

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”).

WHEREAS, Sussex County Code (“County Code”) currently addresses the types, uses, and placement of signs in its zoning districts; and

WHEREAS, Sussex County Council views the placement of signs as an important public safety issue in Sussex County that impacts the welfare of the citizens of Sussex County; and

WHEREAS, Sussex County Council believes that the current County Code provisions do not sufficiently address its other concerns with the types, usage, and placement of signs in Sussex County; and

WHEREAS, on September 15, 2015, Sussex County Council enacted a moratorium by Ordinance No. 2414 entitled “An Ordinance to Establish a Moratorium Upon the Acceptance of Special Use Exception Applications for Off-Premises Signs” in response to such concerns, which was extended by vote on March 1, 2016; and

WHEREAS, Sussex County engaged a land use planning consultant and formed a working group (“Working Group”) to study signs in the context of Sussex County’s land use planning initiatives and goals; and

WHEREAS, the Working Group has presented its findings to Sussex County Council; and

WHEREAS, Sussex County Council wishes to end the moratorium upon the acceptance of special use exception applications for off-premises signs concurrent with the enactment of this legislation, as its concerns have been addressed through this legislation; and

WHEREAS, Sussex County Council believes that these amendments will promote the public health, safety and welfare of its citizens.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Sussex County Code, Chapter 115, Section 115-157 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-157. Definitions.

A. General.

ABANDONED ON-PREMISES SIGN

A sign that no longer identifies or advertises an ongoing business, product, location, service, idea, or activity conducted on the premises on which the sign is located.

ABANDONED OFF-PREMISES SIGN

A sign that no longer directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained.

ANIMATED SIGN

[A mechanical sign or electronically illuminated or nonilluminated sign which displays letters, words, characters, or symbols which are not stationary.]

A sign employing actual motion, the illusion of motion, or light or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are differentiated from changeable signs as defined and regulated by this article, include the following types:

- (1) Environmentally Activated – Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners, pinwheels, pennant strings, or other devices or displays that respond to naturally occurring external motivation.
- (2) Mechanically Activated – Animated signs characterized by repetitive motion or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
- (3) Electrically Activated – Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input or illumination capable of simulating movement throughout employment of the characteristics of one or both the classifications noted below:

 - (a) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds ten (10) seconds.

(b) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

CANDELA

The basic unit of measurement of light in SI (metric) units.

CANDELA PER SQUARE METER (cd/m²)

The SI (metric) unit used to describe the luminance of a light source or of an illuminated surface that reflects light. Also referred to as Nits.

FOOT CANDLE

An English unit of measurement of the amount of light falling upon a surface (illuminance). One foot candle is equal to one lumen per square foot. Can be measured by means of an illuminance meter.

ILLUMINANCE

The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination”. Measured in foot candles (lumens/square foot) in the English system, and lux (lumens/square meter) in the SI (metric) system.

INDIRECTLY ILLUMINATED SIGN

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LUMINANCE

The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area (square meters in SI measurement units or square feet in English measurement units.) Expressed in SI units as cd/m², and in English units as foot lamberts. Sometimes also expressed as “nits”, a colloquial reference to SI units. Can be measured by means of a luminance meter.

LUX

The SI (metric) unit for illuminance. One lux equals 0.093 foot candles.

MULTIFACED SIGN

[A sign with two or more facings.]

A sign with more than one but no more than two sign faces. The sign faces shall be parallel to each other and there shall not be more than three feet from one sign face to the other sign face.

NIT

A photometric unit of measurement referring to luminance. One nit is equal to one cd/m².

PUBLIC LAND

Land owned by the United States of America, the State of Delaware, or a municipality or political subdivision thereof which is used as park, recreation area, historical site, wildlife refuge, public forest land, preservation land, or greenway. Public lands shall also include lands which are privately owned but have been placed in an agricultural preservation program with the United States of America, the State of Delaware, or a municipality or political subdivision thereof. Public lands shall not include areas which are public streets, roads, utilities, or right-of-ways dedicated for transportation or other means of ingress and egress.

SETBACK

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SI (International System of Units)

The modern metric system of measurement; abbreviated SI for the French term "Le Systeme International d'Unites."

SIGN

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SIGN AREA

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SIGN COPY

The physical sign message including any words, letters, numbers, pictures, logos, and symbols.

SIGN FACE

The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

SIGN STRUCTURE

Any structure designed for the support of a sign.

STREET LINE

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B. Type.

