

**Adopted by Select Board on 02/08/10**

**TOWN OF BENNINGTON, VERMONT**

**ARTICLE 2. SIGN ORDINANCE**

**ARTICLE 2-1 PURPOSE**

The purpose of this ordinance is to regulate all exterior signs, and interior signs placed to be viewed from outside, in a manner that supports business vitality and provides useful and effective information for the public. The regulations are designed to encourage signs that are:

- Compatible with the character of the community;
- Clear and legible;
- Not distracting or confusing to motorists;
- Maintained in good and safe repair; and
- Of historic or architectural significance.

**ARTICLE 2-2. DEFINITIONS**

**Building Frontage:** The width of the facade as measured in a straight line from the outermost walls of the façade.

**Parapet:** A wall that extends above a roofline or cornice.

**Premises:** The lot, building, or group of related buildings comprising the location of one or more businesses or other ventures. Contiguous lots and buildings thereon under common or affiliated ownership that share access drives, parking lots, or other such facilities shall be considered a single premises.

**Right-of-Way:** Any publicly-owned space used for vehicular or pedestrian traffic, including the air space above. In the case of a roadway, when the boundary of the right-of-way is not known, it shall be assumed to be 25 feet from the centerline of the traveled way.

**Sign:** Any structure, display, or representation which is designed or used to advertise or call attention or direct a person to any business, association, profession, product, institution, service, entertainment, person, place, thing, or activity of any kind, and is intended to be visible from a public right-of-way. A sign shall include window signs, as defined herein, with the exception noted in the definition of window signs.

**Free-standing sign:** A sign supported by one or more poles, columns, or supports placed in or on the ground and not attached to any buildings or structure. A free-standing sign may have a maximum of two faces and no point of either face shall be more than two feet from the nearest point of the other face.

**Historic or architecturally significant sign:** A sign included on the inventory of such signs by the Bennington Historic Preservation Commission.

**Off-premises sign:** A sign which directs attention to a business, profession, commodity, service, or entertainment that is not carried on, sold, or offered on the same premises on which the sign is located.

**Projecting sign:** A sign attached to and projecting away from the facade of a building or structure.

**Residential sign:** A sign, either on a mailbox, free-standing post, or attached to a house, not exceeding two square feet in area, which identifies the street number of the house, the name of the occupants, or both.

**Surface-mounted sign:** A sign attached to and mounted parallel to the face of a building or structure, or where architectural features (for example, covered entryways or awnings) are clearly designed to accommodate a sign mounted parallel to the building facade.

**Window sign:** Any sign affixed to a window or door, or a sign placed within a building five feet or closer to a window or door so as to be plainly visible and legible through such window or door. Window displays of merchandise and small signs measuring no more than 100 square inches incorporated into such a display shall not be considered window signs.

**Sign Area:** For free-standing and projecting signs, the sign area is equal to the combined area of all faces of the signs, but does not include necessary supporting posts and brackets. Such posts and brackets shall be proportional to the size of the sign. Architectural elements of a sign not required for support of the sign shall be included as part of the sign area.

For surface-mounted and window signs, the sign area is equal to the area of an imaginary polygon enclosing the extreme limits of writing, representation, emblems, physical structure, or colors which form an integral part of the display or which are used to differentiate the sign from the background against which it is placed.

The area of signs which are on the Inventory of Historic and Architecturally Significant Signs shall be included in computing the total sign area permitted on the premises. If the area of such signs equals or exceeds the maximum allowed, no additional signs shall be allowed. However, historic signs located on a building which do not advertise

the existing business (i.e., refer to a business that occupied the premises in the past) are not included in the allowable sign area.

