is contrary to the public interest. “[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.” *G & V Lounge, Inc. v. Mich. Liquor Control Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994). “[N]either the Government nor the public generally can claim an interest in the enforcement of an unconstitutional law.” *ACLU v. Ashcroft*, 322 F.3d 240, 251 n.11 (3d Cir. 2003); *K.A. v. Pocono Mt. Sch. Dist.*, 710 F.3d 99, 114 (3d Cir. 2013) (“[T]he enforcement of an unconstitutional law vindicates no public interest.”); *Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013) (“[E]nforcement of an unconstitutional law is always contrary to the public interest.”).

CONCLUSION

The Court should deny the Township’s request for a preliminary injunction, formally dissolve the TRO, and issue an order returning CHI’s property to the *status quo ante*, thus permitting the return of the religious displays and religious assembly, expression, and worship to CHI’s private property. Justice, and the Michigan Constitution, demand it.

AMERICAN FREEDOM LAW CENTER



Robert J. Muise, Esq. (P62849)

Kate Oliveri, Esq. (P79932)

Counsel for Defendant CHI

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2021, a copy of the foregoing motion and accompanying brief were submitted to, and thus filed with, the Court electronically via email to wclerks@livgov.com. Counsel for Plaintiff were copied on this email.

AMERICAN FREEDOM LAW CENTER

A handwritten signature in black ink, appearing to be 'R. Muise', written over a horizontal line.

Robert J. Muise, Esq. (P62849)

EXHIBIT 6

STATE OF MICHIGAN
IN THE 44TH CIRCUIT COURT FOR LIVINGSTON COUNTY

GENOA CHARTER TOWNSHIP

Plaintiff,

Case No. 21-31255-CZ

v.

Hon. L. Suzanne Geddis

CATHOLIC HEALTHCARE
INTERNATIONAL, INC.,

Defendant.

SUPPLEMENTAL DECLARATION OF ANN O'REILLY

I, Ann O'Reilly, make this declaration based on my personal knowledge and upon information and belief where noted.

1. I am an adult citizen of the United States, a Catholic, and the Community Outreach Coordinator for Catholic Healthcare International, Inc. ("CHI"). I have worked closely with Jere Palazzolo on the development and maintenance of the property owned by CHI that is located on Chilson Road within Genoa Township ("Township") (hereinafter "CHI Property").

2. I am a resident of the Township, and I have lived in the Township for nearly 30 years. Consequently, I have personal knowledge of the various items, locations, and events within the Township that are set forth in this declaration.

3. Below are true and accurate photographs I took of the property adjacent to the CHI Property. These pictures were taken within the past week. Upon information and belief, these items have been on this adjacent property for as long as CHI has owned its property.



4. The first two pictures depict a hanger that was constructed to field dress deer. This structure is larger than any of the Stations of Cross that CHI had displayed on its property. The second two pictures are of picnic tables on the adjacent property. These picnic tables are larger than the altar that was displayed on the CHI Property. The altar is approximately 33 inches tall, 56 1/4 inches long, and 24 inches wide.

5. There are residences located near the CHI Property, some of which have dirt/gravel driveways. Upon information and belief and based on my personal observations, large secular events, such as graduation parties, football parties, and other social gatherings, are permitted on these residential properties without requiring any special permits unless the assembly exceeds 1,000 attendees. Most often, the attendees to these secular events (whether the driveway is paved

or dirt/gravel) park their vehicles on the grassy parts of the property. Many of these secular events have had far more people attend than will attend any of CHI's special events on its property, and these special events (St. Pio's Feast Day event and St. Pio's Birthday event) are the largest assemblies on the CHI property. Typically, there are less than 50 people who regularly will enter the property within a given week. This is not a high traffic volume site.

6. Below is a true and accurate photograph of a skeleton that stands approximately 10 to 12 feet high and that is currently located on the property of a private residence on Crooked Lake Road less than a quarter of a mile from the CHI Property.



7. Below is a true and accurate photograph of a large "For Sale" sign that is currently posted in the ground with three 4x4's. This sign, which is larger than any Station of the Cross, is visible from the public right of way, and it is located along Grand River Road in Genoa Township.



8. Below is a true and accurate photograph of a large “For Sale” sign that is currently posted in the ground with three 4x4’s. This sign, which is larger than any Station of the Cross, is visible from the public right of way, and it is located on the corner of Chilson Road and Crooked Lake Road. It is approximately 1/10 of a mile from the CHI Property.



9. Below are true and correct photographs of picnic tables that are currently located at Genoa Township Park. These picnic tables are larger than the altar that was located on the CHI Property.



10. I assisted with the removal of the altar, the Stations of the Cross, and the display of the image of Santa Maria delle Grazie (“Our Lady of Grace”) pursuant to the TRO that was requested by Genoa Township and granted by the court. I was able to assemble a team on Saturday, September 25, 2021, to accomplish the removal (the weather cooperated). Below is a true and correct photograph of the removal of the altar, which displays the famous words of St. Pio, “Pray, Hope, Don’t Worry.”



11. Below are true and correct photographs taken on September 25, 2021, showing the areas where the Stations of the Cross, the altar, and the display of the image of Our Lady of Grace previously appeared, thus demonstrating that these religious symbols have been removed pursuant to the TRO that was requested by Genoa Township and granted by the court.



12. Below is a true, accurate, and current photograph of the entrance to the CHI Property. It has been the same entrance since CHI first acquired the property in October 2020, and it was in use prior to that.



13. As the photograph above and the true, accurate, and current photograph below of the shoulder leading to the CHI Property entrance illustrate, the area to the front of the entrance and along the shoulder is large enough for a shuttle bus or van to safely pull off the road and unload people who want to enter the property on foot to pray and worship.




14. The driveway to Fillmore Park, which is located in Genoa Township, is a dirt driveway that is similar to the entrance to the CHI Property. A true, accurate, and current photograph of the Fillmore Park driveway is depicted below. Upon information and belief, Fillmore Park recently held a grand opening that was attended by many people. And the park has posted trail signs throughout.



