

Review by P&Z: 04/18/07
Public Hearing by M&C: 05/21/07
Adopted by M&C: _____
Sponsor: Councilman Pressley
Ord. No.: 003-07

AN ORDINANCE TO AMEND APPENDIX A ("ZONING") OF THE TOWN CODE OF THE TOWN OF SMYRNA TO AMEND THE GUIDELINES FOR EXTERIOR SIGNS

WHEREAS, the Town Council of the Town of Smyrna is aware of new types of commercial and retail businesses desiring to construct commercial and retail sites in the Town in configurations unlike those contemplated by the Zoning Ordinance of the Town; and

WHEREAS, the Town Council of the Town of Smyrna desires to amend the Zoning Ordinance to allow equitable and consistent application of the Zoning Ordinance to all commercial and retail businesses desiring to conduct business in the Town; and

WHEREAS, the Town Council of the Town of Smyrna has the authority to implement Zoning Regulations pursuant to Title 22 of the Delaware Code;

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 Appendix A ("Zoning") of the Town Code of the Town of Smyrna by amending Section 5, District Regulations, as follows:

- (a) Delete Section 5.1.a.12.a; Sections 5.1.a.12.b and c shall be re-designated as Sections 5.12.a and b respectively;
- (b) Delete Section 5.2.E; re-designated Sections 5.2.F, 5.2.G and 5.2.H as Sections 5.2.E, 5.2.F and 5.2.G respectively;
- (c) Delete Section 5.3.E; re-designate 5.3.F, 5.3.G and 5.3.H as Sections 5.3.E, 5.3.F, and 5.3.G respectively;
- (d) Delete Section 5.4.E; re-designate 5.4.F, 5.4.G and 5.4.H as Sections 5.4.E, 5.4.F and 5.4.G respectively;
- (e) Delete Section 5.5.E; re-designate Section 5.5.F, 5.5.G and 5.5.H as Sections 5.5.E, 5.5.F and 5.5.G respectively;

- (f) Delete Section 5.6.C(6); re-designate Section 5.6.C(7) as 5.6.C(6);
- (g) Delete Section 5.6.E; re-designate Sections 5.6.F, 5.6.G and 5.6.H as Sections 5.6.E, 5.6.F and 5.6.G respectively;
- (h) Delete Section 5.7.a (6)(a) and (b); re-designate Sections 5.7.a(6)(c) and (d) as 5.7.a(6)(a) and (b) respectively;
- (i) Delete Sections 5.8.a(11)(a), (b) and (c) and replace with a new 5.8.a(11) which reads as follows "Accessory uses and structures clearly incidental and customary to and associated with the operation of the permitted uses.";
- (j) Delete Sections 5.9.a(17)(a) and (b); re-designate Sections 5.9.a(17)(c) and (d) as Sections 5.9.a(17)(a) and (b) respectively;
- (k) Delete Sections 5.10.a(17) and replace with a new 5.10.a(17) which reads "Accessory uses and structures clearly incidental and customary to and associated with the operation of the permitted uses.";
- (l) Delete Section 5.11.e; re-designate Sections 5.11.f and g as Sections 5.11.e and 5.11.f respectively;
- (m) Delete Section 5.13.1(1)(a); re-designate Section 5.13.1(1)(d) as 5.13.1(1)(c);
- (n) Delete Section 5.13.m; re-designate Sections 5.13.n and o as Section 5.13.m and 5.13.n respectively;
- (o) Delete Section 5.14.i;
- (p) Delete Section 5.15.d.2(c) and (d);
- (q) Delete Section 5.16.C; re-designated Section 5.16.D and E as Section 5.16.C and D respectively;
- (r) Delete Section 5.17.D; re-designate Sections 5.16.E, F, G, H, and I and 5.16.D, E, F, G, and H;

Section 2. Amend Appendix A "Zoning" of the Town Code of the Town of Smyrna by deleting the current Section 6.15, Signs, and replacing it with a new Section 6.15, Signs, as follows:

15. Signs

General: The placement of all signs must comply with the setback requirements of that zoning district with the exception of Shopping Centers and Industrial/Office/Research Park under one ownership with multiple tenant pad sites. Signs shall be permanent in nature and positioned outside vehicular line-of-sight areas. One sign per business on building, except corner properties, 2 signs per business, may include name of business, address of business, and type of business. Maximum height for any sign is forty (40) feet. All signs requiring a permit shall be renewed and inspected annually.