**Tenant:** an occupant of land or premises, which is found or located within its own separate, physical space.

## Article 2-3 General Regulations

### A. Prohibited Signs

1. Signs which advertise any activity, business, product, or service no longer produced or conducted on the premises. Such signs shall be removed by the owner of the property within one year from the date of such discontinuance. Provided; however, that such signs may remain if legally existing prior to closure of the business, and such signs comply with this ordinance, as amended from time to time, in all respects.
2. Off-premises signs (except as set forth in Article 2-3 (C)(1)).
3. Signs which have blinking, flashing, or fluttering lights or other illuminating devices which have a changing light intensity, brightness, or color.
4. Signs which consist of pennants, ribbons, streamers, spinners, or other moving devices, strings of light bulbs, or similar devices. Holiday displays employing customary strings of white colored lights or other holiday decorations are specifically excluded from this prohibition from November 1 through February 1.
5. Signs which contain moving parts. This prohibition shall include non-rotating time or temperature devices provided such devices are not used primarily as advertising mediums, nor shall it include traditional rotating barber poles.
6. Signs which appear to direct the movement of traffic or which interfere with, imitate, or resemble in whole or in part, any official traffic, directional, or route sign, signal or device.
7. Signs which prevent a clear and unobstructed view of official traffic control signs and approaching or merging traffic. Also, signs that are illuminated in such a way or which produce glare that has the effect of impairing the vision of the driver of a motor vehicle.
8. Signs, or portions thereof, which extend above the eave or bottom of the cornice of the facade on which such signs are located.

9. Signs which advertise a business profession, commodity, service, or entertainment which is prohibited by current municipal land use regulations.
10. Signs that project more than three feet over a right-of-way and signs and flags projecting any distance over a right-of-way which have less than 6' 8" clearance between the ground level and the lowest point of such signs or flags.
11. Signs (except signs erected by the Town or State) placed on any utility pole, Town or State sign post, street tree or other element of public infrastructure.
12. Signs (except window signs) inside a building which are clearly visible from the public right of way.

B. Exempt Signs

1. Traffic, directional, instructional, informational, and similar signs which are erected, maintained, and administered by the Town of Bennington or the State of Vermont. Town and State signs advertising a public building on the premises (e.g., Town Hall, State Office Building) are not exempt.
2. Signs without advertising displayed for the direction, instruction, or convenience of the public, including signs which identify rest rooms, freight entrances, posted areas, or the like with an area not exceeding two square feet, provided that such signs are on the premises of the activity served by the sign.
3. Signs included on the Inventory of Historic or Architecturally Significant Signs, provided such signs comply with applicable State laws and with provisions of this ordinance dealing with illumination, maintenance, structural integrity, and safety.
4. Residential signs.
5. Signs, with an area of not more than three square feet, identifying stops for fare zone limits of common carriers by motor bus.
6. Signs located on trucks or other motorized vehicles, provided that said truck or motor vehicle is not regularly parked near a highway in such a way that it becomes the functional equivalent of a free-standing or other regulated stop.

7. "Open Signs" (including flags) that comply with all of the provisions of this ordinance shall not be included in the gross square footage calculation for a premises, provided such signs are no larger than six square feet for a surface mounted sign or projecting sign (per side) and no more than 3' x 5' for a flag. Only one "open sign" per tenant is allowed. "Open signs" shall only be displayed during the business hours of the tenant owner.
8. Surface mounted signs no greater than two square feet that identify the historic significance of a building or event.

C. Temporary Signs

Temporary Signs include signs in the following categories and may be displayed without obtaining a permit, provided all conditions noted herein are satisfied. Temporary signs must be maintained in good repair and shall not be erected or located in a manner that obstructs the vision of motorists or presents any other safety hazard. The maximum distance between the top of a temporary sign and the ground shall be no greater than 12 feet.

1. Signs for an event of a civic, philanthropic, service, or religious organization, fair, exposition, or similar event which are placed no earlier than seven days prior to the event and which are removed the day after the event is completed. Such signs may be displayed off-premises.
2. Signs announcing an auction, tag or special sale, special rate, or special entertainment (maximum of three such signs per premises at any one time) which:
  - (a) Do not exceed 12 square feet in area per sign (6 square feet per sign face) for a free-standing sign or 6 square feet for a surface-mounted sign.
  - (b) Are displayed for not more than five consecutive days, nor for more than 14 days of a calendar month, nor for more than 45 days of a calendar year.
  - (c) Are not displayed off-premises. If it is determined by the Town that such signs are displayed off-premises or otherwise not in compliance with this section, the signs may be removed upon discovery by the Town and returned to the owner, if known. All costs associated with the removal shall be borne by the owner of the signs.

