

**DISTRICT OF COLDSTREAM
BYLAW NO. 1747, 2019**

A BYLAW TO DEFINE PROCEDURES FOR THE PROCESSING OF DEVELOPMENT APPLICATIONS INCLUDING AMENDMENTS OF AN OFFICIAL COMMUNITY PLAN BYLAW, ZONING BYLAW, PHASED DEVELOPMENT AGREEMENTS, LAND USE CONTRACTS; AND PERMITS UNDER PART 14 OF THE *LOCAL GOVERNMENT ACT*; AND APPLICATIONS UNDER THE AGRICULTURAL LAND COMMISSION AND THE LIQUOR AND CANNABIS REGULATION BRANCH

WHEREAS the Council of the District of Coldstream has adopted an Official Community Plan and a Zoning Bylaw;

AND WHEREAS the Council of the District of Coldstream must by bylaw, define procedures to amend an Official Community Plan or Zoning Bylaw or issue a permit under Part 14 of the *Local Government Act*;

AND WHEREAS the Council of the District of Coldstream has designated areas within which Temporary Use Permits may be issued and within which Development Permits are required;

NOW THEREFORE the Council of the District of Coldstream ENACTS AS FOLLOWS:

TITLE

- 1 This Bylaw may be cited as “DISTRICT OF COLDSTREAM DEVELOPMENT APPLICATIONS PROCEDURES BYLAW NO. 1747, 2019”.

INTERPRETATION

- 2 (1) In this Bylaw:

“**Agricultural Land Reserve**” means lands designated pursuant to the *Agricultural Land Commission Act*;

“**Applicant**” means any person who makes application for development under provisions of this Bylaw as authorized by the Owner of the parcel(s) of land;

“**Council**” means the Council of the District of Coldstream;

“**Development Permit**” means a permit authorized by the *Local Government Act*;

“**Development Variance Permit**” means a permit authorized by the *Local Government Act*;

“**Director of Development Services**” means the Director of Development Services for the District, or their designate;

“District” means the District of Coldstream;

“Land Use Contract” means a current Land Use Contract which is being amended as per the *Local Government Act*;

“Official Community Plan” means the District of Coldstream Official Community Plan Bylaw;

“Owner” means the registered owner(s) of real property on the Land Title Certificate;

“Phased Development Agreement” means an agreement authorized by the *Local Government Act*;

“Public Hearing” means a hearing pursuant to the *Local Government Act*;

“Qualified Environment Professional” means an applied scientist or technologist, acting alone or together with another Qualified Environmental Professional, if

- (a) the individual is registered and in good standing in British Columbia with an appropriate professional organization constituted under an Act, acting under that association’s code of ethics and subject to disciplinary action by that association,
- (b) the individual’s area of expertise is recognized in the assessment methods as one that is acceptable for the purpose of providing all or part of an assessment report in respect of that development proposal, and
- (c) the individual is acting within that individual’s area of expertise;

“Temporary Use Permit” means a permit authorized by the *Local Government Act*.

- (2) Unless otherwise provided in this Bylaw, words and phrases used herein have the same meanings as in the *Community Charter*, *Local Government Act* and the *Interpretation Act* as the context and circumstances may require.
- (3) A reference to an Act in this Bylaw refers to a statute of British Columbia, and a reference to any statute, regulation, bylaw or other enactment refers to that enactment as it may be amended or replaced from time to time.
- (4) Words in the singular include the plural, and words in the plural include the singular.
- (5) Headings are for convenience only and must not be construed as defining or limiting the scope or intent of the provisions.

SEVERABILITY

- 3 If any part of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder of the Bylaw continues to be valid.

SCOPE

- 4 This Bylaw applies to the following:
- (1) An application for amendment to
 - (a) the Official Community Plan
 - (b) the Zoning Bylaw, including the establishment of Phased Development Agreements
 - (c) a Land Use Contract;
 - (2) An application for the issuance, amendment and review of
 - (a) Development Permits
 - (b) Development Variance Permits
 - (c) Temporary Use Permits
 - (d) Liquor Licence Applications; and
 - (3) An application to the Agricultural Land Commission
 - (a) to include land into the Agricultural Land Reserve
 - (b) to exclude land from the Agricultural Land Reserve
 - (c) to subdivide land within the Agricultural Land Reserve
 - (d) to conduct a non-farm use in the Agricultural Land Reserve
 - (e) to allow non-adhering housing.