BULLETIN BOARD

A manually activated changeable sign of permanent character, but with movable letters, words or numerals, indicating the names of persons associated with or events conducted upon or products or services offered upon the premises upon which such a sign is maintained.

CHANGEABLE SIGN

A sign with the capability of content change by means of manual or remote input including the following types:

- (1) Manually activated – a changeable sign whose message copy or content can be changed manually on a display surface.
- (2) Electrically activated – a changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

DIRECTIONAL SIGN

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ELECTRONIC MESSAGE CENTER

An electrically activated changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer or an electronic device onsite or from a remote location.

[ELECTRONIC MESSAGE DISPLAY]

[A sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means. Changes relating to electronic message display include:

(1) DISSOLVE

A mode of message transition on an electronic message display accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility

simultaneously with the gradual appearance and legibility of the second message.

(2) FADE

A mode of message transition on an electronic message display accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

(3) FRAME

A complete stationary display screen on an electronic message display.

(4) FRAME EFFECT

A visual effect on an electronic message display applied to a single frame to attract the attention of viewers.

(5) SCROLL

A mode of message transition on an electronic message display where the message appears to move vertically across the display surface.

(6) TRANSITION

A visual effect used on an electronic message display to change from one message to another.

(7) TRAVEL

A mode of message transition on an electronic message display where the message appears to move horizontally across the display surface.]

INSTRUCTIONAL SIGN

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NON-CONFORMING SIGN

A sign that was legally installed by permit in conformance with all sign laws, ordinances, and regulations in effect at the time of its installation, but which no longer complies with laws, ordinances, and regulations having jurisdiction relative to the sign.

NON-CONFORMING OFF-PREMISES SIGN

A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained and which was legally installed by permit in conformance with all sign laws, ordinances, and regulations in effect at the time of its installation, but which no longer

complies with laws, ordinances, and regulations having jurisdiction relative to the sign.

OFF-PREMISES ELECTRONIC MESSAGE CENTER

An electrically activated changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer or electronic device onsite or from a remote location which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained.

OFF-PREMISES SIGN

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ON-PREMISES ELECTRONIC MESSAGE CENTER

An electrically activated changeable sign whose variable message or graphic presentation capability can be electronically programmed by computer or electronic device onsite or from a remote location which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered upon the same premises as those upon which the sign is maintained.

ON-PREMISES SIGN

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PORTABLE SIGN

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TEMPORARY SIGN

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V SIGN

A sign containing two faces positioned at an interior angle subtending less than one hundred seventy-nine degrees (179°) at the point of juncture of the individual faces.

C. Location.

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Section 2. Sussex County Code, Chapter 115, Section 115-158 shall be amended by the addition of the underlined language, as follows:

§ 115-158. Signs prohibited in all districts.

Signs prohibited in all districts shall be as follows:

A. ...

...

I. Animated signs.

J. Abandoned on-premises signs which have been abandoned for more than 6 months.

K. Abandoned off-premises signs which have been abandoned for more than 6 months.

L. Mirrors. No mirror device shall be used as part of a sign.

M. V signs.

N. Signs which have more than 2 sign faces.

Section 3. Sussex County Code, Chapter 115, Section 115-159 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159. Signs permitted in all districts.

Signs permitted in all districts shall be as follows:

A. ...

...

G. A temporary real estate sign indicating sale, rental or lease of the premises on which it is located, with a maximum area of 10 square feet per [side or facing] sign face, nonilluminated, and one sign for each street frontage on which the premises abuts. Each sign shall contain no more than two sides or facings, back to back.

H. ...

Section 4. Sussex County Code, Chapter 115, Section 115-159.1 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.1. Signs permitted in AR-1 and AR-2 Agricultural Residential Districts and GR General Residential Districts.

A. Signs permitted shall be as follows:

- (1) ...
- (2) One indirectly illuminated on-premises sign, not to exceed 32 square feet on any [side or facing] sign face for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such signs shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total of 32 square feet on any [side or facing] sign face is not exceeded by both the bulletin board and the on-premises sign.
...
- (3) One nonilluminated on-premises sign not to exceed six square feet on any [side or facing] sign face, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...
- (4) Nonilluminated on-premises signs not to exceed three signs, of which each sign shall not exceed 32 square feet on any [side or facing] sign face, identifying any truck garden, orchard, nursery, commercial greenhouse, produce sale or public stable permitted on the same premises. ...

