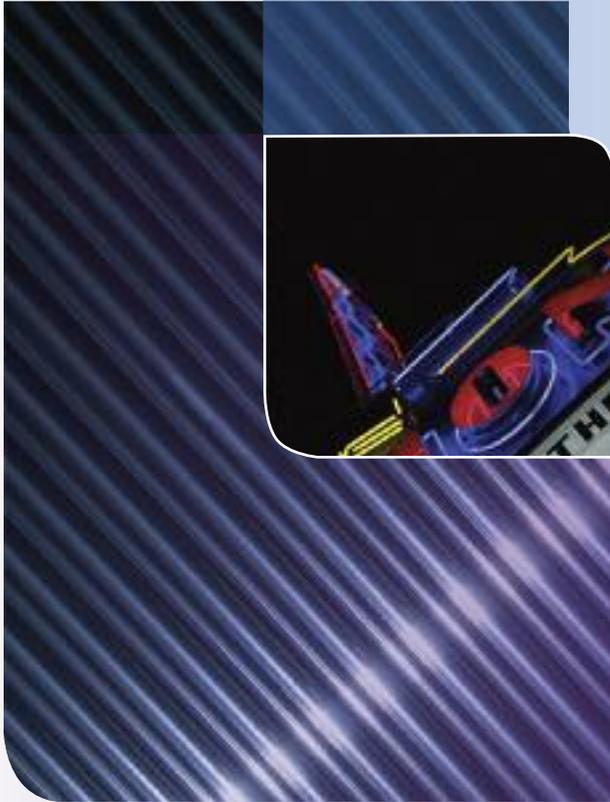




# BUILDING STRONGER COMMUNITIES

*Working Together  
to Create Reasonable  
Sign Codes*



*January 2012*



# WHAT MAKES A GREAT COMMUNITY?

*It doesn't matter whether it's a small town or large metropolitan area or something in-between, we all want the same thing in our communities - great quality of life. We might pursue that goal differently, but some basic ideals are universal: a strong and sustainable tax base, prosperous businesses, safe streets and aesthetic appeal. These are goals that city planners, local government officials and business owners strive to reach every day. An effective sign code can be a powerful tool to help achieve these objectives.*

## *Let's take a drive to see how:*

Imagine the busiest street in town, where many of the key businesses are located. A sign code that is too permissive or too difficult to enforce can create a mishmash of signs. In some cases, this conflicts with the aesthetic standards of a community. A driver searches for a local business, but is overwhelmed by the jumble of signs. When the driver finally locates his destination, he abruptly slows down and swerves into the parking lot, creating a traffic hazard. Or perhaps frustrated, the driver gives up and passes by; the business loses a sale and the community loses tax revenue.

At the other end of the spectrum is a sign code that is too restrictive. For example, a sign code might prohibit installation of freestanding signs at sufficient heights for good visibility, or restrictions on sign colors or font styles might prevent businesses from displaying easily recognizable trademarked logos. While this might produce a more uniform view, it poses the same driver challenges by making signs more difficult to detect and read.

The U.S. Small Business Administration identifies signage as the most effective form of advertising for small businesses. In turn, small businesses are the lifeblood of any city's economy, providing jobs and a robust tax base to fund vital city services. It is essential, therefore, that sign codes effectively balance aesthetic values with the need for a vibrant business community.

The position statements contained in the following pages were created by the International Sign Association, the leading voice of the on-premise sign industry, to help support growing, thriving communities.



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INTERNATIONAL SIGN ASSOCIATION

# ABOUT THE U.S. SIGN INDUSTRY

## *Working Together to Create Reasonable Sign Codes*

As a vital component of our retail economy, the U.S. on-premise sign industry keeps America working. According to the U.S. Small Business Administration, “[S]igns are the most effective, yet least expensive form of advertising for the small business.” This is true because on-premise signs typically work 24 hours a day, 7 days a week, 365 days a year for the local businesses they serve.

The on-premise sign industry employs or directly impacts more than 250,000 American jobs and represents more than \$49 billion annually in total shipments. Our industry is distinctly American. While some components used in signage are manufactured outside of the United States, the customized nature of on-premise signage, the need for leading retailers to rely on U.S.-based networks for project management and the high costs of international shipping make it difficult to produce signs overseas for the North American market. Both the vast majority of sign components and the finished sign products, therefore, typically are “Made in the U.S.A.”

