

June 1, 2017

Planning Commission
Northfield Township
8350 Main Street
Whitmore Lake, MI 48189

Subject: Proposed Update to Zoning Ordinance – Sign Regulations

Dear Planning Commissioners:

As a follow-up to our discussion from the March 28, 2017 Township Board Joint Session with the Planning Commission, and to our letter on this topic from March 31, 2017, we would like to provide you with more information regarding upcoming amendments to the Sign Regulations article of the Zoning Ordinance to make the regulations more content-neutral and user-friendly.

Background of Recent Legal Requirements

On June 18, 2015, the United States Supreme Court decided the case of *Reed v. Gilbert* and held the Town of Gilbert's sign ordinance unconstitutional because it violated the First Amendment. Additional details on this case are included in our letter from March 31, 2017. As a result, all communities in the United States must now review their sign ordinances to determine which regulations might be in conflict with the Court's ruling and how to legally amend any portions of the ordinance as necessary to comply.

The Court maintained that communities can still enact reasonable sign regulations in a content-neutral way. Three of the nine justices included a list of sign aspects that could be regulated in a content-neutral way:

- Size of signs.
- Locations in which signs may be placed.
- Distinguishing between freestanding signs and those attached to buildings.
- Lighted and unlighted signs.
- Distinguishing between signs with fixed messages and messages that change.
- Distinguishing between signs on private and public property.
- Distinguishing between signs on commercial and residential property.
- Distinguishing between on-premises and off-premises signs.
- Total number of signs allowed per mile of roadway.
- Time restrictions on signs advertising a one-time event.

The following includes recommendations for updating the sign regulations of the Zoning Ordinance based on the above findings. We recommend that the Planning Commission consider these recommendations and to add any items that should be addressed in the sign regulations update.

Purpose

The purpose statement should be more robust to clearly state the intent of the sign regulations. Also, the purpose statement is an ideal place within the ordinance to pronounce “the right to free speech as guaranteed in the First Amendment of the United States Constitution shall be protected” by the ordinance. In this regard, signs are intended as a medium of free speech, communication, and ideas.

Definitions

Definitions may be included with the other definitions or in the sign ordinance chapter. Currently, the sign definitions are listed at the beginning of the Zoning Ordinance with all of the other definitions. We recommend creating additional definitions to clarify the meaning of different sign types. Some of these may include projecting signs, banner signs, and window signs. Some of the existing definitions have content-based provisions that should be removed and refined. Finally, adding graphics to the definitions can clarify the meaning of the sign types or define certain aspects or dimensions of signs.

General Sign Regulations

The General Provisions section as currently written is largely content neutral. Regulations applicable to all signs of a given type in all zoning districts should be located in this section. Regulations that are dependent on the zoning district should be located later in the ordinance. The Township may want to consider adding general provisions for sign illumination, maintenance for keeping signs in good repair, or other similar standards.

Communities should include additional review standards for appeals from the sign regulations. While applicants must meet the general variance standards to obtain a variance from the Zoning Board of Appeals, there are additional standards unique to signs that should also be included.

Signs Permitted in All Zoning Districts

All regulations in this section currently have content-based elements. Regulations that are content-neutral can be reused as part of the exempt signs section or other parts of the ordinance.

Signs Permitted in Recreation-Conservation and Agricultural Districts, Signs Permitted in Residential Districts, and Signs Permitted in Business and Industrial Districts

The regulations in these sections include content-based elements. Regulations that are content-neutral can be reused in other parts of the ordinance, or as part of a reorganization of each section that clearly creates regulations for permitted signs by district by sign type, not by content.

Billboards

There are no major content issues with the current Zoning Ordinance language.

Signs for Automobile Service Stations

These are speaker-based regulations that also include content-based regulations. Therefore, this should be regulated by district and structure type (i.e., uses in a non-residential district that have a lawful canopy may have signage on that canopy).

Electronic Message Signs

There are no major content issues with the current Zoning Ordinance language.

Exemptions

Minimizing exemptions from the sign ordinance is generally recommended, and there are relatively few in the Zoning Ordinance. Some recommended changes include the following:

- Content-based parts of these provisions should be removed. This includes the temporary signs for specific organizations or events, temporary real estate signs, political campaign signs, and

national, state, municipal, and university flags. These could be separated into temporary commercial sign and temporary non-commercial signs.

- Any provisions that reference content should clarify why these provisions are in the interest of the safety or welfare of the general public. For example, signs directing traffic movement are for the protection of public safety.
- Other signs may be added to this section, such as address numbers or nameplates, where the signs have a compelling government interest requiring their exemption.

Prohibited Signs

There are no major content issues with the current Zoning Ordinance language.

Illumination

The regulations refer to allowing the use of lights or decorations related to religious and patriotic festivities. These are event-based regulations that may need to be removed to allow lights and decorations all the time or only a certain number of days in a calendar year. Several communities have allowed lights as decorations, and some have specifically defined these lights as not being signs. This section, along with the definitions, may need to be clarified to distinguish a decoration from other types of illumination (i.e. window outline tubing), and to ensure general illumination standards such as light intensity and flashing apply to decorations as well as signs.

Computation of Surface Area

There are no major content issues with the current Zoning Ordinance language. Adding graphics could help readers understand the language in this section, especially for finding the area of signs with odd shapes.

Removal

The regulation states that a sign shall be removed by the owner or lessees of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. This could be considered content-based, though signs of this nature are often referred to as “abandoned signs.” The language could be changed to state that a sign cannot be the primary use on the property, or that a sign may not be located on a parcel without a building, or something similar, and it could potentially be moved to a different part of the ordinance.

Nonconforming Signs

There are no major content issues with the current Zoning Ordinance language.

Responsibilities for Signs – Registry

There are generally no major content issues with the current Zoning Ordinance language, besides a specific reference to the “advertiser” of the sign. This portion of the ordinance could be changed without changing its general structure.

We look forward to discussing the sign regulations article with you at an upcoming Planning Commission meeting. Please let us know if you have any questions.

Respectfully submitted,

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