

**ARTICLE XXI - REGULATING OUTDOOR ADVERTISING IN SIGHT OF
PUBLIC STREETS IN THE TOWN OF WYTHEVILLE, VIRGINIA²³**

ARTICLE I.

21-1 POLICY; DEFINITIONS

(a) In order to promote the safety, convenience and enjoyment of travel on and protection of the public investment in streets within the Town, to attract tourists and promote the prosperity, economic well-being and general welfare of the Town and to preserve and enhance the natural scenic beauty or aesthetic features of the streets and adjacent areas, the Council of the Town of Wytheville, Virginia, declares it to be the policy of this Town that the erection and maintenance of outdoor advertising in areas adjacent to the rights of way of the streets within this Town shall be regulated in accordance with the terms of this Ordinance.

(b) The following terms, wherever used or referred to in this Ordinance, shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, property, real or personal, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by

any person; the term shall also include any part of an advertisement recognizable as such.²⁶

(2) "Advertising structure" means any rigid or semi-rigid material, with or without any advertisement displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be posted or displayed.

(3) "Billboard sign" means an outdoor advertising structure used for posting or displaying outdoor advertisements, regardless of the ownership of the structure, which directs attention to a product, commodity or service not available on the premises upon which the sign is erected.³⁰

(4) "Business of outdoor advertising" means the erection, use or maintenance of advertising structures or the posting or display of outdoor advertisements by any person who receives profit gained from rentals or any other compensation for any other person for the use or the maintenance of such advertising structures or the posting or display of such advertisements, except reasonable compensation for materials and labor used or furnished in the actual erection of advertising structures or the actual posting of advertisements.

(5) "Business sign" means a sign which directs attention to a product, commodity or service which is available on the premises upon which the sign is erected.

(6) "Center line of the street" means a line equidistant from the edges of the median separating the main traveled ways of a divided street, or the center line of the main traveled way of a non-divided street.

(7) "Changeable copy sign" means a sign designed so that characters or letters can be changed or rearranged without altering the face or size of the sign as with "reader or menu boards".

(8) "Construction sign" means a sign intended to be maintained for a short duration located on a construction site and which sign is intended to explain the nature of the construction project.

(9) "Development sign" means a sign located within a subdivision or housing development which displays the name of the development.

(10) "Directional sign" means a traffic directional sign and shall include regulatory, warning and street name signs.

(11) "Distance from edge of a right of way" shall be the horizontal distance measured along a line normal or perpendicular to the center line of the street.

(12) "Double-faced sign" means a sign on which a message may be displayed on two sides thereof.

(13) "General advertising sign" means a sign which directs attention to a product, commodity or service not necessarily available on the premises upon which the sign is erected.

(14) "Ground sign" means a sign supported by uprights or braces in or upon the ground surface and the term shall include and have the same meaning as a "free-standing sign".

(15) "Historic place, museum or shrine" includes only places that are maintained wholly at public expense or by a nonprofit organization.

(16) "Home occupation sign" means a sign either single- or double-faced directing attention to products, commodities or services available on the premises upon which the sign is located but the provisions or sale of such products, commodities or service is a secondary use of the premises upon which the sign is erected.

(17) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of places of interest within the Town and providing such other information as the Town may consider desirable.

(18) "Interchange" means a grade separated intersection with one or more turning roadways for travel between intersection legs, or an intersection at grade, where two or more highways join or cross.