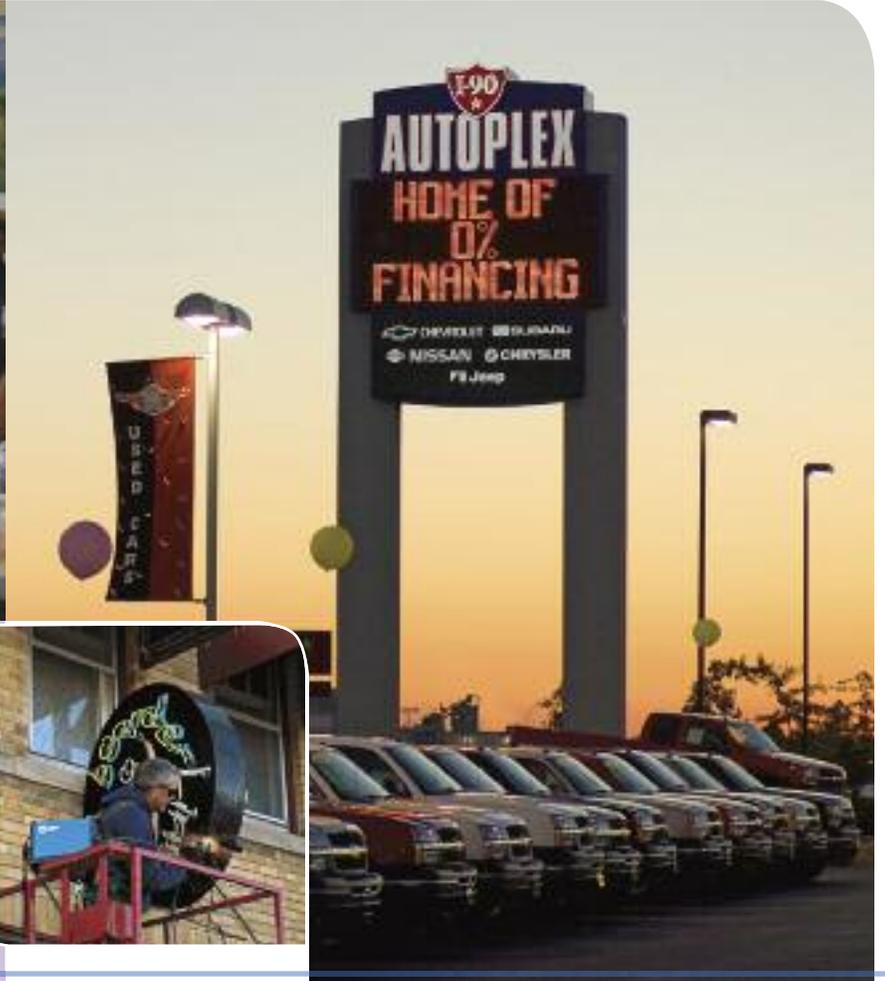
The on-premise sign industry is quite diverse, ranging from small, local companies employing only a few workers to large, national firms employing hundreds. The scope of production can range from small printed signs to extensive architectural signage, to electronic message centers and dynamic digital signage. Furthermore, the on-premise sign industry is innovative and works continually to improve the way that American businesses communicate.



# ABOUT ISA



*The International Sign Association is the leading trade association representing the on-premise sign industry. Membership represents those who work in local, architectural, digital, and national sign companies as well as suppliers and sign users. ISA exists to support, promote, and improve the visual communications industry, which sustains the nation's retail, distribution, service and manufacturing industries. ISA does this by educating its members; representing the industry's interests before the federal, state and local governments; conducting technical and safety research; and by holding the annual International Sign Expo.*



# AESTHETICS AND ON-PREMISE SIGNS

## *ISA Believes...*

...that visible, well-designed and effectively placed on-premise signs contribute positively to a community's aesthetics. One of the main justifications that localities cite for their sign codes is safeguarding their community's overall appearance, or aesthetics. Some courts have been permissive in allowing local officials to base restrictive local ordinances on reasons of aesthetics.

Local officials may have some legal authority to regulate the aesthetic appearance of their communities. However, ISA believes that, while this authority properly applies to regulating the physical appearances of homes, buildings, streets, trees, etc., some important limitations apply to regulation of various communications media, including on-premise signage. We believe, therefore, that the commercial speech embodied in on-premise signs is subject to certain protections under the First Amendment of the United States Constitution.

The combination of words, symbols, colors, fonts, shapes, textures, etc., on commercial, on-premise signs presents a unique and recognizable message that is valuable to sign users and potential customers. The total presentation of a sign is inseparable from its message, and aesthetic restrictions that limit this presentation could result in the loss of creative expression, loss of conspicuity and readability, or perhaps in de facto censorship of commercial speech.

Successful businesses typically prefer to have aesthetically pleasing signs that are easy to detect and read. Communities and businesses, therefore, should work together to establish reasonable codes that promote well-designed, effective signs without unreasonably curtailing commercial speech.

*One of the main justifications that localities cite for their sign codes is safeguarding their community's overall appearance, or aesthetics.*



*Signs can be a creative visual expression of a business and a community.*



# AMORTIZATION

## ISA Believes...

...that because properly maintained on-premise signs typically are used for several decades, not only for a few years, their economic value is substantially greater than their initial cost. The unique ability of on-premise signs to attract customers to particular business sites, and the annual value of sales thereby generated, are factors frequently overlooked by local jurisdictions that adopt amortization rules.

