

## ORDINANCE NO. 2012-1

### AN ORDINANCE AMENDING THE MALVERN BOROUGH ZONING ORDINANCE OF 2003, AS AMENDED, IN ORDER TO PRESCRIBE STANDARDS FOR PERMITTED DIGITAL SIGNAGE AND FOR BILLBOARD SIGNS.

In order to allow and to regulate the erection of outdoor advertising signs (“billboards”) in the Borough, and to establish standards for the use of digital display technology on billboards and signs generally, it is hereby enacted and ordained that:

The Malvern Borough Zoning Ordinance of 2003, as heretofore amended, is amended as follows:

A. Article II, “DEFINITIONS” Section 200, is amended to include new definitions, as follows:

“BILLBOARD. See “Sign, Billboard.”

“SIGN, BILLBOARD.” A structure utilized for advertising an establishment, an activity, a product, or a service or entertainment which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located.

B. Article XXVI, “SIGNS”, at Section 2603, “General Regulations for All Districts”, is amended, at subsection A.4, “Prohibited Signs”, in order to restate subsection 2603.A.4.e to read, in full, as follows:

“e. Billboards or other such outdoor advertising signs not located on the same lot as the primary associated use, except as may be allowed under Section 2604.C by special exception.”

C. Article XXVI, SIGNS, at Section 2603, “General Regulations for All Districts”, is amended, at subsection A.6, “Lighting of Signs”, to restate subsection 2603.A.6.b to read, in full as follows:

“b. No internally illuminated signs are permitted, except for: (a) digital signs allowed under subsection 13 of this Section, below; (b) digital billboards allowed by special exception under Section 2604.C below; and, (c) neon signs mounted inside windows

as window signs. Such a neon sign shall have an area no larger than four (4) square feet.

D. Article XXVI, SIGNS, at Section 2603, “General Regulations for All Districts”, is amended to include a new section 2603.B, as follows:

“B. Digital Standard for Signs.

1. Purpose and Intent. More businesses desire to utilize advancements in technology which permit signs to change copy electronically (for example, utilizing pixel imagery), including but not limited to LED, electronics, digital, video or like image technology signs. These newer technologies pose additional risks of impacting adjacent areas and adversely dominating the environment in which they operate unless regulated in a reasonable fashion. The intent of this section is to establish operating standards and regulations for signs which utilize these newer technologies (other than billboards which are regulated separately under Section 2605 below) in order to minimize the secondary effects that often accompany the unregulated display of digital signs, preserve the character and repose of adjacent areas (with a principal focus on residential neighborhoods), protect property values, and reduce traffic hazards caused by undue distractions.
2. Definition. For purpose of this Chapter the word “digital” shall mean and include any pixel-based or like technology used to display and/or change the image and/or copy on a sign by electronic, digital, LED, video or similar technological means.
3. Location. Digital signs (other than billboards governed by Section 2605, below) shall be allowed only in the Commercial Zoning District.
4. Display.
  - a. A digital sign may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less.
  - b. There shall be no effect of movement, blinking, animation, scrolling, flashing, or similar effects in the individual images. Video display shall show only one single stated image per display interval. Any electronic, digital, or video display unit sign that malfunctions, fails or ceases to operate in its usual or normal programmed manner, causing motion, movement, flashing or any similar effects, shall be restored to its normal operation conforming to the requirements of this ordinance within 24 hours.
  - c. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this section.
  - d. The maximum brightness levels for digital signs shall not exceed .2 (two tenths) foot-candles over ambient light levels measured within 150 feet of

the source, consistent with the terms of this section. Certification must be provided to the Borough demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Borough in its reasonable discretion, at the permittee's expense, to ensure that the specified brightness levels are maintained at all times.

5. Brightness of digital signs shall be measured as follows:
  - a. At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.
  - b. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
  - c. If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.
6. Size and Other Requirements. The use, size and location of digital signs, other than digital billboards, must comply with all other relevant regulations and ordinances of the Borough. However, in no event may a digital sign or the digital display area of any other permitted sign (other than billboards governed by Section 2605 below) be permitted to exceed eight (8) square feet in size.”