(19) "Interstate corridor" means an area adjacent to but less than 660 feet from the right-of-way line of any portion of the interstate highway system, as illustrated on the zoning map in the Office of the Town Manager. The height and size regulations in Article III of this chapter may be waived by the Town Manager where the applicant submits information supporting the need for relaxing the requirements of this section. The applicant must submit

information that substantiates that by reason of topography or other unusual circumstances, meeting the regulations would cause the outdoor advertising structure to be ineffective. For good cause, the Town Manager may issue the applicant a Special Use Permit. In the event the Town Manager denies the request, and the applicant feels aggrieved by the denial of the Town Manager, the applicant may within thirty (30) days of the decision of the Town Manager appeal in writing the decision of the Town Manager to the Town Council. The decision of the Town Council is final, and the Council may uphold or reverse the decision of the Town Manager or may make any modifications to the proposal deemed appropriate. The decision of the Town Council shall be made within ninety (90) days of receiving the appeal. The decision of the Town Council is final and not appealable to any other agency, committee, commission, or board. It is expressly stated that the following zoning districts located in the interstate corridor are not subject to any waiver or relaxation of requirements: A-1 Agricultural, R-1 Residential, R-2 Residential, R-3 Residential, R-2 FH Funeral Home, R-3 Mobile Home, MA-1 Medical Arts, and B-2 DT Business.

(20) "Legible" means capable of being read without visual aid by a person of normal visual acuity.

(21) "Location sign" means a sign which directs attention to the approximate location of an establishment from which an advertised product or products may be obtained.

(22) "Major anchor tenant for neighborhood shopping centers" means a retail store containing not less than 20,000 square feet of ground floor building area.²⁸

(23) "Major anchor tenant in planned community shopping center" means a retail store containing not less than 75,000 square feet of ground floor building area.²⁸

(24) "Major tenant" means any facility not part of a planned community, neighborhood, complex I or complex II facility containing not less than 20,000 square feet of ground floor building area.²⁸

(25) "Major tenant in planned community complex I" means a facility containing not less than 75,000 square feet of ground floor building area.²⁸

(26) "Major tenant in planned community complex II" means a facility containing not less than 20,000 square feet of ground floor building area.²⁸

(27) "Main traveled way" means the traveled way of a street on which through traffic is carried. In the case of a divided street, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(28) "Maintain" means to allow to exist.

(29) "Marquee sign" means a sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line or street line.

(30) "Minor tenant" means any facility not part of a planned community, neighborhood, complex I or complex II facility.²⁸

(31) "Minor tenant in planned community complex I" means a facility containing not less than 20,000 square feet of ground floor building area.²⁸

(32) "Minor tenant in planned community complex II" means a facility containing not less than 10,000 square feet of ground floor building area.²⁸

(33) "Multiple sign" means a ground or roof sign structure on which more than one single-faced or more than one double-faced sign may be mounted within an overall frame.

(34) "Nonconforming sign", "nonconforming advertisement" or "nonconforming advertising structure" is one which was lawfully erected adjacent to any street but it does not comply with the provisions of this Ordinance or which later fails to comply with an ordinance or ordinances adopted by the governing body of the Town due to changed conditions.

(35) "Out parcel for planned community or neighborhood shopping center" means a specifically designated parcel of land that for purposes of ingress or egress is an integral part of a planned shopping center. The parcel is designed to accommodate a free standing building which is not attached to the balance of the planned shopping center. Such out parcels normally accommodate financial institutions, banks, fast food restaurants or restaurants that would customarily occupy a free standing building with or without drive-through windows.²⁸

(36) "Person" includes an individual, partnership, association or corporation.

(37) "Planned community complex I" means a planned community complex, regardless of the nature of the activities, that is developed and constructed to a predetermined site plan of which building(s) contain(s) not less than 125,000 square feet of ground floor building area.²⁸

(38) "Planned community complex II" means a planned community complex, regardless of the nature of the activities, that is developed and constructed to a predetermined site plan of which building(s) contain(s) between 30,000 and 125,000 square feet of ground floor building area.²⁸

(39) "Planned community shopping center" means one that is developed and constructed pursuant to a predetermined site plan of which the building(s) contain(s) not less than 125,000 square feet of ground floor building area and shall contain no less than fifteen (15) separate and distinct store buildings available for lease or sale.²⁸

(40) "Planned neighborhood shopping center" means one that is developed and constructed pursuant to a predetermined site plan containing between 30,000 and 125,000 square feet of ground floor building area and shall contain no less than two (2) separate and distinct store buildings available for lease or sale.²⁸

(41) "Post" means post, display, print, paint, burn, nail, paste or otherwise attach.

