

ORDINANCE 2018-13

AN ORDINANCE BY THE CITY OF SMYRNA, GEORGIA, PROVIDING FOR THE AMENDMENT OF THE CODE OF ORDINANCES (ZONING), SECTIONS 402, 501, 709, 712, 715, 717, 1013, 1201, AND 1510 OF THE CODE OF ORDINANCES OF THE CITY OF SMYRNA

WHEREAS, State law provides that the governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law; and

WHEREAS, the Mayor and Council of the City of Smyrna are charged with the protection of the public health, safety, and welfare; and

WHEREAS, the Mayor and Council now wish to update the City of Smyrna Code of Ordinances regarding Sections 402, 501, 709, 712, 715, 717, 1013, 1201 and 1510 of the City's Zoning Ordinances

NOW, THEREFORE, the Mayor and Council of the City of Smyrna, pursuant to their authority, do hereby adopt the following amendments.

Zoning Code Amendment – General Zoning Ordinance Corrections & Updates

Subsections of Section 402 of the Zoning Ordinance shall be amended to correct typing and grammatical errors. The proposed sections shall read as follows (amended portions are underlined or deleted)

ARTICLE IV – DEFINITIONS

Sec. 402. - Defined words and terms.

(402.1.2) *Accessory special event parking area*: The designated area(s) to be used for accessory special event parking as designed per section 901 of the zoning ordinance.

(402.12.1) *Carnival*: An enterprise engaged in the operation of carnival rides subject to regulation by any state or federal agency or department.

Subsections of Section 501 of the Zoning Ordinance shall be amended to relocate clarifying language to appropriate subsection. The proposed sections shall read as follows (amended portions are underlined or deleted)

ARTICLE V. – GENERAL PROVISIONS

Sec. 501 - Accessory uses and structures.501.14) A direct satellite system, DSS, including any structural supports is permitted as a conditional use, provided the following requirements are complied with:

1. A DSS antenna is only permitted as an accessory use on a lot that contains a principal structure.
2. A DSS antenna is only permitted in the rear yard or attached to the rear wall or rear roof of a principal structure.
 - a. A rear roof of a structure is defined as any portion of a roof from the peak or ridge point sloped toward the rear building setback line and which plane cannot be seen from the street adjacent to the front yard setback line or side yard setback line in the case of a corner lot.
 - b. A rear wall of a structure is defined as the plane of a structure facing the rear building setback line and to the front yard setback line or side yard setback line in the case of a corner lot.
3. A DSS antenna shall not have a radius larger than 18 inches in a residential district and 36 inches in a commercial district.
4. There shall be only one DSS antenna per building or one DSS per tenant of a multiple tenant building.
5. The DSS antenna shall not exceed four feet vertically or horizontally from its mounting point for residential applications and shall not exceed seven feet vertically or horizontally from its mounting point for commercial applications.
6. The DSS antenna shall be of a color that will blend into its surroundings.

Subsections of Section 709 of the Zoning Ordinance shall be amended to correct typing and grammatical errors. The proposed sections shall read as follows (amended portions are underlined or deleted)

ARTICLE VII. – USE PROVISIONS

Sec. 709 - LC, Limited Commercial District.

(709.7) Limited retail sales: The following uses are permitted provided the limited retail sales establishment does not exceed 1,200 square feet of floor area and the outside display, storage or sale of merchandise is limited to an area which is; within a display area enclosed on three sides by a wall no less than six feet in height or under a building overhang/canopy, or located no greater than five feet from the exterior building wall.

- (1) Arts and crafts shops.
- (2) Antique shops.
- (3) Gift shops.
- (4) Bridal shops.
- (5) Boutique shops.

Subsections of Section 712 of the Zoning Ordinance shall be amended to correct typing and grammatical errors. The proposed sections shall read as follows (amended portions are underlined or deleted)

ARTICLE VII. – USE PROVISIONS

Sec. 712 - GC, general commercial district.

