



Zoning Text Amendment Granger Township

Meeting:	June 6, 2018
Applicant:	Granger Township Zoning Commission (ZC)
Hearing:	TBD (ZC)
Amendments:	The ZC proposes the following amendments: <ul style="list-style-type: none">• Edit Section (§) 203 (D)(3) Outdoor Advertising Signs• Various edits to § 401 Sign Regulations• Edits to three existing definitions and three new terms to be included in Article X Definitions
Reviewer:	Rob Henwood
Recommendation:	DISAPPROVAL

Proposal: On May 3, 2018 Granger Township Zoning Inspector, William Myerhoff delivered a letter to the Prosecutor's Office to Department of Planning Services (DPS) staff requesting a review of the following changes to the Zoning Resolution as proposed by the ZC (new text is underlined, text to be deleted is shown as ~~striktthrough~~, and Staff Comments are *italicized*):

ARTICLE II: GENERAL PROVISIONS

203 Regulations Applicable to All Districts or Zones

D. General Regulation of Structures and Construction

3. Outdoor Advertising Signs

~~Outdoor advertising signs shall be classified as a business use and shall be permitted in all districts zoned industry, business, trade, or lands used for agricultural purposes.~~ Outdoor advertising signs shall be erected subject to the provisions of Article IV. *Delete the term "outdoor advertising" in the title and in the text as this category or type of sign cannot be determined without an evaluation of the content of the sign. This violates the requirement that sign regulations be content neutral.*¹

ARTICLE IV: SIGN REGULATIONS

401 Sign Regulations

B. Residential Signs

No sign in a residential district shall exceed eight (8) square feet in size or 4' in height and shall ~~not~~ be non-illuminated. *The styles used to write numbers and units should be utilized consistently throughout the zoning text.*

¹ *Sign Regulation after Reed versus Town of Gilbert, Arizona.* Alan Weinstein. Presentation made at the October 27, 2017 Cleveland Planning and Zoning Workshop, Cleveland Section of American Planning Association, Ohio Chapter. https://www.dropbox.com/sh/3aiy16unqc9n77v/AAB-mGjBTVL2MLGpXgjZv3cfa?dl=0+&preview=1A-Sign+Regulations_Weinstein.pdf

1. Permitted Uses

- *While not part of the proposed amendment, § a. a. Real Estate Signs violates the requirement that sign regulations be content neutral and as such should be deleted.*
- *Staff recommends the ZC consider language similar to the following; “in addition to any other permitted sign, each residential property may display a temporary six square foot sign that is visible from the public right-of-way.”²*
- c. **Home Occupations**, provided the commercial message of the sign relates to lawful commercial activities conducted on the property within the district.
 - *The “Home Occupations” signs terminology is not content neutral; delete this section.*
 - *Identify a size of sign that meets this objective and permit such sign on any house in the district. Recommend this sign be permitted to be the same size as the sign described below, but rather permit two of these signs.*
- d. **One (1) accessory sign** with a surface area not to exceed two hundred eighty-eighty (288) square inches which ~~denotes~~ identified the name of the occupant or residence of each lot on which dwelling unit is located.
 - *Numbers and units.*
 - *Text referring to the name of the resident or occupant is not content neutral; delete.*
 - *Staff recommends the ZC consider language similar to the following; “in addition to any other permitted sign, each residential property may display a permanent one square foot sign that is visible from the public right-of-way.”³*

C. ~~Non-Residential Signs~~ for These Conditionally Permitted Uses

- *The term “These” is not necessary; delete.*
- *Text referring to uses such as cemeteries, churches and other places of religious worship, and government buildings and facilities is not content neutral; delete this section.*

D. Limitations

While not part of the proposed amendment, § 1. Official Signs Excluded from Regulations violates the requirement that sign regulations be content neutral, and as such should be deleted; the fact that the sign serves a governmental function can only be determined by contemplating the content of the sign.

Similarly, § 5. Off Premise Signs (Billboards) violates the requirement that sign regulations be content neutral, and as such the reference to “Off Premise Signs” should

² Ibid.

³ Ibid.

be deleted; the fact that the signs advertise businesses not located on the same premises as the sign can only be determined by contemplating the content of the sign. The § should be renamed “Billboards.”

6. Districts Not Bordered by State Highway

Only ground signs and Billboards are only permitted in commercial and industrial districts that are not bordered by state highways or that have a state highway passing through the district. As written, this text appears illogical. Billboards are generally intended to be visible from highly travelled roadways for advertising purposes; limiting them to districts not bounded by or intersecting with state highways prohibits them on the busiest roads. The only properties where billboards would be permitted would be two industrial properties located on Granger Road.