APPLICATION FEE, SIGN AND REVIEW

- 5 At the time of application, the Applicant will pay the District an application fee set out in the Fees and Charges Bylaw.
- 6 A Notice of Application sign must be posted in accordance with Schedule 1 attached to and forming part of this Bylaw.
- 7 Applications will be reviewed in general compliance with the District's "Procedures for the Review and Processing of Land Use Applications".

DEVELOPMENT APPROVAL INFORMATION

- 8 Pursuant to the *Local Government Act* and the Official Community Plan, the District may require an Applicant to provide reports and impact studies including but not limited to the following:
 - (a) environmental impact assessment;
 - (b) environmental management plan;
 - (c) biophysical constraints;
 - (d) geotechnical study;
 - (e) transportation and traffic impact study;
 - (f) site access and servicing, including sensitive habitat and natural hazards, accessibility, energy and water conservation;
 - (g) stormwater management study;
 - (h) wildfire hazard assessment;
 - (i) biological assessment;
 - (j) functional servicing report;
 - (k) other studies as deemed necessary.
- 9 Staff will review and confirm the terms of reference for the report(s) or impact study(s).

- 10 The Applicant will be required to provide the reports and impact studies prepared by Qualified Registered Professionals at the Applicant's expense. The District may require an independent review of the study results in certain circumstances including but not limited to staff capacity and to ensure the timely review of the study results. The Applicant will be notified if an independent review of the study results is required.
- 11 If the Director of Development Services determines that a report containing development approval information is incomplete or deficient, the Applicant will be notified in writing the nature of deficiencies and the timeframe to resubmit the corrected report.
- 12 The District may request, at the Applicant's expense, the presentation of the report or impact study to Council, the community or staff by the Qualified Registered Professional(s) who prepared the document.
- 13 The District may distribute and publicize a report containing development approval information requested under this Bylaw, subject to any limitations under the *Freedom of Information and Protection of Privacy Act*.

NOTIFICATION

- 14 The District will mail or otherwise deliver individual notices to the Owners and tenants of the subject property for which an application is being made, and to all Owners and tenants within 100 m measured from the boundaries of any subject property to which the application pertains, advising of
 - (a) a scheduled Public Hearing for an Official Community Plan, Zoning Bylaw, Land Use Contract Amendment, or a Phased Development,
 - (b) a scheduled Council meeting for a Development Variance Permit,
 - (c) a scheduled Council meeting for a Temporary Use Permit, and
 - (d) a scheduled Council meeting for an application to the Agricultural Land Commission.
- 15 For applications made pursuant to the Liquor and Cannabis Regulation Branch, the District will mail or otherwise deliver individual notices to all Owners and tenants within 100 m measured from the boundaries of any subject property to which the application pertains. This notice shall include
 - (a) the type of licence application,
 - (b) the proposed person capacity, and
 - (c) the proposed hours of liquor service.

SECURITY

- 16 Pursuant to the *Local Government Act* and the Official Community Plan, security may be required as a condition of permit issuance for the following:
- (a) landscaping (“landscape security”);
 - (b) an unsafe condition that may result as a consequence of a contravention of a condition in a permit (“remediation security”);
 - (c) damage to the natural environment that may result as a consequence of a contravention of a condition in a permit (“remediation security”); or
 - (d) to guarantee the performance of the terms of a Temporary Use Permit (“performance security”).
- 17 The Applicant must provide the security prior to the issuance of a permit and be in the form of an automatically renewing irrevocable letter of credit or in a form satisfactory to the Director of Development Services.
- 18 (1) For landscape security, the amount of security is 125% of an estimate or quote of the cost of works, including but not limited to inspections, monitoring, maintenance, irrigation, labour and plantings materials. The estimate or quote must be submitted by a landscape architect or other professional approved by the Director of Development Services. The estimate or quote will be provided by the Applicant at the Applicant’s expense.
- (2) Phased landscape plans may be approved for large-scale developments at the discretion of the Director of Development Services to enable the completion of the landscape plan in phases and the submission of the related security deposit of 125% at each phase. The Applicant is required to request a phased landscape plan at the time of Development Permit application, clearly identifying on the submitted landscape plan the proposed phases and related cost estimates for each phase.
- 19 (1) For remediation security, the amount of security is 125% of an estimate or quote of the cost of works, including but not limited to inspections, monitoring, maintenance, irrigation, labour and planting materials. The estimate or quote must be submitted by a Qualified Environmental Professional. The estimate or quote will be provided by the Applicant at the Applicant’s expense.

