

CHAPTER 21
Signs, Billboards, and other Advertising Structures
(Repealed May 1, 1995)

CHAPTER 21.1
Signs
(Enacted May 1, 1995)
(Amended and Reenacted April 8, 2019)

§ 9-194.0 Purpose and Interpretation. The purpose of this Chapter is to regulate the size, illumination, materials, location, height, and condition of all signs placed upon private property for exterior observation within the Town to promote the creation of a convenient, attractive and harmonious community, ensure the safety of pedestrians and motorists, and preserve property values. This Chapter is intended to allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This Chapter shall be interpreted in a manner consistent with the First Amendment of the United States Constitution. If any provision of this Chapter is found to be invalid, such finding shall not affect the validity of other provisions of the Chapter that can be given effect without the invalid provision.

§ 9-194.1 Definitions. The following definitions apply throughout this chapter:

- (a) Area. The area of a Sign is the area of the smallest rectangle which can fully enclose the Sign. (Where multiple Signs share the same support structure, their combined area is the sum of their individual areas.) The area of a Sign designed to be viewed from two directions shall be the area of the largest side. Nevertheless, if the two faces of the Sign are (i) more than two feet apart, or (ii) neither parallel nor at an angle of less than 45 degrees, the area of the Sign shall be the total area of both sides. The area of Signs with more than two sides shall be the total area of all sides. A Sign's support structure is not considered when calculating the area of a Sign.
- (a1) A-Frame Sign. A type of Portable Sign consisting of one or two Sign Faces that are connected at the top but are separated at the bottom, forming the shape of a "A". This Sign is also commonly referred to as a sandwich board sign.
- (b) Electronic Message Board. A type of Illuminated Sign that consists of electronically changing text and symbols, including but not limited to a Sign with a digital display such as an LCD, LED, or plasma display.
- (c) Ground Sign. A Ground Sign is any Sign which (1) rests directly on the ground or (2) is supported by uprights or braces placed in or upon the ground. Two separate Signs built on the same support structure shall be counted as one Ground Sign.
- (d) Height. The Height of a Sign is the vertical distance from the ground to the highest point on the Sign or its support structure. A berm built beneath the Sign shall not be counted as the "ground" for the purpose of calculating the Height of a Sign.
- (e) Illuminated Sign. Any Sign the features of which include artificial lighting. Illuminated Signs include but are not limited to neon Signs, glow-in-the dark Signs, Signs which are made up in whole or in part by lighting, and Signs which are illuminated by one or more spotlights.
- (f) Incidental Signs. Incidental Signs are Signs allowed under § 9-194.2(a). They shall not be treated as Ground Signs, Wall Signs, or Roof Signs.
- (g) Location. Location shall mean the broadest of the following: (i) a Lot, or (ii) multiple Lots, if spanned by a single entity, organization, or enterprise.
- (h) Lot. A parcel of land occupied or to be occupied by a main structure or group of main structures, either shown on a plat of record or considered as a unit of property and described by metes and bounds.
- (i) Minor Signs. A Sign not exceeding one square foot in area and four feet in Height.
- (i1) Nonconforming Sign. A sign lawfully erected and maintained prior to the adopting of this articleChapter that does not conform with the requirements of this articleChapter.

(i2) Off-Premises Sign. A Sign erected on one Location for the use or benefit of a different Location, including but not limited to a billboard.

- (j) Relate. A Sign relates to a Location if it directs attention to a business, product, service, or activity conducted, sold, or offered at that Location, or if it describes certain characteristics or qualities of that Location.
- (k) Roof Sign. A Roof Sign is any Sign located upon the roof of any building or other structure.
- (l) Setback. The Setback of a Sign is the minimum distance between any portion of the Sign and any public or private street.
- (m) Sign. Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. For the purpose of clarification, example of items which do not satisfy the necessary elements of this definition include, but are not limited to, pavement markings, architectural elements incorporated into the style or function of a building, and the display of merchandise for sale on the site of the display or displays which are inside a structure and visible externally only through windows.
- (n) Temporary Signs. A Temporary Sign is either of the following:
- (1) Any Sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic, or other light materials with or without frames, intended to be displayed for a short period of time, or
 - (2) Any Sign which, through the use of wheels or otherwise, is designed to be transported from place to place.

The category of "Temporary Signs" is not mutually exclusive with other categories. For example, a Temporary Sign may also be a Ground Sign. Therefore, a Temporary Sign must meet the requirements for Temporary Signs as well as other requirements which apply to the type of Sign involved.

(n1) Vehicle or Trailer Sign. A Sign affixed to a vehicle or trailer in such a manner that the vehicle or trailer is used primarily as a stationary Sign and such Sign is not otherwise incidental to the vehicle's or trailer's primary use.

