

REPORT TO THE BOARD OF COUNTY COMMISSIONERS OF

DELAWARE COUNTY, INDIANA

2015 012

July 7th, 2015

To the Honorable:

ORIGINAL

Board of County Commissioners of Delaware County, Indiana

Dear County Commissioners:

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on AN ORDINANCE TO AMEND THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE REGARDING TEMPORARY, DETERIORATED AND INACTIVE SIGNS.

**WHEREAS**, the Delaware-Muncie Metropolitan Plan Commission is charged, by state statute, with the preparation of amendments to the zoning ordinance in order to maintain a viable updated ordinance dealing with planning and zoning and said Commission has reviewed, revised and adapted certain standards for Delaware County, Indiana.

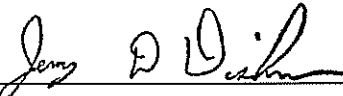
**WHEREAS**, the said Plan Commission initiated a public hearing and, following discussion and the public hearing, a motion was made, seconded and approved to forward a favorable recommendation for the proposed amendment as attached with revisions.

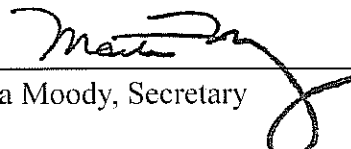
**WHEREAS**, the said Plan Commission has given reasonable regard to the comprehensive plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout in the jurisdiction and responsible growth and development.

**NOW, THEREFORE**, the Delaware-Muncie Metropolitan Plan Commission hereby **FAVORABLY RECOMMENDS** (5-0-4) the proposed amendment to the Delaware County Comprehensive Zoning Ordinance regarding temporary, deteriorated and inactive signs as more accurately set forth in the attached Ordinance to Amend.

DELAWARE-MUNCIE METROPOLITAN  
PLAN COMMISSION

BY:

  
\_\_\_\_\_  
Jerry Dishman, President

  
\_\_\_\_\_  
Marta Moody, Secretary

ORDINANCE NO. \_\_\_\_\_

**BEING AN ORDINANCE TO AMEND  
THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE  
REGARDING TEMPORARY, DETERIORATED AND INACTIVE SIGNS**

- WHEREAS,** the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana, as the legislative body, to adopt zoning ordinances and the State enabling act also provides for amendments to a zoning ordinance from time to time as deemed necessary to further promote the health, safety and general welfare; and
- WHEREAS,** a key element of the Muncie-Delaware Comprehensive Plan is to improve the appearance of the City and County which, in turn, is tied to promoting the general public welfare from a physical, social and economic standpoint, thus improving the appearance is of societal benefit; and
- WHEREAS,** the stated purpose of the Signs and Outdoor Advertising provisions in said zoning ordinance is *“to protect property values; create a more attractive and economically vital business climate; enhance and protect the physical appearance of the community; preserve the scenic and natural beauty; and to provide more enjoyable and pleasant living conditions. The intent of this section is also to reduce the incidence of signs or advertising distractions, which may contribute to traffic accidents by their placement”*; and
- WHEREAS,** deteriorated and inactive signs are currently treated the same and there is a need for separate provisions in recognition that a deteriorated sign is not always an inactive sign; and
- WHEREAS,** the current provisions dealing with temporary signs do not adequately define the various types of temporary signs, the size, the number of allowable signs and their placement; and
- WHEREAS,** the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing for consideration of the proposed amendment and, on motion duly made, seconded and unanimously approved, forwards a favorable recommendation regarding said amendment to the County, all as required by law; and
- WHEREAS,** the Board of County Commissioners of Delaware County, Indiana, has given reasonable regard to the comprehensive plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

**NOW, THEREFORE, BE IT ORDAINED** by Board of County Commissioners of Delaware County, Indiana, that the text of the Delaware County Comprehensive Zoning Ordinance be amended, changed and supplemented as follows:

**Section 1.** That Article XXX, Section 3, SIGNS AND OUTDOOR ADVERTISING, Subsection B.4, which reads as follows, shall be deleted:

