

**ORDINANCE NO. 2470**

**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; 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 on 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;**

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

**WHEREAS, this Ordinance was originally introduced on August 9, 2016, and was amended through a series of amendments on October 11, 2016.**

**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. Purpose.

Signs, including outdoor advertising structures, are herein regulated with the intent of regulating excess signage, encouraging the positive economic development of the County, preserving and improving tourism views, promoting the safety of the traveling public, protecting property values in both residential and non-residential areas, preventing overcrowding of the land and excess clutter, and protecting the aesthetics of the County.

§ 115-157.1. 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 and the sign permit for said sign has expired for at least 6 months.

ABANDONED OFF-PREMISES SIGN

A sign that, for 6 months or more, no longer:

- a. Directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is maintained; and
- b. No longer markets, advertises, or promotes the sign for sale or rent.

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/m<sup>2</sup>)

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.

#### DISSOLVE

A mode of message transition on an electronic message center 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.

#### FADE

A mode of message transition on an electronic message center 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.

#### 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.

#### FRAME

A complete stationary display screen on an electronic message center.

#### FRAME EFFECT

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

#### GROUND LEVEL

The average grade of the property or the elevation at the centerline of the adjacent street or road, whichever is higher.

#### 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  $\text{cd/m}^2$ , 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

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## NIT

A photometric unit of measurement referring to luminance. One nit is equal to one cd/m<sup>2</sup>.

## 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 not include areas which are public streets, roads, utilities, or right-of-ways dedicated for transportation or other means of ingress and egress.

## SCROLL

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

## 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

The total area of a sign shall include all sides or area of display of a single or multifaced sign, together with all moldings, battens, cappings, nailing strips and latticing which are attached and are part of the sign proper [and/] or incidental to its decoration. Structural elements, such as aprons or skirting, which serve to shade, deflect or block light generated by a sign and which do not display advertising on their surfaces shall not be included in the total area of a sign. For the purpose of this article, signs which are composed of letters, words, numbers, pictures, logos, symbols, or representations only and which follow no square or rectangular pattern shall be considered to include in sign area a square or rectangle as drawn at the outer limits of the letters, words, numbers, pictures, logos, symbols, or representations.

## 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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**TRANSITION**

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

**TRAVEL**

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

**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 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 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 an ongoing business, commodity, service, or entertainment conducted, sold, or offered upon the same premises as those upon which the sign is maintained.**

**ON-PREMISES SIGN**

**A sign directing attention to an ongoing business, commodity, service or entertainment conducted, sold or offered upon the same premises as those upon which the sign is maintained or on a property adjacent to the property on which the sign is located when the adjacent property has a recorded easement for access on or along the property on which the sign is to be located.**

**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. Abandoned on-premises signs.**

**J. Abandoned off-premises signs.**

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

**L. V signs where the two faces are positioned at an interior angle subtending more than sixty degrees (60°).**

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. ...

...

F. No more than two subdivision-identifying signs, not exceeding 75 square feet [in] of sign area per [face] side, maintained on private property. The minimum setback from the front lot line shall be a minimum of five feet for signs 32 square feet or less and a minimum of 25 feet for signs from 32 square feet to 75 square feet.

G. A temporary real estate sign indicating sale, rental or lease of the premises on which it is located, with a maximum area of 32 [10] square feet of sign area per side [or facing], nonilluminated, and one sign for each street frontage on which the premises abuts provided, however, that no temporary real estate sign for the sale, rental, or lease of a single dwelling in a recorded subdivision shall exceed 10 square feet of sign area per side. 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] of sign area per side 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] of sign area per side 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] of sign area per side, 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] of sign area per side, 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] of sign area per side 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] of sign area per side 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] of sign area per side, 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] of sign area per side, 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] of sign area per side, 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] of sign area per side 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] of sign area per side 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] of sign area per side, 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] of sign area per side. [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.]

On-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater. 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, on-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater, shall be permitted 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] of sign area per side 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] of sign area per side 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] of sign area per side, 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] of sign area per side. [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.]

On-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater. 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, on-premises wall, illuminated awning, marquee, and projecting signs not to exceed a total sign area of 150 square feet or 15% of the total square footage of the wall area on which the signs are located, whichever is greater, shall be permitted 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 square feet total], 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 rear yard setback for a principal building within the pertinent zoning district. An off-premises sign shall not be erected within 150

feet of property which is used as a dwelling, church, school, or public lands as measured on a radius from the edge of the off-premises sign. An off-premises sign shall not be erected within 50 feet of an on-premises sign and an on-premises sign shall not be erected within 50 feet of an off-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 and no more than two signs in total. 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.]

For all off-premises signs which are located on properties adjacent to roads which have less than 4 travel lanes (excluding turn lanes), the following regulations shall apply:

(a) An off-premises sign shall not be erected within 600 feet of another off-premises sign as measured on a radius from the edges of the off-premises signs.