15. The information contained in my declaration submitted as Exhibit 2 in this matter (*i.e.*, the declaration that was submitted in the federal litigation and in support of CHI's motion to dissolve the TRO) is true to the best of my information, knowledge, and belief.

I declare under the penalty of perjury that the foregoing is true to the best of my information, knowledge, and belief.

Executed this 26th day of September 2021.



Ann O'Reilly

EXHIBIT 7

STATE OF MICHIGAN
IN THE 44TH CIRCUIT COURT FOR LIVINGSTON COUNTY

GENOA CHARTER TOWNSHIP

Plaintiff,

Case No. 21-31255-CZ

v.

Hon. L. Suzanne Geddis

CATHOLIC HEALTHCARE
INTERNATIONAL, INC.,

Defendant.

SUPPLEMENTAL DECLARATION OF JERE PALAZZOLO

I, Jere Palazzolo, make this declaration based on my personal knowledge and upon information and belief where noted.

1. I am an adult citizen of the United States, and the Chairman, President, and Director of Catholic Healthcare International, Inc. (“CHI”).

2. Attached to this declaration as Exhibit A is a true and correct copy of the letter with attached “sign standards and accessory structure ordinance” dated May 7, 2021, that was sent from Sharon Stone, Ordinance Officer, Genoa Township to CHI. I received this letter on or about May 19, 2021. The letter demanded that “the signs and accessory structures [be] removed by June 4, 2021.” This demand prompted me and CHI to file our federal civil rights lawsuit in the U.S. District Court for the Eastern District of Michigan on June 2, 2021. This lawsuit is captioned, *Catholic Healthcare International, Inc. v. Genoa Charter Township*, Case No. 5:21-cv-11303.

3. This letter contained the last demand from the Township regarding the religious displays on the CHI Property before it filed its Verified Complaint and *ex parte* motion for a TRO and request for a preliminary injunction in this case.

4. The cost of hiring an engineering firm to prepare the documents required by the

Township for the special land use application for the St. Pio Chapel and prayer campus that we submitted and which the Planning Commission approved but the Township Board denied cost CHI in excess of \$27,000.

5. What the Township demanded in October 9, 2020, when it told CHI to remove the religious symbols, would have cost CHI in excess of \$20,000, based on the estimates I received at the time. And seeing the cost for submitting the required application, site plan, and other documents associated with the St. Pio Chapel and prayer campus, that estimate was accurate.

6. Pursuant to the TRO issued on September 20, 2021, CHI was required to remove the altar, Stations of the Cross, and “mural wall” with the image of Santa Maria delle Grazie until CHI “has applied for and obtained all necessary permits, including land use permits for the structures.” Following the receipt of this TRO, I consulted with the engineering firm that assisted with our land use application for the St. Pio Chapel and prayer campus and was advised on or about September 24, 2021, of the expected cost of complying with this demand. The application fee alone is \$2,875. The engineering services to revise and resubmit a new site plan and special land use package will be approximately \$7,000, and this is because the fees will be reduced by approximately \$15,000 (costs which we already paid), as the engineering firm will reuse the topographic survey information and other documentation that it had already completed as part of the original contracted work with CHI. This estimate does not include any associated construction costs nor additional costs should Township consultants or officials demand revisions, which they did with the submissions for the St. Pio Chapel and prayer campus. And as we saw with the submission for the St. Pio Chapel and prayer campus, even if the application does comply with the Township’s Zoning Ordinance, there is no guarantee that any of this will be approved as it appears that there are vocal people in the Township who simply don’t want us (CHI and its fellow

worshippers) on this property.

7. I assisted with the removal of the Stations of the Cross pursuant to the TRO requested by Genoa Township and granted by the court. We started the removal process on Wednesday, September 22, 2021, a cold and rainy afternoon, after learning that the court denied our emergency motion for clarification, which requested, among other things, that the court immediately dissolve the TRO until the hearing scheduled for September 28, 2021. It was a somber day, and it was somewhat surreal. As I was carrying a Station of the Cross on my shoulder, it reminded me of the Via Dolorosa (Christ's sorrowful way)—the path Jesus took to His crucifixion as He carried His cross to Calvary. Most of us present were reminded of the verse from a famous Christian song, "Were you there when they crucified my Lord." Below is a true and accurate photograph of one of the leadership team members assisting us with the removal of the Stations of the Cross on Thursday, September 23, 2021 (it took us two days), another cold and rainy day, and it illustrates my point (as does the image actually appearing on this Station):



8. Below is a true and accurate picture of me removing one of the Stations of the Cross from the property on Wednesday, September 22, 2021:



9. The information contained in my declaration submitted as Exhibit 1 in this matter (*i.e.*, the declaration that was submitted in the federal litigation and in support of CHI's motion to dissolve the TRO) is true to the best of my information, knowledge, and belief.

10. I pray that CHI and I will be able to enjoy our right to religious freedom on the CHI Property soon as even this momentary loss of our ability to engage in religious exercise, expression, and worship on CHI's private property is causing CHI and me irreparable harm.

I declare under the penalty of perjury that the foregoing is true to the best of my information, knowledge, and belief.

Executed this 26th day of September 2021.



Jere Palazzolo

EXHIBIT A



2911 Dorr Road
Brighton, MI 48116
810 227 5225
810 227 3420 fax
genoa.org

May 7, 2021

Catholic Healthcare International
2464 Taylor Rd.
Ste 317
Wildwood, MO
63040-1222

RE: 3280 Chilson Road Howell, Michigan

After denial of the proposed project at 3280 Chilson Road, the signs/ temporary signs are in violation of the sign ordinance and will need to be removed. Also, the structure/grotto sign does not have a permit and will also need to be removed.

We are interested in working with you to comply with these ordinances. Please contact Genoa Township within seven days to set up a timeframe for removal of the signs/ structure or to seek other approvals. The sign standards and accessory structure ordinance have been included for your review.

Please have the signs and accessory structure removed by June 4, 2021.

