



# **CITY OF SPARTANBURG**

SOUTH CAROLINA

## **CITY COUNCIL AGENDA**

**City Council Meeting  
City Council Chambers  
145 West Broad Street  
Spartanburg, SC  
Monday, August 28, 2017  
5:30 p.m.**

- I. Moment of Silence**
- II. Pledge of Allegiance**
- III. Approval of the Agenda of the August 28, 2017 City Council Meeting**
- IV. Public Comment**  
\*Citizen Appearance forms are available at the door and should be submitted to the City Clerk
- V. Award of Bid for Demolition of 177 W. Broad Street and 100 S. Spring Street**  
**Presenter: David Cook, Construction Project Manager**
- VI. Highland Community Update**  
**Presenter: Mitch Kennedy, Community Services Director**
- VII. Approval of Cammie Clagett Asbestos Abatement Bids**  
**Presenter: Martin Livingston, Neighborhood Services Director**
- VIII. Resolution**
  - A. Approving the Lease of Neighborhood Improvement Program (NIP) Non-profit Partners Property in the Highland Neighborhood**  
**Presenter: Martin Livingston, Neighborhood Services Director**
- IX. Amendments to Ordinance Authorizing Equipment Lease Purchase**  
**Presenter: Chris Story, Assistant City Manager**

As required by the Americans with Disabilities Act, the City of Spartanburg will provide interpretive services for the City Council Meetings. Requests must be made to the Communications & Marketing Office (596-2020) 24 hours in advance of the meeting. This is a Public Meeting and notice of the meeting was posted with the Media 24 hours in advance according to the Freedom of Information Act.

**X. Consent Agenda**

- A. Ordinance to Authorize the City to Quitclaim Deed Alley Property Near E. Main and S. Pine to the Adjacent Property Owners – Developer, Cap East Spartanburg, LLC, and to James C, and Denise A. Spears (Second Reading)**
- B. Ordinance to Amend the City of Spartanburg, South Carolina Zoning Ordinance, by Amending Section 206, Changes to District Boundaries, Specifically Parcel #7-13-01-065.00, Located on 899 East Main Street, that is Currently Zoned R-15, with a Land Use Designation of Single Family Residential District to Zone B-3, with a Land Use Designation of General Business District, in Order to Allow Proposed Buyer to be Able to Develop a Self-Storage Facility, Contingent upon the Rezoning Being Approved. John D. Montgomery, Montgomery Development Group, Proposed Buyer, on Behalf of Arthur State Bank, Property Owner (Second Reading)  
Presenter: Natalia Rosario, Planner III**
- C. Ordinance Accepting the Property Owned by Rick J. and Judy Ann Krueger. The Property is Located at 441 Blackwood Drive Abutting Said Property, and is Further Identified on Spartanburg County Tax Map Sheet #7-09-16, Parcel 069.00. The Parcel is Currently Un-Zoned, and the Requested Zone is R-15, with a Land Use Designation of Single Family Residential District Upon Annexation (Second Reading)  
Presenter: Natalia Rosario, Planner III**

**XI. Sign Ordinance Update Review  
Presenter: Natalia Rosario, Planner III**

**XII. City Council Updates**

**XIII. Executive Session**

- A. Executive Session Pursuant to Section 30-4-70 (a) (5) of the South Carolina Code to Discuss Matters Relating to Encouraging A New Investment in the City**

**Council may take action on matters discussed in Executive Session after exiting Executive Session.**

**XIV. Adjournment**

*\* Non-Agenda Items*

*City Code Sec. 2-57. Citizen Appearance. Any citizen of the City of Spartanburg may speak at a regular meeting on any matter pertaining to City Services and operations germane to items within the purview and authority of City Council, except personnel matters, by signing a Citizen's Appearance form prior to the meeting stating the subject and purpose for speaking. No item considered by Council within the past twelve (12) months may be added as an agenda item other than by decision of City Council. The forms may be obtained from the Clerk and maintained by the same. Each person who gives notice may speak at the designated time and will be limited to a two (2) minute presentation.*

*\*Agenda Items*

*City Code Sec. 2-56. Addressing Council, Comments or Remarks to Council on Agenda Items Not Requiring Public Hearing. On agenda items not requiring a Public Hearing, please provide to the City Clerk prior to the opening of the meeting, your desire to speak on an agenda item. Remarks shall be limited to five (5) minutes and total remarks on any agenda item shall not exceed twenty (20) minutes.*





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** David Cook, Construction Project Manager  
**SUBJECT:** Award of Bid for Demolition of 177 W. Broad and 100 S. Spring Street  
**DATE:** August 24, 2017

### BACKGROUND:

Staff solicited bids for the demolition of two buildings located at 172 W. Broad Street and 100 S. Spring Street. This work consists of asbestos and lead base paint abatement, and demolition of the structures. The building sites will be improved for temporary parking lots after demolition. Bids were received from:

Demtek LLC	Spartanburg, S C	96,865.00
Carolina Wrecking	Columbia, S C	107,400.00
Complete Demolition Services	Carrollton, GA	162,000.00
Empire Dismantlement Corp	Grand Island, NY	245,678.00

After reviewing contractor qualifications, Demtek was determined to be a qualified contractor. No bids were submitted by MWBE contractors.

### ACTION REQUESTED:

Authorization for the City Manager to sign a contract with Demtek, LLC for demolition of the buildings located at 172 W. Broad Street and 100 S. Spring Street.

### BUDGET AND FINANCIAL DATA:

\$96,865 Broad Street TIF District Funds





## **Memo to Council**

**TO:** Ed Memmott, City Manager

**FROM:** Mitch Kennedy, Director, Community Services

**SUBJECT:** Highland Community Update

**DATE:** August 24, 2017

**City staff has been working for the past several months with the Highland Neighborhood Association, Spartanburg County School District 7, Spartanburg Housing Authority, Meeting Street Academy, Bethlehem Center, Meeting Street Academy and Macedonia Missionary Baptist Church to coordinate efforts for Highland improvement. The participants in this process are called the Highland Working Group (HWG). Staff would like to update Council on the efforts of the group.**





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Martin Livingston, Neighborhood Services Director  
**SUBJECT:** Approval of Cammie Clagett Asbestos Abatement Bids  
**DATE:** August 28, 2017

### BACKGROUND:

One of the priorities identified by the Highland Working Group is the demolition of the vacant Cammie Clagett Apartments. Utilizing funding from the State Housing Finance and Development Authority, the City now has the opportunity to proceed with abatement and demolition.

### ACTION REQUESTED:

Five contractors responded to a bid solicitation. City staff is consulting with the State Housing Authority to expedite the work and proceed with awarding contracts. Based on continuing direction from State Housing, staff is recommending that the City Manager be authorized to enter into asbestos abatement contracts with the following contractors:

Rhino Demolition Environmental	312,000.00
R&R Associates	125,000.00
Asbestos & Demolition, Inc	209,900.00
NEO Corporation	204,050.00

Asbestos abatement of 68 units is included in this action. Staff is continuing work with State Housing to secure funding for abatement and demolition of the remaining 42 units. All abatement work will be performed in accordance with SCDHEC standards. Air quality monitoring will be conducted during the project.

### BUDGET & FINANCIAL DATA:

Neighborhood Initiative Program Funding: \$850,950.



**City of Spartanburg**  
**Procurement & Risk Division**  
**PO Box 1749**  
**145 W Broad Street**  
**Spartanburg, SC 29304**  
**Phone: 864-596-2790**  
**Fax: 864-596-2365**  
**www.cityofspartanburg.org**

**NOTICE OF INTENT TO AWARD**

Removal of Asbestos – Cammie Clagett  
 Tuesday, August 1, 2017  
 no later than 3 PM

Vendor	1-18 (18 Units)	19-32 (14 Units)	33-58 26 Units)	59-68 (10 Units)
Rhino Demolition Environmental	216,000.00	168,000.00	312,000.00	120,000.00
Target Environmental LLC`	408,006.00	354,774.00	528,190.00	143,220.00
R&R Associates	225,000.00	210,000.00	424,970.00	125,000.00
Asbestos & Demolition, Inc	209,900.00	217,000.00	430,000.00	90,000.00
NEO Corporation	236,000.00	204,050.00	410,982.00	140,000.00

The following vendors submitted responses to the above solicitation:

Responses were evaluated according to the criteria stated in the solicitation. We announce our intent to award a contract to:

Winning Vendor's Name	City	State
Rhino Demolition	Little River	SC
Asbestos & Demolition, Inc.	Lugoff	SC
NEO Corporation	Canton	NC
R&R Associates	Columbia	SC

We would like to thank each vendor for your time and efforts in preparing a response to this solicitation.

We invite you to contact the Procurement Officer if you would like additional information or have any questions about the evaluation process. Vendors are reminded that any protests of this decision must be submitted to the Procurement Officer within five days after the issuance of this notice. The protest must be in writing, clearly identify the solicitation, and detail the nature of the protest.

The successful vendor is instructed not to begin work, purchase materials, or enter into subcontracts relating to the project until both the recipient and the City sign the contract.

We appreciate your interest in doing business with the City of Spartanburg.

Sincerely,

Carl F. Wright  
 Procurement & Risk Manager





## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager

**FROM:** Martin Livingston, Neighborhood Services Director

**SUBJECT:** Resolution approving the lease of Neighborhood Improvement Program (NIP) Non-profit Partners Property in the Highland Neighborhood

**DATE:** August 24, 2017

### BACKGROUND:

Staff is requesting approval of a resolution to lease property located in the Highland Neighborhood that will be owned by the five Non-profit Partners, participating in the South Carolina State Housing and Finance and Development Authority, Neighborhood Initiative Program (NIP). The City would be leasing the properties in accordance with the restrictive covenants until the property is developed, transferred, or sold. It is anticipated that the lease period will be for the NIP 3 year lien period. The property that will be leased will eventually be vacant land, which is the Cammie Clagett Public Housing Apartments location.

The Non-profit partners currently participating in the NIP Program are Habitat for Humanity of Spartanburg, Homes of Hope, Nehemiah Community Revitalization Corporation, the Northside Development Group, and the ReGenesis Community Development Corporation.

The lease agreement and any fees charged for maintenance are subject to approval by the South Carolina State Housing Finance and Development Authority.

### ACTION REQUESTED:

Approval of lease agreement between the City of Spartanburg and the five NIP Non-profit partners of Habitat for Humanity of Spartanburg, Homes of Hope, Nehemiah Community Revitalization Corporation, the Northside Development Group, and the ReGenesis Community Development Corporation and the for property in the Highland Neighborhood, formerly Cammie Clagett Apartments.

### BUDGET & FINANCIAL DATA:

Not applicable.



**CAMMIE CLAGETT BLOCK MAP  
FOR NIP PURCHASE AND DEMOLITION**

## A RESOLUTION

### APPROVING A LEASE OF NEIGHBORHOOD INITIATIVE PROGRAM (NIP) NON-PROFIT PARTNERS PROPERTY IN THE HIGHLAND NEIGHBORHOOD

WHEREAS, THE City of Spartanburg is engaged in a partnership with five non-profit partners receiving Neighborhood Initiative Improvement Program (NIP) funds from the South Carolina State Housing Finance and Development Authority; and

WHEREAS, the five NIP non-profit partners include Habitat for Humanity of Spartanburg, Homes of Hope, Nehemiah Community Revitalization Corporation, the Northside Development Group, and the ReGenesis Community Development Corporation; and

WHEREAS, the properties in the ownership of the five NIP non-profit partners in the Highland Neighborhood each contain a restrictive covenant detailing the maintenance, use, and development of the properties; and

WHEREAS, under the lease agreement the City of Spartanburg would use the property for community activities, events, planning purposes, recreation, and event parking, subject to approval of the South Carolina State Housing Finance and Development Authority, for a three year period ending midnight July 31, 2020, with an opportunity for the City of Spartanburg to renew the lease for another one year period; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Members of Council of the City of Spartanburg, in Council assembled:

Section 1. City shall lease the property owned by the Habitat for Humanity of Spartanburg, Homes of Hope, Nehemiah Community Revitalization Corporation, the Northside Development Group, and the ReGenesis Community Development Corporation for property in the Highland Neighborhood, formerly Cammie Clagett Apartments.