The title should be edited to read “Districts Bordered by State Highways;” the word “not” should be deleted. The text should be edited to read “billboards are only permitted in commercial and industrial districts that are bordered by state highways or that have a state highway passing through the district;” the word “not” should be deleted.

E. General Requirements

The regulations in ~~this section~~ E shall apply to all signs in all districts excluding residential. ~~For residential signs refer to Section 3.1.2C.~~

1. Location

Signs shall be erected so as not to obstruct traffic sight lines or traffic control lights at road intersections. No portion of any sign shall be located within any road right-of-way, or located closer than forty (40) feet to any pavement edge, ~~unless otherwise noted.~~ No sign, excluding billboards, advertising a business, use or product on one property, shall be located on another property.

- *Numbers and units.*
- *Prohibitions against off-premise signs are not content neutral. Delete the final sentence.*

3. Illumination

Unless otherwise restricted in this Resolution, signs which are illuminated shall employ only light emitting a constant intensity. The intensity of the lights used in the message center shall not constitute a visual hazard for vehicular or pedestrian traffic. *This proposed text should apply to lights and lighting for all signs not just those associated with electronic message centers; delete the term “message center.”* Lights or lighting that flashes or otherwise portrays movement is specifically prohibited. Signs which are illuminated shall ~~henceforth~~ use indirect, internal and/or external indirect lighting only. The source of light shall not be visible from the road and ~~external~~ light sources shall not shine on adjoining properties nor create neither a hazard nor a nuisance to adjacent properties or people. No flashing, revolving or intermittent illumination shall be employed. Digital signs are permitted providing the rate of change in the message is no faster than fifteen seconds except for displaying time and no flashing, scrolling or revolving of the digital message. *Fifteen seconds may be too short of a time*

interval to avoid visual distraction for motorists. The following communities utilize the following time restraints:

- *City of Brunswick, 15 seconds, § 1270.17(a)(1)*
- *City of Medina, 30 seconds, § 1147.07(J)(1)*
- *Bath Township, 24 hours, § 1309(G)*
- *Copley Township, eight seconds, § 809(B)(3)*
- *Hinckley Township, 10 seconds, § 10.3(H)(1)*
- *Medina Township, 60 seconds, § 605(M)*
- *Sharon Township, eight seconds, § 601-5(A)*
- *Westfield Township, 60 seconds, § 407(A)(7)c*
- *York Township, eight seconds, § 403.04(E)*

The above listed duration for messages, copy, and images vary from eight seconds to 24 hours; the ZC may wish to consider increasing the minimum time interval. Illumination shall not exceed 35 FC (measured at a distance of three feet from the sign) between one hour after sunset and one hour before sunrise.

- *Numbers and units.*
- *Enforcement of outdoor lighting regulations may require the Township to undertake the following:*
 1. *Purchase or lease of light metering equipment.*
 2. *Provide training for current Township personnel on the appropriate use of light metering equipment or hiring of an outside expert as needed.*
 3. *Township personnel will need to monitor or measure light levels outside of regular business hours; i.e. after dark.*
- *This regulation seems overly restrictive as it measures the ambient light immediately adjacent to the sign. Generally speaking, lighting regulations serve the following two functions:*
 1. *To protect adjoining neighbors from unwanted glare from signs. As such, the regulation should limit the maximum amount of light emanating from the sign at the property line; such as 0.3 foot candles above ambient light, or some similar threshold, as measured using a light meter.*
 2. *To protect motorist from unwanted and hazardous glare from signs. In this instance, the regulation should limit the maximum amount of light emanating from the sign to the nearest point on the closest roadway within a motorist field of vision.*

Based on the above text it appears that ZC intends to achieve both functions, however it does not seem to accomplish this goal; measuring the ambient light at three feet from the sign does not address vehicular hazards or nuisance effects on adjoining property owners. The ZC should revisit this issue and provide additional clarification.

The zoning inspector shall utilize reasonable judgment in determining whether the lighting constitutes a visual hazard or nuisance. This regulation is vague. The ZC should provide clear criteria for determining whether proposed lighting constitutes a visual hazard or nuisance.

