



Planning Commission  
App. No. 077-2013-TA

## Zoning Text Amendment

York Township

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**Meeting:** November 6, 2013  
**Applicant:** York Township Zoning Commission  
**Hearing:** November 7, 2013 (Zoning Commission)  
**Amendment:** Article IV Sign Regulations  
**Reviewer:** Susan Hirsch

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**Proposed Amendments:** (New text is underlined). This amendment proposed by the York Township Zoning Commission would amend the sign regulations (Article IV) to prohibit signs from within the right-of-way (row), rather than the current area that extends ten feet beyond the row for signs permitted without a permit and changing the setback from twenty-five feet to ten feet for signs requiring a permit. The requested text amendment also proposes to include the Multi-Use and Mallet Creek districts in the regulations for Ground Signs and Wall Signs, and provides for a new regulation for Commercial/Industrial Real Estate signs.

### ARTICLE IV

#### SIGN REGULATIONS

##### Section 401 Purpose

The purpose of this Article is to provide regulations for the use, location, size, and maintenance of signs allowed in the Township. Promotion of traffic safety, adequate identification, and the reduction of distractions is the goal of this Article.

##### Section 402 Limitations

All signs erected and maintained pursuant to any governmental function and necessary for the public safety and welfare are exempt from regulation under this Section.

##### Section 403 General Requirements

The regulations in this Section shall apply to all signs in all zoning districts.

###### 403.01 Prohibited Signs

1. Animated, flasher-type, blinker-type, and racer-type moving signs shall be prohibited.
2. Pole signs.
3. Roof signs.
4. Signs not expressly permitted by this Article.

403.02 Location

Signs shall be erected so as not to obstruct traffic sight lines or traffic control lights at road intersections. No sign shall be within any road right-of-way and no closer than twenty (20) feet of any adjacent property.

403.03 Similarity to Traffic Control Devices

Signs visible from a road shall not contain any words, symbols, or lighting that would cause confusion because of their resemblance to highway traffic control or directional signals.

403.04 Illumination

- A. Unless otherwise restricted in this Resolution, 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 source shall create neither a hazard nor a nuisance to adjacent properties.
- B. No flashing, revolving or rapid intermittent illumination shall be permitted.
- C. Any illuminated business sign (including those illuminated by neon or other gaseous type tubes, or by incandescent lamps) erected within one hundred (100) feet of an intersection, where an illuminated device has been provided for the control of traffic, shall not be duplicated in the electric light of such sign in any colors appearing in the traffic control signal.
- D. All materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the Medina County Electrical Code.
- E. Electronic Message Boards shall comply with the following additional restrictions:
  - 1. Each message or copy shall remain fixed for at least eight (8) seconds;
  - 2. When message or copy changes by remote control or electronic process, it shall be accomplished in three (3) seconds or less;
  - 3. Such Electronic Message Boards shall contain a default design that will freeze the device in one position if a malfunction occurs.

403.05 Movement

No sign shall employ any parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention.

403.06 Public Service Signs

Sections 403.01 and 403.04 shall not apply to any sign performing a public service function indicating time, temperature or similar services.

403.07 Measurement of Sign

The dimensions of a sign shall be calculated based upon the area normally visible from any one direction. The area shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the entire advertising device including border, trim, cutout, extension, and/or logo. Frames and structural members not including advertising matter shall not be included in calculation of the surface area. The height of a sign is measured at its highest point from grade.

403.08 Permit Required

- A. No person shall locate or maintain any sign, or cause a sign to be located or maintained, unless all provisions of this Article have been met. To assure compliance with this Resolution, a sign permit issued pursuant to this Resolution shall be required for each sign unless specifically exempted in this Article.
- B. A sign initially approved for which a permit has been issued shall not be modified, altered or replaced, nor shall design elements of any building or lot upon which such sign is maintained be modified, altered or replaced if any such design element constituted a basis for approval of such sign unless a new or amended permit is obtained consistent with this Resolution.
- C. The repainting, changing of parts, and preventive maintenance of signs shall not be deemed alterations requiring a sign permit.

