

ARTICLE XIV. SIGNS

(This Article repealed and reenacted in its entirety 12/10/20)

PART I. GENERAL PROVISIONS**Section 194: Findings, purpose and intent; interpretation.**

- A. Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this article is to regulate the size, color, illumination, movement, materials, location, height and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this article is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this article which can be given effect without the invalid provision.
- B. Signs not expressly permitted as being allowed by right or by special use permit under this article, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the Town are forbidden.
- C. A sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this article is to establish limitations on signs in order to ensure they are appropriate to the land, building or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in subsection A. of this section.
- D. These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.
- E. These regulations distinguish between portions of the Town designed for primarily vehicular access and portions of the Town designed for primarily pedestrian access.
- F. These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the Town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.
- G. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

Section 195: Definitions.

- A. *A-Frame sign* means a two-faced sign with supports that are connected at the top and separated at the base, forming an “A” shape not more than four feet high. These are also referred to as “sandwich board” signs. They are included in the term “portable sign.”
- B. *Advertising* means any words, symbol, color or design used to call attention to a commercial product, service, or activity.
- C. *Animated sign* means a sign or part of a sign that is designed to rotate, move or appear to rotate or move. Such a sign is sometimes referred to as a “moving sign.”
- D. *Awning sign* means a sign placed directly on the surface of an awning.
- E. *Banner* means a temporary sign of flexible material.
- F. *Building frontage* means the length of the main wall of a building which physically encloses usable interior space and which is the architecturally designed wall that contains the main entrance for use by the general public.
- G. *Chalk-board sign* means a framed slate or chalk-board that can be written on with chalk or similar markers.
- H. *Comprehensive sign plan* means a plan for the signage of a property that includes multiple tenants or owners with shared parking or other facilities.
- I. *Feather sign*. A lightweight, portable sign typically mounted along one edge on a single, vertical, flexible pole the physical structure of which may resemble a feather, sail, bow, or teardrop.
- J. *Flag* means a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as a symbol or decoration; this includes pennants.
- K. *Flashing sign* means a sign that includes lights that flash, blink, or turn on and off intermittently.
- L. *Freestanding sign* means any non-portable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to a building.
- M. *Height* means the maximum vertical distance from the base of the sign structure at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:
 - 1. Existing grade prior to construction; or
 - 2. The newly established grade after construction, exclusive of any filling, berming, mounding or excavating primarily for the purpose of mounting or elevating the sign.
- N. *Illegal sign* means any sign erected without a required permit or which otherwise does not comply with any provisions of this article.
- O. *Illuminated sign* means a sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.
- P. *Marquee* means a permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building’s wall and generally designed and constructed to provide protection against the weather.
- Q. *Marquee sign* means a sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed or both types of lettering in use.

- R. *Minor sign* means a wall or freestanding sign not exceeding one (1) square foot in area, not exceeding four feet in height, and not illuminated.
- S. *Monument sign* means a sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; a monument sign is included in the term “freestanding sign.”
- T. *Neon sign* means a sign containing exposed tubes filled with light-emitting gas.
- U. *Nonconforming sign*. Any sign which was lawfully erected in compliance with applicable regulations of the Town and maintained prior to the effective date of this article and which fails to conform to current standards and restrictions of the zoning ordinance.
- V. *Off-premises sign* means a sign that directs attention to a business, product, service or activity conducted, sold or offered at a location other than the premises on which the sign is erected.
- W. *Portable sign* means any temporary sign not affixed to a building, structure, vehicle or the ground. It does not include a flag or banner.
- X. *Projecting sign* means any sign, other than a wall, awning or marquee sign, affixed to a building and supported only by the wall on which it is mounted.
- Y. *Public area* means any public place, public right-of-way, any parking area or right-of-way open to use by the general public.
- Z. *Roof sign* means a sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.
- AA. *Sign*. Any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, symbol or trademark, flag, banner or pennant or any other device, figure or character) visible to and designed to communicate information to persons in a public area. The term “sign” does not include the display of merchandise for sale on the site of the display.
- BB. *Sign face* means the portion of a sign structure bearing the message.
- CC. *Sign structure* means any structure bearing a sign face.
- DD. *Temporary sign* means any sign intended to be displayed for a limited period.
- EE. *Vehicle or trailer sign* means any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.
- FF. *Wall Sign* means any sign attached to a wall or painted on or against a flat vertical surface of a structure.
- GG. *Window sign* means any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.

Section 196: Permit required.