- 4. *Existing Signs - Deteriorated or Inactive:*
  - a. *Definition: Deteriorated: A sign that is in a poor or dangerous condition, such as, but not limited to, broken or leaning sign apparatus, portions of the sign missing, or chipping of paint. Inactive: A sign which no longer directs attention to a business, activity, service or product, sold or provided on the premises.*
  - b. *Provisions: When a sign has been deteriorated or inactive for a period of thirty (30) days, the owner of the sign or the owner of the property upon which said sign is located, shall, upon written notice from the administrative zoning officer, remove or repair said sign. The sign shall be removed or repaired within thirty (30) days from the date of the notice sent to remove or repair the sign. Failure to comply with the order shall authorize said officer to initiate action for the removal of the deteriorated or inactive sign.*

**Section 2.** That said Subsection B.4 shall be amended, rewritten and changed to read as follows:

- 4. Existing Signs – Deteriorated or Inactive:
  - a. Deteriorated Sign: A sign that is in a poor or dangerous condition, such as, but not limited to, broken or leaning sign apparatus, portions of the sign missing, chipping of paint, ripping or tearing of sign materials. When a sign has been deteriorated for a period of at least thirty (30) days, the owner of the sign or the owner of the property upon which said sign is located shall, upon written notice from the Administrative Zoning Officer, repair said sign. The sign shall be repaired, or contracted for repair, within thirty (30) days from the date of the notice sent to repair the sign.
  - b. Inactive Sign: A sign which no longer directs attention to a business, activity, service or product, sold or provided on the premises where the sign is located. A pole or other support apparatus without a sign board shall also be considered an inactive sign. When a sign and/or sign support apparatus has been inactive for a period of at least six (6) months, the owner of the sign or the owner of the property upon which said sign is located shall, upon written notice from the Administrative Zoning Officer, remove the sign and sign support apparatus. The sign and support apparatus shall be removed within thirty (30) days from the date of the notice. Failure to comply with the notice shall authorize said Officer to initiate action for the removal of the deteriorated or inactive sign.

**Section 3.** That Article XXX, Section 3, SIGNS AND OUTDOOR ADVERTISING, Subsection E.6, and

reads as follows:

6. *Temporary Sign:*

- a. *Definition: A temporary sign shall mean any sign, sign board, banner, or lightweight advertising display of more than two (2) feet in height, maintained for the purpose of displaying outdoor advertising by means of a reader board, permanently supported, anchored or attached to the ground or a building.*
- b. *Provisions: No temporary sign shall be maintained, displayed or placed on a property for a period longer than thirty (30) days after the issuance of the permit and ninety (90) days must expire before the permittee can reapply for a new permit for said sign on the property. A new permit is to be obtained for each thirty (30) day period.*

*No temporary sign shall at any point be over eight (8) feet in height above grade level, except a banner, in which case, it must have at least a ten (10) foot clearance above grade.*

*No temporary sign shall be placed within the Delaware County right-of-ways, proposed or existing. Any temporary sign unlawfully maintained in a public right-of-way, may be declared a public nuisance and a traffic hazard per State of Indiana Motor Vehicle Laws, Article III, and if necessary, the Administrative Zoning Officer shall remove the sign. No temporary sign shall be illuminated internally or externally. Spotlights or flashing illumination shall not be used under any circumstances with a temporary sign. Any temporary sign not complying with the provisions of this Ordinance shall, upon notice, be removed by the Administrative Zoning Officer. A sign permit shall be obtained prior to the placement of a temporary sign.*

shall be deleted in its entirety.

