

Review by P&Z Commission: 06/24/20  
Sponsor: Councilman Pressley  
First Reading: 07/20/20  
Ord. No: 016-20

**AN ORDINANCE AMENDING APPENDIX A (ZONING) OF THE TOWN CODE OF THE TOWN OF SMYRNA TO INCREASE THE DISTANCE BETWEEN REQUIRED TREE PLANTINGS IN THE NORTH CORRIDOR (NC) AND SOUTH CORRIDOR (SCZ) ZONING DISTRICTS FROM 20 FEET TO 30 FEET AND TO REDUCE THE MINIMUM TREE CALIPER TO 2 INCHES**

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 Planning Commission considered this ordinance at a duly noticed meeting held on June 24, 2020 and recommended to the Town Council that this ordinance be approved, including an amendment to reduce the minimum caliper for trees to 2 inches;

WHEREAS, the Town Council held a public hearing on July 20, 2020, notice for which was published in the Delaware State News on July 5, 2020 and posted at Town Hall on July 2, 2020, at which time all interested members of the public were given an opportunity to comment on this ordinance; and

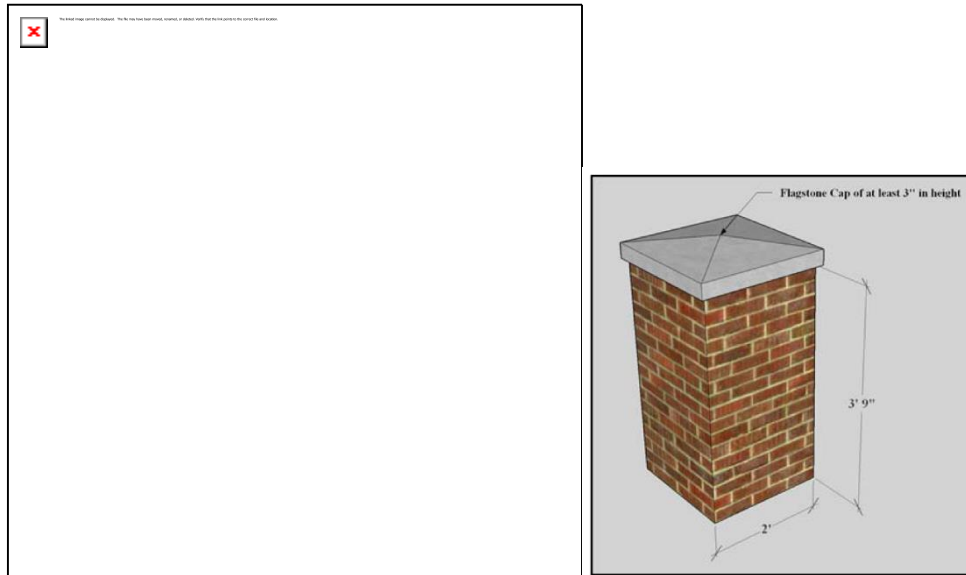
WHEREAS, the Town Council finds that requiring trees to be planted 30 feet apart instead of 20 feet apart along U.S. Route 13 within the NC and SCZ zoning districts will increase the likelihood of the trees developing into healthy trees, which is in the best interest of the public health, safety, and 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 5.21 (North Corridor NC) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

- (3) *Street wall/buffer standards.*
  - (a) Street wall/buffers consisting of brick piers with black iron, steel, aluminum (or an approved alternative material) fencing and street trees shall be installed and maintained along those lots where a parking lot, driveway, or service station fuel pumps are located adjacent to U.S. Route 13.
  - (b) Street wall/buffers shall not be located in the public right-of-way and shall be located beyond the clear zone as defined by DelDOT.
  - (c) Street wall/buffers shall be permanently maintained by the property owner and/or development association.

- (d) Brick piers shall be a minimum of two feet square with a maximum height of three and one-half to four feet tall, and constructed at intervals of 20 feet.