- (o) Wall Sign. A Wall Sign is any Sign which is attached to the front, rear or side of any building or other structure.

§ 9-194.2 *Incidental Signs.*

- (a) In addition to Signs permitted by other sections of this chapter and subject to the other limitations of this chapter, including the limitations of § 9-194.8, the following Incidental Signs are allowed in all zoning classifications:
- (1) One Temporary Sign of not more than four feet in height and nine square feet in area on any Lot which is for sale or rent, or which a portion thereof is for sale or rent.
 - (2) One Temporary Sign of not more than four feet in height and nine square feet in area on any property with an active building permit.
 - (3) Signs not more than two square feet in area that are written into stone, masonry, or bronze.
 - (4) For subdivisions, one Ground Sign no more than five feet in height and forty square feet in area.
 - (5) Signs affixed to gasoline pumps or protective structures adjacent to such pumps, provided the sign is not larger than the pump itself.
 - (6) Two Minor Signs on any Lot.
 - (7) Flags up to 16 feet in square area.
 - (8) Signs erected by a governmental body or required by law.
 - (9) Temporary Signs posted or displayed by or under the direction of a public official or court officer in the performance of their official duties.
 - (10) One Ground Sign or Wall Sign on any cemetery plot, mausoleum, or above-ground burial vault.

(11) One A-Frame Sign on a Business lot is allowed to be displayed during the normal operating business hours of the business at which it is located. The Sign shall be placed so as not to impede any pedestrian or vehicular right-of-way.

- (b) Incidental Signs in any zone need only have a setback of ten feet. All Incidental Signs must be located on the same Location to which they Relate.
- (c) The Incidental Signs allowed in this section do not count against the zoning-specific allowances set forth in § 9-194.3 below.

§ 9-194.3 *Allowed Signs.* Subject to all other limitations of this chapter, the following Signs are allowed:

- (a) In R-1, ~~R-2, R-3~~ zones, the following Signs shall be allowed:
 - (1) One Wall Sign no larger than four square feet.
 - (2) As an alternative to the Sign permitted under paragraph (a)(1) of this section, one Ground Sign no larger than three square feet in area and no more than four feet in height.
- ~~(b) In R-2 and R-3 zones, the following Signs shall be allowed:~~ (b) Repealed September 14, 2020

~~(1) One Wall Sign no larger than eight square feet.~~

~~(2) As an alternative to the Sign permitted under paragraph (b)(1) of this section, one Ground Sign no larger than eight square feet in area and no more than five feet in height.~~

- (c) In all other zoning classifications, any combination of Ground, Wall, or Roof Signs is permitted, provided:
 - (1) On any Lot, Ground Signs within 25 feet of the street must be placed at least 100 feet apart, and
 - (2) The total area of wall signs located on a L lot shall not exceed one and one-half (1 ½) square feet of sign area for each linear foot of main building/business frontage and such signs may be located on the main building or other structure on the L lot. On a corner L lot, the permitted sign area shall apply be calculated based on the frontage along both streets to each street frontage. The total area of Ground Signs on any Lot shall not exceed 100 square feet in an ~~HB-1~~ or B-1 zone; 150 square feet in a ~~HB-1~~, B-2, A-1, or A-2 zone; or 200 square feet in an M-1 zone.

§ 9-194.4 *Location of Signs.*

- (a) Signs greater than 100 square feet in area must have a setback of at least 25 feet.
- (b) With the exception of Signs allowed pursuant to Section 9-192.2(8) and Section 9-192.2(9), all Signs must be placed at the Location to which they Relate.

§ 9-194.5 *Drop Down Regulations.* Wherever the principal structure or use of a Lot complies with a more restrictive zoning classification than the Lot is actually zoned, the sign regulations for the more restrictive classification shall govern. However, if there are multiple uses of a principal structure or Lot, the sign regulations for the actual zoning classification of the Lot shall apply.

§ 9-194.6 *Special Use Permits.* Upon proper application, and after following the process described in Chapter 22, the Council may grant a special use permit authorizing a Sign which would otherwise be prohibited by this Chapter. The permit may contain such conditions as the Council deems proper.

§ 9-194.7 *General Provisions.*

- (a) Notwithstanding any other provision of this Chapter, no Sign shall be erected or maintained at any location where by reason of its location, size, shape, illumination, or other characteristic, there is a reasonable possibility that it will obstruct drivers' or pedestrians' view of a road, sidewalk, or traffic control device (or otherwise create a traffic hazard) such that the Sign presents an imminent or immediate threat to life or property. The Town Superintendent shall have the authority to order the removal or relocation of any Sign he finds to be in violation of this paragraph.