B. ...

Section 5. Sussex County Code, Chapter 115, Section 115-159.2 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.2. Signs permitted in MR Medium Density Residential and UR Urban Residential Districts.

A. Signs permitted shall be as follows:

- (1) ...
- (2) One indirectly illuminated on-premises sign, not to exceed 32 square feet on any [side or facing] sign face for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the

total of 32 square feet on any [side or facing] sign face is not exceeded by both the bulletin board and the on-premises sign.

...

- (3) One nonilluminated on-premises sign, not to exceed six square feet on any [side or facing] sign face, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...

B. ...

Section 6. Sussex County Code, Chapter 115, Section 115-159.3 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.3. Signs permitted in HR-1 and HR-2 High-Density Residential Districts.

A. Signs permitted shall be as follows:

- (1) ...

- (2) One illuminated on-premises sign, not to exceed 10 square feet on any [side or facing] sign face, identifying the name and/or address of management of a multifamily dwelling or group of multifamily dwellings. ...

- (3) One nonilluminated on-premises sign, not to exceed 32 square feet on any [side or facing] sign face, identifying any motel, hotel, multifamily dwelling structure or townhouse project of eight or more units. ...

B. ...

Section 7. Sussex County Code, Chapter 115, Section 115-159.4 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.4. Signs permitted in B-1 Neighborhood Business Districts, M Marine Districts and UB Urban Business Districts.

A. Signs permitted shall be as follows:

- (1) ...

- (2) One indirectly illuminated on-premises sign, not to exceed 32 square feet on any [side or facing] sign face for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total 32 square feet on any [side or facing] sign face is not exceeded by both the bulletin board and the on-premises sign.
...
- (3) One nonilluminated on-premises sign, not to exceed six square feet on any [side or facing] sign face, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. ...
- (4) One on-premises ground sign [per street or road frontage] per parcel, not to exceed 200 square feet on any [side or facing] sign face. [Electric message displays shall be permitted. Such displays shall be limited to frames with displays, messages, animated graphics or images and frame effects that appear or disappear from the display through dissolve, fade, flip or window shade moves. Scrolling left or right and/or flashing messages shall not be permitted. Each message on the sign must be displayed for a minimum of eight seconds based on a real second measurement of 1000-1, 1000-2, 1000-3, 1000-4, etc., count. When a message is changed, it shall be accomplished in one second or less with all moving parts or illumination changing simultaneously and in unison. Variable message signs shall contain a default design that will freeze the sign in one position if a malfunction occurs or in the alternative shut down.]
- (5) [In addition, each store, shop, office or similar unit shall be permitted an on-premises illuminated awning, marquee, projecting, wall sign or electric message display not exceeding a combination of signs or one sign not exceeding 150 square feet. The sign shall not exceed 15% of total square footage of wall area where a wall exceeds 1,000 square feet.]

One on-premises wall, illuminated awning, marquee, or projecting sign not to exceed 150 square feet. In the case of a shopping center, a group of stores or other business uses, or a multi-tenant building on a lot held in single or separate ownership, one on-premises wall sign, illuminated awning sign,

marquee sign, or projecting sign not to exceed 150 square feet shall apply with respect to each building, separate store, separate storefront, or separate use.

(6) ...

B. ...

Section 8. Sussex County Code, Chapter 115, Section 115-159.5 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-159.5. Signs permitted in C-1 General Commercial, CR-1 Commercial Residential, LI-1 Limited Industrial, LI-2 Light Industrial and HI-1 Heavy Industrial Districts.

A. Signs permitted shall be as follows:

(1) ...

(2) One indirectly illuminated on-premises sign, not to exceed 32 square feet on any [side or facing] sign face for each building devoted to the following uses: church, school, hospital, nursing home, country club, golf course or similar use. Such sign shall be solely for the purpose of displaying the name of the institution or association and its activities or services. In addition, a bulletin board may be permitted, provided that the total 32 square feet on any [side or facing] sign face is not exceeded by both the bulletin board and the on-premises sign.
...

(3) One nonilluminated on-premises sign, not to exceed six square feet on any [side or facing] sign face, identifying a permitted home occupation on the premises or a permitted use on a farm of five acres or more. A sign shall contain no more than two sides or facings, back to back, and shall conform to the setbacks referenced in Subsection A(2) above.

