

**TOWN OF WHITE HALL, WEST VIRGINIA ORDINANCE NO. 25-002**

**AN ORDINANCE AMENDING 23-006; PROVIDING FOR THE REGULATION OF THE LOCATION AND APPROPRIATE INSTALLATION OF OUTDOOR ADVERTISING- SIGNS, BILLBOARDS, POSTERS, AND SIMILAR DEVICES UTILIZED FOR ADVERTISING**

The Town Council of the Town of White Hall hereby ordains as follows:

**Section 1. Purpose and Finding**

- (a) That outdoor advertising is a legitimate, commercial use of private property adjacent to roads and highways;
- (b) That outdoor advertising is an integral part of the business and marketing function of an established segment of the national economy which serves to promote and protect private investments in commerce and industry;
- (c) That the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to roads and highways should be regulated in order to protect the public investment in such roads and highways, to protect private investments in property adjacent to said roads and highways, to promote recreational value of public travel, to preserve natural beauty, and to promote the reasonable, orderly and effective display of such signs, displays, and devices;
- (d) Council further finds and declares that fiscal actualities reflect that the people of the Town of White Hall would suffer economically if the Town failed to enact provisions to recover its costs of enforcing this Ordinance, although it is the main intention of this Ordinance, among other things, to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to roads and highways, including federal-aid interstate and primary highways as declared by the Congress of the United States;
- (e) This Ordinance, upon its legally effective date, will clarify, supersede, or otherwise override Ordinance 07-004. Likewise, Ordinance 07-004, upon its effective date, clarified, superseded 04-001, Ordinance 03-003, Special Ordinance 03-001, and the action passed by Council on August 12, 2003, and this Ordinance will continue in that effect;
- (f) The Town of White Hall does not want to nor intent to prevent or restrict purely noncommercial speech, and;
- (g) The Town of White Hall has and is exercising its authority to engage in these regulations under the West Virginia Code, including, but not limited to §§ 8-12-5(17), (19), (25), (31), and (44), 8-12-14, 8-12-15, 8-13-4, and 8-13-13.

**Section 2. Definitions. As used in this article**

The word "sign" shall mean any structure erected for advertising purposes upon which any poster, bill, printing, writing, drawing, painting, or advertising material of any kind or character whatsoever, may be placed, posted, painted, tacked, nailed, glued, or otherwise fastened, affixed, or displayed.

The word "display" shall mean any poster, bill, printing, writing, drawing, painting, or advertising material of any kind or character whatsoever, designed and intended to draw the attention of the

public to any goods, merchandise, property, real or personal, business service, entertainment or amusement, produced, bought, sold, conducted, furnished, or dealt in by any person, which is placed, posted, painted, tacked, nailed, glued, or otherwise affixed or fastened to any advertising sign or structure, or otherwise displayed outdoors.

The word "device" shall mean any card, cloth, paper, metal or wooden advertising emblem or sign of any kind or character, which is posted, stuck, glued, tacked, nailed, painted, or otherwise fastened or affixed to or upon any fence, post, tree, or thing other than an advertising sign or structure.

"Person" shall include an individual, partnership, association, or corporation.

### **Section 3. General Location**

#### **Advertising and Political Signage/Lawn Signs**

Except as provided in this article, no outdoor advertising sign, display, or device shall be erected or maintained in the Town of White Hall in the Department of Highways Right of Way, in the Town of White Hall Right of Way, or in the space between any street or highway in White Hall and Light Poles, or around intersections of any business driving lanes that cause a distraction while driving or an obstruction of view, or erected in or right behind guard rails. Regardless of Right of Ways, the Town sets a standard to remove all signage placed within 30 feet from the edge of the street or highway or within the above-mentioned Right of Ways for safety reasons.

All signs for advertising should be placed on private property that do not obstruct driving view or create a distraction for traffic. All signs placed on Private Property should receive the consent of the property owner prior to placing the signs and must not be placed within 30 feet from the edge of the street or highway.

Any and all signs must be removed the day after the event that is being advertised. The Town of White Hall will remove all Political Signs and Lawn signs the second day after an event if they are still present regardless of location of the sign. Any and all signs that are placed in areas designated for no signage will be removed as soon as identified.

#### **Free Standing Business Signage**

Business Signage erected free-standing from the businesses physical location should be located on the private property of the business owner and should not obstruct the view of traffic or cause a distraction for drivers. A Business should advertise all free-standing Business Signage within the respective business property premises and should follow all permit requirements. An application fee and inspection fee are required for all Free Standing Business Signage. All Free Standing Signage must be consist of standard-sturdy construction materials.