E. Article XXVI, “SIGNS”, is amended to include a new Section 2605, as follows:

“Section 2605 BILLBOARDS

A. Purpose and Intent. The Borough recognizes that billboards are, by their nature, different in scope and purpose from other types of signage in the Borough. Among other matters, billboards advertise or communicate goods, services or messages not conducted, sold, or generated on the lot where the billboard is located. Billboards are significantly larger in size than other types of signage allowed in the Borough and their principal purpose is to dramatically attract the attention of the traveling public. The potential impact of a billboard on adjacent areas is significantly greater than other types of signage. Recently, more businesses desire to utilize advancements in technology which permit signs to change copy electronically (for example, utilizing pixel imagery), including but not limited to LED, electronics, digital, video or like image technology signs. These newer technologies exacerbate the potential impact of a billboard in terms of adversely dominating the environment in which they operate due to light spillover and light pollution, unless regulated in a reasonable fashion. The intent of this section is to establish size, location and operating standards and regulations for billboards, including addressing those utilizing these newer technologies, in order to minimize the secondary effects that can accompany the unregulated display of these types of signs, preserve the character and repose of adjacent areas (with a principal focus on residential neighborhoods), protect property values in all areas of the Borough, and reduce traffic and similar hazards caused by undue distractions. For

purposes of this Section, “digital billboard” shall mean a billboard which incorporates, in whole or in part, a digital sign.

B. Location.

1. A billboard may be erected and maintained only in the LI and LI-1 zoning districts, and only upon issuance of a special exception therefore.
2. No billboard may be located within a radius of 1,000 feet of another billboard regardless of geographic jurisdiction or within 200 feet of existing or future residential uses.
3. If a billboard is illuminated (including digital billboards), the minimum distance from an existing or future residential use shall be 300 feet.
4. No billboard may be located within 50 feet of a street right of way line adjoining a street or 30 feet of any other boundary lines of the property on which the billboard is located.
5. All distances as provided for in this section shall be measured radially from where the surface display area is visible.
6. No billboard may be located on top of, cantilevered over or otherwise suspended above any building or structure.

C. Billboard surface display area; Measurement.

1. The maximum allowable surface display area for all other billboards at any location is 300 square feet. A billboard shall have only a single exposed face.
2. The surface display area of a billboard shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the billboard, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of surface display area. In the case of a sphere, spheroid, or similarly shaped billboard (e.g. a ball), the total surface display area shall be divided by two for determining the maximum surface display area permitted.

D. Height of Billboards. The height of a billboard may not exceed 22 feet above the natural grade of the ground on which the billboard is located.

E. Illumination. A billboard may be illuminated, provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

F. Appearance. Except for time and temperature signs or digital billboards as otherwise regulated herein, all billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having

moving parts or messages. Under no circumstances may any type of billboard contain a message or display that appears to flash, undulate, pulse, move, or portray explosions, fireworks, flashes of light, or blinking lights or otherwise appears to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or make other comparable movements.

- G. Construction and Maintenance. A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity and in compliance with all applicable codes. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.
- H. Display.
  - 1. The display or message on a digital billboard, of any type, may change no more frequently than once every eight seconds, with a transition period of one second or less.
  - 2. The display or message must otherwise comply with subsection (g) and the digital billboard must have installed an ambient light monitor which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with terms of this Ordinance.
  - 3. Maximum brightness levels for digital billboards shall not exceed .2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the sign. Certification must be provided to the Borough demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration shall be annually required by the Borough, in its reasonable discretion, at the permittee's expense to ensure that the specified brightness levels are maintained at all times.
  - 4. Brightness of digital billboards shall be measured as follows:
    - A. At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.
    - B. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
    - C. If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.
- I. Other Applicable Laws. A billboard must comply with all applicable provisions of federal and state law.
- J. Permitting. Every billboard requires a Borough sign permit before installation or modification. Permits shall be reviewed and issued consistent with the terms of this section as well as all other applicable ordinances of the Borough including, without limitation, the Borough Zoning Ordinance as amended from time to time. Every applicant for a billboard permit shall file with the application a certificate of insurance,

certifying that the applicant is insured against bodily injury and for property damage applicant, if the permit is granted, shall be required to maintain said insurance and keep a certificate of insurance currently effective on file with the Borough so long as the billboard or billboards are in existence. The certificate shall provide that the Borough shall receive thirty (30) days written notice in case of cancellation of the policy. Any billboard in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner of the billboard.

- K. Other Requirements. Billboards must otherwise comply with all other relevant regulations and ordinances of the Borough.

ORDAINED by Borough Council this \_\_\_\_\_ day of \_\_\_\_\_, 2012:

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Woody J. Van Sciver  
President, Malvern Borough Council

APPROVED by the Mayor, this \_\_\_\_\_ day of \_\_\_\_\_, 2012

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Gerard J. McGlone, Jr. , Mayor

ENACTED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

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Sandra L. Kelley  
Borough Secretary