(712.5) Automobile parts and tire stores, both retail and wholesale. The storage or display of tires associated with either one of these uses shall meet the following requirements:

- (1) Except as specifically allowed herein, there shall be no outside storage or display of tires;
- (2) Tires shall not be stored in a temporary building. Excluding normal day to day deliveries, tires shall not be stored in delivery trucks or semi-trailers;
- (3) Inside storage or display of tires shall not exceed 45 percent of the gross floor area of the building;
- (4) Outside display of tires shall only be permitted as follows:
 - a. All tires must be brought inside no later than one hour after the business closes for the day;

- b. The display of tires shall be within a display area enclosed on three sides by a wall no less than six feet in height, or under a building overhang/canopy, or located no greater than five feet from the exterior building wall; and
- c. Displays shall not obstruct ingress or egress of the building.

Subsections of Section 715 of the Zoning Ordinance shall be amended to correct typing and grammatical errors. The proposed sections shall read as follows (amended portions are underlined or deleted)

ARTICLE VII. – USE PROVISIONS

Sec. 715 - [TS,] tourist services [district].

The intent of this section in establishing the TS district is to provide areas within the city which provide facilities used primarily by tourists. It is the intent of this section in establishing the TS district to preserve existing tourist services areas and encourage the continued concentration of tourist services areas so as to promote the orderly development and economic stability of such areas. Such uses normally require a location that is readily accessible to the interstate highway system.

Within any TS district, the following uses shall be permitted:

(715.2) Extended stay motels and motels, provided that:

- a. A 75-foot buffer shall be provided where it abuts single-family residential and a six-foot fence, or wall, placed on the property line.
- b. Required area, yards and height requirements shall be the same as those specified for RM-12.
- c. Distance between building structures: Building structures which are front face to front face or back face to back face or front face to back face shall be not less than 60 feet apart. Building structures which are side face to side face shall be not less than 30 feet apart. Building structures which are side face to front face or back face shall be not less than 40 feet apart.
- d. Arrangement of buildings: No building structure shall be situated so as to face the rear of another building structure within the development or on adjoining properties, unless differences in terrain and elevation would provide effective visual separation or unless the units are more than 60 feet apart.

- e. Structure length: Building structures shall not exceed 250 feet in length.
- f. Recreation area: One acre of land shall be set aside as open space and be developed for recreational purposes for each 50 building units planned for the development in accordance with the assumed needs of the occupants (or a proportionate percentage for less than 50 building units). The minimum size of a single recreational area shall be 10,000 square feet.
- g. No guest shall register, reside in, or occupy any room or rooms within the same licensed facility for more than a 90-day period.

Subsections of Section 717 of the Zoning Ordinance shall be amended to correct typing and grammatical errors and to update language. The proposed sections shall read as follows (amended portions are underlined or deleted).

ARTICLE VII. – USE PROVISIONS

Sec. 717.- [CDD], corridor design districts.

(717.1) *Background.* An accelerating economic revitalization is occurring on the major arterial corridors leading into the Central Business District of Smyrna and on South Cobb Drive. Much of this construction involves redevelopment or renovation of existing structures. In many sections of these corridors, the parcel geometry, building setbacks, vehicle access, signage and landscaping are obsolescent. These legacies represent the technologies and economic activities of past decades. Redevelopment offers the possibility of correcting features of the streetscape that are no longer appropriate, while contributing to the general economic development of the city.

Certain areas of Smyrna, particularly South Atlanta Road, contain historical structures or buildings with distinct architectural styles which contribute to the quality of life of its citizens. The CDD overlay zones provide incentives for owners to preserve the integrity of historic buildings or architectural styles, while adapting them to current economic conditions. The design standards within these district regulations are very general, and do not have the specificity typically found in regulations for certified historic districts or landmarks. Nevertheless, owners of historic structures are urged to seek professional assistance when anticipating changes in external appearance, so that their original aesthetic integrity may be maintained.

The Corridor Design Districts (CDD) have been delineated by the City of Smyrna under its powers to regulate land use. They are composed of all parcels, tracts and structures located within their prescribed boundaries. Standards adopted for these districts include building setback lines; building heights; building spatial relationships; location and screening of parking; landscaping; signage location and specifications; location of

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building entrances; minimum and maximum lot sizes; conservation of significant natural features; pedestrian amenities; historical integrity; and general compatibility of architectural styles. The standards and regulations applying to the Corridor Design Districts are only mandatory for new construction, additions and site improvements. Projects involving only interior renovations; no change in gross floor areas; or no changes of signage are not subject to compliance with CDD regulations.