Section 2. The City Manager is authorized to execute the lease agreement, copy of which is attached, on behalf of the City.

Section 3. This Resolution shall be in full force and effect from and after its adoption as provided by law. This Resolution shall be made available for inspection during normal business hours by the general public at the office of the City.

Section 4. This Resolution to take effect upon adoption.

This Resolution adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Junie L. White, Mayor.

ATTEST:

\_\_\_\_\_  
Connie S. McIntyre, City Clerk.

APPROVED AS TO FORM:

\_\_\_\_\_  
Cathy Hoefer McCabe, City Attorney.

## GROUND LEASE AGREEMENT

THIS LEASE made this the \_\_\_\_ day of August 2017, by and between, **The Northside Development Group**, hereinafter referred to as "LESSOR", and **The City of Spartanburg**, hereinafter referred to as "LESSEE".

**WITNESSETH:**

### **1. Premises**

The Lessor hereby leases to Lessee and Lessee hereby rents from Lessor on the terms and conditions hereinafter set forth, that certain parcels of land containing approximately 7 acres identified as Blocks 1 and 2 located in the Highland Neighborhood, generally west and south of its intersection with South Daniel Morgan Avenue and Highland Avenue, in the City of Spartanburg, in the County of Spartanburg, South Carolina, and called the "Premises", more particularly described on **Exhibit "A"** attached hereto.

Lessee has entered into this Lease in the expectation of obtaining all permits, licenses, permissions and/or other authorizations (hereinafter collectively called "Permits") necessary for the operation upon the Community activities, events, planning purposes and recreation, and parking, as shown on the attached site plan, sign(s), and other improvements in connection with said facility deemed necessary or desirable by Lessee. Lessor makes absolutely no representations regarding the Premises, and Lessee takes it AS-IS, WHERE IS AND WITH ALL FAULTS.

### **2. (a) Possession**

The LESSEE shall take possession of the Premises and assume all liability upon signing of the Lease.

### **(b) Term**

The original term of this Lease (hereinafter referred to as the "Term") commence July 1, 2017 (hereinafter referred to as the "Commencement Date"), and ending at the conclusion of the thirty-six (36) months thereafter, at midnight (12:00 a.m.) on July 31, 2020.

### **3. Rental**

The Premises are hereby leased for the Term of this Lease on the following schedule of rental payments:

One and no/100 (\$1.00) Dollar per year. The first monthly installment is due and payable on the Commencement Date.

### **4. Security – Intentionally Omitted.**

**5. Use and Occupancy**

The Premises, together with the improvements thereon, shall be used and occupied by Lessee for the purposes of constructing and operating Community activities, events, planning purposes, recreation activities, and parking, which shall be operated, managed and maintained by the Lessee. Lessee shall comply with the terms of this Lease; and applicable laws, ordinances, rules and regulations of governmental authorities and agencies with respect to the condition, use or occupancy of the Premises. Lessee acknowledges that it is accepting the Premises AS-IS, WHERE IS AND WITH ALL FAULTS.

**6. Subletting and Assignment**

Lessee shall not assign this Lease, sublet the Premises, or permit the use of the Premises or any other part thereof by any party other than the Lessee.

**7. Taxes, Other than Real Estate Taxes**

This Lease Agreement shall be deemed to be a "net" agreement and the Lessee further agrees to guarantee payment of any merchant's licenses, sales taxes on rentals, fire service fees, mercantile, personal property taxes, assessments, or other taxes imposed upon the Premises or upon the activities carried forth upon the Premises.

**8. Real Estate Taxes**

Lessee agrees to pay any and all real estate taxes assessed against the Premises using South Carolina State Housing Finance and Development Authority Neighborhood Initiative Program (NIP) Maintenance funds. The parties shall work together to insure that the Premises are separately assessed for real estate taxes or allocate the taxes based on a proration of acreage and improvements should the Premises not be subdivided from Lessor's larger tract. Lessee has the right to contest any assessments or real estate taxes and Lessor agrees to join in any action to contest at the expense of Lessee. Non-profit NIP partners are required to request exemptions for the properties leased by the City.

**9. Utilities**

Lessee shall pay for all utilities and services used by it on the Premises, including, but not limited to, water, gas, electric and sewer service fees. Lessor makes no representation as to the availability or condition of utility service or transmission lines or pipes.

**10. Authority to Execute Agreement**

Each party warrants that it has the full power, right and authority to enter into and execute

this Lease; and the parties whose signatures are hereto affixed on this Lease are the duly authorized signatories, fully empowered to commit and bind the respective parties to those certain terms, covenants and conditions set forth herein.

**11. Insurance**

Lessee agrees to procure for the protection of the Lessor, general liability insurance in the amount of One Million and no/100 (\$1,000,000.00) Dollars for an accident to an individual person, and Two Million and no/100 (\$2,000,000.00) Dollars for an accident to more than one person. Lessee shall require that its insurance company give Lessor thirty (30) days written notice of any cancellation. Lessee shall provide Lessor an ACORD 28 certificate evidencing such coverage prior to occupying the Premises.

**12. Covenant of Quiet Enjoyment**

Lessor covenants that for and during the Term of this Lease, Lessor will not do anything which will impair Lessee's Leasehold Interest and rights hereunder.

**13. Maintenance, Alterations, and Improvements**

The Lessee will keep and maintain all property, buildings, grounds, parking areas and existing improvements in good condition and repair, and will take all reasonable action to maintain the same in a neat, clean and orderly condition with regular policing of the grounds for trash pickup. Further, Lessee shall take all reasonable action to insure that the patrons of the Community activities, events, planning purposes, recreation activities, and parking, conduct themselves in an orderly manner that shall not be offensive in noise, appearance, parking and access to the general public and to the neighboring property owners. Lessee shall provide heightened security, including police patrols and lighting from dusk to dawn, to the property and to Lessor's adjoining property in an effort to reduce loitering and vandalism. The Lessee will conform to all applicable laws and ordinances respecting the use and occupancy of the Premises, and will not make any unlawful use of the same.

**14. Liens**

Lessee agrees to promptly pay all proper charges for which it is legally responsible for labor, materials, and other obligations which might give rise to mechanic's liens against the said Premises and, as to those charges, it shall protect Lessor against any mechanic's liens which may be filed against the Premises as a result of the improvements to be or being placed on the Premises by Lessee. In the event that a charge is asserted against Lessee for labor, materials, and other obligations that might give rise to mechanic's liens against the said Premises and Lessee disputes the charge, Lessee may, without violating this provision, bond of lien, refuse payment and contest the charge.

## **15. Default**

In the event:

- (a) The Lessee defaults in the payment of annual rent for a period of ten (10) days;
- (b) The Premises shall be vacated;
- (c) The Lessee shall fail to comply with any term of this Lease;
- (d) The filing of any proceeding, whether voluntary or involuntary in bankruptcy seeking reorganization or relief under the Bankruptcy Code or other insolvency law or regulation;
- (e) The Lessee becomes insolvent or makes a transfer in fraud of creditors; or
- (f) The Lessee makes assignment for the benefit of creditors, the Lessor may:
  - (i) terminate this Lease by giving written notice to Lessee;
  - (ii) remove any property that may remain in the Premises and store it without liability to Lessee of loss or at its option to sell the property or any part thereof; and
  - (iii) pursue any other remedies that may be provided by law.
- (g) The Lessor reasonably determines that the use of the property has become a nuisance and the City is unable to maintain adequate control of its patrons, invitees, guests or others who may be attracted to the facility.

Provided, however, that should any event or condition described in items (b) – (g) of this Paragraph 15 occur, such event or condition shall not constitute a default should such event be cured to the satisfaction of Lessor within thirty (30) days from the occurrence of such event or condition.

## **16. Holding Over.**

There shall be no holding over.

## **17. Eminent Domain**

In the event Lessee is unable to use any part of the Premises or, in the event the Premises or any part thereof shall be taken for a street or other public use, or shall be destroyed or damaged by the action of municipal or other legal authorities, this Lease shall terminate.

## **18. Entire Agreement**

This instrument contains the entire agreement between the parties as of this date and the execution hereof has not been induced by either of the parties by representations, promises, or undertakings not herein expressed. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon

Lessor or Lessee unless in writing and signed by them.

**19. Attorney Fees**

In the event that Lessor or Lessee commence an action to enforce any of the provisions of this Lease, the prevailing party (as is determined by a judgment in favor of one party or the other) shall be entitled to recover from the other as additional cost, its reasonable attorney fees and costs incurred in connection with such action.

**20. Signs and Traffic**

Lessee shall have the right, at its sole cost and expense, to erect, place, replace and maintain upon the Premises such sign or signs to identify itself and to inform the public of its presence at the Premises as it deems reasonably appropriate and to identify and control the flow and operation of vehicular traffic upon and within the Premises. Lessee shall be responsible for its own signs and shall pay for all electrical or other energy utilized in connection with the lighting of said signs installed by Lessee. All of Lessee's signs shall at all times be, and remain, the sole and absolute property of the Lessee and may be removed at Lessee's election, cost and expense at any time, and from time to time, and/or at the expiration or other termination of the term or Extensions of this Lease.

**21. Notices**

All notices and demands of any kind, which may be or which are required to be served upon Lessor and Lessee hereunder, shall be given by depositing one copy of same in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed as follows, or by personal delivery or by national overnight delivery service to:

**To Lessor:** Northside Development Group  
698 Howard Street  
Spartanburg, SC 29306  
Phone: (864) 598-0097

**To Lessee:** City of Spartanburg  
P.O. Box 1749  
Spartanburg, SC 29304  
Phone: (864) 596-2785  
Fax: (864) 562-4419

The place to which said notices shall be sent to Lessee and Lessee may be changed by written notice given as herein above provided.

**22. Severability**

The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way effect the validity of any other provision of this Lease.

**23. Estoppel – Intentionally Omitted.**

**24. Miscellaneous**

a. Plans and Designs. Lessee shall provide to Lessor a copy of the proposed site plan for the Premises, which design shall be subject to Lessor's approval or denial at Lessor's sole discretion.

b. Quiet Surrender. Prior to the termination or expiration of the Lease Term, Lessee shall promptly remove any and all improvements that it may place or erect on the Premises; shall remove all painted surfaces and shall secure the Premises by fencing and removing even previously existing improvements or conditions, so as to insure that the property is not readily accessible or attractive to Lessee and other users. Further, the Lessee shall use its powers to discourage any use of the property after the lease expiration or termination.

c. NIP Maintenance Funds. The Lessor shall provide to the Lessee Neighborhood Initiative Program (NIP) funds for the maintenance of the property. The Lessor and Lessee shall negotiate an annual fee for the Lessee to maintain the property, pay taxes, keep the property in a condition as required by the South Carolina State Housing Finance and Development Authority using NIP maintenance funds for the three (3) year lien period. Lessee shall notify Lessor of the cost before any funds are expended for maintenance. Lessee shall keep financial records for State and Lessor review.