If you have any further questions or concerns, feel free to call me at (810) 227-5225.

SUPERVISOR

Bill Rogers

CLERK

Faulette A. Skolarus

TREASURER

Robin L. Hunt

TRUSTEES

Jean W. Ledford

H. James Mortensen

Terry Croft

Diana Lowe

MANAGER

Michael C. Archinal

Sincerely,

Sharon Stone
Ordinance Officer
Genoa Township

- (l) Building permit: All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.
- (m) Exceptions: The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance and pertaining to such parks. Mobile homes which do not conform to the standards of this section shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this Ordinance.

11.03.02 Dwellings Outside of the Agricultural and Residential Districts:

- (a) The construction of dwellings in nonresidential districts is prohibited except for housing used exclusively by security, custodial maintenance or management personnel and approved by the Planning Commission. The use of trailers and recreational vehicles for housing such security and custodial personnel, or other persons, is prohibited.
- (b) The use of recreation vehicles and trailers is permitted as a temporary residence between May 1st and October 1st each year provided the vehicles and trailers are located in a designated recreation vehicle/trailer park, and that they are connected to appropriate sewer, water and electric facilities serving the park.

Sec. 11.03.03 Regulations on Accessory Dwellings

- (a) Recreational vehicles or camping trailers may be used for living purposes when accessory to single-family or two-family dwellings, provided such use shall only be permitted for a cumulative total of no more than twenty one (21) days in any twelve (12) month period. Any such recreational vehicle parked in a front yard shall be parked in the driveway.
- (b) For lots of 120 acres or more in the Agricultural District, one additional principal building (a total of two) shall be permitted if the additional principal building is occupied by a member of the family who occupies the principal building, or employees working on the property for farming purposes, raising livestock or training horses, provided each accessory dwelling unit meets the minimum size for a one (1) bedroom unit as specified in Section 3.04.
- (c) The use of any portion of the basement of a partially completed building, or any detached garage or accessory building for dwelling or sleeping purposes in any zoning district is prohibited.

Sec. 11.04 ACCESSORY BUILDINGS AND STRUCTURES

11.04.01 Accessory Buildings, Structures and Uses in General

- (a) Relation to Principal Building: Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, that is occupied by a use permitted in the particular zoning district. In the Agricultural District an accessory building or structure may be permitted on a

separate lot in conjunction with activity of a permitted use on another lot under same ownership. No accessory building, structure or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

- (b) **Permit Required:** Any accessory building shall require a land use permit, except one (1) accessory building one hundred twenty (120) square feet or less shall be allowed without a land use permit.
- (c) **Restrictions in Front Yard:** Detached accessory buildings shall not be erected in any front yard, except accessory buildings are permitted in the front yards as follows:
 - (1) Waterfront lots in the Lakeshore Resort Residential District.
 - (2) Lots of at least five (5) acres when the front setback is equal to or greater than the average setback of established buildings on adjoining lots, as determined by the Zoning Administrator. If the adjacent lots are undeveloped, then front yard accessory buildings are permitted with a minimum front yard setback of two hundred (200) feet.
 - (3) In the case of attached residential dwelling complexes, detached parking garages or carports may be permitted in the non-required front yard provided the Planning Commission approves the site plan, elevation drawings and construction materials. In reviewing such structures, the Planning Commission shall consider the impact of headlights and views from nearby public streets and adjacent properties.
- (d) **Required Setbacks (Attached):** Where the accessory building, structure or use is structurally attached to a principal building, structure or use, it shall be subject to all the regulations of this section applicable to principal buildings, structures and uses, except for unenclosed decks as noted in Section 11.04.02 and privacy walls as noted under section 11.04.04 "Fences, Walls and Screens."
- (e) **Required Setbacks (Detached, one hundred twenty (120) square feet or less total floor area):** Detached accessory buildings or structures with one hundred twenty (120) square feet or less total floor area shall be at least four (4) feet from any principal building, and at least four (4) feet from any lot line.
- (f) **Required Setbacks (Detached, over one hundred twenty (120) square feet total floor area):** Detached accessory buildings and structures over one hundred twenty (120) square feet of total floor area shall be at least ten (10) feet from any principal building, and at least ten (10) feet from any side or rear lot line; except as follows:
 - (1) On lots greater than one (1) acre detached accessory buildings and structures over one hundred twenty (120) square feet of total floor area shall meet the setback requirements for principal structures.
 - (2) On lots in the Lakeshore Resort Residential District a detached accessory building over one hundred twenty (120) square feet of total floor area shall be allowed to reduce one (1) side yard setback to at least five (5) feet as follows:

(c) Signs required by law (e.g. fire, traffic code).

(d) Flags of any country, state, municipality, university, college or school.
(as amended 11/02/20)

16.02.21 **Temporary sign:** A sign that refers to an occurrence, happening, activity or series of activities, specific to an identifiable time and place or appears to be intended to be displayed for a limited period of time which is not intended to be lasting and is not constructed from an enduring material such as masonry and metal which remains unchanged in position, character, and condition (beyond normal wear), and is not permanently affixed to the ground, wall or building. Examples include but are not limited to posters, banners, a-frame/sandwich board and corrugated plastic/yard type signs. (as amended 11/02/20)

16.02.22 **Vehicle Sign:** A sign consisting of written copy, symbols, logos and/or graphics measuring more than ten (10) square feet in size attached to, mounted, pasted, painted, or drawn on any vehicle, whether motorized or drawn, that is placed, parked, or maintained on a parcel and is visible from the public right of way. (as amended 11/02/20)

16.02.23 **Wall sign:** a sign attached parallel to and extending not more than twelve (12) inches from the wall of the building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs.

