

Review by P&Z Commission: 10/23/19

Sponsor: Councilman Pressley

First Reading: 12/02/19

Ord. No: 009-19

AN ORDINANCE AMENDING APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA TO CLARIFY THE REGULATIONS FOR THE DISPLAYING OF SIGNS IN SMYRNA

WHEREAS, the Town Council of the Town of Smyrna has enacted zoning regulations in the Town of Smyrna as authorized pursuant to *22 Del. C.* Chapter 3 and Section 4.2.37 of the Town Charter;

WHEREAS, signs are an essential form of communication in the Town of Smyrna, providing way-finding guides to residents, visitors, public safety officials, customers and potential customers of local businesses, delivery people and others;

WHEREAS, signs serve a vital role in the communication of personal views and provide an affordable medium through which residents can express his or her personal views and demonstrate support for a particular idea or cause;

WHEREAS, the Town Council finds that when left unregulated, signs can create traffic hazards by distracting drivers, which distractions can lead to vehicle accidents that can result in property damage and/or injury or death to drivers, passengers, pedestrians, and cyclists;

WHEREAS, the Town Council finds that the proliferation of signs can result in visual blight as a result of the size and number of signs permitted on a property, along with the means and materials by which signs are constructed, all of which negatively impact the aesthetics of the Town;

WHEREAS, the Town Council desires to reduce the potential adverse impact of signs on aesthetics and traffic safety by regulating the size of signs, the location of signs, the means and materials by which signs are constructed, and the number of signs that may be situated on a particular property;

WHEREAS, the Planning Commission considered this ordinance at a duly noticed meeting held on September 25, 2019 and October 23, 2019, and recommended to the Town Council that this ordinance be approved;

WHEREAS, the Town Council held a public hearing on December 2, 2019, notice for which was published in the Delaware State News on November 13, 2019 and posted at Town Hall on November 13, 2019, at which time all interested members of the public were given an opportunity to comment on this ordinance; and

WHEREAS, the Town Council finds that the amendments to the zoning regulations of the Town of Smyrna outlined herein are in the best interest of the public health, safety, and welfare.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Appendix A (Zoning) of the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend Section 6 (Supplementary District Regulations) by deleting Subsection 15 (Signs) in its entirety and replacing it with the following:

15. *Signs.* Any sign erected, altered, or maintained after the effective date of this Ordinance shall conform to the following regulations.

A. *Purpose & Intent.* Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this subsection is to regulate all signs within the Town to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare by: (1) setting standards that permit reasonable use of signs and preserve the character of the Town; (2) prohibiting the erection of signs in such numbers, sizes, designs, illumination, and locations as may create a traffic safety hazard to pedestrians and motorists; (3) avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion, all of which negatively impact the aesthetics of the Town; and (4) establishing a process for the review and approval of sign permit applications.

B. *General.* Signs may be located within the setback prescribed for a property, provided that all signs except those affixed directly to a building shall be located a minimum of five (5) feet from all property lines. Signs shall be positioned outside vehicular line-of-sight areas. Except as otherwise indicated herein, the maximum height for any sign is 25 feet.

C. *Definitions.* The following definitions shall apply to the terms identified herein, wherever those terms are used throughout the Zoning Code.

1. *A-frame signs* are designed to stand on their own either on public or private property, so long as there remains four feet of unobstructed passageway. A-frame signs are not to be permanently affixed to any object, structure, or the ground. The maximum sign area per sign is eight square feet, and sign area is calculated on one side only. The maximum size for rectangular A-frame signs is four feet in height and two feet in width. A-frame signs must be taken indoors each evening. One A-frame sign is permitted per building; corner buildings are permitted one A-frame signs per street frontage.
2. *Banners* shall mean a temporary sign of cloth or similar material no larger than four feet wide by eight feet long. Banners shall be carefully designed and constructed in order to withstand the elements to which they will be exposed and not become a hazard to the public safety or aesthetics of the Town.
3. *Billboard* shall mean a structure which is erected by an advertising company for the purpose of the placement of a sign for hire. Each such space for hire shall be considered a specific billboard regardless of whether or not the face is incorporated into the ground structure.
4. *Electronic variable message sign (EVMS)* means a sign or portion thereof where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.
5. *Ground sign* means a detached sign supported by uprights, pylons, poles or braces for support and not attached to any structure. Ground signs do not include monument signs.
6. *Government sign* means a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.
7. *Height* shall mean the distance measured from the finished grade immediately adjacent to the base of the sign to the sign's highest point.
8. *Illuminated* shall mean the provision of light provided either internally or externally.
9. *Marquee sign* means a sign erected upon any awning, canopy, hood or permanent construction projecting from a wall of the building above the entrance, thoroughfare, walkway or sidewalk.