(b) No off-premises sign shall exceed 25 feet in height from ground level.

(c) An off-premises sign shall not exceed 300 feet of sign area per side and shall not exceed more than 600 square feet of sign area per off-premises sign structure.

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

For all off-premises signs which are located on properties adjacent to roads which have 4 or more travel lanes (excluding turn lanes), the following regulations shall apply:

(a) An off-premises sign shall not be erected within 600 feet of another off-premises sign. This separation distance shall be measured from the edges of the off-premises sign and shall apply only to signs which are located on the same side of the road.

(b) No off-premises sign shall exceed 35 feet in height from ground level.

(c) An off-premises sign shall not exceed 600 feet of sign area per side and shall not exceed more than 1,200 square feet of sign area per off-premises sign structure.

(5) An applicant for a special use exception for an off-premise sign must, at the time the application is filed with the Office of Planning & 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.

(6) Except as otherwise permitted in §115-161.2, no variances shall be issued from any of the regulations in this article for off-premise signs which have been erected or approved to be erected after August 1, 2016.

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

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

D. ...

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 32 [10] square feet of sign area per side [or facing], 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 provided, however, that no temporary real estate sign for the sale, rental, or lease of a single dwelling in a recorded subdivision shall exceed 10 square feet of sign area per side.
- (4) Temporary nonilluminated signs not exceeding 32 [10] square feet of sign area per side [or facing] 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] provided, however, that no temporary sign for new construction work on a single dwelling in a recorded subdivision shall exceed 10 square feet of sign area per side.
- (5) ...
- (6) ...
- (7) Temporary nonilluminated portable signs, not exceeding six square feet of sign area per side [or facing] 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 of sign area 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] ground level.

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.

- N. After due notice has been given, the Director may cause to be removed, at the expense of the owner of the sign, the owner of the real property from which the illegal sign was removed, and the business or development being promoted or advertised by the sign, the sign face of any abandoned on-premises sign. Removal of a sign face 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 face. Sussex County will be free to dispose of all removed illegal sign faces and shall not be held liable for doing so. Sussex County will collect a disposal fee of \$100 per sign face.**

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 shielded to focus light only on the sign.**

**(5) All illuminated signs, including Electronic Message Centers, must comply with the following maximum luminance standards:**

**(a) No illuminated sign, including Electronic Message Centers, shall have a maximum luminance level greater than seven hundred fifty (750) cd/m<sup>2</sup> 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.

(b) No illuminated sign, including Electronic Message Centers, shall have a maximum illuminance level greater than 0.3 foot candles above ambient light, as measured using a foot candle meter, or similar technology, at a pre-set distance. Pre-set distances to measure the foot candle impact vary with expected viewing distances of each sign size. Measurement distance shall be based upon the sign area using the following formula:

<u>Sign Area (in square feet)</u>	<u>Measurement Distance (in feet)</u>
<u>10</u>	<u>32</u>
<u>50</u>	<u>71</u>
<u>100</u>	<u>100</u>
<u>200</u>	<u>141</u>
<u>300</u>	<u>173</u>

For signs with a sign area in square feet other than those measurements specifically listed in the table above, the measurement distance shall be calculated with the following formula: Measurement Distance =  $\sqrt{\text{Sign Area in Square Feet} \times 100}$ .

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, the ground sign permitted in § 115-159.4(A)(4) may be an On-Premises Electronic Message Center provided that only one on-premises ground sign, whether it is a static sign or an Electronic Message Center, is permitted per street or road frontage per parcel and that the sign area shall not exceed 200 square feet per side. In addition, the on-premises signs permitted in § 115-159.4(A)(5) may be electronic message centers.**
- (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, the ground sign permitted in § 115-159.5(A)(4) may be an On-Premises Electronic Message Center provided that only one on-premises ground sign, whether it is a static sign or an Electronic Message Center, is permitted per street or road frontage per parcel and that the sign area shall not exceed 200 square feet per side. In addition, the on-premises signs permitted in § 115-159.5(A)(5) may be electronic message centers.**
- (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 unless specifically permitted as part of a conditional use.**
- (4) An On-Premises Electronic Message Center which has a sign area of less than or equal to 100 square feet shall not be erected within 50 feet of an off-premises sign. If the sign area of an On-Premises Electronic Message Center is greater than 100 square feet, the separation distance requirement from the On-Premises Electronic Message Center and the off-premises sign shall be equal to 50 feet plus 1 foot of separation distance for each 1 square foot of sign area of the On-Premises Electronic Message Center in excess of 100 square feet. The separation distance shall be measured on a radius from the edge of the On-Premises Electronic Message Center. No variances from this regulation are permitted.**
- (5) An On-Premises Electronic Message Center may use the following display features and functions of Electronic Message Centers: images and frame effects that appear or disappear**

from the display through dissolve, fade, flip, or window shade movements. Continuous scrolling left or right, live action or streaming video and flashing messages shall not be permitted.