16.02.24 **Window sign:** signs which are affixed to an inside surface of a window or are positioned within two (2) feet of the inside of a window so that they are visible from the outside. (as amended 11/02/20)

Sec. 16.03 APPLICATION OF STANDARDS

16.03.01 **Requirement for Permit.** Except as expressly provided herein, it is unlawful for any person to erect, re-erect, alter or relocate any sign without obtaining a permit from the Zoning Administrator and paying the applicable permit fee. (as amended 11/02/20)

16.03.02 **Exempt Signs.** The following signs are specifically exempt from obtaining a sign permit but shall be required to comply with all other requirements of this ordinance:

(a) **Historical marker:** plaques or signs describing state or national designation as an historic site or structure and/or containing narrative, not exceeding twelve (12) square feet in area.

(b) **Integral signs:** names of buildings, dates of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other noncombustible material and made an integral part of the structure and not exceeding twenty-five (25) square feet in area.

(c) **Parking lot signs:** A sign which regulates vehicle traffic within a permitted parking lot and includes information of a general directive or informational nature such as no parking, handicapped parking, and loading area; and does not exceed a maximum of six (6) feet in height and four (4) square feet in area. (as amended 11/02/20)

- (d) **Regulatory, directional and street signs:** erected and maintained by a public agency with the purpose of directing, managing or regulating traffic in compliance with Michigan Manual of Uniform Traffic Control Devices Manual. Such signs include, but are not limited to, street signs, traffic signals, traffic safety signs, speed limit signs, Township gateway/entry signs, neighborhood identification signs and directional signs. Regulatory, directional and street signs shall be allowed within the public street right-of-way provided such signs are not placed in a manner that obstructs visibility. (as amended 3/5/10 and 11/02/20)
- (e) **Street address signs (street numbers).** Street address signs shall be allowed within the public street right-of-way provided such signs are not placed in a manner that obstructs visibility. (as amended 3/5/10 and 11/02/20)
- (f) **Temporary signs:** Temporary signs shall be allowed subject to the following:
- (1) All temporary signs shall be setback a minimum of ten (10) feet from the back of curb for curbed roadways and ten (10) feet from the edge or gravel or gravel shoulder for uncurbed or gravel roadways;
 - (2) Temporary signs shall not be located within the twenty-five (25) feet clear vision area as provided in Section 16.06.03(b);
 - (3) Prior to the erection or placement of a temporary sign, the permission of the property owner where the sign is to be located must be secured;
 - (4) Temporary signs shall not be illuminated.
 - (5) All temporary signs must be made of durable water resistant materials and shall be well maintained. Frayed, torn, broken or illegible signs will be deemed unmaintained and required to be removed.
 - (6) The dimensional standards and regulations applicable to temporary signs are as follows:

Within Agricultural Districts, Residential Districts, RPUD, Residential in MUPUD and Neighborhood Street Frontage in TCOD:				
Type	Number	Area	Height	Duration
Temporary Sign(s)	Not more than five (5) per lot provided there is a minimum separation distance of ten (10) feet between any other temporary sign.	6 sq. ft.	4 ft.	No more than 45 consecutive days.
Extra Temp. Sign(s)	Not more than two (2) per lot provided there is a minimum separation distance of ten (10) feet between any other temporary sign.	32 sq. ft.	6 ft.	No more than 45 consecutive days.

EXHIBIT 8

ARTICLE 16
SIGN STANDARDS

Sec. 16.01 STATEMENT OF PURPOSE

The purpose of this article is to regulate signs and outdoor advertising within Genoa Township to protect public safety, health and welfare; minimize abundance and size of signs to reduce motorist distraction and loss of sight distance; promote public convenience; preserve property values; support and complement objectives of the Township Master Plan and this Zoning Ordinance; and enhance the aesthetic appearance within the Township. The standards contained herein are intended to be content neutral. These objectives are accomplished by establishing the minimum amount of regulations necessary concerning the size, placement, construction, illumination and other aspects of signs in the Township in order to:

- 16.01.01 Recognize that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents.
- 16.01.02 Prevent signs that are potentially dangerous to the public due to structural deficiencies or disrepair.
- 16.01.03 Eliminate potential conflicts between business signs and traffic control signs, which could create confusion and hazardous consequences.
- 16.01.04 Recognize that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names or off-premise activities, as these can be advertised more appropriately by other methods.
- 16.01.05 Enable the public to locate goods, services and facilities without excessive difficulty and confusion by restricting the number and placement of signs.
- 16.01.06 Prevent placement of signs which will conceal or obscure signs of adjacent uses.
- 16.01.07 Protect the public right to receive messages, especially non-commercial messages such as religious, political, economic, social, philosophical and other types of information protected by the First Amendment of the U.S. Constitution.
- 16.01.08 Prevent off-premise signs from conflicting with land uses.
- 16.01.09 Maintain and improve the image of the Township by encouraging signs of consistent size which are compatible with and complementary to related buildings and uses, and harmonious with their surroundings.
- 16.01.10 Prohibit portable commercial signs in recognition of their significant negative impact on traffic safety and aesthetics.

Sec. 16.02 **DEFINITIONS**

- 16.02.01 **Business center:** a grouping of two or more business establishments on one or more parcels of property which may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. A business center shall be considered one use for the purposes of determining the maximum number of monument signs. A vehicle dealership shall be considered a business center regardless of the number or type of models or makes available, however, used vehicle sales shall be considered a separate use in determining the maximum number of signs, provided that the used sales section of the lot includes at least twenty-five percent (25%) of the available sales area.
- 16.02.02 **Banner:** a fabric, plastic or other non-rigid material sign without enclosing structural framework.
- 16.02.03 **Canopy sign:** a non-rigid fabric marquee or awning-type structure which is attached to the building by supporting framework, which includes a business identification message, symbol and/or logo.
- 16.02.04 **Changeable message sign, electronic:** a sign that provides a display created by electronic means such as lights, television, or liquid crystal display.
- 16.02.05 **Changeable message sign, manual:** a reader board attached to a sign or the exterior of a wall where copy is changed manually.
- 16.02.06 **Construction sign:** a sign identifying the name(s) of project owners, contractors, developers, architects, designers, engineers, landscape architects and financiers of a project being constructed or improved; and not including advertising of any product or announcement of space availability.
- 16.02.07 **Directional sign:** a sign which assists motorists in determining or confirming a correct route; specifically enter, exit and parking signs.
- 16.02.08 **Menu board:** a restaurant sign that displays menu items and prices and may include a communication system for placing food orders and digital display of order. (as amended 12/17/10)
- 16.02.09 **Monument sign:** A three-dimensional, self-supporting, solid base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.
- 16.02.10 **Moving Sign:** A sign in which the sign itself or any portion of the sign moves or revolves. A “rotating sign” is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.
- 16.02.11 **Nit:** A unit of illuminative brightness equal to one (1) candela per square meter (cd/m^2), measured perpendicular to the rays of the source. (as amended 12/17/10)
- 16.02.12 **Off-premise sign:** a sign which identifies a use or advertises products and services not available on the site or parcel on which the sign is located; a sign which directs travelers or provides a message unrelated to the site on which the sign is located, e.g. billboards.