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- (2) Where remediation security is required in the case of an unsafe condition that may result from contravention of a permit condition, the amount of security shall reflect
- (a) the nature of the permit condition,
 - (b) the nature of the unsafe condition, and
 - (c) the cost to the District of entering the land to undertake the work to correct the unsafe condition, including the cost of repairing any damage to land and improvements that may have been caused by the unsafe condition or that may have occurred in connection with the repair work.
- (3) Where remediation security is required in the case of damage to the natural environment that may result from contravention of a permit condition, the amount of security shall reflect
- (a) the nature of the permit condition,
 - (b) the nature of the damage, and
 - (c) the cost to the District of entering the land to correct the damage to the environment, and restore or enhance the natural environment to compensate for the damage that was caused by the contravention of that permit condition.
- 20 For performance security, the amount of security is 125% of an estimate or quote of the cost of works to guarantee the performance of the terms of a Temporary Use Permit. Such works may include but are not limited to inspections, monitoring, maintenance, irrigation, labour, planting materials and works required to restore the land or remove any temporary structures. The estimate or quote must be submitted by a professional approved by the Director of Development Services. The estimate or quote will be provided by the Applicant at the Applicant's expense.
- 21 In extraordinary circumstances, alternate methodologies to calculate the amount of security may be approved by the Director of Development Services.
- 22 At the expense of the permit holder, the District may undertake the works, construction or other activities required to satisfy the landscaping condition, to correct the unsafe condition, to correct the damage to the environment or to ensure the performance of the terms of a permit. The District may apply the security in payment of the cost of works, construction or other activities if any of the following occur:

- (a) the works were not completed prior to the permit holder's request for final occupancy;
 - (b) the works were not completed within a defined time period as specified by the Director of Development Services or as per the time period identified in an approved permit;
 - (c) an unsafe condition resulted as a consequence of contravention of a condition in the permit;
 - (d) damage to the natural environment resulted as a consequence of contravention of a condition in the permit;
 - (e) a contravention in relation to the performance of the terms of a Temporary Use Permit.
- 23 (1) If a permit is cancelled by the Applicant and no work has occurred related to the security deposit, the security deposit will be returned to the Applicant upon approval by the Director of Development Services.
- (2) Unless otherwise stated in this Bylaw, the District will return the security when written request has been submitted by the Applicant and, if required by the Director of Development Services, including a satisfactory substantial completion report by a landscape architect, Qualified Environmental Professional or other professional approved by the Director of Development Services, certifying that
- (a) the works have been completed in substantial compliance with the approved plan(s), and
 - (b) the unsafe condition or damage to the natural environment has been corrected.
- (3) The substantial completion report must be signed and sealed by a landscape architect, Qualified Environmental Professional or other professional approved by the Director of Development Services and include the following at a minimum:
- (a) the date and drawing number of the plan reviewed by the landscape architect, Qualified Environmental Professional or other professional approved by the Director of Development Services;
 - (b) date(s) of inspection by the landscape architect, Qualified Environmental Professional or other professional approved by the Director of Development Services;
 - (c) a statement from the landscape architect, Qualified Environmental Professional or other professional approved by the Director of Development Services that the completed works substantially comply with the approved plan;