When it comes to signage and urban planning, “amortization” is the grace period beginning on the date that a sign owner is notified of that their previously conforming (legally permitted) sign has been made nonconforming (illegal) by a new sign code. In many cases, instead of ordering these nonconforming signs to be immediately removed and thus require immediate compensation, the jurisdiction will allow the property owner a period of time to continue using their sign for a period deemed long enough to allow the owner to fully depreciate their investment. Once this period of time is over (usually between 5-10 years) the nonconforming sign must be removed without any cash compensation.

ISA believes that the economic impact represented by the loss of many existing sign locations (i.e. when amortization periods expire in local communities) typically is quite severe and amounts to a far greater dollar value than that recoverable within local jurisdictions’ limited amortization periods.

The amortization of on-premise signs is based on flawed reasoning; specifically, that the sole economic value of signs is represented by the cost of purchasing and installing them, and that over a specific period of years the business owner can recover the full value of the sign simply by depreciating the original cost of buying and erecting the sign. ISA believes that in addition to forcing small business owners to remove existing signs and replace them at their own expense, amortization frequently results in reduced sign visibility and less effective business identity. This can adversely affect the value of the business itself and the property on which it’s located.

In addition, ISA believes that the amortization of on-premise signs violates the letter and spirit of the United States Constitution and various state constitutions, which provide that no person shall be “deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.”



*The unique ability of on-premise signs to attract customers to particular business sites, and the annual value of sales thereby generated, are factors frequently overlooked by local jurisdictions that adopt amortization rules.*

*In this amortization example, not only would the business have to replace their prominent pole sign with a less visible monument sign in order to conform with a new sign code, but it would have had to remove the old sign and replace it at its own expense.*

# DRIVER BEHAVIOR AND ON-PREMISE SIGNS

## *ISA Believes...*

...that visible and readable signs serve a vital function in assisting drivers to navigate the public environment. Conspicuous, legible signs promote a more orderly traffic environment and help motorists reach their destinations safely.

On-premise signs are often subject to numerous regulatory controls designed to limit their perceived negative impact on motorists. Yet no research or evidence is available demonstrating a causal link between well-designed, effectively placed, on-premise signs and dangerous driver distractions or reduced traffic safety. In fact, studies demonstrate the key importance of regulations that allow signs to be large enough for sufficient driver visibility.

Drivers rely on on-premise signs to serve a vital wayfinding function. For this reason, signs having adequate size, height, placement legibility and illumination significantly promote safe driver behavior and traffic conditions.

*Conspicuous, legible signs  
promote a more orderly traffic  
environment and help motorists  
reach their destinations safely.*



*The importance of visible and readable signs in promoting traffic safety is emphasized in this government-operated electronic message sign, which is being used to quickly communicate (2-second time interval) different messages to passing motorists.*



# FEDERAL LANHAM TRADEMARK ACT

## *ISA Believes...*

...that trademark usage plays a vital role in our consumer economy, as it allows consumers—to form a familiar mental association with known information. Congress adopted the Federal Lanham Trademark Act, 15 U.S.C. §1051, et seq., in an effort to preserve and protect the integrity of federally registered names, marks, emblems, slogans, and colors. The Act specifically prohibits any unit of state or local government from requiring the alteration of such marks for display purposes. 15 U.S.C. §1121(b).

The visibility, identity, and brand recognition afforded by trademarked logos on signs plays a powerful role in consumer choice and the success of a business. It would be difficult for a business to maintain its brand identity if a community required all business signage to look the same. This sort of regulation diminishes the importance that signs bring to the value of small businesses, restricts the message embodied in the overall presentation of the sign, unduly burdens consumer identification and choice, undermines the investment-backed expectations of mark holders, and subsequently limits the ability of businesses to operate to their full economic potential. It also could raise significant implications under First Amendment content neutrality requirements.

With annual retail sales by franchised businesses that use signs with trademarked logos estimated to be in the hundreds of billions of dollars, the financial implications of such regulations can be dire.

*The visibility, identity, and brand recognition afforded by trademarked logos on signs plays a powerful role in consumer choice and the success of a business.*

*The shopping plaza in the top photo allows its tenants to use signs with their federally-registered trademarks and colors, while stores in the shopping center below must use the same bland fonts and colors instead of their more recognized trademarked logos.*



# THE HIGHWAY BEAUTIFICATION ACT AND ON-PREMISE SIGNS

## *ISA Believes...*

...that federal regulation of our nation's highways does not and should not include on-premise signs.

The Highway Beautification Act (23 USC 131) of 1965 calls for control of outdoor advertising or billboards within 660 feet of the nation's Interstate Highway System and the existing federal-aid primary highway system. It was never intended to include on-premise signs under its jurisdiction.

Since its passage, the Highway Beautification Act has been consistently interpreted as exempting on-premise signs under its jurisdiction. However, in recent years a few state and federal officials have mistakenly sought to regulate on-premise signs using the Act as justification.

ISA believes the Highway Beautification Act cannot be used as justification for government officials to regulate on-premise signs. The HBA does not apply to all signs within 660 feet of a primary aid highway or interstate system. 23 USC 131(c)(2) and 23 USC 131(c)(3) of the Act provide exceptions for on-premise signs, including for on-premise electronic changeable message signs. It was never the legislative intent of the drafters of the Highway Beautification Act or its subsequent amendments to place on-premise signs under any federal control.