- 16.02.13 **On-premise sign:** a sign providing the address and name of owner of a parcel of land; a sign advertising a business, service or product sold or produced on the same site or parcel.
- 16.02.14 **Pole sign:** a sign supported on the ground by a pole and not attached to any building or other structure.
- 16.02.15 **Political sign:** a temporary sign used in connection with local, state or national elections.
- 16.02.16 **Portable sign:** a sign designed to be moved from place to place, whether or not it is permanently attached to the ground or structure. This includes hot-air and gas filled balloons, sandwich boards, banners, pennants, streamers, festoons, ribbons, tinsel, pinwheels, non-governmental flags and searchlights; but excludes political signs, real estate signs, construction signs, permanent changeable message signs, and regulatory/government signs.
- 16.02.17 **Projecting sign:** a sign, other than a wall sign, that is affixed to any building or wall and whose leading edge extends more than twelve (12) inches beyond such building or wall.
- 16.02.18 **Real estate sign:** an on-premise temporary sign advertising the availability of property or structures for sale or lease.
- 16.02.19 **Regulatory sign:** a sign installed by a public agency to direct traffic flow, regulate traffic operations and provide information that conforms to the Michigan Manual of Uniform Traffic Control Devices.
- 16.02.20 **Roof sign:** a sign that is located above the top of the wall of a flat roof building, above the eave on a pitched roof building or above the deck line of a mansard roofed building.
- 16.02.21 **Sign:** any device, structure, fixture, figure, banner, pennant, flag, balloon or placard consisting of written copy, symbols, logos and/or graphics, designed for the purpose of identifying or bringing attention to an establishment, product, goods, services or other message to the general public.
- 16.02.22 **Temporary grand opening signs:** a temporary sign used to announce the grand opening of businesses which are new to a particular location or under new ownership.
- 16.02.23 **Wall sign:** a sign attached parallel to and extending not more than twelve (12) inches from the wall of the building. Painted signs, signs which consist of individual letters, cabinet signs, and signs mounted on the face of a mansard roof shall be considered wall signs.
- 16.02.24 **Window sign:** signs which are affixed to a window or are positioned within two (2) feet of the inside of a window so that they are visible from the outside.

Sec. 16.03 APPLICATION OF STANDARDS: EXEMPT SIGNS

The following signs are specifically exempt from obtaining a sign permit but shall be required to comply with all other requirements of this ordinance:

- 16.03.01 **Business affiliation signs:** signs not exceeding a total of two (2) square feet per business indicating acceptance of credit cards or describing business affiliations and are attached to a permitted sign, exterior wall, building entrance or window.

- 16.03.02 **Construction signs:** provided that there shall be only one such sign per development project; with a maximum height of six (6) feet and not exceeding sixteen (16) square feet in area for residential projects; a maximum height of six (6) feet and not exceeding thirty-two (32) square feet in area for non-residential projects; setback a minimum fifteen (15) feet from any property line or public street right-of-way; and that such signs shall be erected during the construction period only and shall be removed fourteen (14) days after an occupancy permit is issued.
- 16.03.03 **Flags:** insignia of any nation, state, community organization, college or university.
- 16.03.04 **Garage sale and estate sale signs:** provided that they are not attached to public utility poles and do not exceed six (6) square feet in area; and that they are erected no more than ten (10) business days before and are removed within one (1) business day after the announced sale. Garage and estate sale signs may be placed within the public street right-of-way provided that the signs does not obstruct visibility. (as amended 3/5/10)
- 16.03.05 **Gas station pump island signs:** attached to the pumps, provided that there are no more than two (2) such signs per pump island and that such signs do not exceed four (4) square feet in area. (as amended 12/17/10)
- 16.03.06 **Historical marker:** plaques or signs describing state or national designation as an historic site or structure and/or containing narrative, not exceeding twelve (12) square feet in area.
- 16.03.07 **Integral signs:** names of buildings, dates of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other noncombustible material and made an integral part of the structure and not exceeding twenty-five (25) square feet in area.
- 16.03.08 **Miscellaneous signs:** on vending machines, gas pumps, and ice containers indicating the contents or announcing on-premise sales, provided that the sign on each device does not exceed two (2) square feet in area.
- 16.03.09 **Model signs:** temporary signs directing the public to a model home or unit, which do not exceed six (6) square feet in area and are located onsite.
- 16.03.10 **Non-commercial signs:** signs containing non-commercial messages, such as those designating the location of public telephones, restrooms, restrictions on smoking and restrictions on building entrances, provided that such signs do not exceed two (2) square feet in area.
- 16.03.11 **Municipal and non-profit organization signs:** local government, church, school, museum, library, public park or other non-profit institution permanent signs with a minimum setback from the street right-of-way of ten (10) feet, which do not exceed twenty-five (25) square feet and are a maximum of six (6) feet in height. (as amended 12/17/10)
- 16.03.12 **Owner/tenant signs:** address or occupant name and other signs of up to two (2) square feet in area mounted on the wall of an office building.
- 16.03.13 **Parking lot signs:** indicating restrictions on parking, when placed within a permitted parking lot, are a maximum of six (6) feet in height, and do not exceed four (4) square feet in area.