INTENTIONALLY LEFT BLANK

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Lease and have initialed the Exhibit(s) attached hereto the day and year first above written.

WITNESSES:

LESSOR:

NORTHSIDE DEVELOPMENT GROUP

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: Bill Barnet  
Title: Chairman

LESSEE:

THE CITY OF SPARTANBURG

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: Ed Memmott  
Title: City Manager

EXHIBIT A







## REQUEST FOR COUNCIL ACTION

**TO:** Spartanburg City Council  
**FROM:** Chris Story, Assistant City Manager  
**SUBJECT:** Amendments to Ordinance Authorizing Equipment Lease Purchase  
**DATE:** August 24, 2017

The attached ordinance authorizing an equipment lease purchase transaction, which passed unanimously on first reading at the last meeting, has been amended to make some clarifications to the outdated language which authorizes the City Manager to issue Tax Anticipation Notes (TANs) should the need arise.

We have not had need to issue TANs in recent years and do not expect to need to issue TANs this year. However, we have a number of projects underway that involve cash outlays which will be reimbursed from other funds (e.g. Cammie demolition, airport runway work, Oakview demolition, etc.) the timing of which could result in a tightening cash position later in the year. In an abundance of caution, we concluded we should update the TAN authorization language to ensure we are prepared should a bad timing situation occur. Those revisions are now reflected in the attached ordinance presented for second reading. We recommend your approval and welcome any questions you may have.



## REQUEST FOR CITY COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Dennis R. Locke, Finance Director  
**SUBJECT:** Capital Lease Financing  
**DATE:** August 9, 2017

### BACKGROUND:

As part of our ongoing efforts to equip staff with the resources they need at the lowest possible cost over the long term, the City is committed to maintaining an annual equipment replacement schedule. Funds are appropriated through the annual budget into the equipment replacement fund from which these purchases are then made throughout the year.

Due in part to very low interest rates in recent years, staff had determined that the City could strengthen its financial position by bundling and leasing the major purchases within a master lease. This mechanism spreads the cost of these purchases over several years. The proposed action is to authorize this year's lease program.

### ACTION REQUESTED:

Staff is recommending the replacement of 14 Police Vehicles, 1 Fire Vehicle, 5 vehicles and 7 various pieces of equipment for Public Services, 1 Vehicle Parks & Recreation, 1 Vehicle for Inspections, 1 Vehicle Property Maintenance, 1 Vehicle Building Maintenance.

It is staff's recommendation that we use a capital lease to finance these purchases. If approved, we would accept bids from various financial institutions. The source of repayment would be the Equipment Replacement Fund

### BUDGET AND FINANCIAL DATA:

The total will not exceed \$2,550,000 inclusive of closing costs. This amount may be reduced pending final review of acquisition specifications.

ORDINANCE NO. \_\_\_\_\_

AUTHORIZING THE CITY OF SPARTANBURG, SOUTH CAROLINA, TO EXECUTE AND DELIVER AN EQUIPMENT LEASE PURCHASE AGREEMENT IN AN AMOUNT NOT EXCEEDING \$2,550,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN EQUIPMENT; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE MAYOR AND MEMBERS OF COUNCIL OF THE CITY OF SPARTANBURG, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

SECTION 1. Findings and Determinations. The City Council (the “Council”) of the City of Spartanburg, South Carolina (the “City”), hereby finds and determines:

(a) The City is an incorporated municipality located in Spartanburg County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and the laws of this State.

(b) Section 5-7-40 of the Code of Laws of South Carolina, 1976, as amended (the “S.C. Code”), empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The City desires to enter into a lease-purchase agreement (the “Lease Agreement”) with a bank or other financial institution selected by the City Manager for the purpose of financing the acquisition of equipment (the “Equipment”) to replace the equipment set forth on Exhibit A hereto.

(d) The Lease Agreement will not constitute a “financing agreement” and the Equipment will not constitute an “asset” as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, the amount of the Lease Agreement will not be included when calculating the City’s constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina.

(e) The Lease Agreement will be subject to annual appropriation by the Council.

(f) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement. The Lease Agreement will enable the City to purchase the Equipment which will provide services necessary or useful to the operations of the City government.

(g) The Council has, by Ordinance enacted on June 12, 2017 adopting the City’s operating budget for the fiscal period July 1, 2017 through June 30, 2018 (the “Budget Ordinance”), authorized the City Manager to arrange for the issuance of tax anticipation notes of the City from time to time in anticipation of taxes by requesting bids for the issuance of such notes from such financial institutions as he shall determine, the amount of such tax anticipation notes not to exceed Three Million and 00/100 Dollars (\$3,000,000) (the “TANs”), and to award such

TANs to the financial institution offering the lowest rate of interest to the City without further action of Council.

(h) The Budget Ordinance designated the TANs as qualified tax-exempt obligations under Section 265 of the Internal Revenue Code of 1986, as amended (the “Code”).

(i) The City has been advised by legal counsel that the TANs may not be designated qualified tax-exempt obligations under Section 265 of the Code, and City Council wishes to amend the Budget Ordinance to the extent necessary to provide that the TANs will not be designated as qualified-tax exempt obligations under Section 265 of the Code.

SECTION 2. Approval of Lease/Purchase Financing; Delegation of Authority to Determine Certain Matters Relating to the Lease/Purchase Financing. The Equipment shall be acquired pursuant to a lease purchase financing which is hereby approved in a principal amount of not exceeding \$2,550,000. A Request for Proposals in substantially the form set forth as Exhibit B hereto shall be distributed to various banks and other financial institutions in the City and other areas as the City’s Finance Director determines. Without further authorization, the Council hereby authorizes the City Manager to: (a) determine the payment schedule under the Lease Agreement; (b) determine the date and time for receipt of bids under the Request for Proposals; (c) award the sale of the lease-purchase financing to the bidder (the “Bidder”) who submits the proposal determined to be the most advantageous to the City in accordance with the terms of the Request for Proposals; and (d) make changes to the quantity, cost or description of the Equipment.

SECTION 3. Approval of Lease Agreement. Without further authorization, the City Manager is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Bidder. The City Manager is hereby authorized, empowered and directed to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the City. The Lease Agreement is to be in the form as shall be approved by the City Manager, the City Manager’s execution thereof to constitute conclusive evidence of such approval.

SECTION 4. Execution of Documents; Written Procedures. The Mayor, Mayor Pro Tempore, City Manager, Finance Director, City Attorney and Municipal Clerk are fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be reasonably requested by the Bidder to effect the delivery of the Lease Agreement, including any project fund or acquisition fund agreement, or any payment or draw request thereunder, in accordance with the terms and conditions therein set forth, and the transactions contemplated hereby and thereby, and the action of such officers in executing and delivering any of such documents, in such form as the Mayor or City Manager shall approve, is hereby fully authorized. In addition, the City Manager and the Finance Director are further authorized to adopt written procedures on behalf of the City to ensure the City’s compliance with federal tax matters relating to the Lease Agreement.

SECTION 5. Federal Tax Covenant. The City, as lessee, agrees and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest components of the payments to be made under the Lease Agreement to become includable in the gross income of the Bidder or its successors or assignees for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of

original issuance of the Lease Agreement, and that it will comply with all applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder, to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the payments to be made under the Lease Agreement; and to that end the City shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Lease Agreement is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

The City will timely file Form 8038-G in accordance with the applicable regulations of the Internal Revenue Service.

SECTION 6. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the City covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the City within thirty (30) days of the City's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five (5%) of the City's revenue or its tax base.

SECTION 7. Issuance of TANs. Without further authorization, the Mayor or the City Manager shall be and hereby are authorized to execute and deliver the TANs, with such TANs being attested by the Municipal Clerk. The Budget Ordinance is hereby modified and amended to provide that the TANs are not and will not be designated as qualified tax-exempt obligations under Section 265 of the Code.

SECTION 8. Severability. All ordinances, orders, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution of the Lease Agreement are, to the extent of such conflict, hereby repealed.

SECTION 9. Effective Date. This Ordinance shall be effective upon its enactment.

[Execution Page Follows]

DONE AND RATIFIED this 28<sup>th</sup> day of August, 2017.

CITY OF SPARTANBURG, SOUTH  
CAROLINA

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MAYOR

(SEAL)

ATTEST:

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CITY CLERK

Date of First Reading: August 14, 2017

Date of Second Reading: August 28, 2017

This Ordinance has been reviewed by me and is hereby approved as to form and legality.

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City Attorney, City of Spartanburg, South Carolina

Execution Page

EXHIBIT A

List of Equipment to be Replaced

[see attached]

**Equipment Replacement Fund  
Vehicle & Rolling Stock / Equipment Requests  
To Be Financed thru Capital Financing  
FY 2017 - 2018**

<u>Department / Division</u>	<u>Vehicle / Equip. Number</u>	<u>Model Year</u>	<u>Model or Manufacturer</u>	<u>Description</u>	<u>Estimated Cost FY 2017 - 2018</u>
Property Maintenance Insp.	Veh# 2	2002	Ford	Taurus	25,000
Inspections	Veh# 313	2001	Ford	F-150 Pickup Truck	27,000
Building Maintenance	Veh# 227	1997	Ford	F-250 Pickup Truck	30,000
Police / Chief's Office	Veh# 731	2008	Chevrolet	Impala	38,500
	Veh# 756	2011	Chevrolet	Impala	38,500
					77,000
Police / Patrol	Veh# 213	2003	Ford	F-250 Pickup Truck	60,000
	Veh# 734	2009	Ford	Crown Vic	60,000
	Veh# 735	2009	Ford	Crown Vic	60,000
	Veh# 736	2009	Ford	Crown Vic	60,000
	Veh# 737	2009	Ford	Crown Vic	60,000
	Veh# 739	2009	Ford	Crown Vic	60,000
					360,000
Police / Investigations	Veh# 709	2007	Chevrolet	1WS19 Impala	38,500
	Veh# 716	2007	Chevrolet	CG33503 Expr Van (Forensic)	42,000
	Veh# 723	2008	Ford	Crown Vic	38,500
	Veh# 730	2008	Chevrolet	Impala	38,500
	Veh# 732	2008	Chevrolet	Impala Sedan	38,500
	Veh# 733	2008	Chevrolet	Impala Sedan LT	38,500
					234,500
Fire / Fire Suppression	Veh# 223	2000	Central States Apparatus	Fire Truck	765,000
Grounds Maintenance	Veh# 43	2002	New Holland	w/Flail Mower Tractor	37,000
	Veh# 567	2007	John Deere	Gator TX, Green, Lawn Equipment	22,000
	Veh# 574	2008	Ford	F-150 Pickup Truck	42,000
	Veh# 577	2009	Toro	62" Groundsmaster	15,000
	Veh# 576	2009	Kubota	60" Zero Mower	15,000
					131,000
Traffic Engineering	Veh# 427	2005	Ford	F150 4x4 Pickup Truck	27,000
Street Maintenance	Veh# 96	1991	Case	780-D Backhoe Grader	120,000
	Veh# 410	1999	Bobcat	863	52,000
					172,000
Solid Waste	Veh# 122	2000	Sterling Truck	White Clamshell	168,411
	Veh# 130	1997	Ford	Rear Load Garage Truck	151,895
	Veh# 845	2011	Mack	Automizer Sider Loader Sanitation Truck	290,753
	Veh# 891	2007	Ford	F-150XL 4x4 Cab 155	27,000
					638,059
PRSE	Veh# 259	2002	Ford	Taurus Sedan	28,000
					28,000
				<b>GRAND TOTAL</b>	<b>\$ 2,514,559.00</b>

\* These items will be replaced after July 1, 2017.