6. Public Service Signs

Signs performing a public service function indicating time, temperature or similar information may be conditionally permitted. Such signs shall be allowed to display graphic data through controlled lighting changes subject to 401.E.3. No advertising shall be permitted. *Text referring to “signs performing a public function indicating time, temperature or similar information” is not content neutral; delete this section.*

F. Permitted Sign Types/Sizes

The following types of signs ~~shall~~ may be permitted in any commercial or industrial district and shall not require a zoning certificate.

1. Institutional Sign

A church, school, community center or other public or institutional building, for its own use; an announcement sign or bulletin board not over 20 square feet in area and not to be located closer than ~~40~~ 20 feet to the edge of the pavement.

- *Numbers and units.*
- *Establishing the category of “Institutional” signs violates the requirement that sign regulations be content neutral and as such should be deleted.*

2. Real Estate Sign

One unlighted real estate sign not exceeding eight (8) square feet in area pertaining only to the sale, lease, or rent of the particular building, property, or premises upon which displayed, at least ~~40~~ 10 feet from the edge of pavement. Such sign shall be removed within 10 days of the completion of said sale (title transfer, lease, or rental).

- *Numbers and units.*
- *Establishing the category of “Real Estate” signs violates the requirement that sign regulations be content neutral and as such should be deleted.*
- *Staff recommends the ZC consider language similar to the following; “in addition to any other permitted sign, each residential property may display a temporary six square foot sign that is visible from the public right-of-way.”⁴*

While not part of the proposed amendment, §§ 3. Road Side Stands and 4. Directional Signs violates the requirement that sign regulations be content neutral, and as such should be deleted.

G. Accessory Sign Types/Sizes Requiring a Permit

The following types of accessory signs ~~shall~~ may be permitted in all commercial and industrial zoning districts bordering state highways, unless otherwise specified, and shall require a zoning certificate.

H. Additional Accessory Sign Types/Sizes – Special Conditions (See Figure A in Appendix A) *Delete the reference to the Figure in Appendix A or include the figure in the text at this location.*

⁴ Ibid.

1. Wall Sign

- a. In C-1 districts ~~W~~ wall signs shall not be larger than 80 square feet in area or 10 percent of the area of the surface of the building wall on which the sign is located; whichever sign area is smaller. *Numbers and units.*
- b. In C-2 districts wall signs shall not be larger than 80 square feet in area or 10 percent of the area of the surface of the building wall on which the sign is located. In addition, a wall sign shall not project from the face of the wall more than 18 inches and shall not extend above or beyond the building wall. Buildings facing more than one (1) adjacent right-of-way may have one (1) wall sign facing each adjacent right-of-way. *Numbers and units.*

2. Awning Sign

In addition to the other signs permitted by this section, gasoline filling stations may have not more than one unlighted, double-faced accessory sign per pump island. Such sign shall have a maximum area of 5 square feet and shall be permanently attached to the pump island. *Numbers and units.*

- a. In C-1 districts ~~AA~~awning signs shall not be larger than 80 square feet in area, or 10 percent of the area of the surface of the building to which the awning shall be secured; whichever sign area is smaller whichever. *Numbers and units.*
- b. In C-2 districts awning signs shall not be larger than 80 square feet in area, or 10 percent of the area of the surface of the building to which the awning shall be secured. No awning shall extend above the building wall. Buildings facing more than one (1) adjacent right-of-way may have one (1) awning sign facing each adjacent right-of-way. Posts or columns beyond the building lines shall not be permitted for awnings. Every awning shall be securely attached to and supported only by the building. *Numbers and units.*

~~6. Service Station Signs~~

~~In addition to the other signs permitted by this section, gasoline filling stations may have not more than one unlighted, double-faced accessory sign per pump island. Such sign shall have a maximum area of 5 square feet and shall be permanently attached to the pump island.~~

6. Banner Signs

Banner signs are conditionally permitted allowed for sales promotion and only in the C-2 district with a maximum size of 50 square feet. A maximum of two banner signs are allowed per property, and require a permit that is renewable limited to a consecutive fourteen day period and no more than three periods per calendar year. A permit is required for each period.

- *Numbers and units.*
- *Consider changing title to Temporary Banner Signs.*
- *Delete the terms “allowed for sales promotion” as this could only be determined by contemplating the content of the sign.*

I. Prohibited Signs

2. Signs Exhibiting Mechanical

... No sign or part thereof shall contain or consist of ~~banners, posters, pennants, ribbons, streamers, spinners, balloons, inflatable caricatures, costumed and/or animated figures or other similar moving devices. Such devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention.~~

3. Temporary and/or Portable Signs-see definitions.

- *Temporary signs cannot be prohibited; delete the terms “Temporary and/or.”*
- *The reference to the definitions is not necessary; delete this reference.*
- a. Mobile signs, except those on licensed commercial delivery and service vehicles. Such vehicles shall not be parked in any district closer to the right-of-way than the front line of the principal building.
- b. Merchandise, equipment, products, vehicles, trailers or other items not themselves for sale and placed for attention getting, identification or advertising purposes.