Several other codes and documents regulate construction in Smyrna. Federal and state adopted codes protecting safety of life and the access rights of disabled citizens shall have jurisdiction over any local governmental codes. Certain establishments such as nursing homes, day care centers, restaurants and hostelrys have additional federal and state public health standards applied to them. Public health codes do not supersede zoning regulations, but rather they must be mutually compatible.

(717.2) *Developmental history.* Smyrna's urban fabric developed over a period of 150 years in response to a series of transportation improvements. Initially, crossroads hamlets sprang up along old Native American trading paths. In 1845 the Western and Atlantic Railroad closely paralleled the old trail leading between the Native American villages of Standing Peachtree and Etowah. Then, commercial and institutional buildings located near the intersection of Spring Street and Atlanta Road. The most important impetus for growth, however, arrived at the end of the 19th Century with the construction of the Atlanta and Marietta Electric Railway, an interurban transit line. During the next 40 years, numerous residential subdivisions and neighborhood shops were built next to transit shops. Small stores also began to spread down Spring Street, West Spring Street and Roswell Street.

During the 1920's and 1930's, the rough wagon roads were widened and paved. Atlanta Road became a section on the Dixie Highway, the main road between the Midwest and Florida. It began to experience increased auto-oriented commercial development. The other streets in Smyrna remained essentially residential in character. West of the railroad tracks, what is now known as Windy Hill Road was named Cherokee Street and Jones Shaw Road. Roswell Street was probably the most important east-west connector. Concord Road quickly became a rural farm road as it departed the town limits.

The post-World War II era brought major physical changes to Smyrna. The early 1950's saw the construction of both major interurban highways and the first shopping centers. Both developments caused radical changes in Smyrna's urban fabric. The completion of four-lane U.S.41 east of Smyrna shifted most intercity traffic away from Smyrna. Belmont Plaza shifted the destination of most east-west traffic to the north of the original town core. Jones Shaw Road, Cherokee Street and Windy Hill Road became very important arteries. During the late 1950's and early 1960's, these streets along with Concord Road and Spring Street experienced intensive residential development, typically brick ranchers on ¼—½ acre lots. During the early sixties, South Cobb Drive was constructed as an entirely new multilaned thoroughfare. One of Atlanta's first shopping malls, Cobb Center opened at this time. By the late 60's, the sections of Windy Hill and

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Concord Roads near Atlanta Road were commercializing and Interstate 75 had been completed as far as Marietta. Smyrna's land development patterns were rapidly becoming incompatible with the exploding traffic volumes of the Atlanta metropolitan area.

During the last decade of the 20th Century, Smyrna has evolved from being in the economic backwaters of the Atlanta Region to being a nationally recognized model for urban revitalization. This remarkable renaissance has in turn, placed intensive redevelopment pressures on its arterial corridors. The 1970's and 1980's were typified by less dramatic road construction projects and general economic stagnation in Smyrna. A new route for Spring Road was cut diagonally to the southwest toward the downtown. Also, a railroad underpass and four-laned divided right-of-way for Windy Hill Road allowed traffic to flow more freely from the east into Central Smyrna. In the 80's, the city began development of its Community Center Complex and Cobb County widened, improved, and interconnected the Windy Hill Road-Cherokee Street-Jones Shaw Road corridor, eventually renaming the entire route Windy Hill Road. During this period, Cobb County and the Georgia DOT also completed a major upgrading of South Atlanta Road with multiple lanes, sidewalks and landscaping. By the mid-1990's, South Atlanta Road, Spring Road, Concord Road, Windy Hill Road and South Cobb Drive all were experiencing economic revitalization. The 1996 Comprehensive Plan for Smyrna recognized these accelerating changes, and recommended that the city institute special zoning and design standards to guide the redevelopment of these corridors so that obsolescent land use patterns and building geometry would not be reproduced in the new projects.

(717.3) *District boundaries.*

CDD-1, South Atlanta Road.