Fees for the re-inspection shall be paid at the time of the permit renewal.

A. Definitions

1. A-Frame Signs are designed to stand on their own either on public or private property, so long as there remains 4 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 8 square feet, sign area is calculated on one side only. The maximum size for rectangular A-Frame signs is 4 feet in height and 2 feet in width. A-Frame signs must be taken indoors at the close of each business day. One A-Frame sign is permitted per building; corner buildings permitted one A-Frame signs per street frontage.
2. Banners shall mean a temporary sign of cloth or similar material no larger than 4 feet wide by 8 feet long. If a larger banner is desired, written permission **MUST** be obtained from the Town Manager or his designee. Banners shall be carefully designed and constructed as they reflect on the appeal and attraction of the business and 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.
 6. Illumination (acceptable types) shall mean the provision of light provided either internally or non-glare directly.
 5. Marquee sign means erected upon any awning, canopy, hood or permanent construction projecting from a wall of the building above the entrance, thoroughfare, walkway or sidewalk.
 6. Monument sign means any stand-alone, self-supporting structure affixed to the ground and intended to advertise the name of the development or commercial entity on the premises. The monument structure height shall not exceed five (5) feet. Residential development monuments are not to exceed a total sign area of 32 square feet with a maximum of two per entrance road to the development provided 1500 foot separation between entrances along one common road frontage.
 7. Off-premises sign means a sign directing attention to a business, commodity, service or product which is **not** conducted, sold or offered upon the premises where the sign is located.
 8. On-site sign shall mean a sign directing attention to a business, commodity, service or product which is conducted, sold or offered upon the premises where the sign is located.
 9. Real Estate sign shall mean any sign (unlighted) not more than 25 square feet in area and advertising only the sale or rental of the promises upon which the sign is situated.
 10. 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.
 11. Sign area shall mean the entire sign including trim, moldings, battens and nailing strips.
 12. 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.

13. 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 business or advertising matter painted directly upon any wall.

B. Exempt from permit or fee (non-illuminated only)

1. Areas zoned R-1, R-1A, R-2, R-2A, R-3 or MH shall be permitted to post a maximum of two temporary unlighted real estate signs to be removed upon sale
2. Traffic safety signs, directional signs, street identification, and instructional signs affixed to posts as approved by DelDOT.
3. Signs painted on windows advertising services offered by the establishment with exception of the Historic Preservation Overlay District (HPOD) requiring review and approval by the Historic District Review Board.
4. Political party candidates seeking public office provided that the signs are removed within 10 days from post-election.
5. Signs (unlighted) not to exceed four (4) square feet in area in recognition of a charitable donation.
6. Signs bearing occupants names, house numbers and street, not having commercial implication and not exceeding one (1) square foot.
7. Ornamental or patriotic flags not commercially connected.
8. Legal notices, municipal signs, railroad crossings and related safety signs.
9. Specific decorative signs, banners and/or flags related to holidays.
10. Agricultural districts shall be permitted to erect a sign advertising home-grown products not to exceed three (3) square feet.
11. Signs which are attached or are an integral part of fuel pumps and do not extend permanently beyond the area of the pump.

12. Business related flags, i.e. open flags, flags relating to merchandise, etc., so long as the flag is no larger than 3 feet by 5 feet in size and is taken indoors at the close of each business day.