(4) One on-premises ground sign [per street or road frontage] per parcel, not to exceed 200 square feet on any [side or facing] sign face. [Electric message displays shall be permitted. Such displays shall be limited to frames with displays, messages, animated graphics or images and frame effects that appear or disappear from the display through dissolve, fade, flip or window shade moves. Scrolling left or right and/or flashing messages shall not be permitted. Each message on the sign

must be displayed for a minimum of eight seconds based on a real second measurement of 1000-1, 1000-2, 1000-3, 1000-4, etc., count. When a message is changed, it shall be accomplished in one second or less with all moving parts or illumination changing simultaneously and in unison. Variable message signs shall contain a default design that will freeze the sign in one position if a malfunction occurs or in the alternative shut down.]

- (5) [In addition, each store, shop, office or similar unit shall be permitted an on-premises illuminated awning, marquee, projecting, wall sign or electric message display not exceeding a combination of signs or one sign not exceeding 150 square feet. The sign shall not exceed 15% of total square footage of wall area where a wall exceeds 1,000 square feet.]

One on-premises wall, illuminated awning, marquee, or projecting sign not to exceed 150 square feet. In the case of a shopping center, a group of stores or other business uses, or a multi-tenant building on a lot held in single or separate ownership, one on-premises wall sign, illuminated awning sign, marquee sign, or projecting sign not to exceed 150 square feet shall apply with respect to each building, separate store, separate storefront, or separate use.

- (6) ...

B. Off-premises signs, after obtaining a special use exception, pursuant to § 115-80C, not exceeding [600] 300 square feet [total] per sign face, and provided that:

- (1) [All off-premises signs not exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 20 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.]

All off-premises signs shall have a minimum front yard setback of 40 feet, a minimum side yard setback of 50 feet, and a minimum rear yard setback equal to the required front yard setback for a principal building within the pertinent zoning district. An off-premises sign shall not be erected within 500 feet of a dwelling, church, school, or public lands or within 1,000 feet of another sign regulated by this subsection or within 50 feet of an on-premises sign.

- (2) [All off-premises signs exceeding 200 square feet shall have a minimum front yard setback of 25 feet and a minimum side yard setback of 50 feet and shall not be erected within 300 feet of a dwelling, church, school or public lands or within 300 feet of another sign regulated by this subsection.]

A single off-premises sign structure shall support no more than one sign per side or facing and no more than two signs in total. If a single off-premises sign structure has more than one sign face, the sign faces shall be parallel to each other and there shall be not more than three feet from one sign face to the other sign face. An individual sign face on the off-premises sign structure shall not exceed 300 square feet. The total square footage of the sign faces on the off-premises sign structure shall not exceed 600 square feet. Signs which are stacked or side-by-side on an off-premises sign structure are prohibited.

- (3) [A single off-premises sign structure shall support no more than one sign. No off-premises sign structure shall display more than one three-hundred-square-foot maximum sign on a side or facing. The total square footage of the sign shall not exceed 600 square feet.]

See the general regulations for all districts for signs exceeding 32 square feet.

- (4) [See the general regulations for all districts for signs exceeding 32 square feet.]

An applicant for a special use exception for an off-premises sign must, at the time the application is filed with the Office of Planning and Zoning, submit documentation from the Delaware Department of Transportation which confirms that the Delaware Department of Transportation does not object to the proposed off-premise sign.

C. No off-premises sign structure or any part of the sign face shall exceed [25] 35 feet in height from ground level.

D. No variances shall be issued from any of the regulations in this Article for off-premises signs.

[D.]E. Permitted sign locations are marquee, projecting, wall and/or ground.

Section 9. Sussex County Code, Chapter 115, Section 115-160 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-160. General regulations for all districts.

A. No sign, unless herein excepted, shall be erected, constructed, structurally altered or relocated, except as provided in this article and in these regulations, until a permit has been issued by the Director.

(1) ...

(2) ...

(3) [Each sign requiring a permit shall be clearly marked with the permit number and name of the person or firm placing the sign on the premises]. Fees.

(a) Fees for sign permits shall be in accordance with the adopted schedule, a copy of which is maintained in the office of the Director.

(b) A construction permit shall be charged at a rate of \$0.65 per square foot, with a minimum charge of \$32 per sign for signs larger than 32 square feet.

(c) Annual fees shall be charged at a rate of \$0.32 per square foot, with a minimum charge of \$32 per sign for signs larger than 32 square feet. A one-time fee of \$10.00 will be charged for signs 32 square feet or smaller.

[(4) Fees.

(a) Fees for sign permits shall be in accordance with the adopted schedule, a copy of which is maintained in the office of the Director.