3. Construction signs, which shall have an area not to exceed 64 square feet (32 square feet per sign face) for a free-standing sign or 32 square feet for a surface-mounted sign, and with a minimum setback of 10 feet from the right-of-way. One construction sign per premises is permitted. Such sign shall not be erected earlier than four weeks prior to the start of construction and shall be removed within two weeks of completion of construction.
4. Real estate signs as are commonly used for the sale or rent of a property, not to exceed 12 square feet in area (6 square feet per sign face). A maximum of one such sign may be displayed in the front yard of a lot (or front yards if a corner lot).

D. Signs in the VR, MR-1, MR-2, RR, RC, and A Districts

1. For home occupants, one freestanding sign not to exceed 12 square feet in area (6 square feet per sign face) or one surface-mounted sign not to exceed 6 square feet is permitted.
2. For a subdivision or residential development, one free-standing sign with the name of the property, not to exceed 12 square feet in area (6 square feet per sign face) is permitted.
3. For all other uses:
  - Lots with frontage on a Town highway are permitted one free-standing sign not to exceed 32 square feet in area (16 square feet per sign face) and 8 feet in overall height, and one surface-mounted sign not to exceed 16 square feet.
  - Lots with frontage on a State highway are permitted one free-standing sign not to exceed 64 square feet in area (32 square feet per sign face) and 8 feet in overall height, and one surface-mounted sign not to exceed 16 square feet. No letter on the sign shall exceed 18 inches in height.
4. Internally illuminated signs are not allowed. All signs shall comply with the sign lighting standards for externally illuminated signs set forth in Article 2-3 (I) of this ordinance.

E. Signs in the D, MU-1, VC and VI (Now a portion of MU-2 District), and IP Districts

1. One free-standing sign is permitted per premises with a total sign area not to exceed 18 square feet (maximum of 9 square feet per sign face).

The maximum height of a free-standing sign shall be 6 feet. The total sign area may be divided among tenants if there is more than one tenant on

the premises.

2. One projecting sign is permitted for each tenant having a ground floor store or business front on the premises provided that said tenant is not included on any free-standing sign on the premises. The maximum size for a projecting sign is 18 square feet in area (9 square feet per sign face). Projecting signs shall extend no more than three feet over any public right-of-way, all parts of such signs shall be located between 8 and 12 feet above the road or sidewalk surface, and the signs shall not interfere with any pedestrian, vehicular, utility, or municipal use of the right-of-way. Tenants located on upper floors may share a single projecting sign with maximum area of 18 square feet (9 square feet per sign face) at an entry that provides access to the upper floors.
3. One surface-mounted sign is permitted for each tenant on the premises, provided however, that each tenant in a building located on a corner lot may have two surface-mounted signs, one facing each of the two streets. The total area of surface-mounted signs on a premises shall not exceed 1 square foot for each linear foot of front yard building frontage to a maximum of 60 square feet, provided, however, that the maximum sign area shall be 36 square feet if there is a projecting or free-standing sign on the premises. The total sign area of surface-mounted sign(s) for ground floor tenants shall be divided among tenants proportionate to the street frontage occupied by each with no one sign exceeding 40 square feet. The maximum size of a surface-mounted sign for an upper floor tenant shall be 12 square feet. Except for premises fronting on, or with a primary vehicular access to, Main Street, all premises in the MU-1 District shall be limited to one surface-mounted sign two square feet or less in size per tenant, The Development review Board may allow a surface-mounted sign to exceed the maximum limits set forth in this section if the Board determines that a larger size would be more in keeping with the intent of the *Preservation Guidelines: Business Signs* (Appendix A).
4. Premises that front on two separate streets, but which are not corner lots, are entitled to the free-standing or projecting and surface-mounted signs permitted pursuant to Section 2-3.E.1-3 for each side of the premises.
5. Internally illuminated signs are not allowed. All signs shall comply with the sign lighting standards for externally illuminated signs set forth in Article 2-3 (I) of this ordinance.
6. Notwithstanding any other provision(s) of the ordinance, all signs shall be attached to, or located in front of, only one building facade per premises, which building facade shall contain the primary commercial entrance(s) to the tenant space(s) or premises. However, buildings with facades parallel

to and fronting on more than one street may, subject to all provisions of this ordinance, have signs on all building facades parallel to and facing a street(s), provided each such facade contains fenestration similar to the facade containing the primary entrance.