#### **Mobile/Portable/Trailer Signage**

Mobile/Portable/Trailer Signage are temporary in nature and will be approved on a case by case basis. These temporary signs are not meant to be permanent. Anyone possessing these as of the

date of passage of this ordinance will have 30 days to have these signs removed. All other temporary signs will be given a temporary permit.

#### Section 4. **General restrictions as to outdoor advertising**

The following restrictions shall apply to all advertising signs, displays, and devices erected and maintained adjacent to any roads within the Town of White Hall:

- (a) No advertising sign shall be erected or maintained which involves rapid motion or rotation of the structure or any part thereof;
- (b) No advertising display or device shall use the word "stop" or "danger," or present or imply the need or requirements of stopping, or the existence of danger;
- (c) No advertising sign, display, or device shall be a copy or imitate a traffic sign or other official sign;
- (d) No advertising display or device shall attempt or purport to direct traffic;
- (e) No advertising sign shall contain lighting which is not shielded and any lighting shall be of such low intensity as not to cause glare or impair the vision of the operator of any motor vehicle, nor be a nuisance to any adjacent residential area;
- (f) No advertising display or device shall be comprised of or illuminated by any rapid flashing, intermittent light or lights;
- (g) No advertising display or device shall be painted, affixed, or attached to any natural feature;
- (h) No advertising sign, display, or device shall hinder the clear, unobstructed view of approaching or merging traffic, or obscure from view any traffic sign or other official sign, or obscure the view of signs, displays, or devices advertising activities conducted on the property on which they are located;
- (i) No advertising sign, display, or device shall be so located as to obscure the view of any connecting road or intersection;
- (j) No advertising sign, display, or device shall be erected within five hundred (500) feet of any church, school, cemetery, public park, public reservation, public playground, or state or national forest;
- (k) No advertising sign, display, or device shall be larger than three hundred (300) square feet per advertising surface area; nor be within one thousand (1000) feet of the nearest adjacent advertising sign, display or device; nor be within five hundred (500) feet of any residence or residential area; nor be less than fifteen (15) feet in height at the lowest point of the sign itself; nor greater than forty (40) feet in height at the highest point of the sign itself; nor be within sixty (60) feet or one hundred fifty (150) percent of the highest point on the structure or sign of any building or other structure; nor shall be stacked, side-by-side, tri-vision (three-sided), spinning, LED, or display-changing in any location in the Town of White Hall; nor be closer than twenty-five (25) feet from the nearest edge of any public roadway or highway or any regularly used right-of-way above or upon the surface of the ground;

(1) No sign, display, or device, or any outdoor advertising of any kind located within the Town of White Hall shall, directly or indirectly, contain, indicate, or make reference to any obscene, abusive, or offensive language, act, or depiction deemed inappropriate for display in the Town of White Hall. Further, in the interest of the public, the Town of White Hall reserves the right to limit the number of advertisements making reference to certain subjects including, but not limited to, alcoholic or intoxicating beverages, gambling, tobacco, or activities referring to nudity or of a lewd, indecent, lascivious or obscene nature.

#### **Section 5. Exceptions to Restrictions**

The provisions of Section 4 of this Ordinance shall not apply to the following:

- (a) directional and other official signs and notices required or authorized by law, including, but not limited to, signs and notices pertaining to natural wonders, farm wineries, scenic and historical attractions, which said signs and notices shall conform to standards respecting lighting, size, number, spacing, and other such appropriate requirements as may be designated by the State of West Virginia, Secretary of Transportation;
- (b) signs, displays, and devices advertising the sale or lease of property upon which they are located;
- (c) signs, displays, and devices advertising activities conducted on the property on which they are located and
- (d) signs, displays, and devices giving specific information in the interest of the traveling public, which may be erected and maintained pursuant to authorization of the Mayor, within the rights-of-way of roadways and highways.

#### **Section 6. Jurisdiction**

The territory under the jurisdiction of the Town Council for the purposes of this article shall include all of the Town of White Hall.

#### **Section 7. Permits required for each sign, etc.**

(a) Except as in this article otherwise provided, no person shall construct, erect, operate, use, maintain, or cause or permit to be constructed, erected, operated, used, or maintained any advertising sign, display or device without first obtaining a permit for the advertising sign, display, or device from the Town and paying the annual fee for the advertising sign, display or device as provided in Section 7 of this ordinance.

Permits are required for all Free-Standing Permanent Signage, Billboard Signs, (Non-Moving and Moving-Static) and Temporary Mobile/Trailer Signs.

