

Ord.#17-2017 An Ordinance to amend and supplement Chapter 550 "Land Use" to revise article VII, "Zoning District use and Bulk Regulations," §550-101, Subsection B and §550-103, Subsections A. E. F. G and I to Permit Billboards in Certain Zone Districts as a Conditional Use and to Provide Specific Standards for Both Static and Digital Billboards and to Identify Those Zone Districts Wherein Either Static or Digital Billboards shall be Permitted as a conditional use. In Addition This Ordinance Amends Article II "Definitions" of Chapter 550 to Strike the Existing Definition of "Billboard" and to Provide New Definitions for Both Static and Digital Billboards and Does Also Amend Article VI "Zoning." §550-95 "Signs" Regarding Billboards.

CLERK:

Delivered to Mayor:

Date: 7/26/2017

Time: 10:00 am

Signed: _____

Township Clerk
Michelle Masser

MAYOR:

Action by Mayor:

Approved: _____

Date: 7/28/17

Vetoed: _____

Date: _____

(Reasons for which Mayor has withheld approval of Ordinance, item or part Thereof.)

Signed: _____

Mayor

CLERK:

Returned:

Date: 7/28/17

Time: 12:03pm

Not returned with in (10) days

Date: _____

Signed: _____

Township Clerk

ORD.#17-2017

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 550 "LAND USE" TO REVISE ARTICLE VII, "ZONING DISTRICT USE AND BULK REGULATIONS", §550-101, SUBSECTION B AND §550-103, SUBSECTIONS A, E, F, G, AND I TO PERMIT BILLBOARDS IN CERTAIN ZONE DISTRICTS AS A CONDITIONAL USE AND TO PROVIDE SPECIFIC STANDARDS FOR BOTH STATIC AND DIGITAL BILLBOARDS AND TO IDENTIFY THOSE ZONE DISTRICTS WHEREIN EITHER STATIC OR DIGITAL BILLBOARDS SHALL BE PERMITTED AS A CONDITIONAL USE. IN ADDITION THIS ORDINANCE AMENDS ARTICLE II "DEFINITIONS" OF CHAPTER 550 TO STRIKE THE EXISTING DEFINITION OF "BILLBOARD" AND TO PROVIDE NEW DEFINITIONS FOR BOTH STATIC AND DIGITAL BILLBOARDS AND DOES ALSO AMEND ARTICLE VI "ZONING", §550-95 "SIGNS" REGARDING BILLBOARDS

WHEREAS, the Ordinance Committee of the Mount Olive Planning Board assisted by its professionals have reviewed relevant case law pertaining to billboard signs, both static and digital and did review N.J.S. 27:5-5 "Roadside Sign Control and Outdoor Advertising Act" and Title 16, Transportation, Chapter 41C "Roadside Sign Control and Outdoor Advertising" as set forth in N.J.A.C. 16:41C-1.1 et seq., and did research the matter of billboards including digital billboards in various studies prepared by the U.S. Department of Transportation's Federal Highway Administration; by Jerry Wachtel, CPE of the Veridian Group, Inc.; by the United States Sign Council; and by the American Planning Association, and have also conducted a review of billboard sign ordinances in New Jersey and in other states; and

WHEREAS, the zoning regulations set forth in Chapter 550 in Mount Olive includes billboards among a list of prohibited signs as set forth in §550-95 D "Prohibited signs"; and

WHEREAS, said prohibition notwithstanding, the Planning Board Ordinance Committee's professional staff did conduct field investigation in the Township of Mount Olive in June 2016 as part of the Ordinance Committee's research of billboard regulations and has documented the existence of twelve existing billboards, including one double-sized billboard along Route 46 from the easterly municipal boundary with the Borough of Netcong to the westerly municipal boundary with Washington Township, comprising a distance of approximately five miles, one existing billboard facing Interstate 80, two billboard-type signs on the Village Green premises along Route 46 in Budd Lake advertising units within the Village Green apartment complex, and one off-premises double-sided sign along Route 46 which is associated with the former Trading Post retail store, and three billboards including a double-sided billboard along Route 206 and a permanent sign affixed to both the north and south bound sides of the railroad trestle elevated above Route 206; and

WHEREAS, in consideration of the research conducted by the Planning Board Ordinance Committee and in light of the number of existing billboards within the two commercial corridors in the Township which likely would be classified as preexisting, nonconforming uses and structures although no determination was made regarding such status nor was it deemed important for the purpose of defining the existing conditions in place with respect to billboards within the Township, the Planning Board upon recommendation of its Ordinance Committee and its professionals does find it appropriate to permit billboards, and in certain locations, digital billboards, subject to specific conditions which, when applied in conjunction with those set forth in N.J.A.C. 16:41C-1.1 et seq., will provide opportunities for commercial and non-commercial speech while preserving and protecting the semi-rural character of the Township, will minimize visual intrusion upon residential neighborhoods in proximity to the highways particularly in the