7. Signs in the *Historic Bennington Design Review District* are subject to both the requirements of this ordinance and design plane approval by the Development Review Board pursuant to the requirements of the Bennington Land Use and Development Regulations. The Development Review Board may impose limitations on signs in the Design Review District which are more restrictive in terms of size, design, and location than those which are included in this section.
  - In reviewing applications for approval of a sign in the Design Review District, the Development Review Board will be guided by the District sign and zoning regulation and the *Preservation Guidelines: Business Signs* which are included as Appendix A of this ordinance. Signs in the Historic Bennington Design Review District must not damage or cover important architectural features of the building and must be compatible with the architectural style, scale, materials, and color of the building.

F. Signs in the UMU (Now a portion of MU-2 District), PC and I Districts

1. One surface-mounted sign is permitted for each tenant on a premises. The total area of the surface-mounted sign for each tenant shall not exceed one square foot for each linear foot of front yard building frontage of the tenant space to a maximum of 32 square feet. A tenant with tenant space with front yard building frontage on more than one street may have one sign per tenant space facade facing a street, provided that each sign shall comply with the size restrictions of this section. For each tenant that does not have tenant space with front yard building frontage, one surface-mounted sign not to exceed eight square feet located at the entryway providing access to such tenant space is permitted.
2. One freestanding sign is permitted per premises in accordance with the following standards:
  - a. Premises containing only one tenant may have one freestanding sign with a total sign area not to exceed 48 square feet (maximum of 24 square feet per side). The maximum height of the freestanding sign shall be 6 feet. The maximum width of the sign shall be 12 feet.



- b. Premises containing two tenants may have one freestanding sign serving all tenants with a total sign not to exceed 64 square feet (maximum of 32 square feet per side). The maximum height of the freestanding sign shall be 6 feet. The maximum width of the sign shall be 12 feet.
  - c. Premises containing more than two tenants may have one freestanding sign serving all tenants with a total sign area not to exceed 96 square feet (maximum 48 feet per side). The maximum height of the freestanding sign shall be 8 feet. The maximum width of the sign shall be 12 feet.
3. All freestanding signs shall include the street number of the premises.
4. All freestanding signs shall be set back a minimum of ten feet from the paved or gravel edge of all roads and driveways.
5. Signs mounted on the vertical, horizontal, or sloped surfaces of the building roof or on the cornices are not permitted.
6. Movie theaters are permitted to have one sign displaying the movie theater name and current movie listings, sized and configured as a 96 square ft. (maximum 48 sq. ft. per side) freestanding sign in accordance with the provisions set forth in this Section F.
7. No portion of a sign or supporting structure may extend into any public right-of-way.
8. In addition to the surface-mounted and free-standing sign allowed, an additional surface-mounted sign not to exceed five square feet is permitted at the rear entry of any building, provided it is for public access and is not internally illuminated.
9. Internally illuminated signs are not allowed in the UMU District (Now a portion of MU-2 District). All signs in the UMU District (Now a portion of MU-2 District) shall comply with the sign lighting standards for externally illuminated signs set forth in Article 2-3 (I) of this ordinance.

Signs in the PC and I Districts may be externally or internally illuminated.

Externally illuminated signs shall comply with the sign lighting standards for externally illuminated signs as set forth in Article 2-3 (I) of this ordinance.

Internally illuminated signs shall consist of light lettering or symbols on a

dark background. Luminous transmittance is the ratio of light transmitted by a surface to the light incident upon the surface; the higher the luminous transmittance the lighter the surface.

- a. The lettering or symbols shall constitute no more than 40 percent of the surface area of the sign.
- b. The luminous transmittance for the lettering shall not exceed 35 percent.
- c. The luminous transmittance for the background portion of the sign shall not exceed 15 percent.
- d. Light sources shall be fluorescent tubes, spaced at least 12 inches on center, mounted at least 3.5 inches from the translucent surface material.