J. Enforcement

1. Maintenance

... The Zoning Inspector may order removed any such sign that is not so maintained or does not comply with these regulations, and the owner, agent, or person having the beneficial use of said sign shall be in violation of the zoning code.

2. Removal of Unsafe Signs

If the Zoning Inspector shall find that any sign or other advertising structure is unsafe or insecure, ~~or is a menace~~ may be hazardous to the public....

ARTICLE X: DEFINITIONS

Billboard: A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located. *Prohibitions against off-premise signs are not content neutral. Delete the text in the sentence after the word “offered.”*

Sign: Any structure, or natural object such as a tree, rock, bush and the ground itself, or part thereof, or device attached thereto, trailer, mobile implement, vehicle, or portions thereof or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, word, banner, flag, balloon, pennant, search light, badge, or insignia of any government or governmental agency, or of any charitable, religious, educational or similar organization. The word “sign” shall include a writing, representation, or other figure of similar character located on the interior of a building only when (1) illuminated and (2) located so as to be viewed from the exterior of the building.

Sign, Billboard: ~~A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.~~ See Billboard.

Sign, Portable: A sign or advertising display designed to be easily moved.

Comments:

1. The writing of numbers and units of measure in the text is not handled consistently. One style for writing numbers and units should be used consistently; words only (nineteen feet), numbers or digits only (19 feet), or a combination of words, numbers, and units (nineteen feet (19')).
2. Noted sign regulations expert, Alan Weinstein of the Cleveland-Marshall College of Law recommends that communities follow the “On its Face Rule” when considering sign regulations, “if you have to read the message displayed to determine how a sign is regulated, then that regulation is content-based.” Weinstein indicates that sign regulations which do not utilize “content or message neutrality” are at risk of First Amendment violations and vulnerable to law suits.
3. Weinstein also recommends that the following language be included in sign regulations:
 - a. A strong purpose statement. Weinstein recommends the following sample language:
 - i. *To promote the creation of an attractive visual environment that promotes a healthy economy by:*
 - A. *Permitting businesses to inform, identify, and communicate effectively; and*
 - B. *Directing the general public through the use of signs while maintaining attractive and harmonious application of signs on the buildings and sites.*
 - ii. *To protect and enhance the physical appearance of the community in a lawful manner that recognizes the rights of property owners by:*
 - A. *Encouraging the appropriate design, scale, and placement of signs.*
 - B. *Encouraging the orderly placement of signs on the building while avoiding regulations that are so rigid and inflexible that all signs in a series are monotonously uniform.*
 - C. *Assuring that the information displayed on a sign is clearly visible, conspicuous, legible and readable so that the sign achieves the intended purpose.*
 - iii. *To foster public safety along public and private streets within the community by assuring that all signs are in safe and appropriate locations.*
 - iv. *To have administrative review procedures that are the minimum necessary to:*
 - A. *Balance the community’s objectives and regulatory requirements with the reasonable advertising and way finding needs of businesses.*
 - B. *Allow for consistent enforcement of the Sign Regulations.*
 - C. *Minimize the time required to review a sign application.*

D. *Provide flexibility as to the number and placement of signs so the regulations are more responsive to business needs while maintaining the community's standards.*⁵

- b. A message substitution clause. Weinstein recommends the following sample language:

The owner of any sign which is otherwise allowed by these sign regulations may substitute non-commercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting, provided that the size of the sign is not altered. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Recommendation: DPS staff recommends the Planning Commission **DISAPPROVE** the proposed amendments to §§ 203(D)(3), 401, & Article X of the Granger Township Zoning Resolution for the following reasons:

1. The proposed amendments contain regulations that utilize content based language.
2. The proposed amendment does not achieve its intended purpose of protecting motorist, pedestrians, and adjoining property owners from nuisance and unsafe illumination of signs.

If the ZC would be so inclined, DPS staff would welcome the opportunity to assist in the preparation of zoning amendments. DPS staff also encourages the ZC to submit text proposals to for informal review prior to formally submitting for Planning Commission review.

⁵ Ibid.