Budd Lake section of the Township, and will promote a desirable visual environment by reducing visual obstructions and potential hazards caused by undue distractions along the highway corridors within Mount Olive Township; and

WHEREAS, Subchapter 6 “Permits, Waivers, and Construction Of New Signs” of Chapter 41C, more particularly N.J.A.C. 16:41C-6.3 “Application review and permit” does provide in subsection (e) 2, as follows: “When the permit applicant is a private entity, and the sign is to be erected on land owned or controlled by either a public entity or a private entity, the permit applicant shall refer the matter to the planning board or zoning board of the municipality within which the land is located for a public hearing, affording the opportunity for public comment, and obtain all relevant necessary approvals of the municipality in which the land is located in accordance with ordinances adopted pursuant to the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.”; and

WHEREAS, the Planning Board therefore does recommend to the Mayor and the Township Council of the Township of Mount Olive that the Township’s Land Use Ordinance be revised and amended to include billboards as a conditional use and subject to the standards set forth herein.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Mount Olive, County of Morris and State of New Jersey that the Township’s Land Use Ordinance be amended to strike the existing definition of “billboard” and insert two new definitions for static and digital billboards in §550-5, and to remove billboards from the list of prohibited signs in §550-95.

BE IT FURTHER RESOLVED, that the Township’s Land Use Ordinance be amended to establish a conditional use category to permit static billboards in the C-1, C-2, PB-Professional Business, P-Public/Conservation, LI-Light Industrial, GI-General Industrial, and the FTZ-1, FTZ-3, FTZ-4 zone districts where a property has frontage upon one of the following highways within Mount Olive Township: Route 46, Route 206, or Interstate 80; to establish a conditional use category to permit digital billboards in the C-2, P-Public/Conservation, and LI-Light Industrial zone districts where a property has frontage upon either Route 46 or Route 206; and to establish a conditional use category to permit digital billboards in the C-1, P-Public/Conservation, GI-General Industrial and the FTZ-1, FTZ-3, FTZ-4 zone districts where a property has frontage upon Interstate 80.

Section 1.

Amend §550-5 “Definitions” to delete the following definition and to add the following two new definitions:

~~Billboard—An off-site lettered or pictorial advertising sign.~~

Static Billboard Sign – A sign which does not change its message or copy automatically by electronic or mechanical means.

Digital Billboard Sign – A sign which changes message or copy electronically. The term “digital” is intended to encompass all electronic message signs including L.E.D. and similar lighting technology.

Section 2.

Amend §550-95 “Signs” to eliminate D(9):

(9) Billboards

Section 3.

Amend §550-95 “Signs” to create new subsection H entitled “Billboards” as follows:

A. Purpose

The intent and purpose of this Ordinance is to amend the Township’s sign regulations to permit billboards as conditional use along sections of Route 46 and Route 206 within the commercial highway corridors of the Township and along Interstate 80 which is a “limited access highway” as defined in N.J.A.C. 16:41C-2.1.

Mount Olive Township recognizes that billboards are by design different in scope and purpose from other types of signage in the Township in that billboards advertise or communicate goods, services or messages not conducted, sold, generated or otherwise related on the lot where the billboard is located. Billboards are significantly larger in size than other types of signage permitted in the Township and their primary objective is to attract the attention of the travelling public.

In order to minimize the visual impact of digital billboards, particularly during evening and nighttime hours, the Township finds it appropriate to limit digital billboards to certain locations along the Route 46 and Route 206 highway corridors where larger required lot area and distance from residential zone districts will allow for greater separation and buffering.

The intent of this Ordinance is to establish size, location and operating standards for billboards, both static and digital, for the purpose of providing opportunities for commercial and non-commercial speech while, to the greatest extent possible, preserving and protecting the semi-rural character of the Township, to minimize visual intrusion upon residential neighborhoods in proximity to the highways particularly in the Budd Lake section of the Township, and to promote a desirable visual environment by reducing visual obstructions and potential hazards caused by undue distractions along the highway networks within Mount Olive. In recognition of the fact that Interstate 80 varies in elevation within the portion of Mount Olive Township traversed by the highway and is distinguished from Route 46 and Route 206 in that it is a “limited access highway” and does not adjoin established residential areas within the Township, the height, setback and dimensional standards for billboards directed to the traveling public along Interstate 80 shall be determined by the standards and regulations set forth by the New Jersey Department of Transportation in N.J.A.C. 16:41C-1.1 et seq. as authorized by New Jersey Statute 27:5-5 “Roadside Sign Control and Outdoor Advertising Act.” This Ordinance is intended to recognize the authority established in N.J.A.C. 16:41C-1.1 et seq. and to supplement those standards and regulations where appropriate to best accommodate local conditions and land use policies and objectives of Mount Olive Township.