(42) "Projecting sign" means a sign which is attached directly to a building wall and extends outward from such wall.

(43) "Real property" includes any property physically attached or annexed to real property in any manner whatsoever.

(44) "Rest area" means an area or site established and maintained within or adjacent to the right of way or under public supervision or control, for the convenience of the traveling public.

(45) "Road frontage" means the width of a lot or parcel of land along the street upon which it abuts.

(46) "Roof sign" means a sign which is erected or constructed and maintained from the roof of a building.

(47) "Scenic area" means any public park, area of particular scenic beauty or historical significance designated as a scenic area by the State Highway and Transportation Commission.

(48) "Sign" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any street.

(49) "Single-faced sign" means a sign on which a message is displayed on one side thereof only.

(50) "Street" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in this Town.

(51) "Sub-anchor tenant for neighborhood shopping centers" means a retail store containing not less than 10,000 square feet of ground floor building area.²⁸

(52) "Sub-anchor tenant for planned community shopping center" means a retail store containing not less than 20,000 square feet of ground floor building area.²⁸

(53) "Temporary sign" means a sign constructed of light material, with or without a frame, the use of which sign is intended for a limited period of display, and the term shall apply to a sign advertising a seasonal or activity such as holiday displays, special sales and auction sales or building vacancies.²⁶

Advertising banner signs are also classified as temporary signs and are constructed of cloth or other weather durable material manufactured with the intent of being erected outdoors as an advertising sign. Advertising banners are intended to be supplemental to other permitted signs and are not to be used as the sole sign for the business establishment. Advertising banners are not permitted in R-1 Residential, R-2 Residential, R-3 Residential and R-3 MH Mobile Home Districts. Advertising banners must be affixed within the confines of the property on which they are located and shall not be affixed to any appurtenance within the rights of way of Town streets. Each advertising banner sign shall be issued a sign permit by the Zoning Administrator or his designee and shall remain valid for ninety (90) days, at

which time the banner sign shall be removed. If the banner sign becomes deteriorated prior to ninety (90) days, it shall be removed.³⁶

Portable signs are not permitted except as may be permitted by the Town Manager for limited periods of time. A "portable sign" is defined as a sign not permanently anchored to the ground or to a building or structure and which is constructed in such a manner as to permit its easy removal as, for example, a sign mounted upon an axle and wheels.⁸⁶

(54) "Town" means the Town of Wytheville, Virginia.

(55) "Trade name" shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(56) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(57) "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.

(58) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(59) "Wall sign" means a sign which is painted on or attached directly to a fence or building wall, the face of which is parallel to and flush with the fence or wall.

The Town Manager shall administer and enforce the provisions of this Ordinance. He may in the performance of his duties hereunder assign to other Town employees such duties other than discretionary powers as he may think appropriate.

21-3 TERRITORY TO WHICH ORDINANCE APPLIES

The territory under the jurisdiction of the Town Manager for the purposes of this Ordinance shall include all areas within the corporate limits of the Town.

The Town Manager and all employees under this direction may enter upon such lands as may be necessary in the performance of their functions and duties as prescribed by this Ordinance. Any person who shall hinder or obstruct the Town Manager or any assistant or agent of the Town Manager in carrying out such functions and duties shall be guilty of a misdemeanor.

21-4 REMOVAL OF CONSTRUCTION SIGNS

Construction signs shall be removed within thirty (30) days after construction of the project advertised thereby has been completed.