- (d) identification of conformance to approved species, quantity of materials, scale and number of plans, irrigation systems and features including hard landscaping, as shown on approved drawing(s) and installation to British Columbia Society of Landscape Architects/British Columbia Landscape and Nursery Association standards;
 - (e) confirmation that the depth of soils and composition of soils are to British Columbia Society of Landscape Architects/British Columbia Landscape and Nursery Association standards;
 - (f) a description of all deviations from the approved plan(s) with a rationale for the changes and whether the changes meet the intent of the approved plan(s); and
 - (g) the request of the amount of funds to be released.
- (4) Upon receipt of a substantial completion report, the District may conduct a site inspection to verify that the works were installed in accordance with the approved plans.
- (5) Should there be any deficiencies identified in the substantial completion report or should the District find any discrepancies and/or deficiencies during an inspection, an inspection report will be issued to the Applicant and the security will be retained until the deficiencies have been addressed. Any changes to the approved plans will require approval of the District prior to installation of any works. Depending on the level of non-conformance with the approved plans, Council approval of the revised plan(s) may be required through an amended permit application prior to the release of the security.
- (6) Site inspections and final acceptance by the District of the installation of plant material, sodding or seeding, may not be carried out between November 1 and April 30 due to weather conditions, unless otherwise approved by the Director of Development Services.
- (7) Upon completion of any items outlined in an inspection report, the Applicant shall notify the District for further inspection in order to obtain a final release of the security.
- (8) Upon substantial completion, the District will return 90% of the security deposit. The District will withhold the remaining 10% as a maintenance bond for up to two growing seasons to ensure that the work has been fully implemented and demonstrated to function (ecologically or as designed).
- (9) Interest accrued on the security provided accrues to the holder of the permit and must be paid to the holder immediately on return of any unused portion of the security or, on default, becomes part of the amount of security.

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- 24 (1) The District may return a portion of the landscape security upon receipt of a report from a landscape architect or other professional approved by the Director of Development Services.
- (2) The report required under subsection (1) must include the following:
- (a) evidence that the total landscaping is 50% complete and substantially complies with the approved landscape plan;
 - (b) evidence that the perimeter landscaping is 100% complete as per the approved landscape plan for any portion of the subject property that includes street frontage;
 - (c) the date and drawing number of the landscape plan reviewed by the landscape architect or other professional approved by the Director of Development Services;
 - (d) date(s) of inspection by the landscape architect or other professional approved by the Director of Development Services;
 - (e) evidence of conformance to approved species, quantity of materials, scale and number of plants, irrigation systems and features including hard landscaping, as shown on approved drawing(s) and installation to British Columbia Society of Landscape Architects/British Columbia Landscape and Nursery Association standards;
 - (f) identification of all deviations from the approved landscape plan;
 - (g) the submission of a revised landscape plan and cost estimates for the remainder of the works to be completed for the approval of the Director of Development Services; and
 - (h) the request for the amount of funds to be released. The District will withhold 10% of the original cost estimate calculated in section 18 as a maintenance bond as per section 23(8).
- (3) When considering a request for partial return of landscape security, staff will consider the visual impact and safety of the remainder of the site as well as the public interface areas prior to approving a partial return request.
- (4) If the request for the partial return of landscape security is approved, the District will return 50% of the original cost estimate or quote and will withhold 10% of the original cost estimate as a maintenance bond as per section 23(8).
- (5) The partial return of landscape security will occur only once per security deposit unless as otherwise approved by the Director of Development Services.

RENEWAL, EXTENSION AND ABANDONMENT

- 25 If staff determines that an application is incomplete during the initial review, the application will be placed on hold and the Applicant will be requested to provide the required information. If an Applicant does not provide the required information within three months of the request, the Applicant will be notified that
- (a) the application will be deemed to be abandoned and will be closed, and
 - (b) the application and fee will be returned as set out in the Fees and Charges Bylaw.
- 26 In the event that a bylaw prepared through an application made pursuant to this Bylaw has not been given final adoption by Council within one year after the date it was given third reading or one year after the date of last consideration by Council,
- (a) the application will be deemed to be abandoned and will be closed, and
 - (b) staff will prepare a motion for Council's consideration to rescind all readings of the bylaw associated with the amendment application.
- 27 In the case of applications that have been delegated to the Director of Development Services, if final approval of an application is not granted within one year after a written request from the Director of Development Services to submit any outstanding items,
- (a) the application will be deemed to be abandoned and will be closed, and
 - (b) the application and fee will be returned as set out in the Fees and Charges Bylaw.
- 28 In order for an application that has been abandoned under sections 25, 26 and 27 to proceed, a new application and fee is required under the Fees and Charges Bylaw.
- 29 Upon written request from the Applicant prior to the abandonment of the application, Council may extend the deadline for a period of one year by passing a resolution to that effect to enable the Applicant to complete the requirements for final adoption of the bylaw. A maximum of 2 one-year time extensions may be granted by Council. If Council denies an extension request or the Applicant has received 2 one-year time extensions and still has not met the requirements for final adoption and wishes to proceed with the application, a new application and fee is required as set out in the Fees and Charges Bylaw.
- 30 Where an application made pursuant to this Bylaw has been denied by Council, reapplication for the same proposal will not be accepted for a six-month period immediately following the date of refusal. The time limit may be varied in relation to a specific reapplication by an affirmative vote of at least 2/3 of the Council members eligible to vote on the reapplication.