- 16.03.14 **Political signs:** provided such signs are not placed within the public street right-of-way line in a manner that obstructs visibility. (as amended 12/31/06)
- 16.03.15 **Real estate signs:** provided that there shall be only one real estate sign per parcel. For corner lots or through lots there may be one real estate sign located within the front yard of each street frontage. The maximum height of any such sign shall be eight (8) feet and the maximum size of any such sign shall be twenty (20) square feet in all single family residential districts and thirty-six (36) square feet in multiple family, commercial and industrial districts. One additional open house shall be permitted for a period not to exceed two (2) days on the lot where the sale is taking place. (as amended 12/31/06)
- 16.03.16 **Regulatory, directional and street signs:** erected by a public agency in compliance with Michigan Manual of Uniform Traffic Control Devices Manual. Regulatory, directional and street signs shall be allowed within the required setback area provided such signs are not placed within the public street right-of-way line in a manner that obstructs visibility. (as amended 3/5/10)
- 16.03.17 **Rental office directional signs:** Up to two (2) signs identifying or directing motorists to a rental or management office in a multiple family development, provided that such signs are a maximum of four (4) feet in height, are setback a minimum of fifteen (15) feet from any property line or public right-of-way, and do not exceed three (3) square feet in area.
- 16.03.18 **Roadside stand signs:** provided that they meet the standard of Section 3.03.02(f) regarding their removal, that there are a maximum of three on any parcel and none exceed thirty-two (32) square feet in area.
- 16.03.19 **Street address signs (street numbers).** (as amended 12/31/06) Street address signs shall be allowed within the required setback area provided such signs are not placed within the public street right-of-way line in a manner that obstructs visibility. (as amended 3/5/10)
- 16.03.20 **Warning signs:** such as no trespassing, warning of electrical currents or animals, provided that such signs do not exceed six (6) square feet. Warning signs shall be allowed within the required setback area provided such signs are not placed within the public street right-of-way line in a manner that obstructs visibility. (as amended 3/5/10)
- 16.03.21 **Window signs:** window signs shall be permitted to occupy no more than twenty five (25%) of the area of each individual window except as provided for in 16.07.02(d). (as amended 12/17/10)

Sec. 16.04 **PROHIBITED SIGNS**

The following signs shall be prohibited in any district in the Township:

- 16.04.01 **Commercial vehicles.** Commercial vehicles may not be used as signs. As determined by the Zoning Administrator, a commercial vehicle may be parked on a business premises or an industrial lot for a time period not exceeding forty-eight (48) hours for the intended purpose of advertising a product or serving as a business sign. (as amended 12/17/10)
- 16.04.02 **String lights.** Exterior string lights used in connection with a commercial enterprise shall be prohibited, other than holiday decorations which are strung no more than sixty (60) days before the holiday and removed within ten (10) days following the holiday for which they were erected.

- 16.04.03 **Signs in right-of-way.** Non-regulatory signs placed in any public right-of-way, attached to a utility pole or affixed to a tree shall be prohibited. No sign in any zoning district shall be erected or placed in the public right-of-way except as may otherwise be expressly authorized by this Ordinance. The Township retains the right to remove any signs found to be in violation of this section. (as amended 12/17/10)
- 16.04.04 **Off-premise signs.** Signs shall only be permitted as an accessory use on the same lot as a principal permitted use. Off-premise signs that are not located on the same lot as the principal use they serve shall be prohibited. (as amended 3/5/10) No sign in any zoning district shall be erected or placed in the public right-of-way except as may otherwise be expressly authorized by this Ordinance. The Township retains the right to remove any signs found to be in violation of this section. (as amended 12/17/10)
- 16.04.05 **Pole signs.** Pole signs shall be prohibited.
- 16.04.06 **Portable signs.** Portable signs shall be prohibited unless otherwise provided for in this ordinance.
- 16.04.07 **Roof signs.** Roof signs shall be prohibited.
- 16.04.08 **Moving.** Signs having moving members, or parts or emitting a sound shall be prohibited.
- 16.04.09 **Lights.** Signs using high intensity lights or flashing lights, spinners or animated devices; neon signs in agricultural or residential districts shall be prohibited.
- 16.04.10 **Obstruct vision.** Signs that obstruct vision or impair the vision of motorists or non-motorized travelers at any intersection, driveway, within a parking lot or loading area shall be prohibited. No sign in any zoning district shall be erected or placed in the public right-of-way except as may otherwise be expressly authorized by this Ordinance. The Township retains the right to remove any signs found to be in violation of this section. (as amended 12/17/10)
- 16.04.11 **Emergency or traffic.** Signs that simulate or could in any way be confused with the lighting of emergency vehicles or traffic signals shall be prohibited.
- 16.04.12 **On Towers.** Any type of signage including logos shall not be permitted on a public or private radio, television, cellular phone, or water towers with the exception of the name of the municipality, unless approved by the Township Board as described in section 6.02.02(p)(5).
- 16.04.13 **Costumed people.** Any person dressed with a business logo or as a representation of a business logo/mascot for the purpose of drawing attention and advertising that business. (as amended 12/31/06)
- 16.04.14 **Exceeding size limits.** Any sign that exceeds the height or area limits of this article shall be prohibited. (as amended 3/5/10)

Sec. 16.05 **REQUIRED ADDRESS SIGN**

All residences and commercial/industrial buildings shall have an address sign which is clearly visible from the adjacent street.

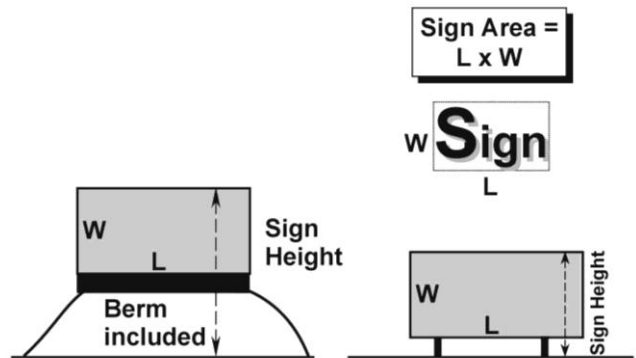
Sec. 16.06 **GENERAL STANDARDS FOR PERMITTED SIGNS**

Signs which are permitted as accessory uses serving a commercial or informational purpose may be permitted subject to the requirements of this section; provided that no such sign shall be erected or altered until approved by the Zoning Administrator and until a permit has been issued.