10. *Monument sign* means any stand-alone, self-supporting structure affixed to the ground.
 11. *Off-premises or off-site sign* means a sign advertising goods, products, or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located.
 12. *On-site sign* shall mean a sign advertising goods, products, or services which are sold, manufactured or distributed on or from the premises or facilities on which the sign is located. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.
 13. *Portable sign*. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, that is not constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.
 14. *Roof sign* shall mean any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure, subject to the requirements of the definition of wall sign.
 15. *Sign* means a name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface, and which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business. Signs located completely within an enclosed building, and not exposed to view from a street, must not be considered a sign.
 16. *Sign area* shall mean the entire space enclosed within the extreme edges of the sign for each sign face, including trim, moldings, battens and nailing strips but not including the supporting structure. Where attached directly to a building wall or surface, sign area shall be the space within the outline enclosing all the characters of the words, numbers, or design.
 17. *Small ground sign* shall mean a ground sign that does not exceed 3 feet in height and has a total surface area of less than 2 square feet.
 18. *Temporary sign* shall mean a banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time.
 19. *Two-faced sign* shall mean signs that are back to back and are not more than 60 inches from one another at any time. The signs are to be identical in words and representations. Permissible size shall be determined by the square footage of one side of the sign.
 20. *Wall sign* shall mean any sign, not including a marquee sign or nameplate sign, erected against the wall of any building or displayed with the exposed face thereof in a plane parallel to the plane of the wall. Wall signs shall include any signs painted directly upon any wall.
- D. *Exempt from permit or fee (non-illuminated only)*. A permit is required for the installation of all signs in all zoning districts, with the exception of the following signs:
1. Temporary signs
 2. Traffic safety signs, street identification signs, and traffic and parking instructional signs affixed to posts as approved by DelDOT.
 3. Signs painted on windows with exception of the historic preservation overlay district (HPOD) requiring review and approval by the historic district review board.
 4. Government signs
 5. Signs bearing occupants' names, house numbers, and street names, not exceeding one square foot.

6. In residential zoning districts, up to two (2) flags may be displayed on a property at the same time, and no flag shall be larger than fifteen (15) square feet in area. The height of the flag pole shall not exceed twenty-five (25) feet or the highest point of the principal building's roof, whichever is lower.
7. In non-residential zoning districts, one flag is permitted on a property per fifty (50) feet of right-of-way frontage, up to a maximum of four (4) flags. No flag shall exceed twenty-four (24) square feet in area. The height of the flag pole may not exceed twenty-five (25) feet or the highest point of the principal building's roof, whichever is lower.
8. Legal notices, municipal signs, railroad crossings, and related safety signs.
9. Signs which are attached or are an integral part of fuel pumps and do not extend permanently beyond the area of the pump.
10. Balloons no larger than 18 inches in diameter.

E. District regulations.

1. The following types of signs are allowable in the listed zoning district, subject to compliance with all permitting requirements.

Zoning District	Electronic Variable Message Sign	Ground Sign	Monument Sign	Wall Sign or Marquee Sign	Illuminated Sign	"A-Frame" Signs	Small Ground Sign ⁹
A, R-1, R-1A, R-2, R-2A, R-3	NA	NA	P ¹³	NA	NA	NA	NA
I&R	SE	NA	P ⁷	P ²	NA ¹	NA	P
LC	NA	NA	P ¹²	P ²	SE	NA	P
CC	NA	NA	NA	P ²	P	P	P
HC	P	P ⁴	P ⁶	P ³	P	NA	P
M	P	NA	P ⁷	P ³	SE	NA	P
MHP	NA	NA	P ¹³	P ⁵	SE	NA	P
IORP	SE	NA	P ⁷	P ²	SE	NA	P
CRD	NA	NA	NA	SE	SE	NA	NA
SC	SE	P ⁴	P ⁶	P ³	P	NA	P
HPOD ⁸	NA	NA	NA	P	P	P	NA
NC, ¹⁰ SCZ ¹¹	NA	NA	P	P	P	P	P

P: Permitted

NA: Not allowed

SE: Special exception

1. Allowable for hospitals and emergency medical center

2. Two sq. ft. per linear ft. of building frontage, up to 100 sq. ft. maximum area

3. Three sq. ft. per linear ft. of building frontage, up to 150 sq. ft. maximum area

4. One sign of 200 sq. ft. maximum area
5. One sign for management office, 4 sq. ft. maximum area
6. One sign not to exceed one sq. ft. per linear ft. of building frontage, up to 200 sq. ft. maximum area
7. One sign not to exceed 75 sq. ft. maximum area; height shall not exceed 16 ft.
8. Subject to additional review by the historic district review board.
9. Up to four small ground signs permitted per property.
10. See regulations specific to NC zone for additional sign standards.
11. See regulations specific to SCZ zone for additional sign standards.
12. One sign with up to 25 sq. ft. maximum area; height shall not exceed 10 feet.
13. One sign with up to 32 sq. ft. maximum area; height shall not exceed 5 feet.