**Illustration 11 - Brick Pier Example**

- (e) Low-lying shrubs are encouraged to be planted every five feet and shall not exceed a maximum height of three feet at maturity.
- (f) One street tree shall be planted every ~~20~~ thirty (30) linear feet of frontage along U.S. Route 13. Street trees at the time of planting, shall be no less than ~~3—1/2 inches~~ 2 inches in caliper. The following characteristics shall be considered in selecting new trees to plant: size, tolerance to pollution, ability to withstand drought and soil conditions, as well as landscape and ornamental value. It is recommended that individuals contact the Delaware Forest Service for assistance in identifying which tree species would be most appropriate for the area.

**Section 2.** Amend Section 5.22 (South Corridor SCZ) by making insertions as shown by underline and deletions as shown by strikethrough as follows:

- (3) *Street wall/buffer standards.*
  - (a) Street wall/buffers consisting of brick piers with black iron, steel, ~~aluminum~~ aluminum (or an approved alternative material) fencing and street trees shall be installed and maintained along those lots where a parking lot, driveway, or service station fuel pumps are located adjacent to U.S. Route 13.
  - (b) Street wall/buffers shall not be located in the public right-of-way and shall be located beyond the clear zone as defined by DelDOT.
  - (c) Street wall/buffers shall be permanently maintained by the property owner and/or development association.

- (d) Brick piers shall be a minimum of two (2) feet square with a maximum height of three and a half (3½) to four (4) feet tall, and constructed at intervals of twenty (20) feet.

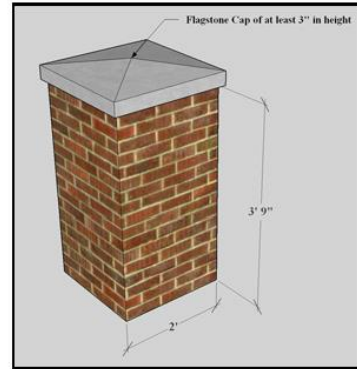
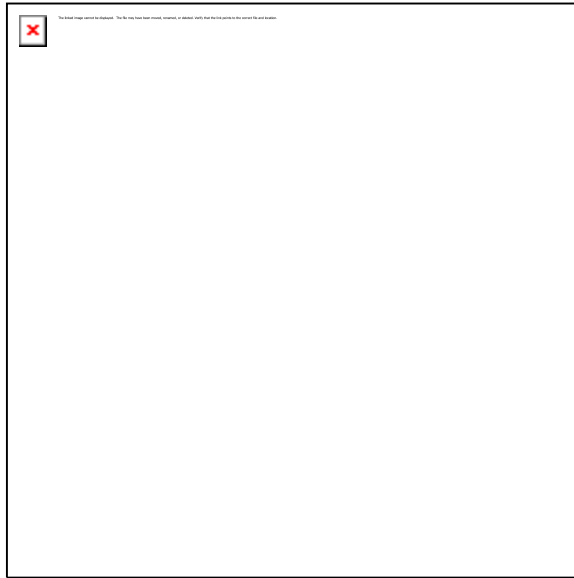


Illustration 11 - Brick Pier Example

- (e) Low-lying shrubs are encouraged to be planted every five (5) feet and shall not exceed a maximum height of three (3) feet at maturity.
- (f) One (1) street tree shall be planted every ~~twenty (20)~~ thirty (30) linear feet of frontage along U.S. Route 13. Street trees at the time of planting, shall be no less than ~~3—3 ½ inches~~ 2 inches in caliper. The following characteristics shall be considered in selecting new trees to plant: size, tolerance to pollution, ability to withstand drought and soil conditions, as well as landscape and ornamental value. It is recommended that individuals contact the Delaware Forest Service for assistance in identifying which tree species would be most appropriate for the area.

**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 the 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.

This ordinance amends the Zoning Ordinance of the Town of Smyrna to increase the required distance between trees planted along U.S. Route 13 in the NC and SCZ zoning districts from twenty (20) feet to thirty (30) feet. This ordinance reduces the minimum tree caliper to 2 inches.

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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 \_\_\_\_\_, 2020.

ATTEST:

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
This shall certify that the title and synopsis of this Ordinance was published in the "Smyrna/Clayton Sun Times" on \_\_\_\_\_, 2020 and posted at the Town Hall on \_\_\_\_\_, 2020.

So Certifies:

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