*Since its passage, the Highway  
Beautification Act has been  
consistently interpreted as  
exempting on-premise signs  
under its jurisdiction.*

*President Lyndon Johnson and his wife "Lady Bird" at the signing  
of the 1965 Highway Beautification Act, which regulates outdoor  
advertising (billboards), not on-premise signs*



# ILLEGAL SIGNS

## *ISA Believes...*

...that if cities develop and properly enforce reasonable sign codes, then “sign clutter” or other problems caused by illegal signs would decrease significantly and there would be less need for more restrictive sign codes.

ISA supports proper licensing of sign contractors by municipal and state jurisdictions. ISA encourages its members to fully understand and comply with requirements to obtain local permits prior to the erection of signs.

Because the vast majority of illegal signs are not erected by licensed sign companies or were not legally permitted in the first place, ISA believes that enacting more stringent sign codes represents an inappropriate response to this problem. ISA believes that consistent sign code enforcement programs can effectively deal with issues of “sign clutter” and problems created by illegal signs.

*Because the vast majority of illegal signs are not erected by licensed sign companies or were not legally permitted in the first place, ISA believes that enacting more stringent sign codes represents an inappropriate response to this problem.*



*This before and after shot shows the visual impact that enforcing existing sign laws can make. The bottom photo shows what the streetscape would look like with only those signs that were legally permitted and installed. (courtesy the California Sign Association)*

# INTERNALLY ILLUMINATED SIGNS

## *ISA Believes...*

...that internally illuminated signs are very effective in promoting safer driving conditions and more vibrant local business communities due to their increased conspicuity and readability after dark. Also, electric signs are messaging devices and, therefore, should not be regulated as a form of exterior lighting.

Attempts have been made by certain jurisdictions to regulate internally illuminated signs in the same manner as exterior lighting, such as that illuminating roads and parking lots. However, these initiatives do not take into account that illuminated signs exist to communicate messages and the essential use of lighting is incidental to their core function. This important distinction entails certain unique requirements and First Amendment protections for signs.

ISA believes that internally illuminated signs have specialized requirements not shared by fixtures designed for exterior lighting applications. These unique requirements include the need for conspicuity and readability, and the legal protection of free speech. Therefore, regulatory attempts to restrict the operation or dispersion of light from internally illuminated signs defeat their core function and constitute de facto censorship of constitutionally protected speech.

ISA supports efforts which take into account the unique function and characteristics of internally illuminated signs when drafting regulations. Sign code regulations dealing with internally illuminated signs need to support conspicuity, readability and protected First Amendment speech rights.

*ISA believes that internally illuminated signs have specialized requirements not shared by fixtures designed for exterior lighting applications.*



*These internally illuminated white letters really “pop” and are easily visible to passers-by at night. If the lighting was required to be dimmed, the sign would be much less effective.*



# MANDATORY LIGHTING RESTRICTIONS

## *ISA Believes...*

...that illuminated signs must be bright enough to be seen and understood by people when it is dark outside.

Nighttime illumination is not necessarily harmful and should not be restricted without regard to the nature of illumination. Lighting restrictions may seriously impact a community's economic health when applied to signage.

Forcing cities and businesses to change all outdoor lighting—including the illumination required for some types of signage—may increase costs for taxpayers and consumers. In particular, electric signs have certain unique properties dictating that they should not be regulated as forms of “lighting.” First and foremost, the purpose of the light sources inside an internally illuminated sign is not to illuminate a particular external area (e.g. a walkway, road or parking lot). The function of sign lighting is to provide uniform, sufficiently bright lighting to facilitate viewing of the sign's exposed, translucent “face.” Because achieving proper lighting of a sign's face is fundamentally different and more complex than ordinary lighting, regulations designed to achieve nighttime lighting reductions generally are not applicable to electric signs.

The reduction of illumination in signs often results in a lack of conspicuity and readability, which significantly limits a sign's message and visibility to potential customers, resulting in effective censorship. Illuminated signs fall under the protections of the First Amendment and consequently cannot be restricted like general outdoor nighttime lighting.

Illuminated signs help enhance public safety at night, as people feel more secure in well-lit public areas. Illuminated signs also increase public safety by providing effective direction to night-time motorists in finding their destinations.

ISA supports smarter lighting strategies such as dimming capabilities in on-premise electronic message centers and innovative technology that allows illuminated signs to use light more efficiently.