2. Where the permitted size of a sign is calculated based on the linear feet of the frontage of a building, if a property has multiple tenants, the authorized sign area for each tenant shall be calculated independently for each separate tenant based on the linear feet of frontage of the building unit for the tenant requesting the sign. The front of a building shall be the side of a building with the main public entrance facing a public or private right-of-way or parking lot, and the building frontage shall be the length of that portion of the front of the building occupied by a tenant as measured in linear feet.
3. Monument signs in residential zoning districts shall not exceed a maximum of two per entrance road to any specific development. Monument signs shall not be allowed at more than one entrance to a development for every 1,500 feet of common road frontage on which the entrances are situated. No more than one monument sign per street frontage shall be permitted on a property. A property with more than one street frontage may have up to a maximum of two monument signs, provided that the collective sign area of the two monument signs shall not exceed 150% of the maximum area permitted for one monument sign in that zoning district. Monument signs situated at shopping centers are to be located along the landscaped area between the sidewalk and the parking areas, a minimum of five feet from the property line. These signs are to be consistent in structure, design, and materials.
4. For the purpose of determining the number of signs permitted on a property, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of the elements, each element shall be considered to be a single sign.
5. For those zoning districts where both ground signs and monument signs are permitted, properties with only one street frontage may have either a monument sign or a ground sign, but not both. Properties with more than one street frontage shall also be permitted to have one of the following for each additional public or private street frontage: (a) either an additional ground sign or an additional monument sign, provided that the total aggregate area for all ground signs and monument signs on the property do not exceed 300 square feet, or (b) an additional 50 square feet added to the total maximum permitted area for a monument sign.
6. Properties with more than one street frontage shall be permitted to have, for each additional public or private street frontage, an additional 50 square feet added to the total maximum permitted area for wall signs and marquee signs.

F. *Not permissible at any time in any zoning district.*

1. Billboards within the incorporated area of the town.
2. Roof signs of any kind.
3. Flashing or rotating lights.

4. Noise emitting signs or lights.
5. Signs located within any right-of-way whether dedicated or owned in fee simple or as an easement.
6. Signs erected in such a manner as to obstruct free and clear vision or, by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of words "stop," "look," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse vehicular traffic.
7. Signs erected, constructed or maintained so as to obstruct or be attached to any firefighting equipment, windows, doors or openings used as a means of ingress or egress or for firefighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
8. Construction height greater than twenty-five (25) feet.
9. Dimensions greater than 200 square feet, except as otherwise expressly provided for herein.

G. *Temporary signs.* Temporary signs shall be permitted in all zoning districts as follows:

1. One temporary sign may be located on a property at any given time provided that the sign area is no larger than sixteen (16) square feet for properties greater than 1.0 acre in size or four (4) square feet for properties less than 1.0 acre in size. A temporary sign may be displayed up to a maximum of thirty (30) consecutive days, two (2) times per year. Anything herein to the contrary notwithstanding, property owners or occupants that have received a credibility/merit award may display a banner for one year from the date the honor was awarded.
2. One temporary sign no larger than 8.5 inches by 11 inches displayed in a window on a property at any time.
3. In addition to the temporary signs permitted in subsections G.1 and 2, one temporary sign not to exceed four (4) square feet may be placed on a property from the time the property is being offered for sale, either through a licensed real estate agent or by the owner, through the date the property is conveyed to the new owner.
4. In addition to the temporary signs permitted by subsections G.1, 2, and 3, sixty (60) days prior to and ten (10) days following an election involving federal, state, or local offices or referendum issues for the voting district in which a property is located, one or more additional temporary signs not to exceed four (4) square feet in size may be placed on a property, provided that the total number of additional temporary signs authorized by this subsection G.4 shall not exceed the total number of offices up for election and referendum issues on the ballot for the election district in which the property is located.