13. Balloons no large than 18 inches in diameter.

C. Sign Permits Required

1. The following types of signs are allowable in the listed Zoning District.

Zoning District	Real Estate Sign	Electronic Variable Message Sign	Ground Sign	Monument Sign	Wall Sign or Marquee Sign	Illuminated Sign	"A-Frame" Signs	B T S
A, R-1, R-1A, R-2, R-2A, R-3	P	NA	NA	P	NA	NA	NA	N
I&R	P	SE	NA	P ⁶	P ²	NA ¹	NA	P
LC	P	NA	NA	NA	P ²	SE	NA	P
CC	P	NA	NA	NA	P ²	P	P	P
HC	P	P	P ⁴	P ⁶	P ³	P	NA	P
M	P	P	NA	P ⁶	P ³	SE	NA	P
MHP	P	NA	NA	P ⁶	P ⁵	SE	NA	N
IORP	P	SE	NA	P ⁶	P ²	SE	NA	P
CRD	P	NA	NA	NA	SE	SE	NA	P
SC	P	SE	P ⁴	P ⁷	P ³	P	NA	P
HPOD ⁸	P	NA	NA	P	P	P	P	P

P: Permitted
NA: Not Allowed
SE: Special Exception

- 1 Allowable for Hospitals and Emergency Medical Center
- 2 One sign, 2 S.F./Bldg. L.F. & 100 S.F. maximum
- 3 One sign, 3 S.F./Bldg. L.F. & 150 S.F. maximum
- 4 One sign of 200 S.F. maximum
- 5 One sign for Management Office, 4 S.F. maximum
- 6 One sign per Site Frontage, 1S.F./Frontage L.F. & 75 S.F. maximum
- 7 One sign per Pad Site Frontage, 25 S.F. maximum
- 8 Subject to additional review by the Historic District Review Board

Permitted Sign Area: The tables below apply to the following types of signs: **Wall Signs** (including awning & canopy, window,

painted and temporary signs).

I&R, LC, CC, and IORP Zoning Districts	
Building Frontage (Feet)	Maximum Permitted Sign Area (Square Feet)
5	10
10	20
20	40
30	60
40	80
50 and above	100

HC, M, and SC Zoning Districts	
Building Frontage (Feet)	Maximum Permitted Sign Area (Square Feet)
5	15
10	30
20	60
30	90
40	120
50 and above	150

Permitted Sign Area: The tables below apply to the following types of signs: **Monument Signs**

All Zoning Districts; EXCEPT: LC, CC, CRD and HPOD	
Premise Frontage (Feet)	Maximum Permitted Sign Area (Square Feet)
5	5
10	10
20	20
30	30
40	40
50	50
60	60
70	70
75 and above	75

2. In all residential districts, a permit for signs measuring over three (3) square feet in area is required.
3. Commercial and public uses shall be permitted to erect the type of signs indicated for the Zoning District and placed upon that property and specific to the business being conducted.

4. Shopping Center monument signs are to be located along the landscaped area between the sidewalk and the parking areas a minimum of ten (10) feet within the property line. These signs are to be consistent in structure design and materials.

D. 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. No sign in the residential area shall be illuminated.
6. Banners more than thirty (30) days (without special exception). EXCEPTION: Those banners referring to a credibility/merit award awarded to a business or organization; allowed for 1 year from the time the honor is awarded.
7. 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.
8. 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.
9. Construction height greater than forty (40) feet
10. Dimensions greater than 200 square feet

E. Off-premises Signs

1. Off-premises signs are allowable by special exception only in the HC Zoning District.
2. Only one off-premises directional sign per use is allowable.
3. Only one off-premises sign is to be located on any given lot in the HC Zoning District.
4. Such signs are not to exceed five (5) square feet in area.

5. Such signs are to be set back a minimum of five (5) feet from the right-of-way/property line of all public streets/roads.
6. Such signs are not to be higher than three (3) 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.