21-5 EXCEPTED SIGNS, ADVERTISEMENTS AND ADVERTISING STRUCTURES

The following signs and advertisements, if securely attached to real property or advertising structures, and the advertising structures, or parts thereof, upon which they are posted or displayed are excepted from all the provisions of this Ordinance save those enumerated in Sections 21-12 and 21-16 of this Ordinance:

(1) Signs erected or maintained or caused to be erected or maintained, on any farm by the owner or lessee of such farm and relating solely to farm products, merchandise, services or entertainment sold, produced, manufactured or furnished on such farm.

(2) Signs upon real property posted or displayed by the owner or by the authority of the owner stating the property upon which the sign is located or a part of such property is for sale or rent or stating any data pertaining to such property and its appurtenances, and the name and address of the owner and the agent of such owner. This provision shall not be applicable to real property upon which is situated guest homes, hotels and motels for the purpose of advertising the accommodations of such in an ordinary course of business.

(3) Official notices or advertisements posted or displayed by or under the direction of any public or court official in the performance of his official or directed duties or by trustees under deeds of trust, deeds of assignment or other similar instruments.

(4) Danger or precautionary signs relating to the premises or signs warning of the condition of or dangers of travel on a street, erected or authorized by the Town Manager; or forest fire warning signs erected under authority of the United States Forestry Service.

(5) Notices of any telephone company, electric power company, telegraph company, gas company, railroad, or other transportation company necessary in the discretion of the Town Manager for the safety of the public

or for the direction of the public to such utility or to any place to be reached by it.

(6) Historical markers erected by duly constituted and authorized public authorities.

(7) Highway markers and signs erected or caused to be erected by the Commissioner of the Department of Highways and Transportation of Virginia or the State Highway and Transportation Commission or other authorities in accordance with the law.

(8) Signs erected upon property warning the public against hunting, fishing or trespassing thereon.

(9) Signs erected by Red Cross authorities relating to Red Cross Emergency Stations. Authority is hereby expressly given for the erection and maintenance of such signs upon the rights of way of all streets in this Town at such locations as may be approved by the Town Manager.

(10) Signs of six (6) square feet or less or one sign structure containing more than one sign of six (6) square feet or less which denote only the name of the civic services club or church, location and directions for reaching same and time of meeting of such organization, provided such signs or notices do not exceed a number as determined by the Town Manager in his sole discretion.

21-6

PERMITS REQUIRED

Except as in this Ordinance otherwise provided, no person, whether engaged in the business of outdoor advertising or not, shall erect, use,

maintain, post or display any advertisement or advertising structure in this Town without first obtaining a permit therefore from the Town Manager and paying the fee therefore as herein provided.

No permit shall be required for the posting or display of any advertisement posted or displayed on any advertising structure or space for which a permit has been issued unless such permit has been revoked.

21-7 APPLICATIONS FOR PERMITS; FEES

A separate application for a permit shall be made for each separate advertisement or advertising structure on a form furnished by the Town Manager, which application shall be filed by the applicant or his representative duly authorized in writing to act for him and shall describe and set forth the size, shape and the nature of the advertisement or advertising structure it is proposed to post, display, erect or maintain and its actual or proposed location with sufficient accuracy to enable the Town Manager to identify such advertisement or advertising structure and to find its actual or proposed location.

Each application shall be accompanied by an application and inspection fee in the amount as required by the Town for building permits.

Each application shall be accompanied by the written consent, or in lieu thereof a copy certified by an official authorized to take acknowledgements to deeds in this State, of the owner of the real property upon which such advertisement or advertising structure is to be erected, used, maintained, posted or displayed, or of such other person having the

legal right to grant such consent, or of the duly authorized agent of each owner, or other person.

21-8 AREA OF ADVERTISING STRUCTURE

The area of an advertising structure shall be determined from its outside measurements, excluding as a part thereof, the height and overall width of supports and supporting structure and any other portion or portions thereof beneath the normal area upon which an advertisement is posted or intended to be posted. Signs shall conform to the size, number, height and location as provided for in Article III, Section 21-1 (Table of Permitted Size, Number, Height and Location of Signs) with exception only to waiver of requirements that may be permitted in the interstate corridor.