H. *Off-premises signs.*

1. Off-premises signs are allowable by special exception only in the HC, NC, and SCZ zoning districts.
2. [Reserved]
3. Only one off-premises sign is to be located on any given parcel in the HC, NC, and SCZ zoning districts.
4. Such signs are not to exceed five square feet in area.
5. Such signs are to be set back a minimum of five feet from the right-of-way/property line of all public streets/roads.
6. Such signs are not to be higher than three feet above grade.
7. Such signs are not to be placed within vehicular sight triangles.

8. Such signs are to be no further than 1,000 feet from the property line of the premises of the business it refers to.

I. *Electronic variable message signs (EVMS).*

1. Electronic variable message signs permitted pursuant to section 15.E.1 herein shall be further restricted by the additional standards in this subparagraph. No more than one EVMS shall be permitted per property.
2. The EVMS is restricted to no more than 50 square feet of sign area, and shall not be located within 75 feet of any residential use. The distance from the EVMS to any nearby residential use shall be measured in a straight line from the nearest property line of the residential use to the sign structure.
3. The message displayed on the EVMS shall be static and shall not be changed more than once every fifteen minutes.
4. The applicant for an electronic variable message sign permit shall certify in writing to the Town of Smyrna that the message to be displayed on the sign shall remain static and shall not flash or scroll at any time and that the message will remain unchanged for at least fifteen minutes at a time.

- J. *Permit procedures.* An application for a sign permit must be filed with the Town. The applicant must provide sufficient information to determine if the proposed sign is allowed under this code and other applicable laws, regulations, and ordinances, and it must state the date when the applicant intends to erect the sign. The Town must promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 15 business days of the application's submission. An application that complies with all provisions of this code and all other applicable laws, regulations, and ordinances must be approved. If an application is rejected, the Town shall provide the applicant with a written list of the code deficiencies that must be remedied for the permit to be issued. A nonrefundable fee as set forth in the town's fee schedule shall be paid prior to the issuance of the sign permit. A sign permit shall expire if the sign is not installed within six months following the issuance of the permit.

K. *Maintenance and removal of signs.*

1. *Maintenance.* The owner, lessee or person or entity in control of any premises upon which a sign as defined in this subsection 15 (Signs) is present, in any form, shall be responsible for maintaining said sign, together with all supports, braces, guys, anchors or other fastening or hanging devices, in a structurally sound and safe condition and otherwise in good repair.
2. *Removal of signs.* The owner, lessee or person or entity in control of any premises upon which a sign is present, in any form, shall be responsible for the removal of any sign, together with all supports, braces, guys, anchors or other fastening or hanging devices, within 180 days of the permanent closing, relocation or cessation of operation of the building or establishment situated on the property, or pursuant to the timeframe specified herein for the maximum display of temporary signs.

- L. *Abandoned signs.* Any sign remaining on a premise 180 days or more after the permanent closing and/or relocation of the business or establishment situated on the property shall be deemed abandoned. A business or establishment will be considered permanently closed and/or relocated by written or posted notice to the town and/or the public of such closing or relocating, or upon such other usual indication including, but not limited to:

1. The cessation of the sale of goods and/or the rendering of services;
2. The lack of business operating hours, including hours by appointment;
3. The extended absence of employees from the establishment;
4. The closing and/or securing of the means of egress to the business or establishment.

M. *Removal of Signs on Public Property.*

1. *Removal of signs on public property.* Any signs placed or erected in a public street, alley or right-of-way, or other public place, which are not specifically permitted in such place, shall be deemed an unlawful sign, and the Town may cause the sign to be removed. Such removal may be without written or other notice to the owner of the sign or the owner, lessee or occupant of the property adjacent to the public street, alley, or right-of-way, or other public place upon which such sign is located.