(b) A separate application for a permit shall be made for each separate advertising sign, display, or device, on a form furnished by the Town, which application shall be signed by the applicant or its representative duly authorized in writing to act for it, and shall describe and set forth the size, shape, and the nature of the proposed advertising sign, display, or device, and its actual or proposed location with sufficient accuracy to enable the Mayor to locate and identify it. Each Application for Free Standing Permanent Signs and Permanent Billboards will require a Non-

Refundable Twenty-Five Dollar (\$25.00) charge. Temporary Mobile Signs will require a Non-Refundable Thirty-Five Dollar (\$35.00) application fee.

(c) A nonrefundable inspection fee of Seventy-Five Dollars (\$75) shall be charged for each proposed location.

(d) A fee of One Hundred and Seventy-Five Dollars (\$175.00) will be due Annually for each changeable message billboards.

(e) A fee of One Hundred Dollars (\$100.00) will be due Annually for each Static, non- message changing billboards.

(g) Each portion of an advertising sign upon which a display is posted or exhibited shall constitute a separate advertising sign for purposes of this section. If the permit is refused by the Town, an order shall be made and entered to that effect and a copy of such order shall be served on such applicant by certified mail, return receipt requested, and one-half the fee shall be refunded to the applicant, accompanied by findings of fact and conclusions of law upon which the order was made and entered. Each application shall be accompanied by an affidavit of the applicant or its agent that the owner or other person in control or in possession of the real property upon which such advertising sign display, or device is to be constructed, erected, operated, used, or maintained, has consented thereto, including the requirements of Section 11 hereunder. Copies of any documents purporting to provide said authority shall also be provided and attached to said application. Application shall be made in like manner for a permit to operate, use, or maintain any existing advertising sign, display, or device. Permits issued hereunder shall expire on June 30 of each year, and shall not be prorated, and may be renewed upon the payment of an annual fee. No application shall be required for a renewal of a permit.

(h) If more than one side of an advertising sign is used for advertising, a fee for each side shall be required. Advertised in the round shall be treated as using three sides. Any previous existing "stacked" billboards shall require a fee for each separate sign surface.

(i) Each sign, display, or device and its structure shall be well-maintained, structurally sound, and generally safe at all times. The Mayor or its designee shall inspect said sign, display, or device and its structure on at least an annual basis. In the event that the licensee disagrees with the Mayor's finding, and the Mayor or Town Council deems it necessary to solicit a third-party opinion of a registered engineer or person similarly situated, who shall be fully registered and licensed to operate within the Town of White Hall and the State of West Virginia, to inspect said structures and provide an opinion as to its structural soundness and general safety, the licensee shall bear the burden of reimbursing the engineer or third-party for all costs and fees. In the event that said structure is found to be structurally unsound or unsafe, it shall be removed or repaired within thirty (30) days, or immediately in the circumstance that said structure is deemed to be an imminent hazard or danger.

(i) The Town shall have authority, after thirty (30) days' notice in writing to the licensee, to the last address provided by the licensee, to make and enter an order revoking any permit issued by it under this section in any case where it shall appear that the application for the permit or any format, art, or wording change contains knowingly false or misleading information or that the

permittee has violated any of the provisions of this article, unless such permittee shall, before the expiration of said thirty (30) days, correct such false or misleading information and comply with the provisions of this article. Such order shall be accompanied by findings of fact and conclusions of law upon which such order was made and entered. If the constructions, erection, operation, use, or maintenance of any advertising sign, display, or device for which a permit is issued by the Town and the permit fee has been paid as above provided, shall be prevented by any zoning board, commission, or other public agency which also has jurisdiction over the proposed advertising sign, display, or device, or its site, the permit shall be revoked. All outdoor advertising signs, displays, or devices shall be removed by the permittee within thirty (30) days after the date of the expiration or revocation of the permit for the same. Any permittee failing to remove any such advertising sign, display, or device within said thirty (30) days as required herein shall be deemed to have violated this ordinance and shall be subject to remedies set out herein. Any decision by the Mayor or its designee shall be subject to appeal to the Town Council.

#### **Section 8. Content Review**

The holder of a permit shall, during the term hereof, have the right to change the advertising copy and content of the structure or sign for which the permit was issued, within the guidelines of this Ordinance. The Mayor or its designee shall review any display, device, or advertisement placed or replaced upon the structure or sign for content, format, artwork, or wording compliance with this Ordinance. The outdoor advertising license shall notify the Mayor or its designee of any advertising replacement in writing contemporaneous with the posting or displaying thereof. A change in the advertising content to an advertisement on behalf of the licensee itself or to a blank- white surface shall be exempt from review or notification. Notwithstanding the foregoing, any sign, display, or device allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale, and that complies with all other requirements of this Ordinance. Said messages shall be subject to review or approval by the Mayor, Town Council or any designee, only with regards to whether or not said information is lawful noncommercial speech as aforementioned, and not otherwise. Said messages include, but may not be limited to, "political speech." Any person adversely affected by an order made and entered by the Mayor may process an appeal before Council at its next regularly scheduled meeting. Any decision of the Mayor or its designee enforced by the Town Council is entitled to a judicial review thereof. Such judicial review shall be in the Circuit Court of Marion County. The judgment of the Circuit Court shall be final unless reversed, vacated, or modified on appeal to the West Virginia Supreme Court of Appeals.