- A. *In general.* A sign permit is required prior to the display and erection of any sign except as provided in section 197 of this Article.
- B. *Application for permit.*
 - 1. An application for a sign permit shall be filed with forms furnished by the Zoning Administrator. The applicant shall provide sufficient information to determine if the proposed sign is permitted under the zoning ordinance and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.
 - 2. The Zoning Administrator or designee shall promptly process the sign permit application and approve the application, reject the application, or notify the applicant of deficiencies in the application within 10 business days after receipt; however, for any sign requiring a Certificate of Appropriateness (COA) per § 238 of this Ordinance, the Zoning Administrator or designee shall process the sign permit as above within 5 business days after final action on the COA. Any application that complies with all provisions of this zoning ordinance, the building code, and other applicable laws, regulations, and ordinances shall be approved.
 - 3. If the application is rejected, the Town shall provide a list of the reasons for the rejection in writing. An application shall be rejected for non-compliance with the terms of the zoning ordinance, building code, or other applicable law, regulation, or ordinance.
- C. *Permit fee.* A nonrefundable fee as set forth in the uncodified fee schedule adopted by the Town Council shall accompany all sign permit applications.
- D. *Duration and revocation of permit.* If a sign is not installed within one year following the issuance of a sign permit (or within 30 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 30 days unless another time is provided in the zoning ordinance. The Town may revoke a sign permit under any of the following circumstances:
 - 1. The Town determines that information in the application was materially false or misleading;
 - 2. The sign as installed does not conform to the sign permit application; or
 - 3. The sign violates the zoning ordinance, building code, or other applicable law, regulation, or ordinance.
- E. *Overlay district regulations.* All signs in the Middleburg Historic District require approval of a Certificate of Appropriateness per § 238 of this Ordinance except when a sign permit is not required as provided in § 197.

Section 197: Permit not required.

A sign permit is not required for:

- A. Signs erected by a governmental body or required by law.
- B. Flags up to 16 square feet in size not containing any commercial advertising; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five (5) feet of a service drive, travel lane or adjoining street.
- C. The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with § 202 E.

D. Temporary signs as follows:

1. One (1) sign, no more than twelve (12) square feet in area, located on property where a building permit is active.
2. On any property for sale or rent, not more than one sign with a total area of up to twelve (12) square feet and a maximum height of six (6) feet when the sign abuts a road with a speed limit of 25 miles per hour or less, and when the sign abuts a road with a speed limit greater than 25 miles per hour not more than one sign with a total area of up to twenty four (24) square feet and a maximum height of eight (8) feet.
3. Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his official or directed duties; provided, that all such signs shall be removed no more than ten (10) days after their purpose has been accomplished.
4. On residential property, one or more temporary signs with a total area of no more than sixteen (16) square feet.
5. On residential property, window signs, provided that the total extent of window signs do not obstruct more than 25% of the total area of all windows on each building façade.

E. Not more than two minor signs per parcel.

F. A-frame signs more than fifty (50) feet from the nearest public right of way.

G. Pavement markings. Any sign applied directly and entirely to and flush with an asphalt, concrete, or similar paved surface.

Section 198: Prohibited signs.

In addition to signs prohibited elsewhere in this Code or by applicable state or federal law, the following signs are prohibited:

A. General prohibitions.

1. Signs that violate any law of the Commonwealth relating to outdoor advertising.
2. Signs attached to natural vegetation.
3. Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized Town official as a nuisance.
4. Vehicle or trailer signs.
5. Freestanding signs more than 10 feet in height.
6. Any sign displayed without complying with all applicable regulations of this chapter.

B. Prohibitions based on materials.

1. Signs painted directly on a building, except where expressly permitted by this chapter.
2. Animated signs. This subsection does not apply to flags expressly permitted under this article.
3. Flashing signs or other signs displaying flashing, scrolling or intermittent lights or lights of changing degrees of intensity.

4. Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows or wall edges of any building, except for temporary decorations not to exceed three months per year.
 5. Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas.
 6. Signs that emit sound.
 7. Any electronic sign that is generated by a series of moving images, such as an LED, digital display, or other video technology, whether displayed on a building, vehicle, or mobile unit.
 8. Strings of flags visible from, and within 50 feet of, any public right-of-way.
 9. Internally illuminated signs.
 10. Neon signs.
 11. Feather signs.
- C. Prohibitions based on location.
1. Off-premises signs, unless specifically permitted by this chapter.
 2. Signs erected on public land other than those approved by an authorized Town official in writing, required by law without such approval, or permitted under Virginia Code § 24.2-310 E. Any sign not so authorized is subject to immediate removal and disposal by any authorized official. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign.
 3. Roof signs.
 4. Any sign that obstructs free or clear vision, or otherwise causes a safety hazard for vehicular, bicycle or pedestrian traffic due to its location.
 5. Window signs whose aggregate area on a window or door exceed twenty-five percent (25%) of the total area of the window or door.

Section 199: Measurements of sign area and height.

- A. Supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions.
- B. In instances where there are multiple tenants or users on a property or in a building, allowable sign area for all parties shall not exceed the maximum sign area computed as if there were a single tenant or user.
- C. Sign area.
 1. Sign area is calculated under the following principles:
 - a. With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.

- b. The permitted area of a double-faced sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area. A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.
 - c. For projecting signs with a thickness of four inches or more, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.
2. The supports, uprights or structure on which any sign is supported shall not be included in determining the sign area unless such supports, uprights or structure area are designed in such a manner as to form an integral background of the display.
- D. Maximum height. The maximum height for any sign shall be 25 feet unless otherwise specified within this chapter.

Section 200: Maintenance and removal.