B. Conditional Use Standards

1. Location.

- (a) Static. Static billboards shall be permitted within that portion of the C-1 and C-2 Commercial zone districts, the PB-Professional Business zone district, the P-Public/Conservation zone district, the LI-Light Industrial zone district, the GI-General Industrial zone district, and the FTZ-1, FTZ-3, and FTZ-4, zone districts where said districts have frontage upon Route 46, Route 206 or Interstate 80 and only where the sign area of any billboard is be positioned to face Route 46, Route 206, or Interstate 80, as applicable, and subject to the limitations set forth herein.

- (b) Digital. Digital billboards shall be permitted within that portion of the C-2 Commercial zone district, the P-Public/Conservation zone district, and the LI-Light Industrial zone district where said districts have frontage upon Route 46 or Route 206 and only where the sign area of any billboard is positioned to face Route 46 or Route 206, as applicable, and subject to the limitations set forth herein. Digital billboards shall also be permitted within that portion of the C-1 Commercial zone district, the P-Public/Conservation zone district, the GI-General Industrial zone district and the FTZ-1, FTZ-3, and FTZ-4 zone districts where said districts have frontage upon Interstate 80 and only where the sign area of any billboard is positioned to face Interstate 80 and subject to the limitations set forth herein.
- 2. Distance requirements between billboards

All billboards, both static and digital, shall have a minimum linear distance of five thousand feet (5,000 ft.) between another billboard, either static or digital on the same side of the highway. This distance requirement shall apply to any new billboard and any existing billboard, including any preexisting, nonconforming billboard.
- 3. Distance requirements from a residential zone district
 - (a) Static. Static billboards shall maintain a minimum distance of one hundred and fifty (150) feet from the closest residential zone boundary. The Planning Board may reduce the required distance from the closest residential zone boundary up to fifty percent where it can be demonstrated to the satisfaction of the Planning Board that the sign face of the billboard will not be visible to the adjacent residential zone district or where the sign face of the billboard is screened from the adjacent residential zone district as a result of a significant difference in grade, or where the presence of year-round vegetative buffer or a building or structure provides a visual barrier between the sign face and the adjacent residential zone district.
 - (b) Digital. Digital billboards shall maintain a minimum distance of five hundred (500) feet from the closest residential zone boundary. The Planning Board may reduce the required distance from the closest residential zone boundary up to fifty percent where it can be demonstrated to the satisfaction of the Planning Board that the sign face of the billboard will not be visible to the adjacent residential zone district or where the sign face of the billboard is screened from the adjacent residential zone district as a result of a significant difference in grade, or where the presence of year-round vegetative buffer or a building or structure provides a visual barrier between the sign face and the adjacent residential zone district.
- 4. Dimension and height standards
 - (a) Double-faced and 'V'-type billboard structures shall be treated as a single billboard provided, however; no billboard shall contain more than one sign panel facing the same direction of traffic. The maximum separation between sign panels shall not exceed an angle in excess of seventy-five (75) degrees between sign panels.
 - (b) Except as otherwise specified herein, the maximum sign area shall not exceed four hundred and fifty (450) square feet.
 - (c) The maximum height of the billboard structure shall be twenty-five (25) feet along Route 46 and Route 206 as measured from the surface of the roadway. The maximum height for billboards oriented to Interstate 80 shall be determined at the time of site plan approval in accordance with NJDOT permit pursuant to N.J.A.C. 16:41C-1.1 et seq.

- (d) Dimension and height of any billboard structure facing Interstate 80 shall be determined at the time of site plan approval in accordance with NJDOT permit pursuant to N.J.A.C. 16:41C-1.1 et seq.

5. Digital Billboard Display Standards

- (a) Multiple message signs shall contain a default design that will either freeze the sign in one position or cause the sign area to go blank if a malfunction occurs.
- (b) The change from one display to the next shall be completely accomplished within one second or less.
- (c) All displays shall remain fixed for an interval of at least eight seconds.
- (d) Multiple message signs shall not display any image that is flashing, animated, moves, or appears to move. No multiple message sign shall be illuminated by intermittent or moving light.
- (e) Maximum brightness levels shall not exceed 0.2 foot candles over ambient light levels as measured within one hundred and fifty (150) feet of the sign. Certification from a qualified expert shall be provided as part of testimony for site plan approval to demonstrate the sign is designed to automatically adjust the brightness so as to not exceed these levels.