16.06.01 **Measurement of sign area:**

- (a) The area for signs shall be measured by calculating the square footage of the sign face, measured by enclosing the most protruding points or edges of a sign within a parallelogram or rectangle including any frame. On a monument sign, a decorative masonry base shall not be included in the sign area measurement.
- (b) Where a sign has two or more faces, the area of only the larger face shall be considered when calculating maximum size, provided all faces are part of the same structure, back-to-back, contain the same message and are separated by no more than two (2) feet.
- (c) The wall sign area square footage shall be determined by enclosing the portion of the wall which contains a message, lettering, symbol and/or logo within a parallelogram or rectangle. Signs placed on canopies shall also be counted towards the allowable wall sign area.

16.06.02 **Sign height:** The height of the sign shall be measured from the average grade to the upper-most point of the sign. Average grade shall be measured fifty (50) feet along the frontage from both sides of the sign. Placing a sign on top of a berm is permitted only if the berm is long enough to meet the average grade requirement and landscaping is provided on the berm.



16.06.03 **Sign setbacks:**

- (a) All signs, unless otherwise provided for, shall be setback a minimum of ten (10) feet from any public street right-of-way or property line. This distance shall be measured from the nearest edge of the sign, measured at a vertical line perpendicular to the ground to the right-of-way.
- (b) In order to ensure adequate sight distance for motorists, bicyclists and pedestrians, a minimum clear vision area shall be maintained between a height of two (2) feet and six (6) feet within a triangular area measured twenty-five (25) feet back from intersection of public right-of-way lines. Greater clear vision areas may be required by the Michigan Department of Transportation or the Livingston County Road Commission in particular areas. Furthermore, signs shall not be permitted where they obstruct motorist vision of regulatory signs, traffic control devices or street signs.

16.06.04 **Sign materials:** as permitted in the various zoning districts, signs shall be designed to be compatible with the character of building materials and landscaping to promote an overall

unified and aesthetic effect in accordance with the standards set forth herein. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.

16.06.05 **Illumination:** Sign illumination shall comply with all of the following requirements:

- (a) Signs shall be illuminated only by steady, stationary shielded light sources directed solely at the sign, or internal to it.
- (b) Use of glaring undiffused lights or bulbs shall be prohibited. Lights shall be shaded so as not to project onto adjoining properties or thoroughfares.
- (c) Sign illumination that could distract motorists or otherwise create a traffic hazard shall be prohibited.
- (d) Illumination by bare bulbs or flames is prohibited.
- (e) Underground wiring shall be required for all illuminated signs not attached to a building.
- (f) Electronic changeable message signs may be permitted subject to Section 16.07.02. (as amended 12/17/10)

16.06.06 **Construction and maintenance:** Every sign shall be constructed and maintained in a manner consistent with the building code provisions and maintained in good structural condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports.

16.06.07 **Sign safety:** All signs erected, constructed, reconstructed, altered or moved shall be constructed in such a manner and of such materials so that they shall be able to withstand wind pressure of at least twenty (20) pounds per square foot. All signs, including any cables, guy wires or supports shall have a minimum clearance of four (4) feet from any electric fixture, street light or other public utility pole or standard.

Sec. 16.07 **SPECIFIC SIGN STANDARDS**

The number, display area and height of signs within the various zoning districts is provided in table 16.1 and its accompanying set of footnotes. Some additional standards for specific types of signs are given below:

16.07.01 **Canopy signs:** Canopy signs may project a maximum of six (6) feet from the edge of the building, measured horizontally parallel to the ground. Any sign area on the canopy shall be included in calculations of maximum wall sign square footage. (as amended 12/31/06)

16.07.02 **Changeable message signs:** Changeable message signs shall be permitted on any non-residential sign, subject to the following regulations:

- (a) Only one changeable message signs shall be permitted per business. Changeable message signs shall only be part of one of the following types of conforming signs and shall be subject to the area, height, and placement requirements for that sign:
 - (1) A monument sign; or

- (2) A window sign.
- (b) Changeable message signs may not be added to a nonconforming sign.
- (c) The changeable message portion of a monument sign shall not exceed one-third (1/3) of the sign area and the remainder of the sign shall be of a permanent character.
- (d) Changeable message signs affixed or hung in a window shall be limited to one (1) per business or two (2) for businesses in corner units or lots and shall be a maximum of two (2) square feet in area.
- (e) Electronic changeable message signs shall meet all of the following requirements, in addition to (a) - (d) above:
 - (1) Electronic changeable message signs shall not exceed the following illuminative brightness:

Time of Day	Brightness	
	Within 300 feet of residential district or use	At least 300 feet from residential district or use
Night time	300 nits (cd/m2)	500 nits (cd/m2)
Day time	3,500 nits (cd/m2)	5,000 nits (cd/m2)

- (2) The message on an electronic changeable message sign may change a maximum of four (4) times per hour, except for time or temperature displays. At all other times the sign message and background must remain constant. If the sign is within 300 feet of a residential use or zoning district, the message shall remain static from dusk until dawn.
- (3) The lettering and/or message components on an electronic changeable message sign shall be comprised of one (1) color with a black or dark background. The lettering and/or message components being displayed at any given time shall not change, flash or fade to another color. The changeable message sign shall have a default design that will freeze the sign in a dark or blank position if a malfunction occurs.
- (4) Electronic changeable message signs shall not contain any moving, blinking, flashing, scrolling or animated parts nor have the appearance of having any movement or animation. Only static messages shall be displayed.
- (5) Electronic changeable message signs shall be located with a minimum separation distance of one hundred fifty (150) feet from any other electronic changeable message sign.
- (6) Electronic changeable message signs shall only be permitted in non-residential zoning districts. (as amended 12/17/10)

16.07.03 **Directional signs:** No more than one (1) directional sign shall be permitted per approved driveway, with a maximum sign area of four (4) square feet per sign, and a maximum height of three (3) feet. Any area of a directional sign that includes a business name, symbol or logo shall be calculated as part of the allowable monument sign square footage, as specified in table 16.1.