**Section 404 Signs Permitted in Any District Without a Permit**

The following types of signs shall be permitted in any district and shall not require a sign permit.

404.01 Residence Identification Sign

One (1) name plate not exceeding two (2) square feet in area and six (6) feet in height shall be permitted for each dwelling.

404.02 Institutional Sign

A church, school, community center or other public or institutional building, for its own use: an announcement sign or electronic message board not exceeding thirty-two(32) square feet in area, six (6) feet in height and not to be located closer than ten (10) feet to any road right-of-way.

*Staff comments: Other signs not requiring a permit are proposed to be amended so as to eliminate the ten foot (10') setback. Unless there is a health or safety reason to distinguish an Institutional Sign, Staff suggests that all signs not requiring a permit have a consistent setback, height etc. If there is a health or safety reason, the rationale should be included in the text.*

404.03 Real Estate Sign

One (1) unlighted real estate sign not exceeding six (6) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way pertaining only to the sale, lease, or rent of the particular building, property, or premises upon which displayed. Such sign shall be removed within ten (10) days of the completion of said sale (title transfer), lease or rental.

*Staff Comments: Staff has no concerns with the reduction in setback for any of the signs covered under Section 404; however, distinguishing signs bases on use such as "Real Estate "sign" or "Institutional" sign" is not content neutral and case law suggests that it may not be defensible.*

404.04 Agricultural Roadside Stand Sign

One (1) unlighted sign not exceeding twenty (20) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way in conjunction with an agricultural roadside stand which shall be used to advertise agricultural products produced on land owned or operated by the operator in a normal crop year. Such sign shall be removed at the conclusion of the seasonal sales.

404.05 Directional Signs

Signs shall be located on the premises which they serve. Each sign may not exceed four (4) square feet and six (6) feet in height.

404.06 Political Signs

Signs promoting issues or candidates for public office shall be permitted in any district within the Township. Such signs shall not be placed on utility poles, public property, or road right-of-way, and shall not be any closer than ten (10) feet to the side lot line. Such signs shall not exceed thirty-two (32) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way. Such signs and all supporting materials shall not be placed more than thirty (30) days prior to and shall be removed within ten (10) days following the election to which they relate.

404.07 Builder's Sign

One (1) unlighted temporary builder's sign not exceeding six (6) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way

advertising the development of the premises upon which it stands. Such sign shall be removed within ten (10) days following the completion of improvements.

404.08 Window Signs

Special and periodic advertising sign(s) located inside an enclosed building and visible through a window(s) shall be allowed where the area of the sign(s) does not exceed fifty (50) percent of window area. Such sign(s) shall advertise only those products and services provided on the premises.

404.09 Memorial Signs

One (1) unlighted sign naming a building and/or date of erection not exceeding six (6) square feet in area and affixed flat against the building.

404.10 Home Occupation Sign

One (1) unlighted sign not exceeding six (6) square feet in area, six (6) feet in height, and at least ten (10) feet from any road right-of-way pertaining to a permitted Home Occupation.

404.11 Temporary/Portable Signs

One (1) unlighted temporary/portable sign is permitted for the following reasons not exceeding eighteen (18) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way. Temporary/portable signs shall not be erected more than fourteen (14) days before the event advertised and removed not later than three (3) days after the event.

1. Garage/Yard Sales
2. Auctions.
3. Non-profit events.

404.12 Banners and Pennants

One (1) banner or pennant less than sixteen (16) square feet is permitted in a Commercial District for a period of fourteen (14) days during any sixty (60) day period commencing with the erection of the banner or pennant provided that they are attached at each corner, point and/or end so as to prevent movement. Streamers are prohibited.

**Section 405 Signs Requiring a Permit**

The following types of signs shall be permitted in all zoning districts, unless otherwise specified, and shall require sign permit available from the Zoning Inspector.