- A. All signs shall be constructed and mounted in compliance with the Virginia Uniform Statewide Building Code.
- B. All signs and components thereof shall be maintained in good repair and in a safe, neat and clean condition.
- C. The Zoning Administrator may cause to have removed or repaired immediately without written notice any sign which, in his opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner as provided in § 38-2 et seq. of the Middleburg Code.
- D. The owner of any advertising sign, other than a permitted off-premises sign, located on commercial property where the use or business has ceased operating shall, within 60 days of the cessation of use or business operation, remove the sign or replace the sign face with a blank face until such time as a use or business has resumed operating on the property.
- E. Sign condition, safety hazard, nuisance abatement, and abandonment.
 1. Any sign which becomes a safety hazard or which is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder.
 2. Any sign which constitutes a nuisance may be abated by the Town under the requirements of Virginia Code §§ 15.2-900, 15.2-906, and/or 15.2-1115.

Section 201: General requirements.

- A. *Placement.* Except as otherwise permitted, all freestanding signs shall be set back from any street right-of-way at least half the height of the sign.
- B. *Illumination.* All permitted signs may be indirectly lighted, unless such lighting is specifically prohibited in this article. Except as where otherwise required by law, the light source shall be so shielded that it illuminates only the face of the sign and shall consist of full cut-off or directionally shielded lighting fixtures that are aimed downward and controlled so that the directed light shall be substantially confined to the sign to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the sign.

- C. *Landscaping.* All non-temporary freestanding or monument signs shall be installed with a minimum surround of three (3) feet of regularly maintained landscaping in every direction.

Section 202: Nonconforming signs.

- A. Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the zoning administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into compliance with the current ordinance.
- B. No nonconforming sign shall be enlarged nor shall any feature of a nonconforming sign, such as illumination, be increased.
- C. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. Nonconforming signs shall not be extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area.
- D. No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this article.
- E. A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty (50) percent of its area may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty (50) percent, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this article.
- F. A nonconforming sign which is changed to become conforming or is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.
- G. A nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such structure sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the zoning administrator or designee shall give the owner fifteen (15) days' written notice to remove it. Upon failure to comply with this notice, the zoning administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

Section 203: Non-commercial signs.

- A. *Substitution.* Wherever this Article permits a sign with commercial content, non-commercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height and construction.
- B. *Off-site Signs for Noncommercial Use of Limited Duration.* With a permit, a noncommercial organization may erect up to two (2) off-premises temporary signs on properties in commercial

zoning districts with the consent of the persons in charge of such properties. Each sign shall be no more than twelve (12) square feet in area and six (6) feet in height. The area of the sign counts against the maximum temporary sign area permitted on that lot. No more than one off-premises temporary sign may be displayed per lot. Display of such signs shall be limited to 30 days at a time. Each organization shall be limited to the display of such signs no more than four (4) times within any calendar year.

Section 204: Reserved.

PART II. SIGN REGULATIONS BY USE AND DISTRICT

Section 205: Residential district and Agricultural-Conservancy district signs.

A. Except as otherwise prohibited in this Article, the following signs are permitted as accessory to residential uses in Residential and Agricultural-Conservancy districts.

	Permanent	Temporary	Flags (not containing any commercial advertising)
Max. total area (aggregate)	3 sf	16 sf	64 sf
Max. area each	3 sf	16 sf	16 sf
Max. number	1	no limit	no limit
Setback	-----	-----	height of flagpole
Max. height	4'	4'	25'

B. Except as provided otherwise in this Article, the following signs are permitted as accessory to non-residential uses in Residential and Agricultural-Conservancy districts.

	Freestanding, Projecting and Other Permanent	Temporary	Flags (not containing any commercial advertising)
Max. total area (aggregate)	per regulations for Commercial district signs in Section 206	32 sf	no limit
Max. area each		32 sf	96 sf
Max. number		no limit	no limit
Setback		-----	height of flagpole
Max. height		8'	none

Section 206. Commercial district signs.

A. *Generally.* Except as provided otherwise in this Article, the following signs are permitted as accessory uses in commercial districts. In addition, up to one minor sign per business is permitted.

	Permanent			Temporary	Flags (not containing any commercial advertising)
	Freestanding	Projecting	Other (i.e. Wall, Window, Awning)		
Max. total area (aggregate)	1 sf per 2 lineal feet of building frontage, up to 36 sf absolute max. (includes all permanent signs)			16 sf	no limit
Max. area each	20 sf	10 sf	20 sf	16 sf	16 sf
Max. number	1 per building	3 per building	1 per tenant	1 per building	no limit
Max. height	10'	-----	-----	10' (if freestanding)	25' (subject to setback at least half the height of the flagpole)
Clearance to bottom of sign	7.5' min. if overhanging sidewalk or other walkway	7.5' min. if overhanging sidewalk or other walkway; 12' max.	-----	7.5' min. if overhanging sidewalk or other walkway	7.5' min. if overhanging sidewalk or other walkway

B. *Window signs.* Window signs are permitted up to 25% of the area of a window and count toward the maximum total area of permanent signs. Window signs are permitted only on the first floor of a building.

Section 207: Reserved