CHANGE OF OWNERSHIP

- 31 If there is a change of ownership of a parcel(s) of land that is the subject of an application under this Bylaw, the District will require updated land title certificate(s) for the parcel(s) of land and written authorization from the new Owner(s) prior to proceeding with the application.

DELEGATION OF AUTHORITY

- 32 The Director of Development Services or designate is designated the following powers:
- (a) the power to require Development Approval Information as per the *Local Government Act*;
 - (b) the power to require security as per the *Local Government Act*;
 - (c) the power to designate the form of any permit issued under this Bylaw as per the *Local Government Act*;
 - (d) the power to designate the form and content of application forms;
 - (e) the power to issue Riparian Development Permits, Coldstream Valley Development Permits and Greenhouse Gas Reduction Development Permits where no variances are requested;
 - (f) the power to amend Development Permits that have been issued, provided that
 - (i) the changes are minor in nature regarding landscaping or form and character issues; and
 - (ii) no variances are requested;
 - (g) the power to renew Development Permits that have been issued and lapsed, provided that
 - (i) no changes have been proposed to the Development Permit; and
 - (ii) the Development Permit is consistent with the current Official Community Plan and relevant Development Permit Guidelines.

COUNCIL RECONSIDERATION OF A STAFF DECISION

33 All of the following apply to any decision made by staff under section 32:

- (a) An Owner is entitled to have the decision reconsidered by Council in accordance with this section.
- (b) An Owner who wishes to have a decision reconsidered by Council must apply for the reconsideration by delivering to the Corporate Officer, within 30 days after the decision is communicated in writing to the Owner, the following information:
 - (i) the name of the person(s) who made the decision, the date of the decision and copy of the decision;
 - (ii) the reasons why the Owner wishes the decision to be reconsidered by Council;
 - (iii) the proposed amended decision; and
 - (iv) a copy of any materials considered by the Owner to be relevant to the reconsideration by Council.
- (c) A reconsideration application must be considered by Council within 30 days after the date on which the reconsideration application is delivered to the District.
- (d) The Corporate Officer must
 - (i) place each consideration application on the agenda for a meeting of Council in accordance with subsection (c);
 - (ii) give notice of each reconsideration by Council in accordance with any notice requirements in respect of the original application that are set out in the Council Procedure Bylaw, or the *Local Government Act*; and
 - (iii) before each reconsideration by Council, deliver to each Council member a copy of the materials that were considered by the person(s) making the decision that is to be reconsidered.
- (e) In reconsidering a decision, Council must consider the material that was considered in making the decision.
- (f) At a reconsideration of a decision, the Applicant is entitled to be heard by Council.

- (g) Council is entitled to adjourn a reconsideration of a decision.
- (h) After having reconsidered a decision, Council may either confirm the decision or may set aside the decision and substitute the decision of Council.

REPEAL

- 34 "Corporation of the District of Coldstream Procedures Bylaw No. 952, 1987" and amendments thereto is hereby repealed.
- 35 "District of Coldstream Riparian Development Permit Delegation Bylaw No. 1691, 2016" is hereby repealed.