405.01 Development Sign

One (1) temporary real estate sign advertising the development of the premises upon which it stands or the opening of a new subdivision within which such sign is located may be located and maintained upon the issuance of a temporary twelve (12) month Zoning Certificate which may be renewed for one additional twelve (12) month period. Such sign shall not exceed twenty-four (24) square feet in area and shall not be located closer than ~~twenty-five (25)~~ **ten (10) feet to** any road right-of-way.

405.02 Subdivision Sign

- A. One (1) permanent ground sign not to exceed twenty-four (24) square feet, exclusive of decorative walls, fences or base, identifying the main entrance to a subdivision may be permitted. Such sign shall not exceed six (6) feet in height or be located closer than twenty-five (25) feet to any road right-of-way unless a different location is approved as part of the subdivision site development plan.

*Staff Comments: The proposed text amendment does not indicate that the setback for a Subdivision Sign would change to ten feet (10') as with other signs requiring a sign permit. Also, the Summary of Sign Standards Table indicates a change to ten feet (10'). This may be an oversight.*

- B. One (1) permanent ground sign not to exceed six (6) square feet, exclusive of decorative walls, fences or base, identifying interior subdivision grouping of homes, at the entrance of each interior street. Such sign shall not exceed four (4) feet in height and shall be placed outside of the road right-of-way in a location not to obstruct the visibility of vehicular traffic entering or exiting the subdivision.

405.03 Ground Sign

In commercial, ~~and~~ industrial, **Multi-Use, or Mallet Creek** districts one (1) freestanding on the ground type business name sign per parcel upon which a commercial building is located may be erected except in the case of a corner lot where one sign may be placed in the front yard facing each road. Such sign shall not exceed thirty-two (32) square feet in area per side, and the overall height of the sign shall not be more than six (6) feet from grade level at the site of the sign. No such sign shall be located closer than ten (10) feet to the road right-of-way. The placement of such ground sign shall be located in the required landscaping or buffer strip, if one is required.

*Staff Comments: In this Section the Township is adding two zoning districts that permit commercial activity to the districts that permit ground signs. This appears to be appropriate.*

405.04 Billboards

Off premises signs (billboards) shall be permitted in only commercial and industrial districts. Such signs shall be located so as to maintain the same minimum front, side, and rear yard requirements as for buildings in that district except that no such sign shall be located closer than five hundred (500) feet to a dwelling. Nor shall any such sign be permitted closer than five hundred (500) feet to a public park, public or parochial school, library, church, hospital or similar institution. The maximum area of such sign shall be two hundred (200) square feet. The maximum height of such sign shall be thirty-five (35) feet. Such signs visible to approaching traffic on either or both sides of a right-of-way shall have a minimum spacing of at least five hundred (500) feet.

405.05 Wall Signs

In addition to the other signs permitted by this section, each business in a commercial, ~~or~~ industrial, **Multi-Use or Mallet Creek** district shall be permitted one (1) accessory wall sign provided the following conditions are met: Wall signs shall not be larger than thirty-two (32) square feet in area or ten (10) percent of the area of the surface of the building on which the sign is located, whichever sign area is smaller. Wall signs shall not project from the face of the wall more than eighteen (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.

***Staff Comments:** In this Section the Township is adding two zoning districts that permit commercial activity to the districts that permit wall signs. This appears to be appropriate.*

405.06 Temporary / Portable Signs

One (1) temporary / portable sign either lighted or in excess of eighteen (18) square feet is permitted for a period not to exceed thirty (30) days, with the display dates to be specified in the sign permit. Not more than four (4) temporary / portable sign permits shall be issued per parcel in any calendar year. Temporary / portable signs shall not be larger than thirty-two (32) square feet in area, six (6) feet in height, and ~~at least ten (10) feet from~~ **not within** any road right-of-way.