EXHIBIT B

Form of Request for Proposals

REQUEST FOR PROPOSALS

City of Spartanburg, South Carolina  
Equipment Lease Purchase Financing, 2017  
Bid Number: Proposal No. \_\_\_\_\_

Response Due: \_\_\_\_\_, 2017  
12:00 Noon, South Carolina Time

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NOT BANK-QUALIFIED

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The City of Spartanburg, South Carolina (the “City”), is requesting proposals from various banks and financial institutions for not exceeding \$\_\_\_\_\_ tax-exempt lease purchase financing to defray the costs of acquisition of certain equipment as described herein. The City invites interested parties to submit a proposal to finance the equipment by specifying a rate of interest and other conditions for such financing.

Mailed or Hand Delivered Bids: Each mailed or hand delivered proposal shall be enclosed in a sealed envelope marked “Proposal for 2017 Equipment Lease Purchase” and should be mailed or delivered to:

Carl Wright  
Purchasing Manager  
City of Spartanburg  
145 West Broad Street  
Post Office Box 1749  
Spartanburg, South Carolina 29304  
Telephone: 864.596.2049

Facsimile Bids: The City will accept the facsimile transmission of a proposal at the risk of the bidder. The City shall not be responsible for the confidentiality of proposals submitted by facsimile transmission. Any delay in receipt of a facsimile proposal, and any incompleteness or illegible portions of such proposal are the responsibility of the bidder. Proposals by facsimile should be transmitted to the attention of Mr. Carl Wright, Property and Procurement Manager, fax number: 864.596.2365.

E-Mail Bids: Electronic proposals may be e-mailed to the attention of Carl Wright at e-mail address: [cwright@cityofspartanburg.org](mailto:cwright@cityofspartanburg.org), with a copy to [bnorris@mcnair.net](mailto:bnorris@mcnair.net).

PROPOSALS MAY BE DELIVERED BY HAND, BY MAIL, BY E-MAIL OR BY FACSIMILE TRANSMISSION, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE CITY AT THE PLACE, DATE AND TIME APPOINTED, AND THE CITY SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS.

Please note that this Request for Proposals is also being sent to a number of other institutions as well and that the City reserves the right to select the proposal determined to be the most advantageous to the City in its sole discretion. The selection process will be heavily weighted toward lowest financing costs; however, lowest financing cost is not the only factor that may be considered by the City. The City reserves the right to reject any or all bid proposals as well as negotiate with the lowest responsive bidder.

The City requests that each bidder reference the following bid number in its proposal for the Lease/Purchase financing: Bid Number: Proposal No. \_\_\_\_\_.

I. Terms and Conditions

- (a) Equipment: The equipment to be financed by the lease is described and designated as having a five or ten year amortization period on Exhibit A attached hereto (respectively, “Five Year Equipment” and “Ten Year Equipment”). Five Year Equipment will be released from the lien of the lease on \_\_\_\_\_, 20\_\_ (the “Five Year Release Date”).
- (b) Amount to be Financed: The amount to be financed will not exceed \$\_\_\_\_\_. It is anticipated that the total amount to be financed will be \$\_\_\_\_\_, which amount will be allocated as follows:

Five Year Equipment
Ten Year Equipment
Total

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After the receipt of proposals, the City reserves the right, in its sole discretion, to adjust the principal amount of the lease attributable to Five Year Equipment and/or Ten Year Equipment by up to ten percent (10%); provided, however, that the aggregate principal amount of the lease financing shall not exceed \$\_\_\_\_\_. A bid for less than the total principal amount of the lease will not be considered.

- (c) Payments: Bidders may submit a bid with a single, fixed rate of interest for both Five Year Equipment and Ten Year Equipment, or may submit a bid with different fixed rates of interest with respect to Five Year Equipment and Ten Year Equipment. With respect to Five Year Equipment, the City will make ten (10) approximately equal principal and interest payments to the Lessor payable semi-annually on April 1 and October 1 of each year commencing April 1, 20\_\_ and ending October 1, 20\_\_. With respect to Ten Year Equipment, the City will make

twenty (20) approximately equal principal and interest payments to the Lessor payable semi-annually on April 1 and October 1 of each year commencing April 1, 20\_\_ and ending October 1, 20\_\_. It is preferred that the City make one combined semi-annual payment of principal and interest on each of the semi-annual payment dates set forth above with respect to Five Year Equipment and Ten Year Equipment.

- (d) Interest. Bidders may submit a bid containing one single fixed rate of interest for the total principal amount of the lease of all equipment, or may submit a bid for the total principal amount of the lease containing different fixed rates of interest with respect to the principal amounts allocated to Five Year Equipment and Ten Year Equipment as described above. Bids containing variable rates of interest will be rejected by the City. Unless otherwise designated by a bidder interest on the lease will be calculated based on a 360-day year comprised of twelve 30-day months.

**Bids containing rates of interest which may adjust upon the occurrence of specified events, including changes in the Internal Revenue Code, changes in the bidder's capital requirements or cost of capital, or for any other reason (other than loss of tax exemption due to the actions or omissions of the City) will be rejected.**

- (e) Guarantee of Interest Rate: The interest rate, costs and other terms of the bid submitted must be guaranteed from the date of your proposal to the closing date (expected to be on or about \_\_\_\_\_, 2017).
- (f) Form of Equipment Lease/Purchase Agreement: A bidder's proposed form of lease agreement ("Lease Agreement") should be provided to the City's special counsel within three (3) business days of the award of the successful proposal.
- (g) Non-appropriation: A non-appropriation provision acceptable to the City must be included in the Lease Agreement. Any and all amounts due, including, but not limited to, scheduled lease payments, reimbursements, penalties and fees under the Lease Agreement or any escrow agreement relating to an Acquisition/Escrow Account (as defined below), must be subject to annual appropriation by the City.
- (h) Non-substitution: A non-substitution provision is not permitted to be included in the Lease Agreement.
- (i) Deficiency Judgment: No deficiency judgment can be assessed or imposed against the City nor will the full faith, credit and taxing power of the City be pledged to the payment of the Lease Agreement.
- (j) Title: Title to the equipment will be in the name of the City subject to the bidder's rights under the Lease Agreement. Upon the closing of the Lease Agreement, the successful bidder shall be responsible for taking all actions it deems necessary to impose its lien upon or perfect any security interest in the Equipment. The Lease Agreement must allow the City to dispose of certain equipment in its sole discretion prior to the termination of the Lease Agreement provided the value of the remaining

items of equipment is not less than the outstanding principal balance of the Lease Agreement at the time of such disposition.

- (k) Acquisition Account: The City will require the successful bidder to transfer by Federal funds the full amount of this financing on the date of the closing. If a bidder requires that the acquisition or escrow account (the “Acquisition/Escrow Account”) be held by it or its designee, the bidder must so indicate on its proposal (including any fees required thereunder). Otherwise, the City retains the right to designate a bank to act as custodian of the Acquisition/Escrow Account. Interest earnings in the Acquisition/Escrow Account must accrue to the City. Payments therefrom may be made either to the City as reimbursement for prior expenditures or directly to the equipment vendor for payment of the equipment as directed by the City. Without limitation of the foregoing, funds on deposit in the Acquisition/Escrow Account must be made available upon request of the City for periodic partial payments to equipment vendors for the manufacture and/or assembly of equipment prior to delivery and acceptance of such equipment by the City. In such cases, funds will be paid to the City as reimbursement for prior expenditures, or directly to the equipment vendor, as directed by the City.
- (l) Costs of Issuance: All such costs relating to the preparation of the Lease Agreement and fees of special counsel will be paid by the City. Any fees and costs of the bidder to be paid by the City must be stated in the response to this Request for Proposals. The Lease Agreement must allow the City to pay its legal fees and costs related to execution and delivery of the Lease Agreement out of the proceeds of the Lease Agreement.
- (m) Insurance: The City provides insurance through the South Carolina Municipal Insurance and Risk Financing Fund for equipment/personal property. The equipment will be insured in a similar manner at face value. The lessor may be listed as a loss-payee, but may not be listed as an additional insured under the City’s insurance arrangement with the South Carolina Municipal Insurance and Risk Financing Fund.
- (n) Closing: The City expects to accept the successful proposal on \_\_\_\_\_, 2017, and close the transaction on or about \_\_\_\_\_, 2017.
- (o) Lease Agreement Not Designated as Qualified Tax-Exempt Obligation: The City will not designate the Lease Agreement as a “qualified tax-exempt obligation” for purposes of Section 265 of the Internal Revenue Code of 1986, as amended (the “Code”) relating to the ability of financial institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.
- (p) Redemption: Unless otherwise specifically provided in a bidder’s proposal and agreed to by the City, the Lease Agreement will be subject to prepayment at the option of the City in whole or in part at any time without any prepayment penalty.

## II. Form of Proposal

- (a) The proposal must be in writing. It is preferred that a bidder's proposal not be subject to further credit or underwriting approval.
- (b) No proposal may be modified by a bidder after it has been submitted.
- (c) Proposals should include: the name, address, telephone number of your institution; the primary contact; and identity of legal counsel, if any.
- (d) Proposals must be accompanied with a list of all requirements and conditions associated with its bid.
- (e) Proposals must indicate a single fixed interest rate for the lease term. It is requested that proposals include an amortization schedule showing annual payment amounts for the term of the financing.
- (f) Proposals must provide full disclosure of all financing costs, including any closing, legal, and tax opinion charges.
- (g) Any prepayment penalty or other fee requirements should be detailed in the proposal.

## III. Evaluation of Proposals and Award

The Lease Agreement may be awarded to the bidder that provides the most advantageous proposal, as determined by the City in its sole and absolute discretion. After the proposals are received, they will be evaluated by the officials of the City based on various factors, including, but in no way limited to, the interest rate, redemption terms, additional credit or underwriting approval, additional covenants and terms, if any, and other conditions set forth therein. The City reserves the right to reject any and all bids or to waive irregularities in any proposal. The City expects to accept the successful proposal on \_\_\_\_\_, 2017.

IV. Legal Opinions. The execution and delivery of the Lease Agreement is subject to the respective opinions of the McNair Law Firm, P.A., Special Counsel, and the City Attorney, Cathy Hoefer McCabe, Esquire.

V. Tax Exemption and Other Tax Matters. The Code, and the Treasury Regulations promulgated thereunder, include provisions that relate to tax exempt obligations, such as the Lease Agreement, including, among other things, permitted uses and investment of the proceeds of the Lease Agreement and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest paid under the Lease Agreement becoming subject to federal income taxation retroactive to the date of issuance of the Lease Agreement. The City has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Lease Agreement from gross income for federal tax purposes. Failure of the City to comply with these covenants could cause the interest on the Lease Agreement to be taxable retroactively to its date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Lease Agreement is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however such interest will be taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax imposed on certain corporations.

The accrual or receipt of interest on the Lease Agreement may affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. Prospective purchasers of the Lease Agreement should be aware that ownership of the Lease Agreement may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers otherwise entitled to claim the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Lease Agreement. Special Counsel will not express any opinion as to such collateral tax consequences. Prospective purchasers of the Lease Agreement should consult their tax advisors as to collateral federal income tax consequences.