*Nighttime illumination is not necessarily harmful and should not be restricted without regard to the nature of illumination. Lighting restrictions may seriously impact a community's economic health when applied to signage.*

*Ordinances that require downlit externally illuminated signs can often make signs less visible at night and intrude upon the aesthetic quality of the sign during the day, which can adversely impact public safety and the business's bottom line.*



# MERCURY-LAMP RECYCLING

## *ISA Believes...*

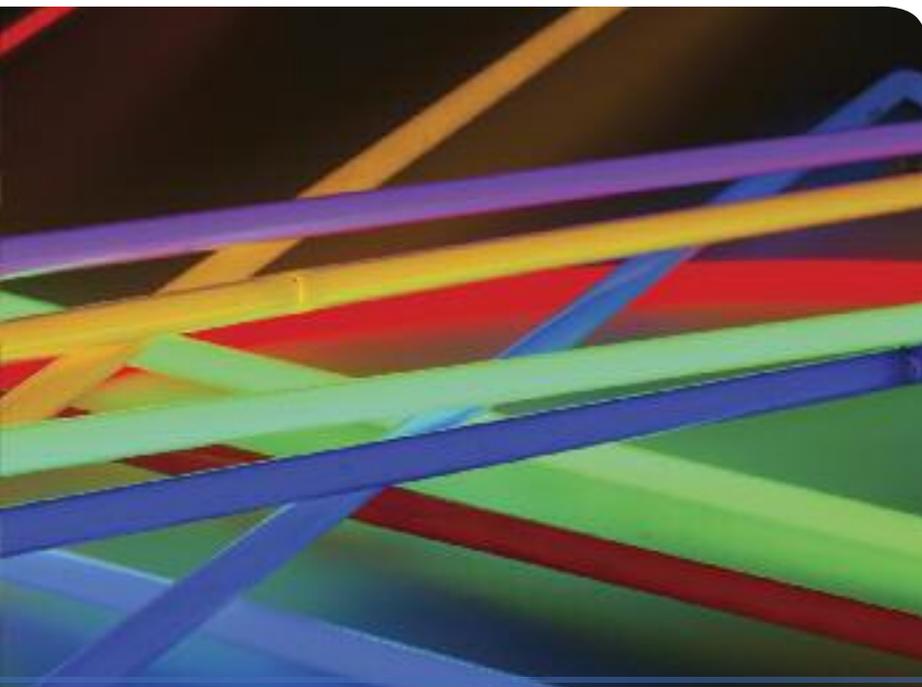
...that the responsible use of mercury in neon lamps is essential for the proper illumination, conspicuity and visibility of many on-premise signs, and that the sign industry is committed to the proper recycling and disposal of mercury-added products.

Mercury, in vaporized form, is a critical component of many types of energy efficient lighting, such as fluorescent lamps, compact fluorescent lamps, HID lamps, and some colors of hand-fabricated neon tubes. ISA opposes regulations that arbitrarily prohibit or limit the use of mercury in neon signs.

ISA promotes measures and provides resources that enable its members to properly recycle all types of mercury-added lamps, including neon. These initiatives comprise efforts to increase the recovery of spent mercury lamps and to establish a network of recyclers throughout North America equipped to receive and process lamp wastes in accordance with applicable statutory requirements. The sign industry also strives to ensure that mercury usage is limited to the minimum levels appropriate for proper sign operation in a broad range of typical applications.

Because a substantial percentage of obsolete electric signs are recovered intact by sign companies from retail and commercial sites, ISA has the capability to achieve significant improvements in the industry's overall recycling of mercury lamp wastes. For this reason, ISA's strong commitment to recycling promises to yield substantial safety benefits without compromising the inherent value of signs as essential forms of communication.

*ISA promotes measures and provides resources that enable its members to properly recycle all types of mercury-added lamps, including neon.*



*Different colored neon lamps*



# ON-PREMISE EMCs HAVING OFF-PREMISE MESSAGES

## *ISA Believes...*

...that the messages displayed on signs permitted under on-premise sign regulations should be messages relating to a business, an event, goods, profession, or service being conducted, sold, or offered at the same location as the sign is erected. ISA also believes that on-premise signs should be permitted to display noncommercial or community-oriented messages without risk of losing their on-premise status or exemption from outdoor advertising restrictions.

When an on-premise electronic message center (EMC) is programmed to include among its several messages one that advertises a business, an event, goods, profession, or service being conducted, sold, or offered at a different location from where the sign is erected, it may be viewed by some government officials as being an off-premise sign, and may need to be permitted and regulated as such. This can have an adverse impact on both the individual sign users as well as other future sign users who will need approval from zoning or permitting authorities.

*An on-premise sign is a communication device whose message and design relate to a business, an event, goods, profession, or service being conducted, sold, or offered at the same location as the sign is erected.*

*This shopping center's electronic message center (EMC) is communicating a message not about any goods or services sold on the property, but about a non-commercial community-oriented event that is happening at a place other than at the location of the sign. It is perfectly acceptable for an on-premise EMC to broadcast such a non-commercial message; however, if the same sign were to communicate a commercial message about a store in the next town or advertise for a product that was not sold at that particular location, it would be in danger of losing its permitted status as an on-premise sign and could instead be classified as an off-premise sign. This new classification would usually entail undergoing a new permitting process, additional fees and other arduous procedures.*



# ON-PREMISE SIGN SIZE STANDARDS

## *ISA Believes...*

...that for purposes of traffic safety and business success, on-premise signs must be big enough to be effectively seen by prospective customers, especially those viewing signs from automobiles.