The western boundary shall be the southern boundary of the Downtown Design District (DDD-1) (just south of Concord Road). The southern boundary shall be the southern city limits of Smyrna on Atlanta Road. The eastern and western boundaries shall approximately be 1,800 feet on either side of South Atlanta Road within the city limits of Smyrna. Please examine Map CDD-1 to determine the exact location of the boundaries. All parcels located inside the Smyrna City Limits and within or partially with these land lots shall be considered within the CDD-1: LL 557, 558, 595, 596, 597, 627, 629, 630, 668, 669, 671, 698, 700, 701, 740, 742, and 743. If any parcel is annexed by the City of Smyrna in the future, and is located within 1,800 feet of South Atlanta Road, it shall be subject to the regulations of CDD-1.

(717.4) *Application procedure.* The Smyrna Department of Community Development has primary responsibility for review of proposed projects in the Corridor Design Districts. It is recommended that property owners or developers submit conceptual design drawings of the proposed project to the Smyrna Department of Community Development for informal staff review prior to their application for a ground disturbance or building

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permit. This shall help prevent expenditures of financial resources for changes of construction documents. Conceptual designs may take the form of dimensioned sketches, or may be more refined. However, the graphics should enable staff to determine if there are obvious conflicts with applicable codes and regulations. Upon advice of staff and/or the planning commission, the city council may waive certain requirements of these district regulations when the geometry of a specific land parcel makes compliance impossible or creates an undue hardship.

Standard applications for zoning changes, ground disturbance permits, sign permits, and building permits shall be utilized for proposed projects in the Corridor Design Districts. All applications within the boundaries of these districts shall clearly state that the project is located within the (appropriate name) Corridor Design District. Procedures mandated in the City of Smyrna Zoning Ordinance, City of Smyrna Subdivision Ordinance, and the Standard Building Code (SBCC) shall be followed.

All projects within the Corridor Design Districts involving the demolition of, or exterior changes to, a building constructed before 1945 shall be first referred for review by the Smyrna Urban Design Commission. These regulations do not prohibit the demolition or renovation of existing structures. New or renovated structures may be more compatible with nearby properties. However, the recommendations of the UDC will be forwarded to the City of Smyrna's Planning and Zoning Commission to ensure implementation of the City of Smyrna's Comprehensive Plan.

If changes are requested by the city council, a revised site plan or set of construction drawings (whichever is applicable) must be signed and dated by the applicant, then submitted and approved by staff prior to issuance of any permits. Approval of a proposed project will be verified by a ground disturbance or building permit. Any significant variation which is not in compliance with the city's codes and ordinances will give sufficient grounds for the department of community development to issue a stop work order on the project, and possibly make the property owner, developer, and/or general contractor subject to civil penalties or judicial action.

Section II: Site Development Standards

(717.102) Conservation of Natural Terrain and Streams:

- b. CDD-1—5 - When possible any existing streams or ponds shall be maintained in a natural state.

(717.103) Conservation of Vegetation:

- a. CDD-1—5 - The owner and/or developer shall plan new construction which protects hardwood trees with diameters of greater than 24 inches, whenever possible. The locations of all tree species with

diameters, measured three feet from the ground surface, 12 inches or greater shall be shown on site grading and development plans.

(717.114) Free-Standing Signs:

- g. CDD-5 - The maximum height for a free-standing sign is 6 feet from the ground surface.

Section III: Transportation and Parking Design

(717.122) Entrance Standards for Commercial and Institutional Developments on Secondary Streets:

- a. CDD-1—5 - All entrance and exit lanes must be at least 24 feet wide curb to curb and meet all other standards set forth by the Codes and Ordinances of the City of Smyrna.

(717.123) Entrance Standards for Residential Developments on Secondary Streets:

- a. CDD-1—5 - Single-family driveways shall be at least 12 feet wide and have a minimum sight distance of at least 150 feet, or as required by the city engineer.

(717.124) Curb Cuts on Primary Arteries:

- c. CDD-1—5 - All entrances and exits shall be clearly noted with free-standing entrance signs or bollards 2 feet high. These directional signs shall not be subject to the limitations on free-standing signs.