- (b) No Sign shall contain or make use of any word, phrase, symbol, shape, form, or character so as to interfere with, mislead, or confuse traffic.
- (c) No Sign having flashing, intermittent, or animated illumination shall be permitted. However, this prohibition does not extend to electronic message boards in which the flashing, intermittent, or illumination itself conveys information.
- (d) No Illuminated Sign shall be permitted within fifty feet of any residential district unless the illumination is so designed that it does not shine or reflect light onto residential lots within the residential district.
- (e) Where a Lot has insufficient front yard to reasonably accommodate a Sign, the Town Superintendent may, but shall not be required, to authorize the location of a Sign on or above public land. Such authorization shall be revocable and shall not import the approval of any other governmental agencies which might be interested. The Town Superintendent may condition such authorization on the applicant first obtaining any and all other required approvals.
- (f) No Sign shall exceed the maximum Height for structures in the relevant zoning classification.
- (g) All Signs shall be neatly lettered and maintained in good repair.
- (h) No Vehicle or Trailer Signs shall be allowed in any zoning classification.

§ 9-194.8 **Temporary Signs.** Temporary Signs must meet the requirements of this section in addition to all other applicable requirements of this chapter.

- (a) Temporary Signs are allowed only for the following periods, subject to the removal requirement in Section 194-8.3(a):
 - (1) For Signs authorized by Section 9-194.2(a)(1), the time a Lot is for sale or rent, or which a portion thereof is for sale or rent, only until the Lot or the portion thereof is sold or rented.
 - (2) For Signs authorized by Section 9-194.2(a)(2), the time a Lot has an active building permit, only while the permit is active (up to a maximum of 24 months).
 - (3) For other Temporary Signs, 60 days.
- (b) Temporary Signs may be placed on Town property only with written permission of the Town Superintendent.
- (c) When a Temporary Sign is removed, it may not be replaced by the same or another Temporary Sign for 30 days.

§9-194.8.1 Off-Premises Signs May be allowed for certain civic organizations. They generally must have approval from the property owner and the Town's Zoning Administrator.

§9-194.8.12 Nonconforming Signs.

- (a) Alterations. Any sign existing prior to May 1, 1995, which does not meet the requirements of this article is declared a legal nonconforming sign and Any Nonconforming Sign may remain, subject to the limitations and requirements of Chapter 23.1. Normal maintenance of a legal Nonconforming Sign, including changing of copy or sign face, nonstructural repairs, and incidental alterations which do not extend or intensify the nonconforming features of the Sign, shall be permitted. However, no structural alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in elimination or reduction of the nonconforming features of the Sign. Additional signs. Real properties with nonconforming signs are not permitted any additional signs, except that each business located in a shopping center shall be allowed one attached sign.

§194-8.23 Erection, Maintenance and Removal of Certain Signs

- (a) -All Temporary Signs are to be removed by the owner no later than three (3) days following cessation of activity for which the Temporary Signs are intended. If such removal is not accomplished, the Zoning Administrator shall may cause the removal and charge the cost to the owner on whose property the sign is located and take any such other actions as is may be permitted by law or local ordinance.

Every sign, including those exempt from the permit and fee requirements of this article, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports that are not galvanized or of a rust-resistant material. The administrator or his representative shall inspect and possess the authority to order the painting, repair, alteration or removal of a sign which constitutes a

Commented [JB1]: Any provision dealing with off-premises signs must be content neutral. If they are allowed for certain civic organizations, they must be allowed for all types of speakers.

Currently, off-premises signs are controlled by 9-194.4(b). This can be changed if the Town desires, but needs to be content-neutral.

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Commented [JB2]: This is already covered by the Town's nuisance ordinance if the sign poses such a hazard.

~~hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.~~

- (a)(b) ~~All Signs are to be removed by the owner of any business or any other entity or institution that has ceased to operate for a period of sixty (60) days. If such removal is not accomplished, the zoning administrator shall may cause the removal and charge the cost to the owner on whose property the sign is located and take any such other actions as is may be permitted by law or local ordinance.~~

§ 9-194.9 *Application.* Except for Temporary Signs and Incidental Signs, no Sign shall be installed until a zoning permit is issued in accordance with § 9-11. The application for such a zoning permit to install a Sign must be in the form prescribed by § 9-12 and must include a sketch of the proposed Sign, along with its support structure. The application shall specify the area and height of the Sign. The Zoning Administrator shall either approve, reject, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this Chapter, this Title, the building code, and other applicable laws, regulations, and ordinances shall be approved. If an application is rejected, the Zoning Administrator shall provide a list of the reasons for the rejection in writing.