Studies and research demonstrate that signs must be of certain minimum sizes in order to be sufficiently visible to motorists. Otherwise, inadequately sized signs can create unsafe driving conditions. As noted in a 1998 study by Richard N. Schwab, a former Federal Highway Administration program manager for research on highway visibility and night driving safety: "Traffic safety is not jeopardized by the sign itself or some sort of stimulus overload; instead the culprit is inadequate sign size or lighting, or inappropriate placement, or a combination of these factors."

Size standards for signs must be based on various objective factors such as the number of highway lanes, posted speed limits, driver reaction time, and the sign's letter size, color contrast, mounting height, etc.

In order to attract potential customers, the best sign for a small business is one that is visible and legible for people who are driving past the business. Sign codes, therefore, should be based on sign sizes adequate for effective communications to the public.

Municipal codes which unduly restrict sign sizes defeat the very purpose for which signs exist. Restrictions of this type also curtail the creativity and artistic expression which represent hallmarks of the sign industry, and which can therefore result in bland, uniform, and unattractive signs.

While "time, place, and manner" restrictions apply to sign regulations, cities must consider the latest in scientific research and data regarding the relationship between sign sizes and motorist visibility.

Observing these guidelines is just as important with reference to commercial signs as it is for traffic safety signs, the latter of which are governed by the Manual on Uniform Traffic Control Devices, which uses minimum size standards.



*In order to attract potential customers, the best sign for a small business is one that is visible and legible for people who are driving past the business. Sign codes, therefore, should be based on sign sizes adequate for effective communications to the public.*

*This WalMart sign located next to a busy six-lane thoroughfare (45 mph) and in front of a very large parking lot is far too small to effectively be seen by passing motorists in a timely fashion.*

# PRIOR RESTRAINT

## *ISA Believes...*

...that sign codes should be written so that the permitting process is clearly understandable by a reasonable person, so that there is an expeditious application and appeals process, and so that government officials do not have “unbridled discretion” in granting or denying sign permits.

Most cities require those who seek to display on-premise signs to obtain a license to do so prior to construction or display. The messages embodied in on-premise signs are speech and are therefore due certain constitutional protections. Requiring such review prior to the installation of a sign is a form of “prior restraint.” The prior restraint occurs as a result of the fact that the speaker is restrained from communicating their message until the regulator approves the speech.

In order to pass a prior restraint challenge, sign permit standards must be clear, concise, and capable of objective interpretation and administration. Additionally, the decision to grant or deny a sign permit (and in the case of the latter, a hearing on appeal of a denied permit) must occur in a timely manner. If the government does not provide any of these minimum procedural requirements, their sign code may be illegal.

Government officials should not have “unbridled discretion” when deciding whether or not to grant a sign permit, but should instead follow explicit, understandable, and objective standards within the sign code. Any sign permitting process which does not guarantee resolution of application issues within a short period of time and that does not strictly limit the government’s discretion may violate “prior restraint” protections and be unconstitutional.

*The messages embodied in on-premise signs are speech and are therefore due certain constitutional protections. Requiring such review prior to the installation of a sign is a form of “prior restraint.”*

*Local government officials must accommodate a sign permitting process that is reasonably understandable, expeditious and able to be appealed.*



# SHUTOFF OR LIGHTING CURFEW REQUIREMENTS

## *ISA Believes...*

...that businesses should be able to reasonably and responsibly use their electronic signage at night, and that restricting night-time illumination can adversely affect the ability of businesses to communicate to the public when it is dark outside.

Some municipalities and national model ordinances are including language that attempts to restrict the hours when a sign may be illuminated. These restrictions can limit a sign's function only to the hours of operation or may require shutoff at a specific time of day. The imposition of these shutoff or lighting curfew requirements for signs adversely affects delivery of the sign's message and, consequently, its inherent value to the user.

Unlike the lighting of building facades and landscape features (which are designed for an aesthetic function), signage is designed primarily for a commercial function and serves a significant audience that may not be accessing the facility. Requiring facilities to shut off signage at the conclusion of operations will deprive businesses and other facilities of necessary advertising to the pedestrian and motoring public. In addition many facilities require signage to ensure safe after-hour operations, such as deliveries.

Illuminated signage should not be subject to shutoff or lighting curfew requirements. Illuminated signs serve a different purpose than general lighting; they communicate and broadcast messages. This purpose extends beyond the operating hours of a business location or organizational facility. In restricting the use of illuminated signage, government regulations interfere with the distribution of a message and the constitutionally protected expression of free speech.

“EVEN WHEN A BUSINESS IS CLOSED FOR THE NIGHT, IT CAN BENEFIT FROM THE ADVERTISING IMPACT OF AN ILLUMINATED SIGN, AS IT CONTINUES TO BRAND THE SITE AND REMINDS PASSERS-BY OF THE LOCATION FOR FUTURE REFERENCE.”

