

Review by P&Z Commission: 04/28/21  
Sponsor: Councilwoman Gott  
First Reading: 06/07/21  
Ord. No: 004-21

**AN ORDINANCE AMENDING APPENDIX A (ZONING) OF THE TOWN CODE OF THE TOWN OF SMYRNA TO REVISE THE REQUIREMENTS FOR POSTING PUBLIC HEARING NOTICES ON PROPERTIES WHEN MULTIPLE PROPERTIES ARE BEING REZONED AND TO REQUIRE NOTICES TO BE MAILED TO PROPERTY OWNERS AND ADJOINING PROPERTY OWNERS**

WHEREAS, the Town Council of the Town of Smyrna has enacted zoning regulations in the Town of Smyrna as authorized pursuant to 22 *Del. C.* Chapter 3 and Section 4.2.37 of the Town Charter;

WHEREAS, the Town Council believes it is necessary to revise the posting requirements for public hearings held in conjunction with the rezoning of multiple properties located in the immediate vicinity of each other;

WHEREAS, the Planning Commission considered this ordinance at a duly noticed meeting held on April 28, 2021, and recommended to the Town Council that this ordinance be approved;

WHEREAS, the Town Council held a public hearing on June 7, 2021, notice for which was published in the Delaware State News on May 22, 2021, and posted at Town Hall on May 22, 2021, at which time all interested members of the public were given an opportunity to comment on this ordinance; and

WHEREAS, the Town Council finds that updating the posting requirements for rezonings is in the best interest of the public health, safety, and welfare.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Smyrna, a majority thereof concurring in Council duly met, that Appendix A (Zoning) of the Town Code of the Town of Smyrna be and hereby is amended as follows:

**Section 1.** Amend Section 14 (Public Hearings), by making insertions as shown by underline and deletions as shown by strike through as follows:

**Section 14. - Public hearings.**

After adoption of this ordinance, the town council, board of adjustment, planning commission, zoning commission, and the historic review board are required to conduct public hearings prior to acting on specific matters under this ordinance; provided, however, that the planning commission shall not be required to hold a public hearing when considering proposed amendments to the text of this ordinance. ~~Public hearings~~ Public hearing notices shall include the date, time, and place of the hearing, a description of the property or properties involved,

and a brief description of the matter to be considered. Public hearing notices shall be advertised at least 15 days prior to the hearing in the following manner:

1. ~~Date, time, place and brief descriptions of the nature of the hearing~~ Notice shall be published in a newspaper of general circulation in the town ~~at least 15 days prior to the hearing.~~
2. ~~Where specific properties are involved, they shall be posted indicating the date, time, place and brief description of the nature of the hearing at least 15 days prior to the hearing.~~ Where a specific property is involved, notice shall be posted on the property. Where two (2) or more properties are involved in a rezoning, posting notice on each property shall not be required as long as at least one notice is posted on each block on each side of the street on which the properties proposed for rezoning are situated.
3. Notice shall be posted ~~in~~ at the town hall ~~indicating date, time, place, and brief description of the nature of the hearing.~~
4. Where a specific property is involved, notice shall be mailed to the property owner and applicant and to all adjoining property owners. For purposes of this paragraph, "adjoining property owners" means properties contiguous to the subject property and, if separated by a street or alley, properties which would be contiguous to the subject property if their sidelines were extended at right angles across such street or alley.

**Section 2. Severability.** The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the Town Council's intent.

**Section 3. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the Town Council.

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#### SYNOPSIS

This ordinance amends the public hearing posting requirements when multiple properties are involved in a rezoning, in which case at least one notice must be posted on each block on each side of the street on which properties involved in the proposed rezoning are situated. This amendment creates a requirement to mail notice to the property owner and adjoining property owners when specific properties are involved in an application.

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This will certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Smyrna at its regular Council meeting on \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Council Secretary

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2021 and posted at the Town Hall on \_\_\_\_\_, 2021.

So Certifies:

\_\_\_\_\_  
Town Clerk