

CITY OF TORRINGTON



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To: Planning & Zoning Commission
From: Jeremy Leifert, AICP, City Planner *JL*
Date: April 17, 2024
Subject: Proposed Zoning Regulation Amendments – Section 5.15, Signs

The Torrington Board of Education and the Torrington Volunteer Fire Department have filed an application to amend the text of the zoning regulations in Section 5.15 to allow digital messaging signage on City-owned and fire department property in all zones by special exception for non-commercial community messaging.

Our office worked with the applicant to draft a regulation that meets both the needs of the applicants and the public safety and aesthetics concerns over digital signage. The attached draft amendment is proposed as follows:

Section 5.15.2 – Definitions

1. Add a new definition for “Commercial Signs” as “any sign that contains text and/or graphics designed, proposing or promoting a commercial transaction or directing attention to a business, commodity or service”
2. Add a new definition for “Electronic Sign” as “any sign or portion of a sign that displays an electronic image or video which may or may not include text. Includes digital screens, LED screens, video boards and other similar media”
3. Add a new definition for “Governmental Sign” as “a sign erected, owned and maintained by the City of Torrington or entities thereof within City property, including but not limited to City Hall, Fire Department, Police Department, Board of Education or Parks and Recreation property. *Commercial signs* and/or commercial messaging are not permitted in governmental signs. Free standing governmental signs shall be no more than 32 square feet in area. Other types of governmental signs shall comply with regulations in this section per sign type.

Within the definition of “Governmental Sign”, the proposed language would:

- (1) Prohibit commercial signs or messaging on a governmental sign
- (2) Cap the maximum size of signs at 32 square feet
- (3) Cap the maximum digital messaging area of the signs at 16 square feet
- (4) Limit signs to free standing signs only except on properties with no area for a free standing sign
- (5) Establish standards for message change frequency time and auto dimming of lighted area

Section 5.15.5, Table 1 – Signs by Type in All Zoning Districts

(1) Add “Governmental Sign” as a permitted sign type to the Table 1 in Section 5.15.5

Section 5.15.6.B – Sign Illumination

(1) Add “Governmental Signs” to the exempt sign types under the prohibition on electronic changeable sign

Currently, digital messaging signs are not allowed in the City of Torrington, with the exception of those that are pre-existing non-conforming (grandfathered) and those exempted in state statute, such as digital gasoline price signage. This proposed regulation amendment would allow for a narrow use of digital signage for community messaging on City property. The Planning and Zoning Commission has historically not been in favor of allowing digital advertising signage anywhere in town, but may recognize the benefits that noticeable community signage can bring in engaging with the community.

Other Items of note:

- The regulations governing sign illumination has been modified in the past, the most recent being:
 1. Old Section 5.14.6.C (subsequently moved to 5.15.6.B) adopted December 1, 1993 prohibiting all new signs with illuminated changing or animated messages
 2. Section 5.15.6.B amended May 30, 2010 to allow digital gasoline price signage as an exception to the regulations prohibiting changing illuminated signage
 3. Section 5.15.6.B amended in November 2021 to allow lighted EV Charging/Display Kiosks as an exception to the regulations prohibiting changing illuminated signage
- A 2015 US Supreme Court case, *Reed v. Town of Gilbert, Arizona* addressed the ability of any government entity, particularly zoning codes, from regulating types of signage differently based on the content of the sign. Comments received from NHCOC (see below) recommended that this be addressed as part of our review process. I have included a copy of the Supreme Court case in the application file. I reviewed this case and others dealing with signs extensively prior to this application being filed and for previous sign regulation amendments, and believe this regulation holds up to scrutiny of this supreme court case for the following reasons:
 1. This proposed regulation controls *governmental* digital signs, not commercial advertising or the speech of non-governmental entities or citizens. *Reed v. Gilbert* is a first amendment free speech case governing citizens and private entities, such as a church in that case, and not the government itself. This proposed regulation does not attempt to draw differences in the regulations covering types of non-governmental digital signs.

2. There is a compelling government interest (and the interest of citizens of the City) in providing expanded methods of governmental community messaging while maintaining reasonable zoning regulatory controls for public safety, particularly in light of the significant dropoff in print newspaper readership. The commission has in the past not been in favor of expanding digital signage City-wide for *any* use, and this proposal maintains that status, other than government signs. The alternative would be to again prohibit *all* digital signage.
3. The supreme court case holds that there still is a reasonable need to view the content of proposed content of sign to determine its' regulatory scope – the case does not completely eliminate all reasonable review of content in determining actions in regulatory authority.

Other Staff Comments:

Northwest Hills Council of Governments:

In a letter received from Rista Malanca, AICP, NHCOC Director of Community and Economic Development dated March 7, 2024, the following comments were submitted:

NHCOC staff finds the proposed amendment not to have any apparent conflicts with the Northwest Hills Plan of Conversation and Development or inter-municipal impacts.

However, NHCOC Staff would recommend that the City of Torrington seek a legal opinion, if it has not already done so, to ensure a regulation that allows digital signage “for the purpose of community messaging and not for commercial messaging” is compliant with the Reed V. Town of Gilbert lawsuit, which invalidated any ordinance/regulation that treated signs differently based on their content.

Additionally, communities throughout the region have used portable digital messaging signs as a way to provide community messaging. Requiring including the guideline that “Permanent free-standing signs are the only allowed type of electronic messaging signage, with the exception of properties where no area is available for a free standing sign. The commission may allow a building wall sign with electronic messaging in these cases by special exception” appears to prohibit the use of portable signs in all circumstances. The Commission should determine if this restriction was intended to restrict portable digital messaging signs or if the regulation was intended to differentiate between free standing and building mounted signage. If the later, the regulation should be amended to reflect that.

Architectural Review Committee: This amendment was not referred to the ARC for comment.

I received replies from Assistant City Planner, WPCA, and the Police Traffic Division indicating that they have no comments on this application.

No comments were received from the Fire Marshal's Office, Building Department or City Engineer on the proposed amendment

The proposed amendments are generally supported by the City Plan of Conservation and Development (POCD). Section 10 of the plan (Community Facilities) encourages “improved access to information” by allowing an additional methods of conveying community messaging outside of daylight hours. The proposed regulations also further the goals of reducing light pollution in section 6 (Community Character) by mandating dimmers and shutoffs.

I recommend approval of this proposed regulation amendment to Section 5.15 of the zoning regulations as presented.

END OF MEMO