*The imposition of these shutoff or lighting curfew requirements for signs adversely affects delivery of the sign's message and, consequently, its inherent value to the user.*



# SIGN CONTRAST

## *ISA Believes...*

...that the effective use of graphics, font styles, color combinations and contrast is fundamental to the visual appeal and inherent value of signs.

Any measure for determining effective contrast must preserve a high level of flexibility for designers and users of signage. Because the methodology for defining and measuring contrast remains elusive, however, regulatory initiatives that would arbitrarily curtail the user's freedom to effectively and creatively communicate messages should be opposed.

This includes efforts to mandate a 70-percent contrast level for Americans with Disabilities Act (ADA)-compliant signage. ISA believes that establishing a 70-percent contrast requirement for ADA signage would create significant problems, particularly in terms of enforcement by local authorities having jurisdiction.

The current advisory language on sign contrast has served as a sufficient guideline since 1991, when the original ADA Accessibility Guidelines were published in the Federal Register.

Furthermore, the validity of the original study that formed the basis for the 70-percent guideline has been disputed by expert sources. Until such time as independent, peer-reviewed research demonstrates the value of establishing a fixed threshold for signage contrast, therefore, ISA supports preserving the current ADA language, under which 70 percent remains an advisory guideline and not a requirement.

*Any measure for determining effective contrast must preserve a high level of flexibility for designers and users of signage.*

*ADA-compliant signage*



INTERNATIONAL SIGN ASSOCIATION

# SIGN MORATORIUMS

## *ISA Believes...*

...that moratoriums are not necessary to change a sign ordinance unless it can be proven that specific kinds of signs imminently threaten public health and safety. Communities should be able to research options and revise their sign codes without resorting to moratoriums.

Many communities enact temporary moratoriums on certain kinds of signs while they consider how to regulate these specific signs. During this period of time, permits are not issued for the specific types of signs. In some cases, a temporary moratorium leads to a permanent ban on the kinds of signs in question.

ISA believes that sign moratoriums make for poor public policy for several reasons, including the following:

- (1) moratoriums can have the affect of favoring businesses which have the targeted signs already in existence;
- (2) government signs are often not included under moratoriums;
- (3) moratoriums often take place during important economic opportunities (i.e. Christmas, summer tourism season etc) for local businesses; and
- (4) moratoriums could discourage development of new businesses.

Most importantly, sign moratoriums can usually be avoided by effectively involving and communicating with the appropriate community stakeholders.

If a community elects to enact or extend a sign moratorium, it should be used as a last resort, and only then in furtherance of an imminent health or safety concern. A sign moratorium should be limited to the shortest possible duration.

*Many communities enact temporary moratoriums on certain kinds of signs while they consider how to regulate these specific signs.*

*During this period of time, permits are not issued for the specific types of signs.*



*Electronic message centers have often been the target of moratoriums by local officials. However, prohibiting these types of signs (or other types, such as pole signs or window signs) can often hurt existing businesses in the community and could discourage the development of new businesses.*



# SIGNS AND COMMERCIAL SPEECH

## *ISA Believes...*

*The right to free commercial speech, as established by the U.S. Supreme Court under the First Amendment, applies to on-premise signs.*

*\*Virginia Pharmacy Board v. Virginia Consumer Council, 425 U.S. 748 (1976); Linmark Associates, Inc. v. Willingboro, 431 U.S. 85 (1977); Central Hudson Gas & Electric Company v. Public Service Commission, 447 U.S. 557 (1980); Metromedia, Inc. v. San Diego, 453 U.S. 490 (1981); City of Cincinnati v. Discovery Network, Inc., 507 U.S. 410 (1993); City of Ladue v. Gilleo, 512 U.S. 43 (1994).*

*The U.S. Supreme Court has established the right of commercial speech under the First Amendment*

...that the right to free commercial speech, as established by the U.S. Supreme Court under the First Amendment, applies to on-premise signs.\* Therefore, small businesses have the constitutional right to have their commercial messages seen and understood without undue government regulation.

Cities often regulate on-premise signs as though they are merely an auxiliary use of the land on which they are located. As such, many sign codes do not take into consideration the commercial free speech rights embodied in signs. This can adversely affect the ability of small businesses to succeed, and can also result in a city's sign code being found unconstitutional.

Such constitutional protection requires that on-premise sign regulation place reasonable time, place, and manner limitations on signs without reference to the content or message of the speech, or the identity of the speaker, unless a substantial state interest is at stake and cannot otherwise be furthered without a burden on this protected speech.

When a challenge arises to the constitutionality of an on-premise sign code, the government carries the burden to establish that the regulation at issue advances a substantial state interest and also to establish that this interest cannot be advanced or conferred by a less restrictive burden on the speech embodied in on-premise signs.

If cities continue to regulate signs without fully and properly considering their constitutional free speech implications, then small businesses will have a more difficult time reaching potential customers. In addition, more cities will have their sign codes found to be unconstitutional and be held liable for damages.