**405.07 Commercial/Industrial Real Estate Sign**

**In commercial, industrial, Multi-Use, or Mallet Creek districts one (1) freestanding real estate sign per parcel upon which a commercial building is located or vacant land may be erected except in the case of a corner lot where one sign may be placed in the front yard facing each road. Such sign shall not exceed thirty-two (32) square feet in area per side, and the overall height of the sign shall not be more than six (6) from grade level at the site of the sign. No such sign shall be located closer than ten (10) feet to the road right-of-way.**

*Staff Comments: Staff has no concerns with the reduction in setback for any of the signs covered under Section 405; however, distinguishing signs based on use such as “Development” sign” or “Commercial/Industrial Real Estate” sign is not content neutral and case law suggests that it may not be defensible.*

## **Section 406 Enforcement**

### 406.01 Safe Condition

The Zoning Inspector may order any sign to be painted or refurbished at least once a year if needed to keep the sign in a safe condition. All supports, guys, braces, and anchors for such signs shall be maintained in a safe condition. The Zoning Inspector may order removal of any such sign that is not so maintained, and it shall be unlawful for the owners or persons having charge of such sign not to remove the same after receiving notice from the Zoning Inspector to do so.

### 406.02 Removal

If the Zoning Inspector shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Resolution, notice shall be given in writing by the Zoning Inspector to the owner, agent or person having the beneficial use of said sign, who shall thereafter immediately correct the condition for which said notice was given.

### 406.03 Violation

All violations shall be corrected within a reasonable time limit set by the Zoning Inspector. If the sign is not removed or altered to comply with the standards herein set forth within the time set by the Zoning Inspector, enforcement actions shall be initiated by the Zoning Inspector. Portable or temporary signs must be removed immediately upon notice.



**Table: SUMMARY OF SIGN STANDARDS**

This table is provided as a summary only, refer to this Resolution for specific requirements.

Type	Maximum Area, ft	Maximum Ht. ft	Minimum Distance from Road R-of-Way, ft	Minimum Distance from Side Lot line, ft	
<u>Duration</u>	<u>days</u>				

**Signs Permitted in Any District Without a Permit (Section 404):**

Residence ID	6	6	<del>40</del> <u>0</u>		
Institutional	20	6	<del>40</del> <u>0</u>	20	
Real Estate	6	6	<del>40</del> <u>0</u>	20	
Agricultural Roadside Stand	20	6	<del>40</del> <u>0</u>	20	
Directional	4	6		20	
Political before/10 after Election	32	6	<del>40</del> <u>0</u>	20	30
Builder's	6	6	<del>40</del> <u>0</u>	20	
Window	50% of window area				
Memorial	6	on building			
Home Occupation	6	6	<del>40</del> <u>0</u>	20	
Temporary/ before/3 Portable after event	18	6	<del>40</del> <u>0</u>	20	14
Banners/ Pennants	16				14 in a 60 day period

**Signs Requiring a Permit: (Section 405):**

Development months	24	6	<del>25</del> <u>10</u>	20	12
Subdivision	24	6	<del>25</del> <u>10</u>	20	
Ground	32	6	<del>25</del> <u>10</u>	20	
Billboards	200	35	varies with district		
Wall	32 or 10% of wall area whichever is smaller				
Temporary/ Portable	32	6	<del>40</del> <u>0</u>	20	30

**Staff Comments:** *The table above is not content neutral. Any table entry that references a sign type based on the message or content should be deleted.*

**General Staff Comments:** *Jurisdictions can regulate location, height, time and design of signs; but, they cannot regulate the message or content. Case law suggests that providing different regulations based on the sign message or content would not be defensible. Staff strongly recommends that York Township review its sign regulations regarding content neutrality. Staff is willing to assist the Township in this effort. Also, Staff suggests that the Township submit the final draft to the Prosecutor's Office for their review.*