**B. Off-Premises Electronic Message Centers:**

- (1) In the C-1 (General Commercial), CR-1 (Commercial Residential), LI-1 (Limited Industrial), LI-2 (Light Industrial), and HI-1 (Heavy Industrial) districts, an off-premises sign may be an electronic message center provided that the owner obtains a special use exception pursuant to §115-80C and complies with the regulations for off-premises signs pursuant to §115-159.5.**
- (2) Off-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.**
- (3) For all Off-Premises Electronic Message Centers which are located on properties adjacent to roads which have less than 4 travel lanes (excluding turn lanes), an Off-Premises Electronic Message Center shall not be erected within 1,200 feet of another Off-Premises Electronic Message Center. This separation distance shall be measured from the edge of the Off-Premises Electronic Message Center and shall apply only to signs which are located on the same side of the road.**
- (4) For all Off-Premises Electronic Message Centers which are located on properties adjacent to roads which have 4 or more travel lanes (excluding turn lanes), an Off-Premises Electronic Message Center shall not be erected within 2,500 feet of another Off-Premises Electronic Message Center. This separation distance shall be measured from the edge of the Off-Premises Electronic Message Center and shall apply only to signs which are located on the same side of the road.**
- (5) Off-Premises Electronic Message Centers shall be prohibited from using display features and functions of the signs, including, but not limited to, the following: animation, flashing, streaming or real time video, fading, dissolving, continuous scrolling and / or traveling, spinning, rotating, and similar**

moving effects, and all dynamic frame effects or patterns of illusionary movement or simulating movement. For Off-Premises Electronic Message Centers, the transition time between messages or message frames is limited to 1 second.

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) On an Off-Premises Electronic Message Center, each message remains fixed for a minimum of at least 10 seconds.

(b) On an Off-Premises Electronic Message Center, 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 shall contain a default design that will freeze the sign in one position, shut down, or show a full black image on the display if a malfunction occurs that affects at least fifty percent of the sign face.

(d) Except as otherwise provided in this Article, 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 shall 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 a building permit or a special use exception 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.

(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 abandoned or intentionally removed. However, in no case may such signs be expanded. A non-conforming sign may be re-constructed or re-erected provided that it meets the standards set forth in §115-161.2(D).

B. Conversion of non-conforming off-premises signs to off-premises electronic message centers is prohibited, unless the applicant is replacing two or more non-conforming off-premises signs with a single electronic message center. Any Off-Premises Electronic Message Center created through conversion under this subsection must comply with height and size requirements set forth in §115-159.5. No variances from the height and size requirements shall be permitted.

C. If a non-conforming off-premises sign is damaged by any natural causes, such as fire, wind, or flood, it may be repaired or reconstructed and used as before the time of the damage, provided that such repairs or reconstruction are substantially completed within 12 months of the date of such damage. Any non-conforming off-premises sign which is repaired or reconstructed under this subsection shall use the same type of structure as the prior non-conforming off-premises sign.

D. Provided that the owner obtains all necessary variances from the Board of Adjustment pursuant to §115-211, an owner of a non-

conforming off-premises sign may replace a non-conforming off-premises sign with a new off-premises sign which does not comply with separation distance or setback requirements. As part of a variance request for a non-conforming off-premises sign under this section, the Board of Adjustment shall consider whether the overall non-conformity is substantially reduced by the installation of the replacement sign. Any replacement off-premises sign must comply with the height and size requirements set forth in §115-159.5. No variances from the height and size requirements shall be permitted.

Section 13. In Sussex County Code, Chapter 115, a new Section 115-161.3 shall be added by the insertion of the underlined language, as follows:

**§ 115-161.3 Substitution.**

The owner of any sign that is otherwise allowed under this Article may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial message over any other non-commercial messages. This provision prevails over any more specific provision to the contrary. This provision does not create the right to increase the total amount of signage on a parcel or allow the substitution of an off-premises commercial message in place of an on-premises commercial message.

Section 14. In Sussex County Code, Chapter 115, a new Section 115-161.4 shall be added by the insertion of the underlined language, as follows:

**§ 115-161.4 Severability.**

If any portion of this Ordinance, Article, section, or subdivision thereof shall be declared unconstitutional or in violation of the general laws of this state, such declaration shall not affect the remainder of this Ordinance and Article which shall remain in full force and effect.

**Section 15. Upon the adoption of this Ordinance in accordance with Section 16 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 16. 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 on the acceptance of any special use exception applications for off-premises signs.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2470 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 11TH DAY OF OCTOBER 2016.**



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**ROBIN A. GRIFFITH  
CLERK OF THE COUNCIL**