CHAPTER 3
Administration and Enforcement

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§ 9-9. Administrative Officer. The provisions of this Code shall be administered by the Zoning Administrator or ~~his~~ their designated assistant who shall:

- (a) Issue all zoning permits and make and maintain records thereof.
- (b) (Repealed May 1, 1995.)
- (c) Maintain and keep current Zoning maps, and records of amendments thereto.
- (d) Conduct inspections as prescribed by this Code and such other inspections as are necessary to ensure compliance with the various provisions of this Code.
- (e) The Zoning Administrator is hereby authorized to grant a modification from any provision contained in the Town of Dayton's zoning ordinances with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the Zoning Administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the Zoning Administrator shall constitute a decision within the purview of § 15.2-2311 of the Code of Virginia, and may be appealed to the Zoning Board of Appeals as provided by that section. Decisions of the Zoning Board of Appeals may be appealed to the circuit court as provided by § 15.2-2314 of the Code of Virginia. The Zoning Administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his or her authority unless the requester has agreed to a longer period. Code of Virginia § 15.2-2286.

(Amended May 1, 1995. Amended November 11, 2013.)

§ 9-10. Permits Required. (Repealed May 1, 1995.)

§ 9-11. Zoning Permit. No person shall erect, construct, enlarge, alter, repair, or improve any building or structure—if said activities require a building permit under the Uniform Statewide Building Code—without first obtaining a zoning permit for each such building or structure. Such zoning permits shall be issued by the Town Superintendent-Manager or other official designated by the Council. (Amended May 1, 1995.)

§ 9-12. Forms for Zoning Permits. The applications for zoning permits shall be on such form as from time to time approved by the Council and shall indicate the location of the proposed construction, alteration, repair or improvement and shall show the dimension, height of the building and proposed use. The cost of such zoning permits shall be as established by the Council from time to time.

§ 9-13. Building Permit. (Repealed May 1, 1995.)

§ 9-14. Certificate of Occupancy. (Repealed May 1, 1995.)

§ 9-15. Amendments. The regulations, restrictions, boundaries, and options set forth in this Code may be amended, supplemented, revised, or repealed from time to time as conditions warrant, subject to the following conditions:

- (a) **Application:** An application for a proposed amendment shall be filed with the Administrator on behalf of the Council. An application may be instituted by a property owner (with respect to ~~his~~ his own property) or ~~his~~ their designated representative or upon motion of the Planning Commission or by resolution of the Council. The application shall contain such information and sketches as the Administrator determines are required to fully describe the proposed change; no application shall be deemed complete until all such materials have been supplied. (Amended September 16, 1996.)
- (b) **Public Hearing:** Public hearings shall be held as required by state law.
- (c) **Report to the Town Council:** The Planning Commission shall make a recommendation to the Town Council upon all such applications and no amendment shall be passed except by a majority vote of the councilmen members of Council present and voting.
- (d) (Repealed December 10, 2007.)

§ 9-16. *Fees.* Fees shall be established by the Town Council.

§ 9-17. *Penalties.* It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any building or structure, or to use any land in violation of any regulation in this Code. Any person, firm, association, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or resists the enforcement of any of the provisions of this Code shall, upon conviction thereof, be subject to a fine of not less than Ten Dollars (\$10) nor more than One Thousand Dollars (\$1,000) together with the cost of the action; every day of violation shall constitute a separate offense. Compliance therewith may also be enforced by injunctive order.

(a) *Civil Penalties.* Except as provided in paragraph (b) below, all violations of this Title shall carry civil penalties as prescribed by this paragraph (a).

(1) *Schedule of Penalties.*

- (A) For a first summons regarding a violation, the civil penalty shall be \$200 if the Town provided Notice of the violation at least three days prior to issuance of the summons. If the Town did not provide Notice, the penalty shall be \$25.
- (B) For each subsequent summons, the civil penalty shall be \$500.
- (C) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.

(2) *Process.*

- (A) The Zoning Administrator may issue a civil summons for any violation within this paragraph (a).
- (B) Any person summoned for such violation may make an appearance in person or in writing by mail to the Town Treasurer prior to the date fixed for trial in court.
- (C) Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (D) If a person charged does not elect to enter a waiver-of-trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.
- (E) In any trial for a scheduled violation authorized by this section, it shall be the Town's burden to show the liability of the violator by a preponderance of the evidence.
- (F) If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(3) *General.*

- (A) "Notice" for purposes of this section shall mean a written notice hand-delivered to a person found in charge of the site or mailed to the address of the landowner at the mailing address listed with the Rockingham County Commissioner of the Revenue.
- (B) The existence of a civil penalty under this paragraph (a) shall not operate to preclude other enforcement actions by the Town.
- (C) The penalties provided by this paragraph (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

- (b) *Criminal Penalties.* Violations of this Title related to (i) activities related to land development activities or (ii) the posting of Signs on public property or public rights-of-way, shall be punishable as provided in this paragraph (b). Such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000, and any such failure during a succeeding 10-day period

shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100 nor more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.