### **Sign Content Neutrality**

It is Staff's opinion that much of the text in Article IV, Sign Regulation could be challenged because the restrictions are not "Content Neutral." Basically this means that the text places restrictions on signs based on what is written on them. For instance, although Section 404 of the Resolution states that the following signs "shall not require a Sign Permit, the text places different restrictions on "Real Estate Signs" and "Political Signs" (among others.) Real Estate Signs must pertain "...only to the sale, lease, or rent of the particular building, property, or premises upon which displayed. Such sign shall be removed within ten (10) days of the completion of said sale (title transfer), lease or rental." While Political Signs pertain to "...issues or candidates for public office...." and "Such signs shall be placed no earlier than thirty (30) days prior to the date of election to which they relate, and such signs and all supporting materials shall be removed within ten (10) days following election." This is the case even though the signs may be the same size and made of the same material. The only difference being what is said on the sign or its *content*.

Other examples in the text include:

- **404.08** Window Signs: "Special and periodic advertising sign(s) located inside an enclosed building and visible through a window or windows may be permitted where the area of the sign(s) does not exceed fifty (50%) percent of the window area. **Such signs(s) shall advertise only those products and services provided the premises.**" (Emphasis added) ;
- **405.02A** Subdivision Sign: "One (1) permanent ground sign not to exceed twenty-four (24) square feet, exclusive of decorative walls, fences or base, **identifying the main entrance to the subdivision ...**"(Emphasis added);
- **405.02B** Subdivision Sign: "One (1) permanent ground sign not to exceed six (6) square feet, exclusive of decorative walls, fences or base, **identifying interior subdivision grouping of homes, ....**"(Emphasis added).

In each of these instances, at least parts of the restrictions are based on what the sign says or its content.

The following is an excerpt from of a concise discussion of this issue by Alan Weinstein of the Maxine Goodman Levin College of Urban Affairs and the Cleveland-Marshall College of Law at Cleveland State University.

*Although the First Amendment speaks in absolute terms – “Congress shall make no law abridging the freedom of speech . . .” (emphasis added) - the Supreme Court has rejected a literal reading of the text. While government may not normally impose direct restrictions on the communicative aspects of speech, the Court has adopted the view that, under very limited circumstances, speech may be subject to narrowly proscribed regulations. As noted previously, there is no single test that the Supreme Court employs to determine how much government regulation of speech may be tolerated; rather, the Court chooses its analysis based on the manner in which government is attempting to impose regulations on speech protected by the First Amendment. Recent Court decisions have shown, however, that attempts to regulate the content of speech in any context will trigger the highest level of scrutiny. Thus, the question of whether a regulation is “content-neutral” has become the paramount concern of courts. Content-neutrality, and other aspects of a regulatory scheme that are important in a court’s choice of which type of analysis to apply, and the nature of the various analyses are discussed below.*

*Is the regulation “content-neutral”? This is the single most crucial question that courts ask about any regulatory scheme affecting expression protected by the First Amendment. A content-neutral regulation will apply to a particular form of expression (e.g., signs or parades) regardless of the content of the message displayed or conveyed. The most common form of content-neutral regulation is so-called “time, place, or manner” regulation, which, as the name suggests, does no more than place limits on when, where, and how a message may be displayed or conveyed.*

Source: **Context-Sensitive Signage Design**, “Legal Issues in the Regulation of On-Premise Signs”. Marya Morris, Mark L. Hinshaw, Douglas Mace, Alan Weinstein, American Planning Association Planning Advisory Service, Chapter Six.

### **Staff Recommendation:**

Staff recommends **APPROVAL WITH MODIFICATIONS** of the proposed text amendments to the York Township Zoning Resolution subject to Staff Comments, and with the following recommendations:

1. While the Staff has no concerns with the proposed text amendments other than some minor technical changes, we cannot overlook the fact that the existing text is not “content neutral”. Therefore, Staff recommends that York Township evaluate the entire text of Article IV Sign Regulations and other sections of the Resolution that pertain to signs (Definitions etc.) regarding First Amendment restrictions on limiting free speech and content neutrality.
2. Staff further recommends that the Township contact the Prosecutor’s Office regarding Article IV, Sign Regulations.

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