Government officials and courts must recognize that the messages embodied on on-premise signs are protected by the Freedom of Speech clause of the First Amendment. Jurisdictions need to reasonably regulate the sign and not the content.



# SIGNS AND ECONOMIC DEVELOPMENT

## *ISA Believes...*

...that small businesses have a better chance to succeed if they are allowed to have well-placed and well-designed signage.

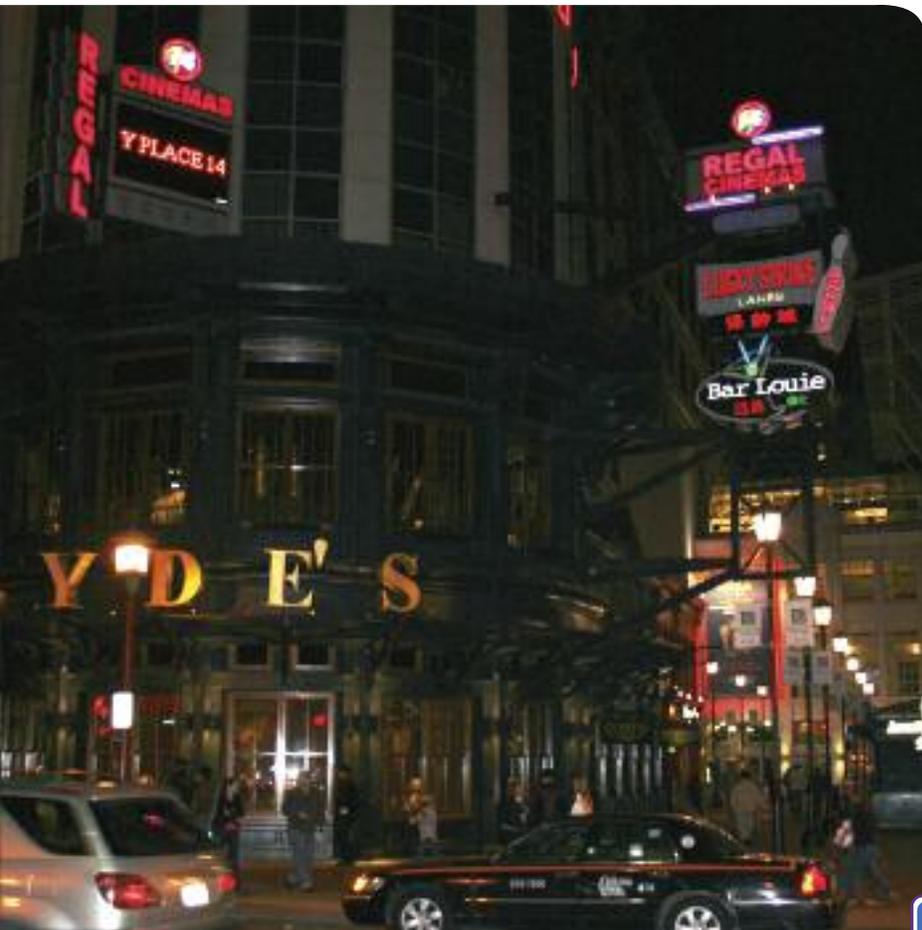
U.S. small businesses account for more than 60 million jobs in America. However, it is still difficult for many local retailers to survive in our competitive marketplace. Most small businesses have thin profit margins and cannot afford to spend excessive funds on advertising, so they must frequently rely solely upon on-premise signs to advertise their goods and location to potential customers.

According to the U.S. Small Business Administration, on-premise signs “are the most effective, yet least expensive form of advertising for the small business.” A cost-per-exposure analysis comparing on-premise signs and television, radio, and newspaper ads shows that on-premise signs are a far less expensive way for a small business to advertise its goods and services.

If cities enact and enforce restrictive sign codes, they may hurt the ability of small businesses to function at their full potential. Local communities also are hurt, in the form of lower tax revenues and decreased employment. This could result in economic downturns across the board, and damage our traditionally strong, vital, market-based society.

Sign codes must be drafted to give businesses the opportunity to have maximum success at their locations by permitting signs to be placed where they will be seen by intended audiences.

*According to the U.S. Small Business Administration, on-premise signs “are the most effective, yet least expensive form of advertising for the small business.”*



*These highly visible and attractive signs in Washington, DC's Chinatown play an important role in attracting tourists and promoting economic activity in the community.*



## ISA...

- Founded in 1944 as the National Electric Sign Association (NESA) to represent manufacturers, users and suppliers of on-premise signs and sign products.
- A 2,100-member organization comprised of manufacturers, users and suppliers of on-premise signs and sign products.
- Members come from all 50 United States and 55 countries.
- The annual ISA International Sign Expo, the largest sign show in the world, has been named to Tradeshow Week magazine's prestigious Tradeshow Week 200 list of the largest expositions in the U.S. for four consecutive years.

*Supporting sign and visual communications companies  
through community, education and advocacy*



## BUILDING STRONGER COMMUNITIES

*Working Together  
to Create Reasonable  
Sign Codes*

## ISA

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