**Section 4.** That a new Article XXX, Section 3, SIGNS AND OUTDOOR ADVERTISING, Subsection E.6 shall be inserted, as follows:

6. Temporary Sign

- a. **Definition:** A temporary sign shall mean any on-premise sign, sign board, banner, pennant, flag banner, inflatable or other light weight advertising display, including portable signs, that are more than two (2) feet in height and/or more than three (3) square feet in display area, maintained for the purpose of displaying outdoor advertising that directs attention to a product, place, activity, service, institution or business and that is intended to be displayed for a limited time as described herein. A portable sign means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels.
- b. **Provisions:** A sign permit shall be obtained prior to the placement of a temporary sign. No temporary sign shall be maintained, displayed or placed on a property for a period longer than

forty-five (45) days after the issuance of the permit and ninety (90) days must expire before the permittee can reapply for a new permit for said sign on the property. A new permit is to be obtained for each forty-five (45) day period. A temporary sign exceeding the time limits herein may be converted to a permanent on-premise sign subject to obtaining the applicable permit and meeting all provisions governing the applicable sign type (i.e. ground sign, wall sign). There shall be no more than one (1) temporary sign per business. No temporary sign shall at any point be over eight (8) feet in height above grade, except a banner or other overhead suspended display provided it must have at least a ten (10) foot clearance above grade. No temporary sign shall be placed within public right-of-way or in a manner that impedes access and/or visibility to and from a public right-of-way; any temporary sign so improperly placed may be declared a public nuisance and a traffic hazard and, if necessary, the Administrative Zoning Officer shall remove the sign. Spotlights or flashing illumination shall not be used under any circumstances with a temporary sign. Temporary signs shall be property maintained and if not, may be declared a deteriorated sign subject to repair or removal as set forth in this Section. Any temporary sign not complying with the provisions of this Ordinance may, upon notice, be removed by the Administrative Zoning Officer.

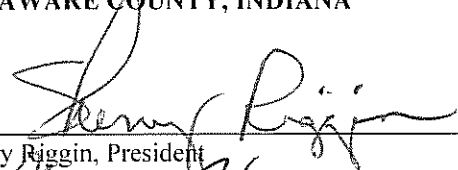
c. General Exceptions: Unless otherwise specifically stated, the following shall be exempt from the temporary sign provisions and permits:

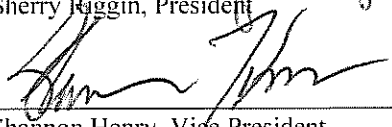
- 1) A-Frame, T-Frame, Menu Board or Sandwich Board signs serving a permitted use provided as followed: they may be erected, placed or located outside of a business establishment on a daily basis; they shall only be displayed during business hours of operation; they shall be within ten (10) feet of the main customer entrance; they shall not be located in public right-of-way unless a Right-of-Way Occupancy Permit is obtained; they shall not exceed six (6) square feet in sign surface area; and they shall not exceed a height of five (5) feet above grade.
- 2) Holiday displays which contain no advertising message, are primarily decorative in nature and are clearly incidental and commonly associated with any national, state or local holiday provided the displays are removed in a timely manner after the holiday is over, such as within fifteen (15) days.
- 3) Grand Opening Events for new businesses shall be permitted a single grand opening event sign display during which the number, type and size of temporary signs shall not be limited provided the display does not exceed thirty (30) consecutive days measured before, during and after the grand opening event.
- 4) Flag banners and similar light weight fixtures that contain no text, graphics, or logos provided there are no more than three (3) per business or land parcel containing multiple businesses and they are displayed no more than two (2) times per calendar year with each time not exceeding forty-five (45) days in duration.

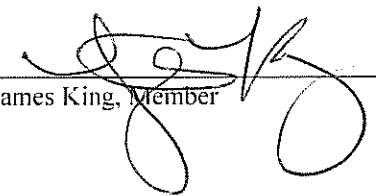
**Section 5.** That this Ordinance shall be in full force and effect from and after its adoption and such publication as required by law.

Section 6. This Ordinance is adopted this 20 day of July, 2015.

**BOARD OF COMMISSIONERS  
DELAWARE COUNTY, INDIANA  
BY:**

  
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Sherry Riggan, President

  
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Shannon Henry, Vice President

  
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James King, Member

**ATTEST:**

  
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Steven G. Craycraft, Auditor