

**ORDINANCE NO. 2012-04**

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO THE VILLAGE'S CODE OF ORDINANCES, AMENDING DIVISION 30-90, ENTITLED "SIGN REGULATIONS"; REGULATING TEMPORARY SIGNS UNIFORMLY AS TO SIZE, AND DURATION, INCLUDING BUT NOT LIMITED TO POLITICAL SIGNS, AND PERSONAL EXPRESSOIN SIGNS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Mayor Shelley Stanczyk and Council Person Howard Tendrich.]**

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay adopted its own Code of Ordinances in December 2009; and,

WHEREAS, except as it relates to governmental property, temporary political signs cannot be prohibited, and may be regulated by a local government, provided the regulation is content neutral and regulates as to time, place and manner of the expression; and,

WHEREAS, A local government may regulate the size, shape and location of temporary signs; and,

WHEREAS, such regulations are ordinarily considered content-neutral and reasonable "time, place and manner" restrictions on speech (federal review standard of First Amendment regulation of speech); and,

WHEREAS, provided temporary residential signs are regulated uniformly as to the type, size, number, and location, the local regulation should comply with strict scrutiny review of the Courts; and,

WHEREAS, Temporary and non-commercial signage can be provided a deadline on removal of the sign after the end of the "event" that triggers it; and,

WHEREAS, the Village recognizes that regulation of political speech, must be treated in a "non-discriminatory," manner as other "noncommercial speech" that is highly scrutinized by the Courts; and,

WHEREAS, the Village Council have reviewed the criteria of 30-30.7(b) and find the ordinance in compliance with the applicable standards; and,

WHEREAS, the Village recognizes that campaign signs are a type of temporary sign, and their size, number, location, requirements for removal, and other aspects must be regulated uniformly with other similar forms of temporary noncommercial speech; and,

WHEREAS, the Village's intent is to comply with Federal and State precedent, and comply with the unanimous decision of the US Supreme Court in 1994, in the matter *City of Ladue v. Gilleo*, 512 US 43 (1994) as it relates to political signs and uniform time, manner, place restrictions and content neutrality; and,

WHEREAS, the Mayor and Village Council desire to amend specific items in Division 30-90, entitled "Sign Regulations".

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Pursuant to the requirements of 30-30.7(b) of the Village's Code, the following text change is in compliance with the Village's Comprehensive Code and review criteria.. The Village of Palmetto Bay hereby amends Division 90 of Chapter 30, entitled "Sign Regulations" which shall read as follows:

\* \* \*

## DIVISION 30-90

### SIGN REGULATIONS

#### SEC. 30-90.4. PURPOSE AND INTENT.

(a) The Village Council recognizes that there are various persons and entities that have an interest in communicating with the public through the use of signs that serve to identify businesses and services, residences and neighborhoods, and also to provide for expression of opinions. The council is also responsible for furthering the Village's obligation to its residents and visitors to maintain a safe and aesthetically pleasing environment where signs do not create excessive visual clutter and distraction or hazards for pedestrians and vehicles; where signs do not adversely impact the predominantly residential character of the Village and where signs do not conflict with the natural and scenic qualities of the Village. These regulations are intended to ensure that permitted signs will not, because of size, location, method of construction, installation or manner of display endanger the public safety, create distractions that may jeopardize pedestrian or vehicular traffic safety; mislead, confuse or obstruct the vision of people seeking to locate or identify uses or premises; or destroy or impair visual qualities of the Village which is essential to general welfare and economic viability.

It is the intent of the council that the regulations contained in this Division shall provide uniform sign criteria, which regulate the size, height, graphic character, lighting, number and placement of signs in a manner that is compatible to the scale and character of the Village, and which shall place the fewest possible restrictions on personal liberties, property rights, free commerce, and the free exercise of Constitutional rights, while achieving the Village's goal of creating a safe, healthy, attractive and aesthetically pleasing environment that does not contain excessive clutter or visual distraction from right-of-ways and adjacent properties; the surrounding natural coastal environment and residential neighborhoods, and to ensure consistency with the Village's comprehensive plan.

(b) *Scope.* The provisions of this Division shall govern the number, size, location, and character of all signs which may be permitted. No sign shall be permitted on a plot or parcel except in accordance with the provisions of this Division.

(c) *Substitution of noncommercial speech for commercial speech.* Notwithstanding any provisions of this Division to the contrary, to the extent that this article permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited, and the sign continues to comply with all requirements of this Division.

