

**RECORD OF PROCEEDINGS  
MINUTES OF PUBLIC HEARING  
APRIL 29<sup>TH</sup>, 2010**

The Medina Township Board of Trustees held a public hearing at the Medina Township Hall on April 29<sup>th</sup>, 2010. President Todd called the meeting to order at 6:36 pm with the following Trustees in attendance: Michel D. Todd, Sarah (Sally) Gardner and Ray Jarrett. Also in attendance were the Police Chief, Fire Chief, Zoning Inspector and the general public.

**Roll Call**

Mr. Todd asked for a roll call of all members present. Trustees present were Mr. Todd, Mrs. Gardner and Mr. Jarrett.

**Proposed Text Amendment Regarding Digital Signs**

Mr. Todd read the letter from the Zoning Commission regarding the proposed text amendments to include a definition of a Digital Messaging Sign, Addition of letter M. to Section 605 Accessory Signs requiring a permit, and the Removal of Section 603 G. Public Service Signs in its entirety. He also read the recommendations from the Department of Planning Services and the text of the Township Zoning Code that will actually be amended.

Mr. Todd opened the floor for public comment.

Bill Ostmann (3670 Hamilton Road) said the digital sign at Nova Veterinary Services is very distracting and he feels 60 seconds is not an excessive time limit for the sign change, it may eliminate the distractions. Mr. Todd said the sign does change very fast. Mrs. Ridgley said she called them to check the amount of time the sign changes.

Alliss Strogin (3003 Hood Road) explained the reason the Zoning Commission required the sign change to be 60 seconds. It is due to the study done by the Federal Highway for the Interstate regarding the 8 to 10 second change. On a lesser traveled street you have signs flashing every 8 to 10 seconds that is very distracting. They feel 60 seconds will be less distracting.

James Apana (3993 Dogleg Trail) said the State of Ohio is currently examining their policy for digital signs on the interstate. They are concerned with anything that takes the drivers eyes off the road. They are checking the height of letters and the length of time the sign changes.

Mrs. Strogin read an article regarding the digital signs. She said 6 states prohibited digital billboards, 4 states prohibit all billboards of any kind, 5 states voted down a ban or a moratorium on billboards and numerous cities have banned digital billboards.

Mr. Todd motioned to close the floor for public comment. Mr. Jarrett seconded the motion.

**Trustees Discussion**

Mrs. Gardner said it is a good start to getting regulations on this type of sign and to have clarification in the Zoning Book. Mr. Jarrett said it is long overdue and he is glad it has come to fruition finally.

**Resolution No. 04292010-008**

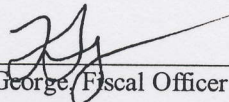
Mr. Todd motioned to put forth the following resolution to adopt the proposed text amendment dated March 23, 2010, from the Zoning Commission and incorporate the packet that was reviewed today for the public hearing into the record. Mr. Jarrett seconded the motion. Voting aye thereon: Mr. Todd, Mr. Jarrett and Mrs. Gardner.

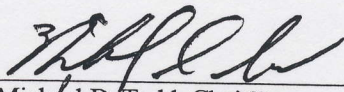


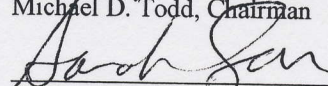
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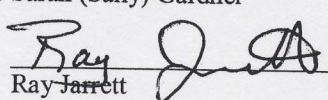
Mr. Todd said the proposed amendment becomes effective 30 days from today unless there is a referendum filed.

Mr. Todd motioned to close the Public Hearing on the Zoning Text Amendment. Mrs. Gardner seconded the motion. Voting aye thereon: Mr. Todd, Mrs. Gardner and Mr. Jarrett. The public hearing was adjourned at 6:54 pm.

  
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Therese George, Fiscal Officer

  
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Michael D. Todd, Chairman

  
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Sarah (Sally) Gardner

  
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Ray Jarrett



**Medina Township**  
— ZONING COMMISSION —



March 23, 2010

RE: Proposed Text Amendments to include a definition of a Digital Message Sign, Addition of letter M. to Section 605 Accessory Signs requiring a permit, and the Removal of Section 603 G. Public Service Signs in its entirety.

Dear Honorable Trustees:

On March 16, 2010, the Medina Township Zoning Commission held a public hearing following proposed text amendments to the Medina Township Zoning Resolution. A motion was made and carried to approve the proposed text amendments as modified.

Definition of Signs, Digital Message-A sign on which the copy/image changes through electrical or electronic means at intervals.