6. Setbacks

- (a) A billboard located on a lot having another principal building or structure shall maintain a minimum distance of fifty (50) feet from said building or structure.
 - (b) A billboard shall be set back from the right-of-way of Route 46 and Route 206, except as set forth in subsection (c) below, a minimum distance of twenty (20) feet.
 - (c) The minimum setback for any billboard facing Interstate 80 and shall be in accordance with NJDOT permit pursuant to N.J.A.C. 16:41C-1.1 et seq.
7. No billboard shall be erected within a sight triangle at each quadrant of an intersection of streets and driveways in accordance with the standards set forth in § 550-62 of this Chapter.
8. Site plan approval required. All billboard applications shall require site plan approval.

Section 4.

1. Amend §550-101 "Rural and Residential Districts" Subsection B "Public/Conservation District" as follows: B(3) "Conditional uses shall be as follows:"
New subsection (3)(e) to read: Billboards in accordance with the standards set forth in §550-95 H

Section 5.

1. Amend §550-103 "Nonresidential Districts", Section A "C-1 and C-2 Commercial Districts", subsection (3) "Conditional uses shall be as follows:"
New subsections (a)[5] and (b)[4] to read: Billboards in accordance with the standards set forth in §550-95 H
2. Amend §550-103 "Nonresidential Districts", Section E "L-I: Light Industrial District, subsection (4) "Conditional uses shall be as follows:"

New subsection (4)(b) to read: Billboards in accordance with the standards set forth in §550-95 H

3. Amend §550-103 “Nonresidential Districts”, Section F “G-I: General Industrial District”, subsection (4) “Conditional uses shall be as follows:”

New subsection (4)(b) to read: Billboards in FTZ-1, 3, and 4 in accordance with the standards set forth in §550-95 H

4. Amend §550-103 “Nonresidential Districts”, Section G “FTZ: Foreign Trade Zone Special District”, subsection (3) “Conditional uses shall be as follows” to revise subsection (3)(a)[1] to read shall be as follows:

The uses permitted as principal uses or conditional uses, except billboards which are subject to the requirements set forth below, in the C-1 and C-2 Zones, provided that such uses serve as support uses to the FTZ-1, FTZ-2 and FTZ-3 uses. All such uses are subject to the provisions of § 550-14 and the conditional use standards applicable to the C-1 and C-2 Zone Districts in § 550-103A(3)(a) and (b) and (4). In the FTZ-1 and FTZ-3 Districts, such uses shall only be permitted along collector streets. Restaurants shall not be subject to the collector street requirement.

5. Amend §550-103 “Nonresidential Districts”, Section G “FTZ: Foreign Trade Zone Special District”, subsection (3) “Conditional uses shall be as follows:”

New subsection (3)(c) to read: Billboards in the FTZ-1, 3, and 4 Districts in accordance with the standards set forth in §550-95 H

6. Amend §550-103 “Nonresidential Districts”, Section I “Professional/Business Zone”, subsection (5) “Conditional uses shall be as follows:”

New subsection (5)(d) to read: Billboards in accordance with the standards set forth in §550-95 H

Section 6.

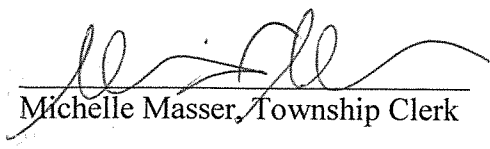
If any section or subsection of this ordinance shall be found or declared to be invalid, illegal or unconstitutional, that shall not affect the remainder thereof, which shall remain in full force and effect.

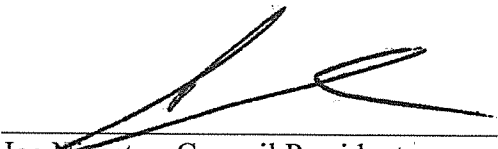
Section 7.

This ordinance shall take effect upon final adoption, publication, and publication of a notice for final adoption and the filing of same with the Morris County Planning Board.

ATTEST

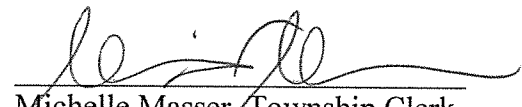
7/25/17


Michelle Masser, Township Clerk


Joe Nicastro, Council President

CERTIFICATION

I, Michelle Masser, Township Clerk, Township of Mount Olive, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title, and passed on first reading at a regular meeting of the Mount Olive Township Council held on July 11, 2017 and adopted by the Township Council at a regular meeting of the Township held on July 25, 2017.


Michelle Masser, Township Clerk