N. *Notice.*

1. The town shall, upon a determination that any sign or any support, brace, guy, anchor or other fastening or hanging device of a sign is not properly maintained or has been abandoned, or that a temporary sign has been displayed on the property in excess of the maximum display time outlined herein for a temporary sign, prior to taking any other action to enforce compliance with this subsection 15 (Signs), give written notice (delivered in person or by certified mail, return receipt requested and by posting upon the subject property) to the owner, lessee, or person or entity in control of the premises, that the sign has been deemed abandoned and/or not properly maintained and/or otherwise in violation of this subsection 15 (Signs) or any other town regulations. The notice shall also:
 - a. If the sign is found to be not properly maintained, specify the nature of the deficiency;
 - b. For all non-temporary signs, provide notice of the need to repair if not properly maintained or, if abandoned, the need to remove said sign, and all supports, braces, guys, anchors or other fastening or hanging devices of the sign, within 30 days of the effective date of the notice;
 - c. For temporary signs, provide notice of the need to remove the sign within 5 business days of the effective date of the notice;
 - d. State that upon failure to comply with the notice and order to repair or remove, the town may repair or remove said sign, together with all supports, braces, guys, and/or other fastening or hanging devices, as provided in subsection O (Removal of signs), and/or institute proceedings against such person or entity to collect a civil penalty for violation of this subsection 15 (Signs);
 - e. State that a property owner or occupant may appeal the violation to the Board of Adjustment pursuant to Section 9 (The Board of Adjustment; Powers and Duties) of the Zoning Code. Any appeal must be filed within the time period outlined herein for removing or repairing the sign.
2. The effective date of notice shall be the later of:
 - a. The date of personal delivery or, if mailed, the date the return receipt is signed, or if not signed, the date the notice is marked refused, unclaimed or otherwise undeliverable by the U.S. Postal Service; or
 - b. The date the property is posted. The fact that such notice was not actually received by the person or entity shall not be a defense to the town's subsequent enforcement of this subsection 15 (Signs).
3. Should the town determine a sign presents an immediate threat or danger to the health, safety and welfare of the community, the notice set out in subsection 1 above shall not be required and the town may take immediate action to make safe the danger, including repair or removal of the sign, and all supporting or mounting devices or hardware. Notice shall then be sent to the owner, lessee, or person or entity in control of the premises advising them of the action taken, the costs incurred and the means of recovery pursuant to subsection P (Costs of Removal).

O. *Removal of signs.*

1. If the violation is not remedied within the time set forth in the notice and order as provided above, the town is authorized to order the repair or removal of any sign, together with all supports, braces, guys, anchors or other fastening or hanging devices deemed by the town as being:
 - a. Not properly maintained, in a state of disrepair, structurally unsound, unsafe or otherwise deficient;
 - b. Situated on the property in excess of the maximum timeframe outlined herein for displaying the sign; or
 - c. Abandoned, as that term is defined at subsection L (Abandoned Signs).
2. All signs which are determined to be not properly maintained and which have not been repaired within the time set forth in the required notice and order of subsection N may, at the town's reasonable discretion, be repaired, or be totally removed, including the support structure and/or mounting hardware, at any time after the effective date of the notice.
3. All signs which are deemed abandoned and which have not been removed within the time set forth in the required notice and order of subsection N (Notice) may, at the town's reasonable discretion, be refaced with a blank or blacked out face or be totally removed, including the support structure and/or mounting hardware, at any time after the effective date of the notice. Covering sign copy with tarps, paper, tape, cardboard, or other non-permanent materials is not an acceptable method of re-facing.
4. Any sign which has been removed from the premises shall be considered discarded, and replacement shall constitute a new sign and require a new permit.

P. *Costs of removal.*

1. When the town exercises the option under this subsection to repair or remove any non-temporary sign, the charge shall be: (1) the town's actual cost if contracted out, or (2) if performed by town personnel, \$50.00 per hour, with a minimum charge of \$50.00, plus any equipment or other incidental charges incurred. There also shall be assessed an administrative fee of \$50.00. For each temporary sign removed by the Town as provided for herein, the owner of the sign shall be responsible for the removal cost of \$20.00 per sign removed. All signs removed by the Town shall be stored for at least 30 days prior to disposal, and no sign may be reclaimed by the owner of the sign until the removal costs and penalties provided for herein have been paid in full.
2. The cost to repair or remove any sign in accordance with this subsection, together with any civil penalties and costs, shall be recoverable by the Town. Such costs and fines may be collected as any other fine or cost is collected. Costs shall include court costs and reasonable attorney's fees, whenever permitted by law. Pursuant to 25 Del. C. § 2901(a)(1) the Town may add any costs to repair or remove a sign to the property taxes for the property at issue and may collect these abatement costs in the same manner the Town collects real estate taxes, including the use of monition proceedings.

Q. *Penalties.* Any person determined by any court of competent jurisdiction to have violated this subsection 15 (Signs) shall forfeit and pay to the town pursuant to Section 17 (Penalties for Violation), a civil penalty in the amount of not more than \$100.00 per day, plus costs. Each day of a continuing violation shall be a separate offense.

R. *Substitution Clause.* Any sign erected pursuant to the provisions of this Zoning Code may, at the option of the applicant, contain either a noncommercial message unrelated to the business located on the premises where the sign is erected or a commercial message related to the business located on the business premises. The noncommercial message may occupy the entire sign face or portion thereof. Such substitution of message may be made without any additional approval or permitting. This provision prevails over any more specific provision to the contrary within this code. This provision does not create a right to increase the total amount of signage on a parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted according to all other provisions of this Zoning Code.