Addition of letter M. to Section 605 Accessory Signs requiring a permit

M. Digital Message Signs are permitted for ground signs only and shall be permitted in all business districts. A Digital Message Sign shall meet the following requirements:

1. Frequency. Copy change shall not be more frequent than once per 60 seconds and both text and color shall remain static between intervals.
2. Color. Any Digital Message Sign erected within one hundred (100) feet of an intersection where an illuminated device has been provided for the control of traffic shall not duplicate the electric light of such sign in any colors appearing in the traffic control signal.
3. Illumination. Illumination level of a Digital Message Sign shall not exceed .3 foot candle as measured from the adjacent right of ways.
4. Digital Message Signs shall be programmed to dim and brighten automatically in response to changes in ambient light to avoid undue brightness.



**Page 2 Zoning Commission Public Hearing Recommendations (3/16/2010)**

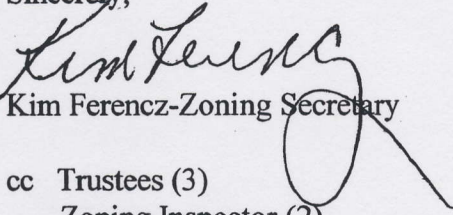
5. Digital Message Signs shall be programmed to "freeze" or go blank if there is a malfunction, so that flashing or other distracting movement does not result.

Removal of Section 603 G. Public Service Signs in its entirety.

Please accept this letter as certification of the recommendation of the Zoning Commission. The Township Trustees are required to hold a public hearing in accordance with the provisions of the Ohio Revised Code.

If you have any questions please contact the zoning office at (330) 721-1997.

Sincerely,

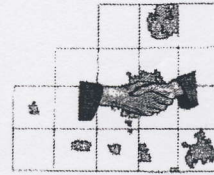
  
Kim Ferencz-Zoning Secretary

cc Trustees (3)  
Zoning Inspector (2)  
Chairman (1)





# Department of Planning Services



Staff Report  
Application No. 066-2009TA  
Medina Township  
March 3, 2010

Applicant: Medina Township Zoning Commission  
Meeting Date: March 16, 2010  
Proposed Amendment: Amend Article VI, Section 605, Article III  
Definitions, and Section 603G

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**Current proposal:** Medina Township proposes to amend its Zoning Resolution to include regulations for digital message signs.

The following items in **bold font** are proposed to be added to the Zoning Resolution.

**Signs, Digital Message – A sign on which the copy changes through electrical or electronic means at intervals.**

**Section 605 Accessory signs requiring a permit.**

**M. Digital Message Signs are permitted for ground signs only and shall be permitted in all business districts. A Digital Message Sign shall meet the following requirements:**

- 1. Frequency. Copy change shall not be more frequent than once per 60 seconds and both text and color shall remain static between intervals.**
- 2. Color. Any Digital Message Sign erected within one hundred (100) feet of an intersection where an illuminated device has been provided for the control of traffic shall not duplicate the electric light of such sign in any colors appearing in the traffic control signal.**
- 3. Illumination. Illumination level of a Digital Message Sign shall not exceed one foot candle as measured from the adjacent right of ways.**

The following item is proposed to be removed from the Zoning Resolution and is identified by striking through the text:

Article VI Section 603

~~General Requirements G. Public Service Signs~~

~~Subsection A and D of this section shall not apply to any sign performing a public service function indicating time, temperature or similar services.~~

**Staff Comments:**

1. Staff suggests substituting the word “copy” in the definition and proposed text for Section 605M to “image”, for clarity.
2. The 60-second image change interval between messages is excessive. Most literature on electronic signs suggests 8-10 seconds. In zoning districts fronting on major streets or



highways, it may be acceptable to allow images to change between 1 and 8 seconds, to allow faster-traveling traffic to view the message(s).

3. A foot candle is "A unit of measure of the intensity of light falling on a surface, equal to one lumen per square foot and originally defined with reference to a standardized candle burning at one foot from a given surface". It is the measurement of light hitting an object at any distance; it is the light received. The illumination level of one foot candle may be too bright to view an electronic message on the sign at night; 0.3 foot candles may be more appropriate according to the International Sign Association. A photometer can be used to measure the brightness, and the zoning inspector will need to be trained to use the equipment.
4. Medina Township should consider requiring that a digital message sign be programmed to dim and brighten automatically in response to changes in ambient light to avoid undue brightness.
5. Digital message signs should also be programmed to "freeze" or go blank if there is a malfunction, so that flashing or other distracting movement does not result.
6. If the digital message sign takes the place of the ground sign, the regulations should more clearly state the Township's intent.
7. The permitted square footage of the digital message sign, and the setbacks, should be indicated in this section to avoid confusion with any other type of sign.
8. Attached is an article written by Alan Weinstein regarding electronic message signs, which may be of assistance to Medina Township.
9. The Medina Township Sign regulations are not content neutral and should be completely updated and amended to comply with the content neutrality requirement.

**Staff Recommendations:**

Staff recommends **APPROVAL WITH MODIFICATION** of the proposed text amendment per staff comments to the Medina Township Zoning Resolution.