Special Counsel will not undertake to determine (or to inform any person) whether any action taken (or not taken) or event occurring (or not occurring) after the date of issuance of the Lease Agreement may affect the tax status of interest on the Lease Agreement. In rendering its opinion, Special Counsel will rely upon certificates and representations of the City with respect to certain material facts solely within the knowledge of the City relating to the application of the proceeds of the Lease Agreement.

VI. Investment Letter. The lessor will be requested to execute a letter to the City in substantially the form submitted with this Request for Proposals.

VII. Additional Information

Persons seeking additional information should communicate with:

Dennis R. Locke, CGFO  
Finance Director  
City of Spartanburg, South Carolina  
Phone: 864.596.2059  
E-mail: dlocke@cityofspartanburg.org

Brandon T. Norris, Esquire  
Special Counsel  
McNair Law Firm, P.A.  
Phone: 864.271.4940  
E-Mail: bnorris@mcnair.net

Michael W. Burns, Esq.  
Special Counsel  
McNair Law Firm, P.A.  
Phone: 864.271.4940  
E-Mail: mburns@mcnair.net

CITY OF SPARTANBURG, SOUTH CAROLINA

Dated: \_\_\_\_\_, 2017

Exhibit A  
Equipment





## REQUEST FOR COUNCIL ACTION

**TO:** Ed Memmott, City Manager  
**FROM:** Natalia Rosario, Planner III.  
**SUBJECT:** Sign Ordinance Update Review  
**DATE:** August 28, 2017

**SUMMARY:** On May 8<sup>th</sup>, 2017, Council heard a presentation from Planning Department staff regarding potential updates to the current sign ordinance, specifically regarding the addition of ordinance guidelines permitting and regulating electronic message board signage (EMB). At that time staff presented the sign ordinance requirements for EMB signs of the Cities of Greenville and Clemson, South Carolina, and received feedback from Council directing staff to tailor an ordinance proposal that would allow for this type of signage for institutional uses.

Staff is proposing an ordinance that permits 30% of a 6' monument sign for an institutional use to be an EMB. No scrolling, flashing, pulsing or other movement is permitted, and still images must be displayed for at least 15 seconds before changing. The signs may only display images from 6 A.M. to 9 P.M. and must be located at least 100 linear feet from any residential property line, casting only .1 foot candle to any residential structure and are not to exceed .3 foot candles over ambient light. An EMB must be able to automatically adjust brightness, and shall have a default mechanism to stop the sign or turn it off should a malfunction occur. Sign copy changes are to be instantaneous, and allowances for up to 40% of the sign face to be an electronic message board are proposed if the sign is built using natural materials such as wood, stone, brick, or other such materials.

Other proposed edits include clarification of intent, statement of permit requirements, additional sign maintenance standards and sign removal provisions, updated references, lowering of pylon heights and the permitting of one freestanding sign per street frontage in shopping centers, and updates to permitted banner types.

If Council is comfortable with the proposed changes at this time, the City of Spartanburg Planning Commission will hear the proposed changes on September 21<sup>st</sup>, 2017. If recommended for approval at that time, the proposed changes will return to City Council for First Hearing on October 9<sup>th</sup>, 2017, and if passed at that time will be heard for a Second and Final Hearing on October 23<sup>rd</sup>, 2017.

**ADDITIONAL INFORMATION:** Please note that the proposed updates to the sign ordinance do not impact advertising signs/billboards.

**BUDGET AND FINANCE DATA:** N/A

**§ 503. SIGN REGULATIONS.** (\*) (\*\*\*\*)

**503.1 Purpose.**

The purpose of these regulations is to provide minimum control of signs to promote the health, safety and welfare by:

- Lessening hazards to pedestrians and vehicular traffic;
- Preserving property values;
- Preventing unsightly and detrimental development which has a blighting influence upon residential, business, and industrial uses;
- Promote the use of signs which are aesthetically pleasing, of appropriate scale, an integrated with the surrounding buildings and landscape, in order to meet quality development standards;
- Balance public and private objectives by allowing adequate signage for business identification;
- Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape which affects the image of the city.
- Preventing signs from reaching excessive size or numbers such that they obscure one another to the detriment of all concerned; and
- Securing certain fundamentals of design for the city.

To achieve these purposes, it is the intent of this section:

- To provide reasonably uniform standards while allowing functional flexibility, encourage variety, and create an incentive to relate signage to basic principles of good design;
- To assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets, and other public structures and spaces, are protected by exercising reasonable control over the character and design of sign structures which are near the rights-of-way; and
- To provide an improved visual environment for the citizens of, and visitors to, the city.

**503.2 General Sign Provisions.**

503.21 Illumination. Where illumination is permitted it may be direct or indirect. ~~No sign shall display intermittent, flashing or rotating lights, except for time, temperature, stock market quotations, or electronic signs described in Section 503.45.~~ When it is used, sign illumination shall be so shielded as not to cast direct light onto public ways and residential districts. Intensity of light cast on any residential district shall not exceed 0.5 foot candles.

503.22 Public Safety. Words, phrases, symbols, characters or signals used in a manner that might be misconstrued as a public safety warning or traffic sign or signal will not be permitted. The placement and configuration of signs shall not be located or designed so as to be misconstrued as a public safety warning or traffic signal.

503.23 Signs Permitted in Any District. The following signs are permitted in any district and are excluded from the computation of the total sign area requirements of this Section.

**Table A - - Signs Permitted in Any District**

<b>Sign Type</b>	<b>Requirements</b>
A. Public Signs or Notices	Posted by or at the discretion of a governmental agency.
B. Property Promotion and Contractor’s Notices (**)(***)(*****)	A sign on each single lot not exceeding four (4) square feet in residential areas (R-15, R-12, R-8, R-8SF, R-6); thirty-two (32) square feet in non-residential areas (GID, LOD, LC, B-1, D-T4, D-T5, D-T6, B-3, B-4, I-1, I-2).
C. Church Bulletin Boards	On the same zoning lot as a place of worship, a Church Bulletin Board not exceeding twelve (12) square feet may be erected.
D. Historical Markers	Erected by a bona fide historical association or a governmental agency
E. Church Directional Signs	Erected by a church or synagogue located within the city limits, no such sign shall exceed three (3) square feet in area. It must contain only pertinent directional information. No individual churches or synagogues may erect more than three (3) such signs within the city limits. Such signs shall be kept in good repair and appearance at all times by the owner.
F. Hospital Directional Signs	Erected by a public or private hospital, providing directions with no advertising. Maximum size shall be limited to eighteen (18) square feet and erected with seven (7) feet minimum clearance from the ground.
G. Temporary non-illuminated signs of persons connected with work on buildings under actual construction or alteration.	Located at least ten (10) feet inside any lot line; not to exceed twenty (20) square feet in area.
H. Civic Club Signs	Civic Club signs shall be permitted to locate on incoming lanes on Interstate, U.S. numbered highways, S.C. numbered highways and State secondary roads. All such signs shall be located in one central location where said signs are clustered in one frame. The frame for the civic club signs shall not exceed one hundred (100) square feet.
I. Advertising Signs on Bus Shelters (*)	Advertising signs on bus shelters authorized by the City shall be permitted

503.24 Regulations for Signs. Signs other than those listed in subsection 503 above are permitted only in accordance with the following provisions for the appropriate districts **and must acquire proper permitting through the Development Services Division. Unless specifically exempted in Table A above, a sign permit shall be obtained prior to erection, installation, display, structural alteration, or change of any sign.**

\* (Amended by Council 4/4/88)

\*\*\*\* (Further Amended by Council 3/4/96)

\*\* (Amended by Council 2/10/92)

\*\*\*\*\* (Further Amended by Council 10/8/01)

\*\*\* (Further Amended by Council 12/12/94)

503.25 Maintenance of Signs. Signs shall be maintained in good repair at all times. Any sign not meeting the following provisions shall be repaired, maintained, or removed within thirty (30) days after receipt of notification by Zoning Administrator. (\*\*)

- The area and vegetation around a sign shall be properly maintained so as to make the sign readily visible;
- All nonfunctioning bulbs or damaged panels shall be replaced or repaired;
- All sign copy shall be maintained securely on the sign face and all missing copy shall be replaced;
- All sign structures, framework, and poles shall be structurally sound;

503.26 Yard Setback. Freestanding signs may be located in required bufferyards and yard setbacks, provided the minimum setbacks shall not be less than 10 feet from the street right-of-way and ~~not less than 5 feet from~~ the front property line(s). Measurements are to be taken horizontally from the portion of the sign (base or face), which is nearest to the street right away and/or property line. No signs shall be permitted in any street setback unless the owner agrees in writing to remove the sign if the setback is required. It shall be understood that if said setback is ever needed, the value to the sign thereon shall not be included in the computation of the value of the land being taken for right-of-way purposes. (\*\*)

503.27 Sign Removal. All non-conforming signs shall be removed from the premises within 90 days (3 months) after an establishment goes out of business. Sign removal shall mean to remove the sign area as defined herein. Provided, however, that in the event the business goes out of business, all nonconforming signs shall be removed immediately. Removal of nonconforming signs includes not only the area of the sign as defined herein but also the frame structure, stand and all of the components. The responsibility for sign removal will be joint and several with the person occupying the property and the property owner. (\*) (\*\*\*)

The following items shall not be improved, instead such items shall be removed upon the effective date of this amendment to the Zoning Ordinance regardless of condition and/or non-conforming or conforming status:

- Sign copy that originally but no longer relates in its subject matter to products, accommodations, services, or activities sold on site. However, sign copy located upon a building within a design protection district or upon a building that is a landmark structure may remain where staff to the Historic Architecture Review Board issues a certificate of approval finding that the sign conforms to at least one of the guidelines for retaining historic signs listed within “The Preservation of Historic Signs” Preservation Brief, issued by the National Park Service, U.S. Department of the Interior;

\*(Further Amended by Council 6/26/95)

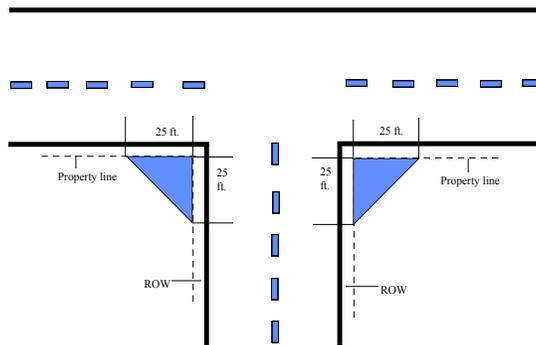
\*\* (Further Amended by Council 4/28/03)

Section 503. Sign Regulations

- A display surface area that has not contained sign copy for any period of 12 consecutive months, and the associated sign support structure shall be removed as well; or
- A sign support structure that has not supported a display surface area for any period of 12 consecutive months.