§ 9-18. *Validity.* Should any section, clause or provision of this Code be declared by the Court to be unconstitutional or invalid, this judgment shall not affect the validity of the Code as a whole or any part thereof than the part judged invalid.

§ 9-19. *Conflicts With Other Laws.* In the interpretation and application of the provisions of this Code, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this Code are at variance with the requirements of other lawfully adopted rules, regulations, or codes, the most restrictive, or that imposing the higher standards, shall govern.

§ 9-20. *Repealer.* Any ordinance or code now in effect that conflicts with any provisions of this Code is hereby repealed, held to be invalid, and to no effect.

§ 9-21. *Effective Date.* This Code shall take effect and be in full force after its passage and publication according to law.

CHAPTER 21
Signs, Billboards, and other Advertising Structures
(Repealed May 1, 1995)

CHAPTER 21.1
Signs
(Enacted May 1, 1995)
(Amended and Reenacted April 8, 2019)

§ 9-194.0 Purpose and Interpretation. The purpose of this Chapter is to regulate the size, illumination, materials, location, height, and condition of all signs placed upon private property for exterior observation within the Town to promote the creation of a convenient, attractive and harmonious community, ensure the safety of pedestrians and motorists, and preserve property values. This Chapter is intended to allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This Chapter shall be interpreted in a manner consistent with the First Amendment of the United States Constitution. If any provision of this Chapter is found to be invalid, such finding shall not affect the validity of other provisions of the Chapter that can be given effect without the invalid provision.

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- (a) Area. The area of a Sign is the area of the smallest rectangle which can fully enclose the Sign. (Where multiple Signs share the same support structure, their combined area is the sum of their individual areas.) The area of a Sign designed to be viewed from two directions shall be the area of the largest side. Nevertheless, if the two faces of the Sign are (i) more than two feet apart, or (ii) neither parallel nor at an angle of less than 45 degrees, the area of the Sign shall be the total area of both sides. The area of Signs with more than two sides shall be the total area of all sides. A Sign's support structure is not considered when calculating the area of a Sign.
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- (b) Electronic Message Board. A type of Illuminated Sign that consists of electronically changing text and symbols, including but not limited to a Sign with a digital display such as an LCD, LED, or plasma display.
- (c) Ground Sign. A Ground Sign is any Sign which (1) rests directly on the ground or (2) is supported by uprights or braces placed in or upon the ground. Two separate Signs built on the same support structure shall be counted as one Ground Sign.
- (d) Height. The Height of a Sign is the vertical distance from the ground to the highest point on the Sign or its support structure. A berm built beneath the Sign shall not be counted as the "ground" for the purpose of calculating the Height of a Sign.
- (e) Illuminated Sign. Any Sign the features of which include artificial lighting. Illuminated Signs include but are not limited to neon Signs, glow-in-the dark Signs, Signs which are made up in whole or in part by lighting, and Signs which are illuminated by one or more spotlights.
- (f) Incidental Signs. Incidental Signs are Signs allowed under § 9-194.2(a). They shall not be treated as Ground Signs, Wall Signs, or Roof Signs.
- (g) Location. Location shall mean the broadest of the following: (i) a Lot, or (ii) multiple Lots, if spanned by a single entity, organization, or enterprise.
- (h) Lot. A parcel of land occupied or to be occupied by a main structure or group of main structures, either shown on a plat of record or considered as a unit of property and described by metes and bounds.
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- (i1) Nonconforming Sign. A sign lawfully erected and maintained prior to the adopting of this Chapter that does not conform with the requirements of this Chapter.

- (i2) Off-Premises Sign. A Sign erected on one Location for the use or benefit of a different Location, including but not limited to a billboard.
- (j) Relate. A Sign relates to a Location if it directs attention to a business, product, service, or activity conducted, sold, or offered at that Location, or if it describes certain characteristics or qualities of that Location.
- (k) Roof Sign. A Roof Sign is any Sign located upon the roof of any building or other structure.
- (l) Setback. The Setback of a Sign is the minimum distance between any portion of the Sign and any public or private street.
- (m) Sign. Any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. For the purpose of clarification, example of items which do not satisfy the necessary elements of this definition include, but are not limited to, pavement markings, architectural elements incorporated into the style or function of a building, and the display of merchandise for sale on the site of the display or displays which are inside a structure and visible externally only through windows.
- (n) Temporary Signs. A Temporary Sign is either of the following:
 - (1) Any Sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic, or other light materials with or without frames, intended to be displayed for a short period of time, or
 - (2) Any Sign which, through the use of wheels or otherwise, is designed to be transported from place to place.