#### G. Historic or Architecturally Significant Signs

A sign may be considered historically or architecturally significant if it is included on the inventory of such signs developed by the Bennington Historic Preservation Commission based upon a determination that the sign:

1. Is at least 50 years old; or
2. Is an original example representing a generally recognized architectural style or period such as signs made of carrara glass or vitrolite from the Art Deco period; or
3. Is a sign of particular significance to Bennington due to its relationship to past events or businesses, or is a meaningful example of a particular period of Bennington's history; and has not been significantly altered from its historic period, or if it has been altered, it must be restored to its original function and appearance.

For a sign to remain on the Inventory of Historic or Architecturally Significant Signs it shall be maintained in its original historic function or appearance. If the Historic Preservation Commission determines that alteration or repair has substantially diminished the importance of the sign, it shall be removed from the Inventory.

#### H. Window Signs

Window signs are allowed in any district and are subject to design plan approval in all Design Review Districts. Window signs for each tenant may cover no more than 25 percent of the total area of any window occupied by that tenant on the side of the building where such signs are located. Window stenciling or lettering, placed on the inside of a window, is allowed as part of a tenant's total window sign coverage. The area of the window sign shall be measured in the

same way as for the surface-mounted signs; by drawing an imaginary polygon enclosing the extreme limits of writing, representation, emblems, physical structure, or colors which form an integral part of the display or which are used to differentiate the sign from the background against which it is placed. The combined area of all window signs for any tenant shall not exceed 32 sq. ft. Window signs may not be internally illuminated in any district, nor may they include any features prohibited pursuant to Article 2-3 of this ordinance.

I. Sign Lighting Standards for Externally Illuminated Signs

The following standards apply to all externally illuminated signs:

1. The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles and the uniformity ratio (ratio of average to minimum illumination) shall not exceed 2:1.
2. Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only into the sign facade. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
3. Light fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads, or properties.
4. Fixtures used to illuminate signs shall be top-mounted and directed downward (i.e., below the horizontal).

Article 2-4 Structural Regulations

A. Maintenance

All signs and their supports, braces, hooks, guys, and anchors shall be kept in good repair and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe, and orderly appearance. The time period of correction of disrepair shall not exceed 60 days from the date that the owner receives notice from the Town.

B. Wind Pressure and Dead Load

Signs shall be designed and constructed to withstand a wind pressure load consistent with environmental conditions in the Town of Bennington and shall comply with all applicable building code ordinances of the Town of Bennington.

C. Obstruction to Safety

All signs shall be erected, relocated, or maintained so as to allow free ingress to or egress from any door, window, or fire escape.

D. Setback

Free-standing or plaza signs, and any appurtenant supporting structures, in any district, shall be set back a minimum of 2 feet from any front lot line and a minimum of five feet from any other lot line. Provided, however, that such signs and supporting structures located in the D Zoning District shall comply with the building setback requirements for the D District.

#### Article 2-5 Non-Conforming Signs

Signs legally existing at the adoption date of this ordinance, but which do not conform to the provisions of this ordinance, shall be considered non-conforming signs. A non-conforming sign may remain in place until removed, altered, resurfaced or relocated. All new signs shall comply with this ordinance in all respects, and all existing signs (including non-conforming signs) that are altered (including any change in text, logo, color, etc.), resurfaced or relocated shall comply with this ordinance in all respects.

#### Article 2-6 Administration, Interpretation, and Enforcement

- A. This ordinance shall be administered, interpreted, and enforced pursuant to the provisions of Title 24 V.S.A. Chapter 117 (as well as 24 V.S.A. Sections 1974a and 1977 for enforcement purposes), as exists or as hereafter amended.
- B. Permits, Plans, Fees, and Inspections
1. No sign shall be erected, altered, or relocated without a permit from the Zoning Administrator.
  2. Applications for signs shall be accompanied by detailed plans and specifications, including sign colors and lighting details, and any other information as the administrative authority may require.
  3. Sign permit application fees shall be established by the Select Board from time to time by resolution and a copy of the fee schedule shall be posted in the Town Office and be made available to each applicant upon request. Sign permit application fees shall be paid upon submission of the plans to the administrative authority.
  4. Any sign may be inspected periodically by the administrative authority for compliance or any other requirements of law.
  5. Application to add a sign to the inventory of Historic and Architecturally Significant Signs shall be made by the sign owner to the Zoning Administrator on a form provided by the Town. Application shall include a photograph of the sign, a written description of the sign, a history to include the age of the sign, and any other pertinent information such as sign material or business activity in relation to the sign.