503.28 Visibility at Intersection. On a corner lot in any residential district, GID, LOD, LC, B-1, D-T4, D-T5, D-T6, B-3, B-4, I-1, I-2 an Intersection Sight Distance (ISD) shall be maintained by a triangular area formed by the right-of-way lines of the intersecting streets and clear line of sight from a vehicle located 15 feet behind the curb line of the approached street. The dimensions of the three legs of the sight triangle are dependent upon the width of the roadway and speed limit. The intersection sight distance and sight triangle dimensions shall be determined by procedures detailed in the latest edition of the South Carolina Department of Highways and Public Transportation Highway Design Manual Access and Roadside Management Standards (ARMS). No planting, fence or other structure, or man-made earth mound, or change in earth grade, shall be placed or maintained if it obstructs vision between a height of two (2) feet and ten (10) feet above the grade of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.  
(\*\*)(\*\*\*)(\*\*\*\*\*)

VISIBILITY AT INTERSECTIONS



The South Carolina Department of Highways and Public Transportation Highway Design Manual Access and Roadside Management Standards is available for reference ~~in the City Public Works Department office~~ online at [www.scdot.org](http://www.scdot.org). This section shall not apply to any intersection which is controlled by a traffic signal exhibiting green, yellow, and red signals.

503.29 Sign Measurements.

- (A) **Sign Height:** Shall be measured from the natural grade, curb, or street centerline, whichever is higher, to the uppermost point of the sign face or structure.

\* (Amended by Council 6/27/94)

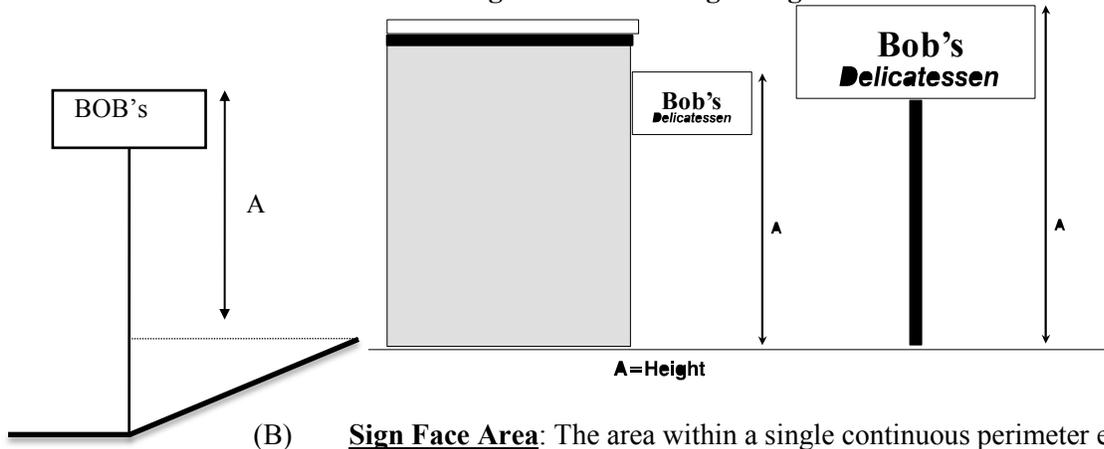
\*\* (Further Amended by Council 12/12/94)

\*\*\* (Further Amended by Council 8/11/97)

\*\*\*\* (Further Amended by Council 11/13/00)

\*\*\*\*\* (Further Amended by Council 10/8/01)

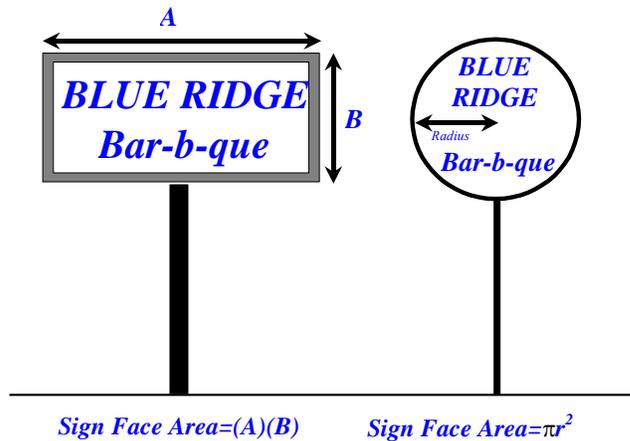
Figure 503 – 1 -- Sign Height



(B) **Sign Face Area:** The area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the supports or uprights on which such sign is placed is defined as sign area. Signs shall be measured as described for each sign type below:

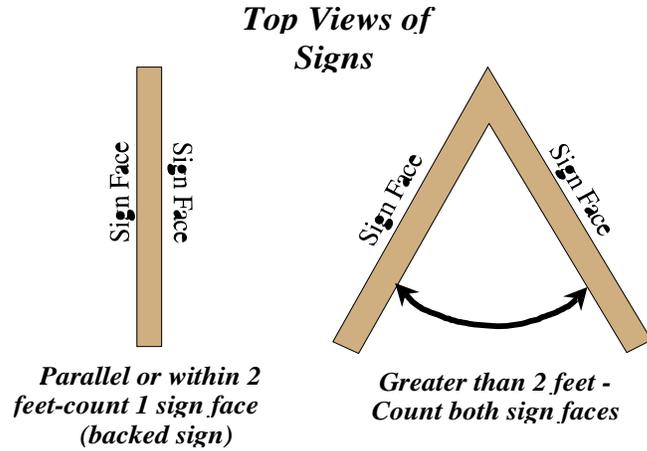
1. **Sign cabinets:** The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet surrounding the sign face (see figure 503-2).

Figure 503-2—Sign Area



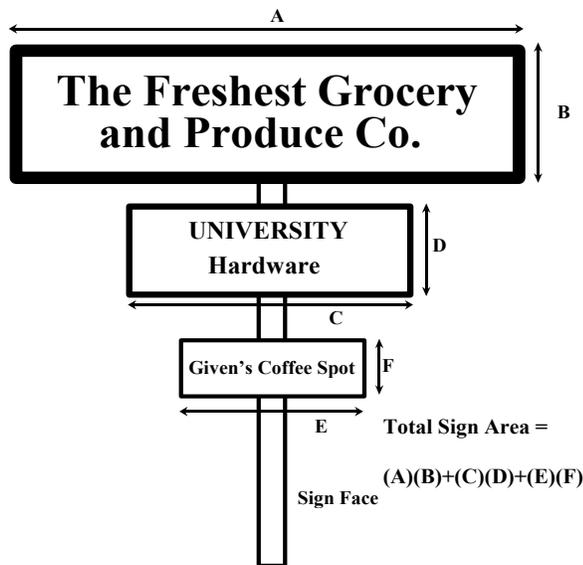
2. **Backed (two-sided) signs:** Where a sign has two or more faces, the area of all such faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two (2) feet from one another, the sign area shall be taken as the area of the larger of the two faces.

Figure 503-3



3. **Multiple cabinets:** For freestanding and projecting signs that contain multiple cabinets on one structure, and are oriented in the same viewing direction, the modules together are counted as one sign face.

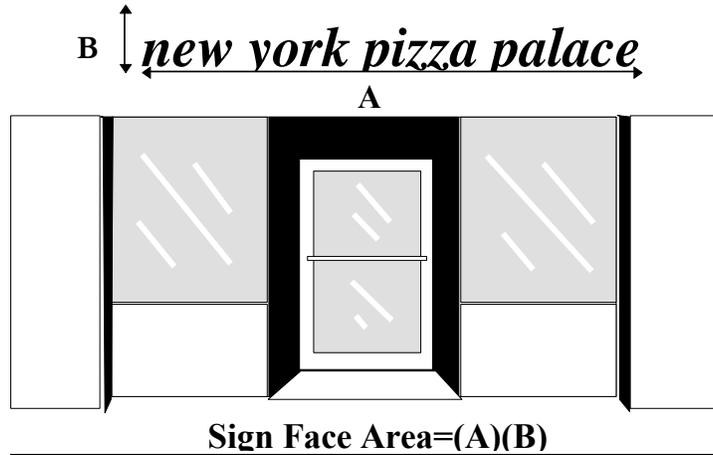
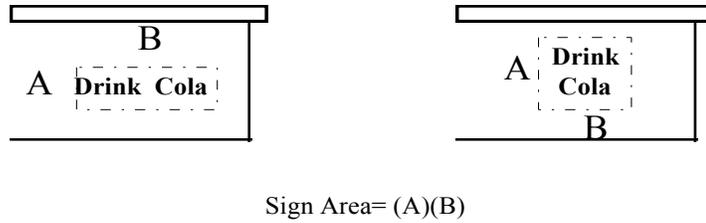
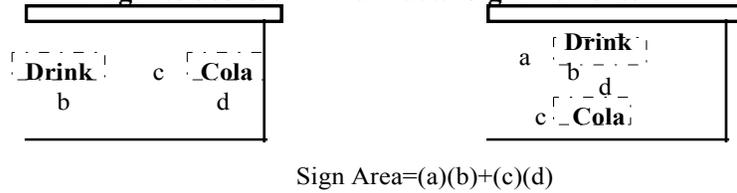
Figure 503-4—Multiple Sign Cabinets



4. **Round signs:** The maximum surface area visible at one time of a round, three dimensional, or three or more sided sign is counted to determine sign area.
5. **Signs on a Base Material:** When a sign is on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used in calculating sign area.

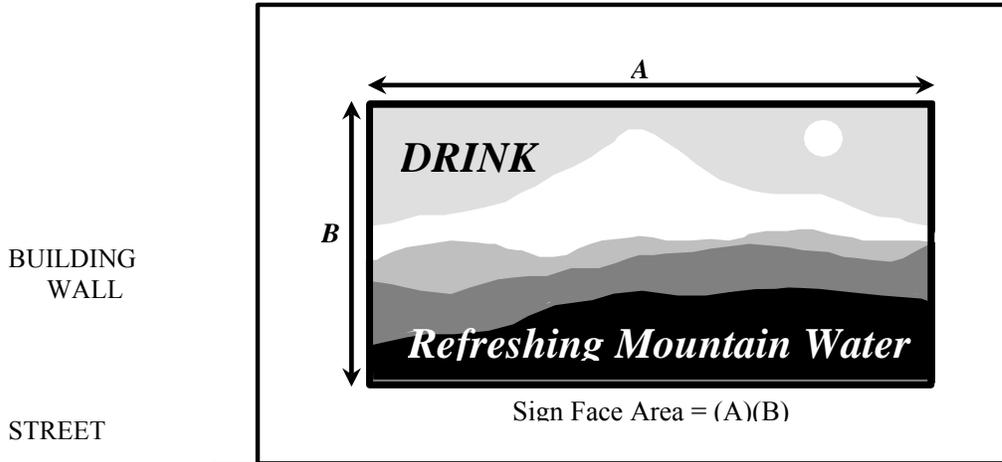
6. **Individual Element Signs:** When signs are constructed of individual elements attached to a building wall, the sign area is determined by calculating the area of an imaginary rectangle drawn around the sign elements. Sign elements will be measured as one unit when the distance between the elements is less than two times the dimension of each element (see Figure 503-5, 503-6).

Figures 503-5/6 -- Individual Sign Elements



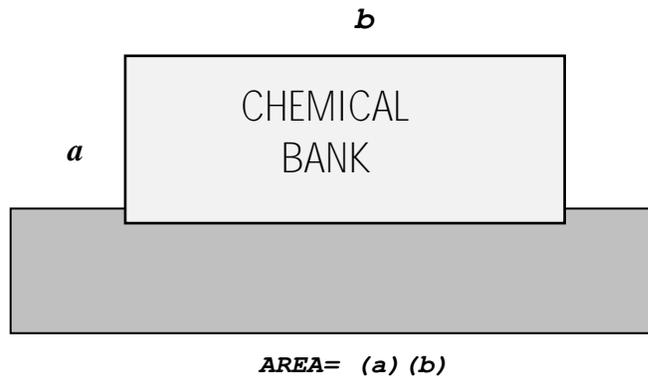
7. **Painted Wall Signs:** Painted wall signs are measured by drawing an imaginary rectangle around the edge of each of the sign elements. Sign elements will be measured as one unit when the distance between the elements is less than two times the length of each element. If a painted wall sign is located closer than two times the length of the painted wall sign and any other painted wall decoration, then the area of both is included in the sign area. Visible wall area includes windows and doors (see Figure 503-7).