- 16.07.04 **Menu board:** Up to two (2) menu board signs shall be permitted per drive-through restaurant, which display menu items and may include a communication system for placing food orders and digital display of order. Each menu board shall be a maximum of sixteen (16) square feet. Menu board sign(s) shall not be located in the front yard. (as amended 12/17/10)
- 16.07.05 **Monument signs:** A minimum setback of ten (10) feet shall be provided from the right-of-way, when located to ensure adequate sight distance for motorists. Dimensional standards for monument signs are given in table 16.1.
- 16.07.06 **Residential community or development identification signs:** One permanent sign per driveway which does not exceed thirty-six (36) square feet in area and a maximum height of six (6) feet identifying developments such as office complexes, a college, a subdivision, an apartment complex, condominium communities, senior housing complexes, mobile home parks and similar uses.
- 16.07.07 **Temporary signs:** One temporary sign may be permitted on the site for a period not to exceed fourteen (14) days. A business shall only be allowed to use a temporary sign once during its stay at the same location or have new owners. The sign shall be no larger than thirty-five (35) square feet in surface display area per side and shall not exceed six (6) feet in height. Wind-blown devices, such as pennants, spinners, and streamers shall also be allowed on the site of the business advertising a grand opening for the fourteen day time period designated for the temporary sign.
- 16.07.08 **Wall signs:** Signs shall not project beyond or overhang the wall or any permanent architectural feature by more than one (1) foot and shall not project above the roof or parapet. (as amended 12/17/10)

Table 16.1 Sign Dimensional Standards and Regulations

DISTRICT (7)	WALL OR CANOPY SIGN		MONUMENT SIGN		
	MAX. NO. OF SIGNS ⁽¹⁾	MAX SIZE	MAX. NO. OF SIGNS ⁽³⁾	MAX. SIZE ^(3,4,5)	MAX. HEIGHT
Agricultural Districts	1	10 sq. ft.	1	10 sq. ft.	6 ft.
Single Family Residential (6)	N/A	N/A	(See Exempt Signs)		
Multiple Family Residential	N/A	N/A	(See Exempt Signs)		
Mobile/Manufactured Home District	N/A	N/A	(See Exempt Signs)		
Neighborhood Service District	1 per business	10% of front facade ⁽²⁾	1 ⁽⁴⁾	72 sq. ft.	6 ft.
General Commercial District Regional Commercial District	1 per business	10% of front facade ⁽²⁾	1 ⁽⁴⁾	72 sq. ft.	6 ft.
Office-Service District	1 per business	10% of front facade ⁽²⁾	1	72 sq. ft.	6 ft.
Recreational Facilities District	1	10% of front facade ⁽²⁾	1 ⁽⁴⁾	72 sq. ft.	6 ft.
Industrial District	1	10% of front facade ⁽²⁾	1	60 sq. ft.	6 ft.
Planned Industrial and PUD Districts (7)	1	10% of front facade ⁽²⁾	1	60 sq. ft.	6 ft.

Footnotes to Table 16.1:

- (1) One wall sign shall be allowed per business with its own public entrance. The sign may be attached to the façade that faces the street or on another façade where the business provides a public entrance; in either case, however, the sign may only be attached to a portion of the building that is occupied by the business. For a multi-tenant office building with common entrances, one (1) building identification sign shall be allowed.
- (2) The maximum wall sign shall not exceed ten percent (10%) of the facade of the building that the sign is attached to and is occupied by the business or one-hundred (100) square feet, per use or business establishment whichever is less. The maximum allowable wall sign area may be utilized in the following manner:
 - a. Two wall signs may be permitted for businesses located on a corner or through-lot. One sign, meeting the maximum allowable sign area, shall be permitted on each side of the building that fronts along the public right-of-way, including I-96.
 - b. At the discretion of the Planning Commission, two wall signs may be permitted for businesses located on an interior lot (non-corner lot) which under certain circumstances, such as obstructed views and building orientation, require additional visibility. The total collective sign area of the two signs may not exceed one-hundred (100) square feet.
 - c. Commercial structures containing one use or business establishment use, as determined by the Planning Commission, the size of the wall sign may be increased up to the maximum square footage given in the following table.
 1. 201 - 400 linear feet of building frontage facing a public street and having a public entrance = 150 square foot maximum wall sign area.
 2. Over 400 linear feet of building frontage facing a public street and having a public entrance = 200 square foot maximum wall sign area.
 3. The maximum wall sign can be increased by up to twenty percent (20%) if required number or size of landscape materials is exceeded by at least twenty percent (20%).
- (3) For buildings or lots having frontage and vehicular access along a second public street, I-96, or a business/retail shopping center, office center, or industrial park with a combined gross floor area over 60,000 square feet, a second sign or a larger sign may be permitted by the Planning Commission provided that the total sign area does not increase the maximum signs square footage listed for that district in the table above by more than fifty percent (50%). The Planning commission may also approve one (1) additional monument sign for each outlot with at least one hundred (100) feet of public street frontage provided the site provides shared access.
- (4) Any logo or business identification on any directional sign, or any logo or business identification area on a second sign at any driveway shall be included when calculating maximum sign area.
- (5) A ten (10) percent increase in the maximum permitted monument sign area is permitted if extensive landscaping and a decorative brick base consistent with the materials of the principal building are provided.
- (6) Refer to Section 16.07.06 for residential identification signs.

(7) PUD District development agreements may provide for specific sign standards.

(as amended 12/31/06, 8/24/07 and 3/5/10)