

Review by P&Z Commission: 08/26/20

Sponsor: Councilman Rasmussen

First Reading: 10/19/20

Ord. No.: 019-20

AN ORDINANCE TO AMEND APPENDIX A (“ZONING”) OF THE TOWN CODE OF THE TOWN OF SMYRNA TO PERMIT LIBRARIES, THEATERS, AND MUSEUMS IN THE INSTITUTIONAL AND RECREATIONAL (I&R) DISTRICT AND TO ELIMINATE CERTAIN USES FROM THE CENTRAL COMMERCIAL (CC) DISTRICT

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

WHEREAS, the Planning Commission considered this ordinance at a duly noticed meeting held on August 26, 2020, and recommended to the Town Council that this ordinance not be approved;

WHEREAS, the Town Council held a public hearing on October 19, 2020, notice for which was published in the Sun Times on September 30, 2020 and posted at Town Hall on September 30, 2020, 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 in order to further the purpose of the Central Commercial (CC) zoning district to, among other things, “promote the economic viability of the community and surrounding area,” it is in the best interest of the public health, safety, and welfare to eliminate certain uses from the Central Commercial (CC) zoning district that are not primarily commercial in nature and which do not contribute to the purpose of the CC zoning district.

WHEREAS, the Town Council finds that in order to further the purposes of the Central Commercial (CC) zoning district, the elimination of certain uses from the Central Commercial (CC) zoning district will provide increased opportunity for other uses that are primarily commercial in nature, and for those uses which more directly contribute to the purposes of the CC zoning district, to be situated in the CC zoning district in order to establish the CC zoning district as an economically viable location for businesses to be successful in the Town of Smyrna.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Section 5 (“District Regulations”) of Appendix A (“Zoning”) of the Town Code of the Town of Smyrna be and hereby is amended as follows:

Section 1. Amend subsection 7, Institutional and Recreational District (I & R), by making insertions as shown by underlining and deletions as shown by strike through as follows:

7. *Institutional and recreational district I & R.*

a. *[Permitted uses.]* The following uses are permitted:

- (1) Hospitals and institutions of an educational, medical, philanthropic, charitable nature which are related thereto.

- (2) Public, private and commercial recreation beaches, bathhouses, boat landings, and similar outdoor recreation facilities.
- (3) Cemetery as permitted in the R-1 district.
- (4) Research establishments properly located near and related to a hospital.
- (5) Public utility uses as permitted in the R-1 district.
- (6) Accessory uses and structures:
 - (a) Provisions for housing persons working full time on the premises of a hospital or allied use.
 - (b) Accessory uses and structures clearly incidental and customary to and associated with the operation of the permitted use.
- (7) Institutions of a religious nature.
- (8) Libraries and museums.
- (9) Theaters.
- (10) Governmental buildings, structures, facilities and uses including, but not limited to, police stations, fire houses, ambulance stations, and government offices.

Section 2. Amend subsection 9, Central Commercial District (CC), by making insertions as shown by underlining and deletions as shown by strike through as follows:

- 9. *Central commercial district CC.* This district is the centralized, historic core of the Town and is intended to provide for establishments offering a mix of retail, office, and residential uses which are consistent with the existing scale and character of the surrounding historic district, in order to promote the economic viability of the community and surrounding area.
 - a. *Permitted uses.* The following uses are permitted:

* * *

- (9) ~~Theaters.~~ [Reserved]
- (10) Personal services (except those personal service establishments which are located within 250 feet of another personal service establishment shall require a conditional use approval).
- (11) ~~Libraries, museums.~~ [Reserved]

Section 3. Amend subsection 9, Central Commercial District (CC), by making insertions as shown by underlining and deletions as shown by strike through as follows:

- (14) *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:
 - (a) One-family, semidetached, townhouse, and apartment dwellings as permitted in residential district R-3; lot, height, density, and yard requirements shall be the same as in the R-3 district.
 - (b) Dwelling units which are part of a building used commercially; however, 30 percent of the existing structure must be of a commercial rather than a residential nature. The commercial portion must be a useable portion of the first floor of the building that fronts the public right of way.
 - (c) ~~Private clubs and lodges.~~ [Reserved]
 - (d) Light manufacturing and/or processing provided that:

- (i) At least 30 percent of the building shall be used for the sale of goods produced or processed on the premises; the portion of the first floor of the building that fronts the street shall be used entirely for retail purposes.
- (ii) Such area devoted to the production or processing of goods shall be fully concealed from any street.
- (iii) All aspects of the production or processing of goods are completely confined within the building, including storage of all materials and finished products.
- (iv) Not more than four employees are engaged in such production or processing.
- (e) Funeral homes, including associated display and sales of monuments, when screened from public view.
- (f) ~~Institutions of a religious nature.~~ [Reserved]

Section 4. 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 the 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 5. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This ordinance amends the Zoning Code of the Town of Smyrna to allow government buildings, libraries, theaters, and museums in the Institutional and Recreational District (I & R). This ordinance removes theaters, libraries, museums, institutions of a religious nature, and private clubs and lodges as uses permitted by right or by special exception approval in the Central Commercial (CC) district.

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 October 19, 2020.

ATTEST:

Council Secretary

Mayor

This shall certify that the title and synopsis of this Ordinance was published in the “Smyrna/Clayton Sun Times” on _____, 2020 and posted at the Town Hall on _____, 2020.

So Certifies:

Town Clerk