21-9 REVOCATION OF PERMIT

The Town Manager may, after thirty (30) days notice in writing to the permittee, revoke any permit in any case in which it shall appear to the Town Manager that the application for the permit contains knowingly false or misleading information, that the permittee has failed to keep in a good general condition and in a reasonable state of repair the advertisement or advertising structure for which such permit was issued or that the permittee has violated any of the provisions of this Ordinance unless such permittee shall before the expiration of such thirty (30) days correct all false or misleading information, or make the necessary repairs or improvements in the general condition of such advertisement or advertising structure or comply with the provisions of this Ordinance, as the case may be. If the

erection, maintenance and display of any advertisement or advertising structure for which a permit is issued by the Town Manager and the permit fee has been paid as above provided shall be prevented by any zoning board, commission or other public agency which also has jurisdiction over the proposed advertisement or advertising structure or its site, the application fee for such advertisement or advertising structure shall be returned by the Town Manager and the permit revoked. One-half (1/2) of the application fee shall be deemed to have accrued upon the erection of an advertising structure or the display of an advertisement followed by an inspection by the Town Manager or his representative.

21-10 TRANSFER OF LICENSES AND PERMITS TO SUCCESSOR CONCERNS

Any license or permit issued pursuant to this Ordinance may be transferred to any person who acquires as a successor the business of the person for whom such license or permit was issued.

21-11 IDENTIFICATION OF ADVERTISING STRUCTURE OR ADVERTISEMENT

The Town Manager may require that each advertising structure and each advertisement not posted or displayed on an advertising structure shall bear an identification number, furnished by the Town Manager, and if erected, maintained or displayed by a licensed outdoor advertiser shall also bear his name. The Town Manager may make suitable provisions for the details thereof.

21-12 CERTAIN ADVERTISEMENTS OR STRUCTURES PROHIBITED

No advertisement or advertising structure shall be erected, maintained or operated:

(1) Which involves motion or rotation of any part of the structure or displays an intermittent light or lights; provided, however, that the prohibition of this Section shall not apply to moving or rotating parts of structures, or to the displays of intermittent lights, when such structures or displays are located along streets in this Town when the moving or rotating parts of such structures or such displays convey solely public information. Public information shall include all or any of the following information: date, time, temperature, weather and other similar information; or

(2) Which uses the word "stop" or "danger" prominently displayed or presents or implies the need or requirement of stopping or the existence of danger on any highway, or which is a copy or imitation of official highway signs; or

(3) Which, within visible distance of any street, advertises any county, city, town, village, historical place or shrine without the consent, in writing of such county, city, town or village or of the owner of such historical place or shrine; or

(4) Which is mobile and is designed to and effectively does distract the attention of passing motorists on any street by flashing lights, loud and blatant noises or movable objects; or

(5) Which involve red, green or amber lights or reflectorized material and which resemble traffic signal lights or traffic control signs and are within visible distance of any street; or

(6) At any public street intersection in such manner as would obstruct the clear vision in either direction between a point on the centerline of the side street twenty (20) feet from the nearest edge of the pavement of the main street and points on the main street 400 feet distant, measured along the nearest edge of the pavement of the main street; or

(7) At any grade intersection of a public street and a railroad in such manner as would obstruct the clear vision in either direction within triangular areas formed by (a) a point at the center of the railroad-public street intersection, (b) a point on the public street 200 feet from the center of the railroad-public street intersection as measured along the center of the public street, and (c) a point on the railroad 200 feet from the center of the railroad-public street intersection as measured along the center of the railroad; or

(8) At or near any curve in a street in such a manner as to obstruct the clear vision of traffic from any one point on such curb to any other point not more than 400 feet apart, as measured between each point from the nearest edge of the pavement; or

(9) Which advertises activities which are illegal under state or federal laws or regulations in effect at the location of such sign or advertisement or at the location of such activities; or

(10) Which is obsolete or inconsistent with this Ordinance or regulations adopted by the State Highway and Transportation Commission.