(b) A construction permit shall be charged at a rate of \$0.50 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet.

- (c) Annual fees shall be charged at a rate of \$0.25 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet. A one-time fee of \$7.50 will be charged for signs 32 square feet or smaller.]

B. The following signs may be erected or constructed without a permit but in accordance with structural and safety requirements:

- (1) ...
- (2) ...
- (3) Temporary nonilluminated signs, not exceeding 10 square feet per [side or facing] sign face, advertising real estate for sale or lease or announcing contemplated improvements of real estate and located on the premises, with no more than two sides or facings, back to back, with one such sign for each street frontage.
- (4) Temporary nonilluminated signs not exceeding 10 square feet per [side or facing] sign face erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, with one such sign for each street frontage with no more than two [sides or facings] sign faces, back to back.
- (5) ...
- (6) ...
- (7) Temporary nonilluminated portable signs, not exceeding six square feet per [side or facing] sign face and not exceeding two [sides or facings] sign faces, back to back, in a commercial or industrial district, with one sign for each 50 feet of street frontage.
- (8) ...
- (9) ...
- (10) ...
- (11) Signs in connection with any candidate for elected office, special election or referendum issue may be erected and maintained, provided that the size of any such sign is not in excess of 32 square feet per [side or facing] sign face and shall

contain no more than two [sides or facings] sign faces, back to back. Any such sign shall not be erected more than 90 days prior to any contested election or referendum and removed within 30 days after the election or referendum date.

C. ...

...

I. The Director shall remove or cause to be removed[, at the owner's expense,] any sign erected or maintained in conflict with these regulations at the expense of the owner of the sign, the owner of the real property from which the illegal sign has been removed, and the owner of the entity whose business or development is being promoted or advertised by the illegally placed sign. Removal of a sign by the Director or his designee shall not affect any fines instituted under this article or any legal proceeding instituted against the violator prior to removal of such sign.[, as follows:] [(1) The] Sussex County will be free to dispose of all removed illegal signs and shall not be held liable for doing so. Sussex County will collect a [removal] disposal fee of [\$25] \$100 per sign [from the owner of an illegal sign, or from the owner of the real property from which an illegal sign has been removed, if the owner gave permission for the placement of the illegal sign, and from the owner of the entity whose business or development is being promoted or advertised by the illegally placed sign].

J. ...

K. Except as provided in §115-159.5, n[N]o sign [structure or any part of the sign face] shall exceed 25 feet in height above grade.

L. ...

M. Any person or corporation who shall violate any of the provisions of this article or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any sign in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor or of a civil offense, and shall be liable to a fine of not less than \$100 nor more than \$1,000 or be imprisoned not more than 10 days, or both, and each and every day such violation shall continue shall be deemed a separate offense. The Director or its designee, any other Code Enforcement Official or attorney hired or retained by Sussex County shall bring charges of any violation pursuant to this provision in a court of competent jurisdiction of the State of Delaware in and for Sussex County, which court shall have original jurisdiction for such matters. The minimum fine of \$100 is

mandatory and is not subject to suspension or reduction. Each day on which the violation continues shall be considered a separate offense.

Section 10. Sussex County Code, Chapter 115, Section 115-161 shall be amended by the addition of the underlined language and deletion of the bracketed language, as follows:

§ 115-161. Construction and lighting.

A. ...

B. Lighting of signs.

(1) ...

(2) ...

(3) ...

(4) Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaires that are fully shielded.

(5) All illuminated signs, including Electronic Message Centers, must comply with the maximum luminance level of two hundred fifty (250) cd/m² or Nits at least one-half hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, for the specific geographic location and date. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise, as determined by the NOAA, at which time the sign may resume luminance levels appropriate for daylight conditions, when required or appropriate.

Section 11. In Sussex County Code, Chapter 115, a new Section 115-161.1 shall be added by the insertion of the underlined language, as follows:

§ 115-161.1 Electronic Message Centers.