Section 2. Amend Section 5 (District Regulations), Subsection 21 (North Corridor (NC)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

I. Sign design

- (1) *Intent.* Signage along the U.S. Route 13 Corridor shall be designed and installed in such a way that it becomes a cohesive part of site design, improving the overall visual quality and pedestrian scale of U.S. Route 13. All signage shall be consistent with and complimentary to the architectural design and materials of the building it serves. The sign design regulations outlined herein shall be in addition to those sign regulations outlined in subsection 15 (Signs) of this Zoning Code. Any inconsistencies between these regulations and those in subsection 15 (Signs) shall be resolved in favor of these regulations, provided that subsection 15 (Signs) shall apply to any areas not specifically addressed by these regulations.
- (2) Monument sign standards.
 - (a) Monument signs shall mean any stand-alone, self-supporting structure affixed to a base that is equal to or wider than the sign itself.
 - (b) The height of the monument sign is to be measured from the finished grade to the top of the sign and shall be no taller than eight feet in height, and the area of the monument sign shall be no greater than 75 square feet. A monument sign located on a property with one or more multi-tenant buildings shall have a height not to exceed sixteen (16) feet and an area not to exceed 125 sq. ft.
 - (c) The minimum monument sign setback is five feet from the existing right-of-way.
 - (d) Monument signs shall be designed and constructed utilizing the same building materials used in the construction of the associated building and/or site.
 - (e) Monument signs may be externally or internally illuminated; external illumination must be directed downward.
 - (f) Only one monument sign per street frontage shall be permitted on a property. A property with more than one street frontage may have up to a maximum of two monument signs, provided that the collective sign area of the two monument signs shall not exceed 150% of the maximum area permitted for one monument sign.
- (3) Wall signs.
 - (a) Wall signs shall not project above the roof, parapet or exterior wall.
 - (b) Wall signs shall be appropriately scaled to the building. Signable area for wall signs shall be no greater than 150 square feet. limited to 25 percent of the building or occupant's facade.
*An increase may be granted for those wall signs that are painted onto the building and is incorporated as a major element of the facade.
 - (c) In multi-occupant, multi-story buildings, walls signs for first floor occupants shall not extend above the window sill of the ~~second floor~~ second-floor windows.
 - (d) Wall signs are encouraged to compliment the architectural style of the building.

Section 3. Amend Section 5 (District Regulations), Subsection 22 (South Corridor (SCZ)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

L. Sign design

- (1) *Intent.* Signage along the U.S. Route 13 Corridor shall be designed and installed in such a way that it becomes a cohesive part of site design, improving the overall visual quality and pedestrian scale of U.S. Route 13. All signage shall be consistent with and complimentary to the architectural design and materials of the building it serves. The sign design regulations outlined herein shall be in addition to those sign regulations outlined in subsection 15 (Signs) of this Zoning Code. Any inconsistencies between these regulations and those in subsection 15 (Signs) shall be resolved in

favor of these regulations, provided that subsection 15 (Signs) shall apply to any areas not specifically addressed by these regulations.

- (2) Monument sign standards.
- (a) Monument signs shall mean any stand-alone, self-supporting structure affixed to a base that is equal to or wider than the sign itself.
 - (b) ~~The height of the monument sign is to be measured from the finished grade to the top of the sign and~~ shall be no taller than eight feet in height, and the area of the monument sign shall be no greater than 75 square feet. A monument sign located on a property with one or more multi-tenant buildings shall have a height not to exceed sixteen (16) feet and an area not to exceed 125 sq. ft.
 - (c) The minimum monument sign setback is five feet from the existing right-of-way.
 - (d) Monument signs shall be designed and constructed utilizing the same building materials used in the construction of the associated building and/or site.
 - (e) Monument signs may be externally or internally illuminated; external illumination must be directed downward.
 - (f) Only one monument sign per street frontage shall be permitted on a property. A property with more than one street frontage may have up to a maximum of two monument signs, provided that the collective sign area of the two monument signs shall not exceed 150% of the maximum area permitted for one monument sign.
- (3) *Wall signs.*
- (a) Wall signs shall not project above the roof, parapet or exterior wall.
 - (b) Wall signs shall be appropriately scaled to the building. Signable area for wall signs shall be no greater than 150 square feet. limited to 25 percent of the building or occupant's façade.
*An increase may be granted for those wall signs that are painted onto the building and is incorporated as a major element of the façade.
 - (c) In multi-occupant, multi-story buildings, walls signs for first floor occupants shall not extend above the window sill of the ~~second floor~~ second-floor windows.
 - (d) Wall signs are encouraged to compliment the architectural style of the building.