The Zoning Administrator shall refer the applicant to the Historic Preservation Commission within 15 days of receipt of the application. The Historic Preservation Commission will make a determination as to eligibility for inclusion in the Inventory of Historic and Architecturally Significant Signs within 15 days of receipt of the application from the Zoning Administrator.

In the event of denial for inclusion on the Inventory, a sign owner may make an administrative appeal to the Historic Preservation Commission within 15 days of being notified of such denial. The appeal should be made in writing to the Zoning Administrator. Should this appeal be denied, the applicant has full rights to appeals process provided for below (Article 2-7).

C. Violations and Penalties

A violation of this Ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. Sections 1974a and 1977 as amended, et seq. and as described below.

A penalty of \$100 shall be imposed for the initial violation of any provision of this ordinance. The penalty for the second offense within a one year period shall be \$250.00, and the penalty for each subsequent violation within a one year period shall be \$500.00. As per statute, in cases where a violation is not contested, a "waiver fee" shall be paid in the amounts of \$50.00 for the first offense, \$125 for the second offense within a one year period, and \$250 for each subsequent offense within a one year period. Each day that a violation continues will constitute a separate violation of this Ordinance.

If the enforcement strategy is not sufficient to deter violations, enforcements also may be initiated pursuant to 24 V.S.A. Sections 4451 and/or 4452, as they exist or are hereafter amended or revised. These additional penalties may be up to \$100 per day (with each day constituting a separate violation), and issuance of injunctions.

A sign determined by the Town to be in violation of the provisions this ordinance may be removed by the Town and returned to the owner of the signs.

The issuing official authorized to enforce this Ordinance is the Bennington Zoning Administrator or the Zoning Administrator's designee.

Article 2-7 Appeals

Applications for appeals under this ordinance shall be to the Development Review

Board as provided for in Title 24 V.S.A. Sections 4465 through 4472 as amended.

A. Right of Appeal

Any applicant denied a permit or any person who has been ordered by the Zoning Administrator to incur expense in connection with a sign who believes such decision of the Zoning Administrator is based on an erroneous interpretation of this ordinance may appeal to the Development Review Board within 15 days from the date of such decision. The Development Review Board may uphold the Zoning Administrator's interpretation of this ordinance, or, if supported by accepted legal principles of interpretation of legislation, articulate a different interpretation of this ordinance, which interpretation shall be applied by the Zoning Administrator. The Development Review Board shall in no event vary or modify the provisions of this ordinance. A public hearing on any appeal shall be warned and held using those procedures as provided for in Title 24 V.S.A. Chapter 117.

B. Decisions on Appeal

In rendering a decision or in rejecting an appeal and in enforcement of its decisions the Development Review Board and the Municipality shall comply with Title 24 V.S.A. Chapter 117.

Article 2-8 Validity

This ordinance shall supersede all previous sign ordinances. The invalidity of any section or provision of this ordinance, and its application to any sign, shall not invalidate any other section or provision, or application of this ordinance.

Article 2-9 Exemptions

Nothing in this ordinance shall exempt any applicant for a sign permit from full compliance with all other applicable state and local laws.

**THIS ORDINANCE IS HEREBY ADOPTED** by the Select Board of the Town of Bennington on this 8<sup>th</sup> Day of February, 2010. Said adoption shall be documented in the minutes of the Select Board, posted in five (5) conspicuous places within the Town

of Bennington and a summary of this adopted Ordinance shall be published in the Bennington Banner within fourteen (14) days of its adoption and shall, unless a petition is filed as provided by law, become effective upon the expiration of sixty (60) days after the date of adoption.

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Lodie Colvin

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Matt Maroney

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Jason Morrissey

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Christopher Oldham

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Sharyn Brush

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John Zink

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Joseph Krawczyk, Jr.