The category of “Temporary Signs” is not mutually exclusive with other categories. For example, a Temporary Sign may also be a Ground Sign. Therefore, a Temporary Sign must meet the requirements for Temporary Signs as well as other requirements which apply to the type of Sign involved.
- (n1) Vehicle or Trailer Sign. A Sign affixed to a vehicle or trailer in such a manner that the vehicle or trailer is used primarily as a stationary Sign and such Sign is not otherwise incidental to the vehicle’s or trailer’s primary use.
- (o) Wall Sign. A Wall Sign is any Sign which is attached to the front, rear or side of any building or other structure.

§ 9-194.2 *Incidental Signs.*

- (a) In addition to Signs permitted by other sections of this chapter and subject to the other limitations of this chapter, including the limitations of § 9-194.8, the following Incidental Signs are allowed in all zoning classifications:
 - (1) One Temporary Sign of not more than four feet in height and nine square feet in area on any Lot which is for sale or rent, or which a portion thereof is for sale or rent.
 - (2) One Temporary Sign of not more than four feet in height and nine square feet in area on any property with an active building permit.
 - (3) Signs not more than two square feet in area that are written into stone, masonry, or bronze.
 - (4) For subdivisions, one Ground Sign no more than five feet in height and forty square feet in area.
 - (5) Signs affixed to gasoline pumps or protective structures adjacent to such pumps, provided the sign is not larger than the pump itself.
 - (6) Two Minor Signs on any Lot.
 - (7) Flags up to 16 feet in square area.
 - (8) Signs erected by a governmental body or required by law.
 - (9) Temporary Signs posted or displayed by or under the direction of a public official or court officer in the performance of their official duties.
 - (10) One Ground Sign or Wall Sign on any cemetery plot, mausoleum, or above-ground burial vault.

- (11) One A-Frame Sign on a Business lot is allowed to be displayed during the normal operating business hours of the business at which it is located. The Sign shall be placed so as not to impede any pedestrian or vehicular right-of-way.
- (b) Incidental Signs in any zone need only have a setback of ten feet. All Incidental Signs must be located on the same Location to which they Relate.
- (c) The Incidental Signs allowed in this section do not count against the zoning-specific allowances set forth in § 9-194.3 below.

§ 9-194.3 ***Allowed Signs.*** Subject to all other limitations of this chapter, the following Signs are allowed:

- (a) In R-1, R-2, R-3 zones, the following Signs shall be allowed:
 - (1) One Wall Sign no larger than four square feet.
 - (2) As an alternative to the Sign permitted under paragraph (a)(1) of this section, one Ground Sign no larger than three square feet in area and no more than four feet in height.
- (b) Repealed September 14, 2020
- (c) In all other zoning classifications, any combination of Ground, Wall, or Roof Signs is permitted, provided:
 - (1) On any Lot, Ground Signs within 25 feet of the street must be placed at least 100 feet apart, and
 - (2) The total area of wall signs located on a Lot shall not exceed one and one-half (1 ½) square feet of sign area for each linear foot of main building frontage and such signs may be located on the main building or other structure on the Lot. On a corner Lot, the permitted sign area shall be calculated based on the frontage along both streets. The total area of Signs on any Lot shall not exceed 100 square feet in an B-1 zone; 150 square feet in a HB-1, B-2, A-1, or A-2 zone; or 200 square feet in an M-1 zone.

§ 9-194.4 ***Location of Signs.***

- (a) Signs greater than 100 square feet in area must have a setback of at least 25 feet.
- (b) With the exception of Signs allowed pursuant to Section 9-192.2(8) and Section 9-192.2(9), all Signs must be placed at the Location to which they Relate.

§ 9-194.5 ***Drop Down Regulations.*** Wherever the principal structure or use of a Lot complies with a more restrictive zoning classification than the Lot is actually zoned, the sign regulations for the more restrictive classification shall govern. However, if there are multiple uses of a principal structure or Lot, the sign regulations for the actual zoning classification of the Lot shall apply.

§ 9-194.6 ***Special Use Permits.*** Upon proper application, and after following the process described in Chapter 22, the Council may grant a special use permit authorizing a Sign which would otherwise be prohibited by this Chapter. The permit may contain such conditions as the Council deems proper.