Section 4. Amend Section 5 (District Regulations), Subsection 21 (North Corridor (NC)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

I. Sign design

* * *

- (7) *Prohibited signs.*
- (a) Temporary or portable signs with changeable letters and numbers and portable trailer signs with changeable text panels.
 - (b) Digital electronic signs of any kind, ~~except for time, temperature and fuel price signs. with a sign area exceeding 25 square feet. For permitted digital electronic signs, the message displayed shall be static and shall not change more frequently than once every fifteen minutes. The digital electronic sign shall not be located within 75 feet of any residential use, as measured from the sign to the closest point on the property line of the residential use.~~
 - (c) Flashing signs.
 - (d) Animated or revolving signs.
 - (e) Signs that produce noise, sounds, emit smoke or vapor, particles or odors.
 - (f) Signs with intermittent lights resembling or seeming to resemble the flashing lights customarily associated with emergency responder vehicles.
 - (g) Vehicles and trailers used primarily as a sign.
 - (h) Neon signs.
 - (i) Ground signs

Section 5. Amend Section 5 (District Regulations), Subsection 21 (North Corridor (NC)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

m. *Definitions.*

* * *

Marquee: A permanent canopy, usually of metal and glass, that projects over an entrance to a building, especially that of a theater or hotel; ~~may include lettering or signs indicating current attractions.~~

Section 6. Amend Section 5 (District Regulations), Subsection 22 (South Corridor (SCZ)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

L. Sign design

* * *

(7) *Prohibited signs.*

- (a) Temporary or portable signs with changeable letter and numbers and portable trailer signs with changeable text panels.
- (b) Digital electronic signs of any kind, ~~except for time, temperature and fuel price signs, with a sign area exceeding 25 square feet.~~ For permitted digital electronic signs, the message displayed shall be static and shall not change more frequently than once every fifteen minutes. The digital electronic sign shall not be located within 75 feet of any residential use, as measured from the sign to the closest property line of the residential use.
- (c) Flashing signs.
- (d) Animated or revolving signs.
- (e) Signs that produce noise, sounds, emit smoke or vapor, particles or odors.
- (f) Signs with intermittent lights resembling or seeming to resemble the flashing lights customarily associated with emergency responder vehicles.
- (g) Vehicles and trailers used primarily as a sign.
- (h) Neon signs.
- (i) Ground signs

Section 7. Amend Section 5 (District Regulations), Subsection 22 (South Corridor (SCZ)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

M. *Definitions.*

* * *

Marquee: A permanent canopy, usually of metal and glass, that projects over an entrance to a building, especially that of a theater or hotel; ~~may include lettering or signs indicating current attractions.~~

Section 8. Amend Section 5 (District Regulations), Subsection 4 (Residential District R-2), by making insertions as shown by underlining and deletions as shown by strike through as follows:

4. *Residential district R-2.*

* * *

C. *Uses permitted as special exception.* The following uses are permitted only if approved as a special exception pursuant to section 9(2) of this ordinance:

- (1) Temporary real estate offices in developments containing a minimum of ten lots.
- (2) Bed and breakfast establishments, provided that (a) for at least three years prior to the application for special exception use, all guest rooms shall have been a part of the primary structure and not constructed, reconstructed, or remodeled to create such guest rooms; (b) not more than one

softly-illuminated (not to exceed 100 watts) exterior sign, not exceeding two feet by three feet shall be permitted ~~which shall identify the establishment by name and as a "Bed & Breakfast";~~ and (c) requirements for bed and breakfast establishments outlined in the central commercial district (CC) are complied with.

Section 9. Amend Section 5 (District Regulations), Subsection 10 (Highway Commercial (HC)), by making insertions as shown by underlining and deletions as shown by strike through as follows:

10. *Highway commercial district HC.* The highway commercial district is intended to meet commercial and service needs which can best be satisfied by establishments located adjacent to a main highway. The requirements of the local and regional population as well as those of travelers will be served within this district.

* * *

b. [*Uses permitted as a special exception*]. The following uses are permitted only if approved as a Special Exception pursuant to section 9(2) of this ordinance:

(1) One off-premises ~~directional~~ sign provided that:

- (i) Such sign shall not exceed 5.0 square feet in size;
- (ii) Such sign shall be set back a minimum of 5 feet from the right-of-way/property line of all public streets/roads;
- (iii) Such sign shall be no higher than 3.0 feet above grade;
- (iv) Such sign shall not be placed within the 25-foot sight triangle;
- (v) Such sign shall be no further than 1,000 feet from the property line of the premises of the business it refers to.