Staff also suggests that Medina Township review and amend Article VI Sign Regulations in its entirety, and any other relevant sections of the Zoning Resolution, for the purpose of ensuring compliance with the legal requirement that they be content neutral. Staff is available to assist in this endeavor.



**Dealing with Digital Billboards and Electronic Message Signs** Alan Weinstein

*This article appeared in the winter 2010 issue of APA's 'The Commissioner,' which is available by subscription or as a member benefit for planning commissioner members of APA.*

Advances in technology and manufacturing are making signs with electronically changeable copy more affordable. As the price dropped, they have become an attractive option to conventional signs for an increasing number of outdoor advertising companies, retail businesses, institutions, and even government. This article discusses the questions a Planning Commission should consider in deciding how to regulate signs that use this new technology.

**Defining Terms**

The initial step for any Commission is to settle on the terms being used to define these signs and how they are to be regulated. At minimum, you'll need to distinguish between:

- signs that change copy manually versus signs that change copy electronically, because the latter can so easily change the message displayed;
- signs that display only a static message or image versus signs that display a message or image with movement of any sort, because signs with movement are potentially far more distracting to motorists; and
- signs that will be regulated as off-premise "billboards" versus signs that will be regulated as on-premise "business" signs, because the technology makes it so easy for a business to display "off-premise" messages in addition to "on-premise" messages.
- You will also need to determine how to measure the brightness of these signs. Measuring brightness in terms of "nits," (The term is derived from the Latin "nitere" ... "to shine.") which is a standard unit for measuring the amount of visible light leaving the surface of a sign, is an increasingly common measurement for the brightness of digital signs.

**Deciding How to Regulate**

The first question a Commission faces in deciding how to regulate digital signs is whether to prohibit these signs entirely rather than regulate them. In the past two years, a small number of courts have upheld total bans on digital signs by accepting local governments' assertions that the ban served traffic safety and aesthetic interests, without requiring any evidentiary showing from the government to justify the ban. (See, e.g., *Naser Jewelers, Inc. v. City of Concord*, 2008 WL 276529, "aff'd," 538 F.3d 17 (1<sup>st</sup> Cir. 2008).) These cases rejected the sign owners' contentions that instead of a total prohibition the city could have enacted a more "narrowly tailored" regulation—e.g., allowing a message to change only once every minute—because the regulation would have imposed an enforcement burden on the city. But as the number of cities that are regulating, rather than prohibiting, digital signs increases; and, particularly, if those regulations are not being circumvented, it may become more difficult to defend a total prohibition.

Once the Commission decides to regulate, rather than prohibit, digital signs, there are a number of issues that need to be considered. The starting point is recognizing that, just as with other sign regulations, different standards are appropriate for different zoning districts. For example, digital signs should be very stringently regulated in districts zoned for residential use, where they are likely appropriate only for institutional uses on major streets or relatively large lots. In contrast, a Commission in a larger city might actually want to encourage, or even require, digital signs to create or maintain a vibrant entertainment district or professional sports complex. Many cities will allow large digital signs with full animation in this type of district. *New York's Times*



Square and the Las Vegas "Strip" are the best-known examples, but Cleveland is an example of a mid-size city with regulations that encourage dynamic signage in its Playhouse Square theater district and Gateway professional sports complex.

The major decision for the Commission, however, is how to regulate digital signs in the city's commercial districts. The starting point is to recognize that the city should be allowing digital signs only as a complete or partial replacement for existing static or manually changeable signs; i.e., an allowance for digital signs should *not* be in addition to the signage already allowed under the code. The major decisions that need to be made for commercial districts is how much digital signage to allow, which could be stated as either a maximum square footage allowance or as a percentage of the total allowable sign area for individual signs. For example, a code could limit digital signs in a particular district to a maximum of 40 sq. ft. or a maximum of 50% of the total sign area. The Commission might also want to limit the number of digital signs on any one property.

The Commission also needs to specify:

- that movement, including flashing and scrolling, is prohibited;
- the interval between messages (8-10 seconds is fairly common);
- the maximum brightness allowed during daytime and night (5,000 nits for day and 500 for night is common) and also require that the sign be programmed to dim and brighten automatically in response to changes in ambient light;
- that the sign must either "freeze" or go blank if there is a malfunction (to prevent flashing or other movement); and
- required setbacks from residential districts.

### **Conclusion**

Cities are seeing an increasing demand from businesses, schools and churches to replace conventional signs with digital signs. By adopting appropriate regulations, a Commission should be able to accommodate these demands while insuring that the governmental interests in traffic safety and aesthetics are still being served.

Professor Alan C. Weinstein, Director - Law & Public Policy Program  
Cleveland-Marshall College of Law and Maxine Goodman Levin College of Urban Affairs  
Cleveland State University