Figure 503-7 - - Painted Wall Signs



8. **Awnings and Marquees:** When signs are incorporated into awnings, the sign area is determined by computing the area of an imaginary rectangle drawn around the sign face. When the ends of awning or marquees are parallel and contain sign faces, only one side is counted in addition to the sign face area on the front.
9. **Monument Signs:** The sign face area of monument signs shall be determined by the outer measurements of the sign beginning at base level.

Figure 503-8-- Monument Signs



**(C) Prohibited Signs: (\*)**

1. Signs imitating traffic or emergency signals. No sign shall be permitted which imitates an official traffic sign or signal, or contains words or symbols displayed in a manner which might mislead or confuse drivers or vehicles or which displays intermittent lights resembling the color, size, shape, or order of lights customarily used in traffic signs or an emergency vehicle or law enforcement vehicles, except as part of a permitted private or public traffic control sign.
2. Signs or devices employing confusing, distracting or intense illumination when visible from the public right-of-way. No sign shall be permitted which utilizes intense flashing (strobe type) lights, spotlights, floodlights, flashing or blinking lights, or any type of pulsating or moving light which may impair the vision, cause glare, or otherwise interfere with any driver's operation of a motor vehicle.
3. Sign lighting, which is incompatible with residential character. No sign shall be illuminated in such a way that it causes intense illumination onto any residential premises located in any residential district in a manner which by intensity, duration, location or other characteristic is incompatible with the residential character of the district in which such illumination is cast.
4. Roof Sign – Roof mounted signs.
5. Vehicular signs – Signs placed or painted on a motor vehicle or trailer and parked in such a manner with the primary purpose of providing a sign not otherwise allowed by this Ordinance.
6. Abandoned Signs.
7. Signs in road right-of-way, yard signs except when unique circumstances or conditions exist to warrant the placement of a sign within the road right-of-way. Such signs must be approved by the Zoning Administrator and be authorized by the State Highway Department and shall not be located in the sign triangle or in an area that would cause a traffic hazard. The property owner shall assume responsibility for the cost of relocating all signs in the road right-of-way if utility and road maintenance is necessary.
8. Swinging signs.
9. No sign shall project into the public right-of-way.
10. Signs which contain statements, words, pictures or other depictions of an obscene, indecent or immoral character or nature and which offend public morals or decency. (\*\*)
11. Electronic variable message signs and electrical fixed message signs, excepting electrical fixed message signs displaying gasoline prices, in commercial, industrial, or residential districts/uses. (\*\*\*)(\*\*\*\*)

\* (Further Amended by Council 4/28/03)

**503.3 Signs Permitted in Residential Districts.** All signs in the R-15, R-12, R-8 SFD, R-8, and R-6 residential districts shall comply with the following requirements: (\*)

**503.31 Specific Signs Permitted:**

**Table B - - Signs Permitted in Residential Districts**

<b>Sign Type</b>	<b>Requirement</b>
A. Non-Illuminated signs for Home Occupation and Professional Offices, in residential districts, where permitted by the district regulations.	<ul style="list-style-type: none"> <li>Indicates only names of persons and their occupation or professions not exceeding one (1) square foot in area</li> </ul>
B. Indirectly illuminated and non-illuminated signs indicating names of residents and house numbers.	<ul style="list-style-type: none"> <li>Sign not to exceed one (1) square foot in area.</li> </ul>
C. Identification signs for large residential developments (twenty five (25) or more dwelling units), while under development.	<ul style="list-style-type: none"> <li>A maximum of thirty-two (32) square feet.</li> <li>Regardless of size, only one sign per development entrance shall be permitted.</li> <li>Such signs may be indirectly illuminated.</li> </ul>
D. Identification signs for apartments, condominiums, and single family neighborhood associations.	<ul style="list-style-type: none"> <li>A maximum of thirty-six (36) square feet.</li> <li>Regardless of size, only two signs per development entrances shall be permitted.</li> <li>Such signs may be indirectly illuminated.</li> </ul>
E. Temporary non-illuminated signs advertising for sale or for rent the lot or building on which they are placed or some part thereof.	<ul style="list-style-type: none"> <li>Located not closer than twenty (20) feet to any street right-of-way line unless attached to a building not to exceed four (4) square feet in area.</li> <li>Individual real estate firms or other selling agent shall not erect more than one such sign on any single lot.</li> </ul>
F. Non-illuminated signs solely for the control of traffic and parking.	<ul style="list-style-type: none"> <li>Not to exceed four (4) square feet in area.</li> </ul>
G. Non-illuminated signs advertising for sale agricultural produce grown on the premises, where such sale is permitted.	<ul style="list-style-type: none"> <li>Located at least twenty-five (25) feet inside any lot line at least fifty (50) feet from any intersection, not to exceed twenty (20) square feet.</li> </ul>
H. Illuminated and non-illuminated signs for churches, schools or other public or semi-public institutions and civic bodies. (**)(**)	<ul style="list-style-type: none"> <li>Located at least ten (10) feet inside any lot line not to exceed fifty (50) square feet in area.</li> <li>The aggregate copy area of all signs for senior high schools shall not exceed 400 square feet with any such individual sign not to exceed 215 square feet.</li> </ul>

\*(Further Amended by Council 2/10/92)

\*\*\*(Further Amended by Council 5/24/04)

\*\*\*(Further Amended by Council 1/12/04)

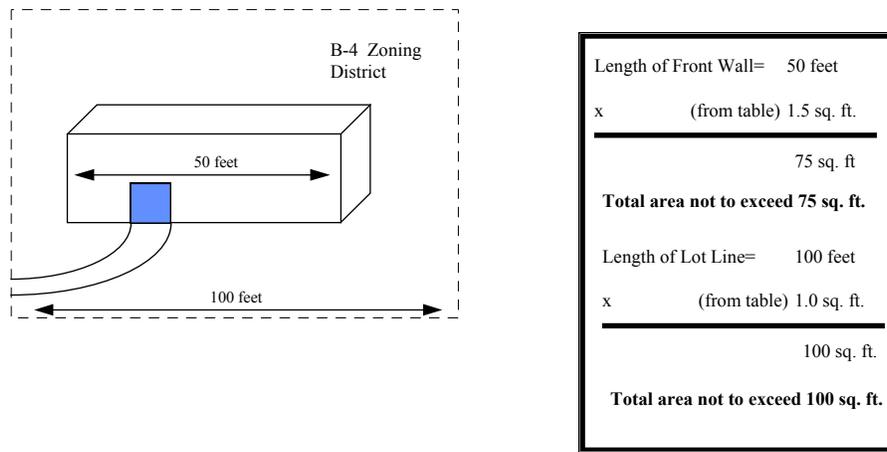
\*\*\*\*(Further Amended by Council 11/26/07)



- 1) **Example:** To illustrate the above table, consider the following example.

The building is a storage warehouse in a B-4 Zoning District. The permitted sign area can be calculated in two ways - -1) Linear feet of the front building wall (50 feet) multiplied by a factor of 1.5. Therefore, the maximum area of a permitted sign is 75 square feet; 2) linear feet of the front lot line (100 feet) multiplied by a factor of 1.0. The corresponding maximum sign area is 100 square feet. The maximum sign area may be the greater of the two options. (see illustration on next page)

Figure 503-10

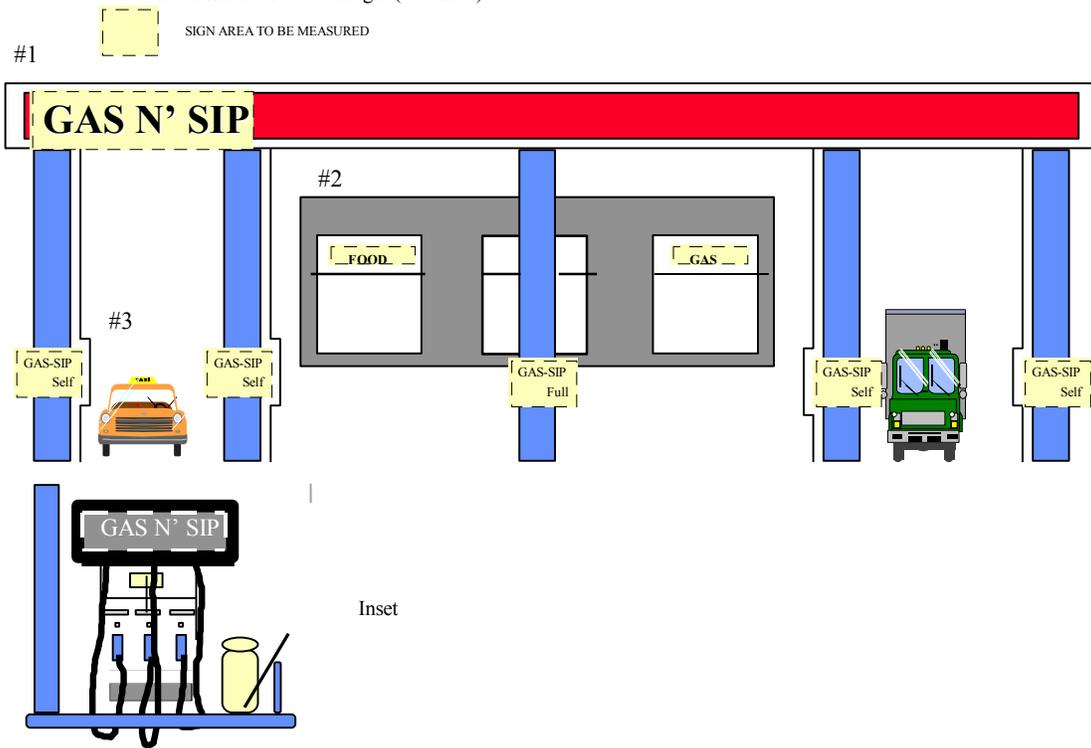


- 2) **Example:** Figuring the total sign area for individual businesses like the gas/convenience store in the example below is accomplished by adding the sign area for each individual sign. The maximum allowable sign area is figured according to the options noted in Table C.

- 3)

**Section 503. Sign Regulations**

•Gas/Convenient store signage shall be considered in the following manner: Sign # 1, being part of the canopy structure, shall be measured by drawing an imaginary rectangle around the sign elements. Signs #2, shall be measured like general wall signs, with elements and colored panel included. Signs #3, located on gas pumps, shall be measured individually using normal sign area formula of base x height.( see Inset)



Signs for individual businesses in Zones GID, LOD, LC, B-1, D-T4, D-T5, D-T6, B-3, B-4, I-1 and I-2 shall in no event exceed in the aggregate 200 square feet in area. However, where the lineal footage of a lot exceeds 500 lineal feet, the maximum square footage of signage may be increased to 250 square feet.