(717.14) *Parking facilities.*

(717.141) Location:

- b. CDD-1—5 - When possible, the majority of parking spaces should either be located in the rear or the side of buildings

Subsections of Section 1013 of the Zoning Ordinance shall be amended to correct typing and grammatical errors. The proposed sections shall read as follows (amended portions are underlined or deleted).

(1013.7) *Maximum number of units permitted in a single-family attached building.* Not more than ten six dwelling units shall be permitted in a single-family attached building. "Single-family attached building" is defined as a building containing two or more single-family attached dwelling units joined at one or more points by one or more party walls or other common

facilities, but not including the walls of an enclosed courtyard or similar area. A single-family attached building shall not exceed 250 feet in length.

Sec. 1013-A. - Development standards for community unit plan.

(1013-A.7) *Maximum number of units permitted in a single-family attached building.* Not more than ten six dwelling units shall be permitted in a single-family attached building. "Single-family attached building" is defined as a building containing two or more single-family attached dwelling units joined at one or more points by one or more party walls or other common facilities, but not including the walls of an enclosed courtyard or similar area. A single-family attached building shall not exceed 250 feet in length.

Subsections of Section 1201 of the Zoning Ordinance shall be amended to correct typing and grammatical errors and update to current regulations. The proposed sections shall read as follows (amended portions are underlined or deleted).

ARTICLE XII. – EXCEPTIONS AND MODIFICATIONS

Sec. 1201.- Conditional development.

The following conditions shall apply to all conditional developments:

- (7) The developer shall be responsible for any traffic improvements (including additional right-of-way dedications) deemed necessary by either the city or the county during construction plan review. Sidewalks shall be provided by the developer inside the subdivision and outside the subdivision adjacent to any public right-of-way consistent with city's requirements for the extent of the development. A grass buffer with a minimum width of two feet shall be provided between the back of curb and sidewalk.

Subsections of Section 1510 of the Zoning Ordinance shall be amended to correct typing and grammatical errors and update to current regulations. The proposed sections shall read as follows (amended portions are underlined or deleted).

ARTICLE XV. – AMENDMENTS

Sec. 1510. – Special land use permits (nonresidential use only).

- (1) Any use of property not specifically permitted allowed under an existing zoning category, a commercial use in excess of 40,000 square feet of gross area (including outdoor retail display areas and storage areas or any use which also

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requires a permit from the state environmental protection division of the department of natural resources under the provisions of chapters 5, 8, or 9 of title 12 of the Official Code of Georgia Annotated, may be temporarily allowed through a "special land use permit," issued by the mayor and council of the City of Smyrna.

- (7) Application requirements for special land use permits (nonresidential use only). All applications for special land use permits shall be submitted in writing to the community development department with a copy provided to the city clerk's office and shall contain:
- (c) Three copies of the plot plan and one boundary survey, providing they are not larger than 11" × 17", provide 5 copies if larger, drawn to scale by a registered engineer, architect, land planner, or land surveyor currently registered in accordance with applicable state laws (plans must be stamped). The plot plan must show dimensions, adjoining streets with right-of-way (present and proposed), paving widths, the exact size and location of all buildings along with intended use, buffer areas, parking spaces, lakes, streams, utility easements, limits of 100-year floodplain, adjoining property owners, zoning of adjoining property, street address, and distance to nearest street intersection.
 - (f) If a septic tank is required approval must be made by Cobb County Environmental Health prior to filing of application.
 - (g) A filing fee, as determined by the governing body, must accompany each request. A schedule of filing fees approved by the governing body shall be maintained by the city administrator or his or her designee.
 - (i) Signs posted by the City of Smyrna at least ten days prior to public hearings. It shall be the applicants responsibility to insure signs remain posted throughout advertisement period.

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It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Smyrna, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

This Ordinance shall take effect and be in force from and after the day of its adoption, the public welfare demanding it.

The above Ordinance was approved by the Mayor and Council of the City of Smyrna, Georgia, on the 1st day of October 2018.

Max Bacon, Mayor

Attest:

Terri Graham, City Clerk

SEAL

As to form:

Scott Cochran, City Attorney