READ A FIRST TIME this	12 th	day of	November	2019
READ A SECOND TIME as amended this	9 th	day of	December	2019
READ A THIRD TIME this	9 th	day of	December	2019
ADOPTED this	23 rd	day of	December	2019

Corporate Officer

Mayor

Attachment: Schedule 1 - Requirements for Notice of Application Sign

Requirements for Notice of Application Sign

PREPARATION AND INSTALLATION OF SIGN

- 1 (1) An Applicant must, at their cost, install and post the Notice of Application sign in accordance with this Schedule and as identified on the District's Sign Format Sheet.
- (2) Applications with respect of land under the Agricultural Land Reserve must consult the Agricultural Land Commission's Application Information Package for notification requirements. Notification requirements of the Agricultural Land Commission are in addition to any requirements of this Bylaw.
- (3) The design of the sign must be in a form prescribed by the Director of Development Services as shown below on a Sign Format Sheet:

DEVELOPMENT PROPOSAL

File No:

Applicant:

Map or other image depicting development


For More Information

District Contact

Name

Phone

Email


District of
Coldstream

Summary:

Description of proposed development

- (4) Once the sign is posted, the Applicant must demonstrate proof to the Development Services Department of the posted sign.

INSTALLATION TIME

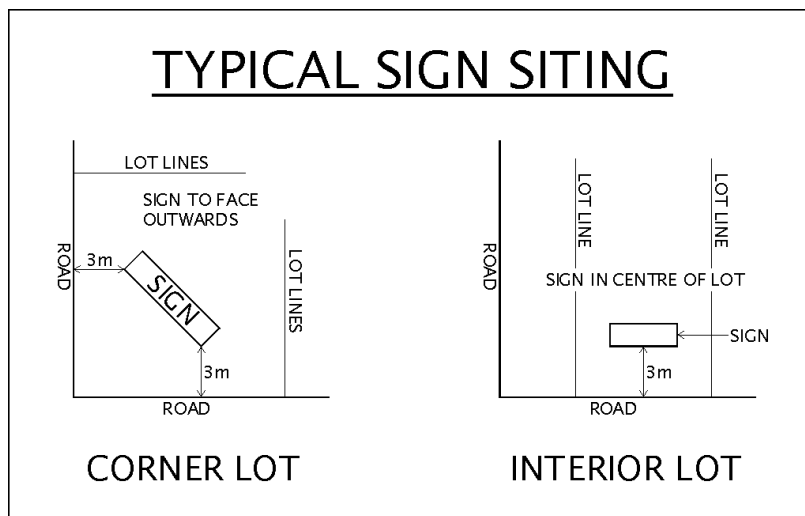
- 2 The Notice of Application sign must be posted by the Applicant within 14 days of submitting a complete application to the District.

SIZE OF SIGN

- 3 The minimum size of a sign is 60 cm X 60 cm.

SITING OF SIGNS

- 4 (1) All proposed sign locations must be verified by the Development Services Department prior to installation.
- (2) Notice of Application signs
 - (a) must be placed on the property at a setback of 3 m from the front property line as demonstrated in the diagram below,
 - (b) must face the street and be clearly visible,
 - (c) must be located so as not to interfere with pedestrian or vehicular traffic, or obstruct visibility from streets, lanes, walkways or driveways so as to create a hazard, and
 - (d) must be installed in a sound workmanlike manner and be capable of withstanding wind and weather.



NUMBER OF SIGNS

- 5 (1) The Applicant must post a minimum of one Notice of Application sign.
- (2) For large parcels with over 200 m of street frontage, one Notice of Application sign is required for each 200 m of street frontage, to a maximum of three signs.

MAINTENANCE AND REMOVAL OF SIGN

- 6 The Applicant must ensure the sign(s) remains intact and visible as per the sign siting specifications until such time the sign can be removed in accordance with section 7 of this Schedule.
- 7 The Applicant must remove the Notice of Application sign within 7 days following
 - (a) conclusion of the Public Hearing or adoption of the amending bylaw if the Public Hearing has been waived,
 - (b) final consideration of an application by Council, or
 - (c) abandonment of the application.

AMENDMENTS TO APPLICATION

- 8 (1) If any significant amendments are made to the application, the Applicant must install new sign(s) reflecting the change in application.
- (2) The Applicant must provide a mock-up of the sign to the Development Services Department for review and approval prior to final printing.

FAILURE TO POST AND MAINTAIN

- 9 (1) Failure to post and maintain the required Notice of Application sign(s) in accordance with this Schedule will result in the postponement of any Council/Committee meeting, and any costs associated with the postponement will be borne by the Applicant.
- (2) Non-compliance with this section due to the removal, destruction, or alteration of the sign by vandalism or natural occurrence will not affect the validity of the application or postpone a Council/Committee meeting as long as reasonable efforts have been taken by the Applicant to maintain the sign.