(d) The Village may regulate the size, shape and location of temporary signs as content-neutral and reasonable "time, place and manner" restrictions on speech (federal review standard of First Amendment regulation of speech). At some point, the sheer number of signs do realistically impair the visibility and line of site for vehicles within the neighborhood and provided the temporary residential signs are regulated uniformly as to the type, size, number, and location due to safety issues (to prevent wind debris and interference with visibility) the local regulation would comply with strict scrutiny review of the Courts. Temporary and non-commercial signage can be provided a deadline on removal of the sign after the end of the "event" that triggers it. Moreover, the Village recognizes that campaign signs are a type of temporary sign, and their size, number, location, requirements for removal, and other aspects must be regulated uniformly with other speech, and it is the Village's intent is to comply with Federal and State precedent, and comply with the unanimous decision of the US Supreme Court in 1994, in the matter *City of Ladue v. Gilleo*, 512 US 43 (1994) as it relates to political signs and uniform time, manner, place restrictions and content neutrality.

(e) *Severability.*

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

(2) *Severability where less speech results.* This subsection shall not be interpreted to limit the effect of subsection (1), above, or any other applicable severability provision in the code of ordinances or any adopting ordinance. The Village Council specifically intends that severability shall be applied to these regulations even if the result would be to allow less speech in the Village, whether by subjecting currently exempt signs to permitting or by some other means.

(3) *Severability of provisions pertaining to prohibited signs.* This subsection shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provision in the code of ordinances or any adopting ordinance. The Village Council specifically intends that severability shall be applied to the section entitled "Prohibited signs" so that each of the prohibited sign types listed in

that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

(4) *Severability of prohibition on off-premises signs.* This subsection shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provision in the code of ordinances or any adopting ordinance. If any or all of this Division or any other provision of the Village's Code is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the Village Council specifically intends that the declaration shall not affect the prohibition of off-premises signs, as provided under this Division.

\* \* \*

### **30-90.10 SIGNS PERMITTED WITHOUT A SIGN PERMIT**

(a) Within all zoning districts, the following signs, whether temporary or permanent, when not electrically illuminated shall be permitted and exempt from the requirement to obtain a sign permit.

\* \* \*

(8) Personal expression signs limited to two per lot or parcel, or in the case of multi-family uses, one per dwelling unit, expressing personal views or opinions not exceeding 620 square inches in area, providing such signs are otherwise in compliance with applicable local, state and federal laws and displayed for a period of not more than 90 days in any year.

\* \* \*

(15) Temporary political campaign signs announcing the candidacy of a candidate for public office not exceeding 620 square inches in size in residential zoning districts and six square feet in area in all other zoning districts. Setback and location shall be at least five feet from the official right-of-way and five feet from property under different ownership. Only one political campaign sign, per candidate, per street face is permitted. Political signs may be installed 90 days prior to the election.

Temporary political campaign signs shall be removed within seven days after the last election or within seven (7) days of withdrawal of a candidate from running for elected office. If such signs are not removed within this period of time, the Village may remove such signs and may charge the candidate the actual cost for such removal. Failure to remove signs is a violation of this Code and is enforceable pursuant to the Village's code enforcement ordinance.

\* \* \*

(17) Holiday and seasonal decorations shall not be construed as signs, providing that these contain no commercial advertising message, and further provided that such decoration is not up more than 90 days for a single holiday.

\* \* \*

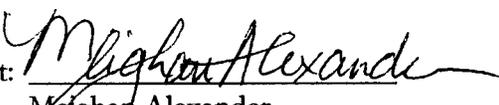
Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

Section 3. This ordinance shall be codified and included in the Code of Ordinances.

Section 4. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

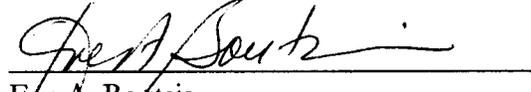
Section 5. This ordinance shall take effect immediately.

PASSED AND ENACTED this 6<sup>th</sup> day of February, 2012.

Attest:   
Meighan Alexander  
Village Clerk

  
Shelley Stanczyk  
Mayor

APPROVED AS TO FORM:

  
Eve A. Boutsis  
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore	<u>NO</u>
Council Member Howard Tendrich	<u>YES</u>
Council Member Joan Lindsay	<u>YES</u>
Vice-Mayor Brian W. Pariser	<u>YES</u>
Mayor Shelley Stanczyk	<u>YES</u>