

August 10, 2017

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

Subject: Proposed Amendments to the Zoning Ordinance – Sign Regulations

Dear Planning Commissioners:

At the June 7, 2017 Planning Commission meeting we discussed several concerns with the sign regulations of the Northfield Township Zoning Ordinance that are stated in our letter of June 1, 2017. In that letter, we also proposed several recommendations for making the sign regulations more clear and defensible.

Enclosed for your review are the proposed amendments to the Sign Regulations article of the Zoning Ordinance. Proposed additions are underlined, proposed deletions are noted as such in the margin, and our editorial comments are also in the margin. Significant changes are summarized as follows:

- **Purpose (Section 36-788).** The purpose statements were written to be more robust and comprehensive. Because the sign regulations essentially regulate speech, municipalities must be careful that such regulations are based on public safety, community aesthetics, and sound planning and zoning principles.
- **Definitions (Section 36-789).** The definitions are moved from the beginning of the Zoning Ordinance into the Sign Regulations article. While it is best to have general zoning ordinance definitions in one article, sign-related definitions are best kept in the sign article so that they are easier to administer and understand. In addition to moving the existing sign-related definitions to this article, several new definitions are added. Most of the new definitions simply describe sign types and include graphics. By having clear definitions of sign types, it will become much easier to adopt and administer regulations of these sign types later in the article.
- **General Sign Regulations (Section 36-790).** Additional provisions are included that require noncombustible material and proper maintenance. Additionally, the sign lighting regulations were relocated to this section.
- **Substitution (Section 36-791).** This is a new section that permits noncommercial copy to be substituted for commercial copy on any lawful sign. Because the courts have prohibited favoring commercial speech over noncommercial speech, this section will ensure that any lawful sign may contain noncommercial copy.
- **Signs Permitted in Recreation-Conservation and Agricultural Districts (Section 36-792).** There are 2 groups within these districts: Single-family lots and all other uses (residential developments, non-residential uses, etc.). There are many comments in the margin that describe why changes were made. The off-premises commercial signs are limited to 30 days per calendar year and would generally apply to “open house” signs, farm stand directional signs, and any other temporary sign with off-premise commercial content. The most difficult regulations in this section are for noncommercial yard signs, especially during election season. Because we cannot regulate noncommercial signs based on an event, the Township may want to consider

allowing additional noncommercial signage for a certain number of days in a calendar year if more signage is desired.

- **Signs Permitted in Residential Districts (Section 36-793).** There are 2 groups within these districts: Single-family lots and all other uses (residential developments, non-residential uses, etc.). There are many comments in the margin that describe why changes were made. These regulations are very similar to those of the RC and AR districts.
- **Signs Permitted in Business Districts (Section 36-794).** This section consolidates all commercial districts into a table, and separates them into 3 groups based on the current Zoning Ordinance regulations. There are many comments in the margin that describe why changes were made. Overall, we tried to simplify the regulations without making them more restrictive. If more sections or tables are needed to make the regulations easier to administer and understand, they can easily be created based on this new format.
- **Signs Permitted in Industrial Districts (Section 36-795).** Similar to the other zoning districts, the table consolidates the existing regulations. There are comments in the margin that describe why changes were made, though there are not many significant changes.
- **Signage in Conjunction with an Approved Temporary Use in the WLD, LC, GC, RO, LI, GI, PSC, RTM, and Non-residential PUD Districts (Section 36-796).** Rather than allowing certain types of temporary signs in these districts at any time, we recommend allowing them in conjunction with a temporary use permit so that the use and time limits can be explicit. The Zoning Ordinance already requires a sign permit for these types of signs, so perhaps the Township could administratively include a temporary use provision to the sign permit to make permitting easier.
- **Billboards (Section 36-797).** Only minor changes were made, which make the section more user-friendly.
- **Electronic Message Signs (Section 36-798).** Only minor changes were made.
- **Exemptions (Section 36-799).** Several types of signs were added to the list of exempt signs, many of which are now defined and/or better described to be more content neutral.
- **Prohibited Signs (Section 36-800).** Several types of signs were added to the list of prohibited signs, many of which are now defined and/or are a reworded version of current prohibited signs.
- **Permit and Fees (Section 36-801).** No changes.
- **Computation of Surface Area (Section 36-802).** Added a graphic to support the text.
- **Removal (Section 36-803).** Instead of the Township removing the sign, the language is changed for the Township to “take action to force the removal of the sign.” Also, additional language was added to clarify the description of an Abandoned Sign or a sign that becomes an off-premises commercial sign due to a business closing.
- **Nonconforming Signs (Section 36-804).** No changes.
- **Responsibilities for Signs (Section 36-805).** Changed “advertiser” to “sign user.”
- **Registry (Section 36-806).** Changed “advertiser” to “sign user.”

We look forward to working with you to review the proposed amendments. Because the overall changes and format proposed are significant, please feel free to take as much time as needed to review the changes and ask questions.

Respectfully submitted,

McKENNA ASSOCIATES



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cc: Marlene Chockley, Township Supervisor
Kathleen Manley, Township Clerk

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,

McKENNA ASSOCIATES



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