F. Electronic variable message signs (EVMS).

1. Electronic variable message signs may substitute in lieu of other permitted signs pursuant to Section 15.B.1., Allowable Signs. The EVMS shall be further restricted by the additional standards in this sub-paragraph.
2. The EVMS is restricted to no more than fifty (50) square feet of sign area or as specified in Section 15.B.1., and shall not be located within seventy-five (75) feet of any residential use. The setback shall include any right-of-way and be measured property line to sign structure.
3. Except for public emergency announcements, the message displayed on the EVMS shall be static and non-animated and shall not be changed more than once every fifteen (15) minutes. In the event of a public emergency, announcements may scroll continuously until the public emergency message is no longer necessary.
4. A public emergency announcement is limited to weather related emergencies, national and local security events, Amber Alerts, and the like and dispatched only by the Emergency Broadcast System, local police and state police departments.
5. The applicant for an electronic variable message sign permit shall certify in writing to the Building and Zoning Department of the Town of Smyrna that the message (except for public emergency announcements) 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 (15) minutes at a time.

G. Maintenance and removal of signs.

1. Maintenance. The owner, lessee or person or entity in control of any premises upon which an on-site sign defined in this section 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 on-site signs. The owner, lessee or person or entity in control of any premises upon which an on-site sign is present, in any form, shall be responsible for the removal of any on-site sign which refers to a business or establishment which has permanently closed and/or relocated or which otherwise no longer operates from that location, together with all supports, braces, guys, anchors or other fastening or hanging devices, within 180 days of such permanent closing, relocation or cessation of operation.

H. Abandoned signs.

Any on-site sign remaining on a premise 180 days or more after the permanent closing and/or relocation of the business or establishment 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.

I. Notice.

1. The town shall, upon a determination that an on-site sign or any support, brace, guy, anchor or other fastening or hanging device of an on-site sign is not properly maintained or has been abandoned, prior to taking any other action to enforce compliance with this Section 15, 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 an on-site sign has been deemed abandoned and/or not properly maintained. The notice shall also:

- a. If the sign is found to be not properly maintained, specify the nature of the deficiency;
 - b. 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 device of the sign, within 30 days;
 - c. 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 (G), and/or institute proceedings against such person or entity to collect a civil penalty for violation of this ordinance.
2. The effective date of notice under subsection (H) 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 Section 15.
3. Should the town determine an on-site sign presents an immediate threat or danger to the health, safety and welfare of the community, the above notice set out above in (1) 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 (K).

J. 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 on-

site 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; or
 - b. Abandoned, as that term is defined at subsection (H).
2. All on-site 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 (I) 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 on-site signs which are deemed abandoned and which have not been removed within the time set forth in the required notice and order of subsection (I) 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.

K. Costs of removal.

1. When the town is required under this Section to repair or remove any on-site 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 \$25.00.
2. The cost to repair or remove any on-site sign in accordance with this section, together with any civil penalties and costs, shall be recoverable. 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.

L. Penalties.

Any person determined by any court of competent jurisdiction to have violated this section 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.

Section 3. This Ordinance shall become effective on the 15th day of November, 2007.

SYNOPSIS

This ordinance amends the Zoning Ordinance of the Town Code of the Town of Smyrna by deleting references to sign regulations in each individual district and streamlining the sign regulations into a single consolidated ordinance in the supplemental regulations of this Code. The Ordinance designates the permitted signage in each district and includes maximum permitted square footage, limitations on the types of signs permitted, as well as the number of signs permitted on the site of each building or structure. As an administrative action of the Town of Smyrna, an inventory will be taken prior to the adoption of this ordinance to accurately document those pre-existing signs which will be considered grandfathered.

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 November 15, 2007.

ATTEST:

Council Secretary

Mayor

This shall certify that this amending ordinance was considered at a public meeting held before the Town Planning Commission on 4/18/07, and at a public hearing before the Town Council on 5/21/07, public notice of which was published in the Smyrna/Clayton Sun Times on 4/25/07.

So Certifies:

Town Clerk

Date