#### **Section 9. Variances, special exceptions, or conditional uses**

Any variance from this Ordinance shall be approved by a majority of the total members of the Town Council then holding office. A variance shall include any major deviation from the requirements of the general intent of this Ordinance. Any special exception or conditional use under this Ordinance shall be approved by a majority of the members of Town Council present at any meeting where a vote is taken on said action. A special exception or conditional use includes any minor deviation from the Ordinance that comports with the general intent of this Ordinance, as defined by the West Virginia Supreme Court of Appeals.

#### **Section 10. Property rights**

No person shall construct, erect, operate, use, or maintain any outdoor advertising sign, display, or device without the permission of the owner or other person in lawful possession or control of the property on which such sign, display, or device is located. Any legal document providing for or allowing placement of a sign, display, or device upon property shall include notification and permission that the Town of White Hall and its designee may enter upon said property for the purpose of enforcing this Ordinance.

**Section 11. Application and Annual Reapplication for Permit, Bonding, Admission of Municipal Employee-Designee.**

(a) Every permit or prospective licensee pursuant to this Ordinance shall be required to truthfully and under oath, file an application as provided by the Town Council before requesting, or receiving approval, or operating as described herein above and as regulated by this Ordinance.

(d) Upon filing an application or reapplication pursuant to the jurisdiction of this Ordinance, licensee or prospective licensee agrees to allow any employee of the Town of White Hall, the Mayor, or any Member of Town Council, or any Designee of the Mayor, to enter upon the property of the licensee, in its entirety, for the purpose of investigation or enforcement of matters subject to the jurisdiction of this Ordinance. Failure to allow said entry shall be deemed grounds for revocation of any license and forfeiture of any Bond issued pursuant to this Ordinance. Any violation or failure to comply with the Ordinance shall be deemed grounds for revocation of any license, permit, or similar authority and forfeiture of any bonds issued pursuant to this ordinance.

(e) There shall be a delinquency fee of percent (10%) imposed upon any late payment of any fee for greater than thirty (30) days on a monthly basis until the debt is paid.

(f) Any amount of fees due and unpaid under this article shall be a debt due this Municipality. It shall be a personal obligation of the licensee or permittee which shall be enforceable as provided in West Virginia Code 88-13-15, or in any other manner now or hereafter provided by law for compelling the payment of taxes due municipalities. The Municipality shall also be entitled to recover any and all outside costs of collecting said fees, delinquency fees, and court costs, including, but not limited to, filing fees, service fees, legal fees, attorney fees, or any related costs.

**Section 12. Expenditure**

All fees, levies, license fees, penalties, forfeitures, or other income derived from the administration or enforcement of this Ordinance shall be deposited in the general fund for the general use of the Town of White Hall and its Town Council.

**Section 13. Separability**

The terms of this Ordinance are declared to be separable; and should any word, phrase, sentence, or section be declared unconstitutional or otherwise invalid, the remainder of this Ordinance shall not thereby be affected, but shall remain in full force and effect. Section headings and titles are for reference and convenience only.

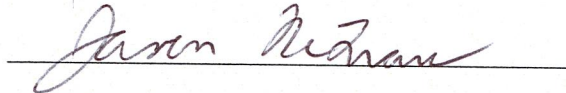
**Section 14. Effective date**

Passed by the Town Council this day of 10/14/24 ~~September~~, 2024

First Reading: 9/23/24

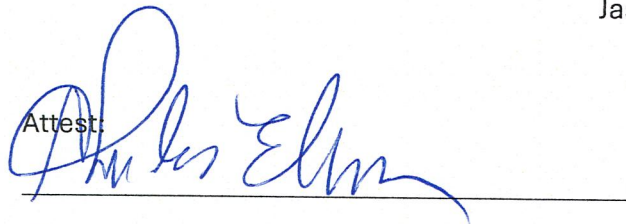
Public Hearing: 10/14/24

Second Reading: 10/14/24



Jason DeFrance, Mayor

Attest:



Charlie Mason, Recorder