Section 10. Amend Section 19 (Definitions), by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~*Portable sign.* Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, that is not constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.~~

* * *

School bus stop shelter. A three-sided bus stop shelter, approved as a special exception use by the board of adjustment, meeting the following criteria: Placement, construction and set-up shall be approved by the town building official; however, no shelter shall be approved without documentation evidencing liability insurance coverage of at least \$300,000.00, and a contractual obligation to maintain the shelter on, at least, a monthly basis. Approval shall also be obtained from the school which the students who utilize the shelter attend. Bus shelters shall not exceed the dimensions of 8 feet wide × 10 feet deep and shall not exceed the height of 8½ feet. Any bus shelter so constructed shall have a minimum setback of 5 feet from the street line, and no shelter shall be erected within 25 feet of the right-of-way line of an intersection with another street. Anything in this ordinance to the contrary notwithstanding, up to two signs may be display on any school bus shelter, which signs may be displayed only on the sides thereof. The sign area shall not exceed 32 square feet per sign (per side). ~~No sign shall be permitted which advertises or promotes cigars, little cigars, smokeless tobacco, pipe tobacco, alcoholic liquors, (including beer and wine), or other products or establishments that the possession of, use by, or patron of, by any minor would be in violation of any federal, state, or local law, ordinance, or regulation. Furthermore, no sign shall be permitted which the town building official determines, in accordance with judicially recognized First Amendment standards and principles, to pose a significant threat to the health, safety, morals, and/or welfare of~~

~~the minor(s) for whose use the bus stop shelter has been erected.~~ Such signs shall also be in accordance with all other provisions of the town Code.

Setback line, building or structure. The interior line of the required yard space on a lot.

~~Sign.~~ Any device designed to inform or attract the attention of persons not on the premises on which the sign is located provided that the following shall not be included in the application of the regulations herein:

- ~~(a) Signs not exceeding one square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises not having commercial connotations;~~
- ~~(b) Flags and insignias of any government except when displayed in connection with commercial promotion;~~
- ~~(c) Integral notices; identification, information, or directional signs erected or required by governmental bodies;~~
- ~~(d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;~~
- ~~(e) Signs directing and guiding traffic and parking on private property but bearing no advertising matter.~~

~~Signs, number and surface area.~~ For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of the elements, each element shall be considered to be a single sign.

~~The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.~~

~~Sign, on-site.~~ A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

~~Sign, off-site.~~ A sign other than an on-site sign.

Section 11. Amend Section 4 (Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises) by making insertions as shown by underlining and deletions as shown by strike through as follows:

6. *Gradual elimination of certain uses.* Certain nonconformities shall be terminated in accordance with the following provisions:
 - a. Within not more than three years from the date of adoption or amendment of this ordinance by which a use becomes nonconforming, the right to maintain the following nonconformities shall terminate and such nonconformities shall no longer be operated or maintained:
 - (1) Any junkyard.
 - (2) A nonconforming use operated within a building or structure which contains less than 100 square feet of gross floor area.
 - (3) A nonconformity, no part of which is enclosed within a structure.
 - ~~(4) Off-site signs.~~

Section 12. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining

provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

Section 13. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance updates the sign regulations found in the Smyrna Zoning Code. This ordinance incorporates a purpose and intent section into the sign regulations. Definitions located within the sign regulations have been updated and revised, including eliminating redundancy with certain definitions located in the general definitions section of the Zoning Code. This ordinance clarifies those signs that are exempt from obtaining a permit and updates the regulations pertaining to signs that do require permits. Sign height and setback requirements are updated in this ordinance, and sign regulations for buildings with multiple tenants are clarified. This ordinance clarifies the relationship between the general sign regulations and those specific sign regulations found in the NC or SCZ zoning districts and prohibits ground signs in the NC and SCZ districts. Certain tables deemed to be unnecessary were eliminated from the regulations. Enhanced temporary sign regulations were incorporated into the ordinance, along with updated permit procedures and sign removal and enforcement procedures. The administrative fee assessed for enforcement actions was increased to \$50.00, and a fee of \$20.00 per sign was established for the removal of temporary signs displayed in violation of the ordinance. A substitution clause was incorporated into the ordinance. Regulations pertaining to digital signs in the NC and SCZ zones were updated. Various other housekeeping changes to the Town of Smyrna sign regulations were included in this ordinance.

This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on _____, 2019.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on _____, 2019 and posted at the Town Hall on _____, 2019.

So Certifies:

Town Clerk