§ 9-194.7 ***General Provisions.***

- (a) Notwithstanding any other provision of this Chapter, no Sign shall be erected or maintained at any location where by reason of its location, size, shape, illumination, or other characteristic, there is a reasonable possibility that it will obstruct drivers' or pedestrians' view of a road, sidewalk, or traffic control device (or otherwise create a traffic hazard) such that the Sign presents an imminent or immediate threat to life or property. The Town Superintendent shall have the authority to order the removal or relocation of any Sign he finds to be in violation of this paragraph.
- (b) No Sign shall contain or make use of any word, phrase, symbol, shape, form, or character so as to interfere with, mislead, or confuse traffic.
- (c) No Sign having flashing, intermittent, or animated illumination shall be permitted. However, this prohibition does not extend to electronic message boards in which the flashing, intermittent, or illumination itself conveys information.

- (d) No Illuminated Sign shall be permitted within fifty feet of any residential district unless the illumination is so designed that it does not shine or reflect light onto residential lots within the residential district.
- (e) Where a Lot has insufficient front yard to reasonably accommodate a Sign, the Town Superintendent may, but shall not be required, to authorize the location of a Sign on or above public land. Such authorization shall be revocable and shall not import the approval of any other governmental agencies which might be interested. The Town Superintendent may condition such authorization on the applicant first obtaining any and all other required approvals.
- (f) No Sign shall exceed the maximum Height for structures in the relevant zoning classification.
- (g) All Signs shall be neatly lettered and maintained in good repair.
- (h) No Vehicle or Trailer Signs shall be allowed in any zoning classification.

§ 9-194.8 *Temporary Signs.* Temporary Signs must meet the requirements of this section in addition to all other applicable requirements of this chapter.

- (a) Temporary Signs are allowed only for the following periods, subject to the removal requirement in Section 194-8.3(a):
 - (1) For Signs authorized by Section 9-194.2(a)(1), the time a Lot is for sale or rent, or which a portion thereof is for sale or rent, only until the Lot or the portion thereof is sold or rented.
 - (2) For Signs authorized by Section 9-194.2(a)(2), the time a Lot has an active building permit, only while the permit is active (up to a maximum of 24 months).
 - (3) For other Temporary Signs, 60 days.
- (b) Temporary Signs may be placed on Town property only with written permission of the Town Superintendent.
- (c) When a Temporary Sign is removed, it may not be replaced by the same or another Temporary Sign for 30 days.

§9-194.8.1 Nonconforming Signs.

- (a) *Alterations.* Any Nonconforming Sign may remain, subject to the limitations and requirements of Chapter 23.1. Normal maintenance of a Nonconforming Sign, including changing of copy or sign face, nonstructural repairs, and incidental alterations which do not extend or intensify the nonconforming features of the Sign, shall be permitted. However, no structural alteration, enlargement, or extension shall be made to a Nonconforming Sign unless the alteration, enlargement, or extension will result in elimination or reduction of the nonconforming features of the Sign.

§194-8.2 Erection, Maintenance and Removal of Certain Signs

- (a) All Temporary Signs are to be removed by the owner no later than three days following cessation of activity for which the Temporary Signs are intended. If such removal is not accomplished, the Zoning Administrator may cause the removal and take any such other actions as may be permitted by law or local ordinance.
- (b) All Signs are to be removed by the owner of any business or any other entity or institution that has ceased to operate for a period of sixty days. If such removal is not accomplished, the zoning administrator may cause the removal and take any such other actions as may be permitted by law or local ordinance.

§ 9-194.9 *Application.* Except for Temporary Signs and Incidental Signs, no Sign shall be installed until a zoning permit is issued in accordance with § 9-11. The application for such a zoning permit to install a Sign must be in the form prescribed by § 9-12 and must include a sketch of the proposed Sign, along with its support structure. The application shall specify the area and height of the Sign. The Zoning Administrator shall either approve, reject, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this Chapter, this Title, the building code, and other applicable laws, regulations, and ordinances shall be approved. If an application is rejected, the Zoning Administrator shall provide a list of the reasons for the rejection in writing.

CHAPTER 3
Administration and Enforcement

§ 9-9. Administrative Officer. The provisions of this Code shall be administered by the Zoning Administrator or their designated assistant who shall:

- (a) Issue all zoning permits and make and maintain records thereof.
- (b) (Repealed May 1, 1995.)
- (c) Maintain and keep current Zoning maps, and records of amendments thereto.
- (d) Conduct inspections as prescribed by this Code and such other inspections as are necessary to ensure compliance with the various provisions of this Code.
- (e) The Zoning Administrator is hereby authorized to grant a modification from any provision contained in the Town of Dayton's zoning ordinances with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the Zoning Administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the Zoning Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The Zoning Administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the Zoning Administrator shall constitute a decision within the purview of § 15.2-2311 of the Code of Virginia, and may be appealed to the Zoning Board of Appeals as provided by that section. Decisions of the Zoning Board of Appeals may be appealed to the circuit court as provided by § 15.2-2314 of the Code of Virginia. The Zoning Administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his or her authority unless the requester has agreed to a longer period. Code of Virginia § 15.2-2286.