A. On-Premises Electronic Message Centers:

- (1) In the B-1 (Neighborhood Business), M (Marine), and UB (Urban Business) districts, after obtaining a special use exception pursuant to §115-80C, an On-Premises Electronic Message Center is permitted provided that only one On-Premises Electronic Message Center is permitted per parcel and that the sign face shall not exceed 200 square feet on any side or facing. The electronic message center permitted under this section shall not be in addition to the on-premises ground sign permitted under § 115-159.4(A)(4).
- (2) In the C-1 (General Commercial), CR-1 (Commercial Residential, LI-1 (Limited Industrial), LI-2 (Light Industrial), and HI-1 (Heavy Industrial) districts, after obtaining a special use exception pursuant to §115-80C, an On-Premises Electronic Message Center is permitted provided that only one On-Premises Electronic Message Center is permitted per parcel and that the sign face shall not exceed 200 square feet on any side or facing. The electronic message center permitted under this section shall not be in addition to the on-premises ground sign permitted under § 115-159.4(A)(4).
- (3) On-Premises Electronic Message Centers shall be prohibited in the AR-1 and AR-2 (Agricultural Residential), GR (General Residential), MR (Medium Density Residential), UR (Urban Residential), HR-1 and HR-2 (High Density Residential) Zoning Districts.

B. Off-Premises Electronic Message Centers: Off-Premises Electronic Message Centers are prohibited.

C. Electronic Message Centers: The following regulations shall apply to all electronic message centers.

- (1) An Electronic Message Center may be changed at intervals by electronic or mechanical process or remote control provided that:

 - (a) Each message remains fixed for a minimum of at least 10 seconds.
 - (b) When the message is changed, the change must be accomplished in 1 second or less, with all moving parts or illumination changing simultaneously and in unison.
 - (c) An Electronic Message Center must contain a default design that will freeze the sign in one position if a malfunction occurs or, in the alternative, that will shut down.

- (d) An Electronic Message Center may not contain or display any lights, effects, or messages that flash, move, appear to be animated or to move, scroll, or change in intensity during the fixed display period.
- (e) An Electronic Message Center must appropriately adjust display brightness as ambient light levels change and shall have automatic dimming controls, either by photocell, hardwire, or software settings, in order to bring the lighting level at night into compliance with sign illumination standards set forth in this article.
- (f) An owner who seeks approval for an electronic message center shall provide documentation at the time of application which demonstrates that the sign shall appropriately adjust display brightness as ambient light levels change and shall have automatic dimming controls, either by photocell, hardwire, or software settings, designed to bring the lighting level at night into compliance with sign illumination standards set forth in this article.
- (g) A sign that attempts or appears to attempt to direct the movement of traffic or which contains wording, color, shapes, or likeness of official traffic control devices is prohibited.
- (g) After Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA), United States Department of Commerce, for the specific geographic location and date, the display on the Electronic Message Center shall not change and shall remain fixed until after Apparent Sunrise, as determined by the NOAA, for the specific geographic location and date, at which time the Electronic Message Center may resume its regular rotation of message displays.
- (h) No Electronic Message Center shall emit any audio or verbal announcement or noises of any kind.
- (2) No variances shall be permitted from the regulations for any electronic message center.

Section 12. In Sussex County Code, Chapter 115, a new Section 115-161.2 shall be added by the insertion of the underlined language, as follows:

§ 115-161.2 Non-Conforming Off-Premises Signs.

- A. A non-conforming off-premises sign may remain and be periodically maintained as a permitted non-conforming structure unless totally destroyed as specified in §115-161.2(B). However, in no case may such signs be reconstructed, expanded, or re-erected.**
- B. Conversion of non-conforming off-premises signs to off-premises electronic message centers is prohibited.**
- C. Any off-premises sign which is destroyed by the forces of nature to any of the following extents for any reason whatsoever shall be considered totally destroyed, shall lose its right to the benefit of any nonconformity provisions, and may not be re-erected. For the purposes hereof, “destruction” shall mean the rendering of the off-premises sign element as unusable and the “facing” shall include the copy area and trim.**
- (1) Destruction of fifty percent or more of the supporting piles or structure located above ground;**
- (2) Destruction of seventy-five percent or more of the facing;**
- (3) Destruction of twenty-five percent or more of the supporting piles or structure located above ground and fifty percent or more of the facing.**

Section 13. Upon the adoption of this Ordinance in accordance with Section 14 hereof, the moratorium imposed by Ordinance No. 2414 entitled “An Ordinance to Establish a Moratorium Upon the Acceptance of Special Use Exception Applications for Off-Premises Signs,” any extensions thereof, shall be immediately terminated.

Section 14. This Ordinance shall become effective upon its adoption by a majority of the elected members of Sussex County Council.

Synopsis

This Ordinance revises the provisions of Chapter 115, Article XXI of the Sussex County Code related to the type, usage, and placement of signs in Sussex County. In addition, this Ordinance terminates the moratorium upon the acceptance of any special use exception applications for off-premises signs.