21-13 PASTING ADVERTISEMENTS PROHIBITED IN CERTAIN INSTANCES

No advertisement shall be pasted or glued on any building, fence, wall, tree, rock or other similar structure or object, unless the same be an advertising structure for which a permit has been issued and is in effect.

21-14 ADVERTISING ON ROCKS, POLES, ETC., WITHIN LIMITS OF STREET

Any person who in any manner points, prints, places, puts or affixes any advertisement upon or to any rock, stone, tree, fence, stump, pole, mile board, milestone, danger sign, guide sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any street shall be guilty of a misdemeanor and shall be punished accordingly.

21-15 HARMONY OF REGULATIONS

With exception to deviations from requirements permitted in the interstate corridor, no zoning board or commission or any other public officer or agency shall permit any sign, advertisement or advertising structure which is prohibited under the provisions of this Ordinance, nor shall the Town Manager permit any sign, advertisement or advertising structure which is prohibited by any other public board, officer or agency in the lawful exercise of its or their powers.

21-16 VIOLATION OF A NUISANCE; ABATEMENT

Any sign, advertisement or advertising structure which is erected, used, maintained, operated, posted or displayed in violation of this Ordinance

or for which no permit has been obtained where such is required, or after revocation or more than thirty (30) days after expiration of a permit, or which, whether or not excepted under the provisions of this Ordinance, is not kept in a good general condition and in a reasonably good state of repair and is not, after thirty (30) days written notice to the person erecting, using, maintaining, posting or displaying the same, put into good general condition and in a reasonably good state of repair, is hereby declared to be a public and private nuisance and may be forthwith removed, obliterated or abated by the Town Manager or his representatives. The Town Manager may collect the cost of such removal, obliteration or abatement from the property owner which authorized the erecting, using, maintaining, operating, posting or displaying of such sign, advertisement or advertising structure.

21-17 DISPOSITION OF FEES

All money received by the Town Manager under the provisions of this Ordinance shall be paid by him into the Town Treasury.

21-18 PENALTY FOR VIOLATION

Any person, firm or corporation violating any provision of this Ordinance for which violation no other penalty is prescribed by this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day during which such violation is continued after conviction may be treated for all purposes as a separate offense.

21-19 CONSTRUCTION OF ORDINANCE

This Ordinance shall be liberally construed with a view to the effective accomplishment of its purposes.

ARTICLE II

FALSE AND MISLEADING SIGNS

21-1 PROHIBITION OF SUCH SIGNS

It shall be unlawful for any person to erect or maintain alongside, or to be visible from, any public street any false or misleading sign of any kind or character purporting to furnish information relating to place or direction.

21-2 PENALTY FOR VIOLATION OF PRECEDING SECTION; EXISTING SIGNS

Any person who shall violate any of the provisions of the preceding section shall, upon conviction thereof, be punished by a fine not to exceed ten dollars (\$10.00) for each offense, and it shall be deemed a separate offense for the same person to erect, or permit to be erected, a similar sign at each of two or more places.

21-3 REMOVAL OF SUCH SIGNS BY TOWN MANAGER

The Town Manager, whenever he shall ascertain that any such sign gives incorrect information, shall notify the person who erected the same, and the person on whose property it is located, in writing, to remove it forthwith, and if it is not removed within ten (10) days after receipt of such notice, the Town Manager shall remove and destroy the same, or cause it to be removed and destroyed, without liability for damages therefor, and, if any

person convicted of erecting or maintaining any such sign, or of permitting the same to be erected or maintained, as hereinabove provided, shall fail or refuse to remove the same within ten (10) days after such judgment of conviction, the Town Manager shall remove and destroy such sign, or cause the same to be removed and destroyed, without liability for damages therefore.

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