(Amended May 1, 1995. Amended November 11, 2013.)

§ 9-10. Permits Required. (Repealed May 1, 1995.)

§ 9-11. Zoning Permit. No person shall erect, construct, enlarge, alter, repair, or improve any building or structure—if said activities require a building permit under the Uniform Statewide Building Code—without first obtaining a zoning permit for each such building or structure. Such zoning permits shall be issued by the Town Manager or other official designated by the Council. (Amended May 1, 1995.)

§ 9-12. Forms for Zoning Permits. The applications for zoning permits shall be on such form as from time to time approved by the Council and shall indicate the location of the proposed construction, alteration, repair or improvement and shall show the dimension, height of the building and proposed use. The cost of such zoning permits shall be as established by the Council from time to time.

§ 9-13. Building Permit. (Repealed May 1, 1995.)

§ 9-14. Certificate of Occupancy. (Repealed May 1, 1995.)

§ 9-15. Amendments. The regulations, restrictions, boundaries, and options set forth in this Code may be amended, supplemented, revised, or repealed from time to time as conditions warrant, subject to the following conditions:

- (a) Application: An application for a proposed amendment shall be filed with the Administrator on behalf of the Council. An application may be instituted by a property owner (with respect to their own property) or their designated representative or upon motion of the Planning Commission or by resolution of the Council. The application shall contain such information and sketches as the Administrator determines are required to fully describe the proposed change; no application shall be deemed complete until all such materials have been supplied. (Amended September 16, 1996.)
- (b) Public Hearing: Public hearings shall be held as required by state law.
- (c) Report to the Town Council: The Planning Commission shall make a recommendation to the Town Council upon all such applications and no amendment shall be passed except by a majority vote of the members of Council present and voting.
- (d) (Repealed December 10, 2007.)

§ 9-16. **Fees.** Fees shall be established by the Town Council.

§ 9-17. **Penalties.**

(a) Civil Penalties. Except as provided in paragraph (b) below, all violations of this Title shall carry civil penalties as prescribed by this paragraph (a).

(1) Schedule of Penalties.

- (A) For a first summons regarding a violation, the civil penalty shall be \$200 if the Town provided Notice of the violation at least three days prior to issuance of the summons. If the Town did not provide Notice, the penalty shall be \$25.
- (B) For each subsequent summons, the civil penalty shall be \$500.
- (C) Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$5,000.

(2) Process

- (A) The Zoning Administrator may issue a civil summons for any violation within this paragraph (a).
- (B) Any person summoned for such violation may make an appearance in person or in writing by mail to the Town Treasurer prior to the date fixed for trial in court.
- (C) Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- (D) If a person charged does not elect to enter a waiver-of-trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.
- (E) In any trial for a scheduled violation authorized by this section, it shall be the Town's burden to show the liability of the violator by a preponderance of the evidence.
- (F) If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(3) General

- (A) "Notice" for purposes of this section shall mean a written notice hand-delivered to a person found in charge of the site or mailed to the address of the landowner at the mailing address listed with the Rockingham County Commissioner of the Revenue.
- (B) The existence of a civil penalty under this paragraph (a) shall not operate to preclude other enforcement actions by the Town.
- (C) The penalties provided by this paragraph (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor, provided, however, that when such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

(b) Criminal Penalties. Violations of this Title related to (i) activities related to land development activities or (ii) the posting of Signs on public property or public rights-of-way, shall be punishable as provided in this paragraph (b). Such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not more than \$1,000, and any such failure during a succeeding 10-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$100 nor more than \$1,500; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not more than \$2,000.

§ 9-18. **Validity.** Should any section, clause or provision of this Code be declared by the Court to be unconstitutional or invalid, this judgment shall not affect the validity of the Code as a whole or any part thereof than the part judged invalid.

§ 9-19. ***Conflicts With Other Laws.*** In the interpretation and application of the provisions of this Code, these provisions shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this Code are at variance with the requirements of other lawfully adopted rules, regulations, or codes, the most restrictive, or that imposing the higher standards, shall govern.

§ 9-20. ***Repealer.*** Any ordinance or code now in effect that conflicts with any provisions of this Code is hereby repealed, held to be invalid, and to no effect.

§ 9-21. ***Effective Date.*** This Code shall take effect and be in full force after its passage and publication according to law.