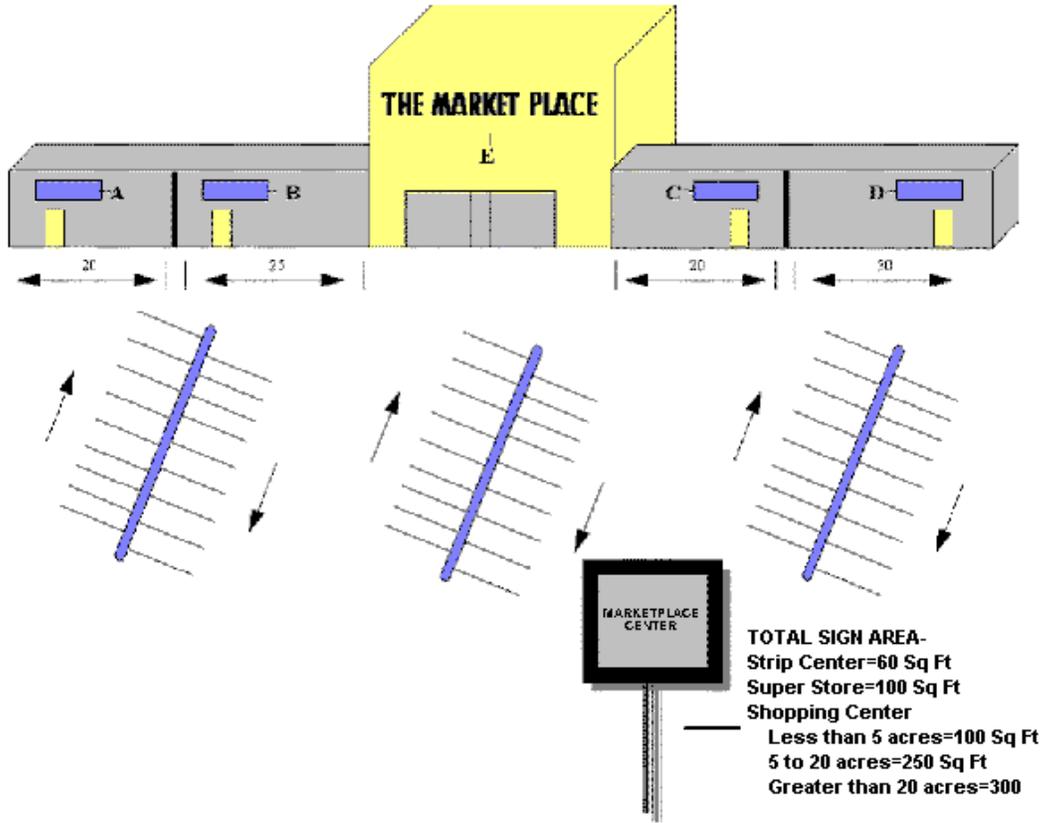
Super Store, shopping center, strip center and anchor store signs shall be exempt from the aggregate above. Individual business square footage allowable in shopping centers and strip centers shall be calculated only using the front building wall of the business, in accordance with Table C. The maximum allowable square footage per business in a shopping center or strip center shall not exceed 200 square feet.

A freestanding strip center sign shall not exceed sixty (60) square feet and is permitted in addition to the individual business signs for strip centers.

A shopping center is permitted one (1) freestanding sign **per street frontage** of no greater than two hundred fifty (250) square feet in area if the center is located on a site of five (5) to twenty (20) acres and up to three hundred (300) square feet in area if the center is located on a site of over twenty (20) acres, and is permitted in addition to individual business signs in shopping centers. Freestanding signs for super stores and for shopping centers on sites under five (5) acres are limited to up to one hundred (100) square feet in area.

Signs for anchor stores in malls shall not exceed two hundred (200) square feet per building wall.

Figure 503-11 Sign Area in Shopping Centers



Note the following example to illustrate the above graphic:

Table D - Maximum Sign Area Per Shopping Center/  
Strip Center Store

	Wall Length (ft.)	Factor (from Table C)	Total Sign Area (sq. ft.)
Store A	20	1.5	30
Store B	25	1.5	39
Store C	20	1.5	30
Store D	30	1.5	45
Store E	100	1.5	150

A super store is defined as a commercial establishment, planned and developed as a single entity, having at least 100,000 square feet of gross floor area with off-street parking provided on site.

A mall anchor store is defined as a commercial establishment having at least 80,000 square feet of gross floor area planned and developed with other attached commercial establishments. This is an enclosed, pedestrian-oriented, interior retail environment that is characterized by a majority of attached interior stores having no exterior entrance for public use.

Signs for super stores shall be based upon Table E below:

**Table E: Maximum Sign Area for a Super Store**

Square Footage of Super Store	Sign Square Footage Permitted
100,000 sq. ft. to 124,999 sq. ft.	500 sq. ft.
125,000 sq. ft. to 145,999 sq. ft.	600 sq. ft.
150,000 sq. ft. plus	700 sq. ft.

Freestanding Signs for Super Stores:

An additional freestanding sign of up to more hundred (100) square feet in area is permitted for super stores.

- B. If any establishment has walls fronting on two or more streets, the sign area for each such street shall be computed separately. The square footage allowed for each street shall not be combined to come up with an aggregate square footage that could apply to any one street. The size of such signs cannot exceed the amount of signage permitted in Table C above.
- C. Where two or more business entities occupy a building, two or more signs may be used provided that the total aggregate square footage does not exceed the maximum area permitted for the whole building, except as provided for shopping centers, strip centers and superstores.
- D. Signs painted on or affixed to the inside and/or outside of windows and/or walls of buildings shall not exceed 25% of the total window area. All such window signs shall be included in the total permitted sign area allowable. (\*\*\*)
- E. Regardless of the provisions of this Subsection 503.43, all business signs shall be subject the coverage limit in paragraph 503.45 below.
- F. Signs permitted in the GID (General Institutional District), LOD (Limited Office District), and LC (Limited Commercial District) may be either non-illuminated, indirectly illuminated or directly illuminated. (\*)(\*\*)

\* (Amended by Council 12/12/94)

\*\*\* (Further Amended by Council 4/28/03)

\*\* (Further Amended by Council 10/8/01)

- G. A ground-based freestanding business sign shall be no greater than

*Section 503. Sign Regulations*

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~~thirty five (35)~~ twenty (20) feet in height above either the nearest curb or street centerline, or ground level at which point the sign is erected, whichever is higher.

- H. Permanently affixed business pole signs shall be permitted to be constructed in any required yard, in accordance with subsection 503.26.
- I. Wall signs placed flat against a wall and essentially parallel to it shall have no height limitations.
- J. All changeable copy signs in Zones GID, LOD, LC, B-1, D-T4, D-T5, and D-T6 shall be permanently affixed to the superstructure of the principal sign on a zoning lot. Said sign shall be placed a minimum of ten (10) feet above ground level (\*\*)(\*\*\*\*).
- K. No signs shall be permitted to project into any public right-of-way. However, small-projecting signs may be permitted in Zone D-T4, D-T5, and D-T6 provided they are no more than four (4) feet from the face of a building. Such projecting sign shall be mounted at least nine (9) feet high and cannot be internally lit, backlit or use any neon (\*)(\*\*).
- L. Bonus Signage Permitted in the Interstate 26 Corridor Overlay Zoning District (\*\*\*)
  - 1.) An overlay Zoning District is hereby established for all lands currently inside the City of Spartanburg corporate limits which are situated between the eastern edge of the Interstate Highway 26 right-of-way and the western edge of the Blackstock Road right-of-way. This Overlay Zoning District shall apply to lands currently inside the City as of the effective date of this ordinance and shall automatically expand to apply to future lands within this specific corridor when future annexations are approved by City Council.
  - 2.) The Overlay Zoning District shall apply only to properties which are zoned B-1 and B-3.
  - 3.) Bonus signage shall only apply to portions of B-1 and B-3 zoned lots which meet the definition of “Rear Yard” as defined in Section I, §108, “Definitions”, of the Zoning Ordinance.
  - 4.) Bonus signage will only apply to pole signs which are proposed for the rear yards of B-1 and B-3 zoned lands.
  - 5.) Bonus pole signs may extend to a maximum height of 45 feet to be measured from the base of the pole.

\* (Amended by Council 11/13/95)

\*\*\* (Amended by Council 3/12/96)

\*\* (Further Amended by Council 12/12/95)

\*\*\*\* (Further Amended by Council 10/8/01)

6.) Each bonus pole sign may have two (2) faces, each of

which may contain up to 100 square feet. One additional sign of up to 100 square feet may be placed on a pole. However, the additional square footage of this sign must be reduced from the overall square footage for signage allowed for the entire lot.

- 7.) One bonus pole per sign per zoning lot will be permitted. However, if a B-1 or B-3 zoned property meets the definition of “shopping center” as defined in Section I, § 108, “Definitions”, of the Zoning Ordinance, one (1) bonus pole sign for each business with at least 20,000 square feet of interior floor space within the shopping center shall be permitted. A maximum of four bonus pole signs shall be permitted for lots containing shopping centers.
- 8.) Each bonus pole sign shall only advertise the on-site business.
- 9.) Illumination of bonus pole signs shall be by internal illumination only. No electronically animated signage and no external illumination of bonus pole signs shall be permitted.
- 10.) All bonus pole signs must be spaced at least 150 feet apart on a lot. Bonus pole signs must also be spaced at least 150 feet from bonus pole signs which have been permitted on adjacent lots.

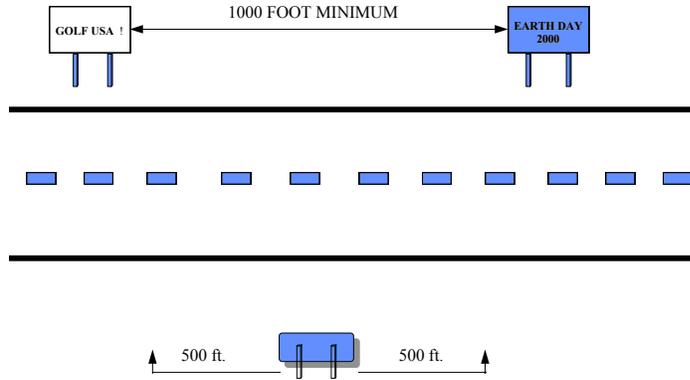
503.44 **Advertising Signs.** Are permitted in Zones B-3, B-4, I-1, and I-2. The City of Spartanburg shall prepare an inventory of all existing advertising signs within the city limits identifying the owner, zone and location of all such advertising signs. Any sign appearing on the inventory that is lost, removed, or destroyed may be replaced provided that the total number of signs contained within that inventory is not exceeded and further provided that the advertising signs shall comply with the standards set forth below provided however, the City may allow advertising signs that do not conform with Subsection 503.45, if currently existing advertising signs are deleted permanently from the inventory as negotiated by the City, or other set criteria proposed by the Planning Commission, and approved by Council from time to time.\*

- A. All signs along the same side of the street shall be spaced at intervals of not less than 1000 feet. The beginning point of measurement for signs on the opposite side of the street shall be at a point perpendicular across the street 500 feet in either direction parallel with the street. No two (2) advertising signs shall be erected perpendicular with each other and only two (2) such signs may be located at a street intersection. Advertising signs shall not be located in any required yard or setback area.

\*(Amended by Council 6/27/11)  
Figure 503.12 - - Advertising Sign Intervals

*Section 503. Sign Regulations*

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- B. Gross area of an advertising sign shall not exceed three-hundred (300) square feet per advertising face.
- C. Gross area of painted panel signs shall not exceed three-hundred seventy eight (378) square feet plus extended advertising copy not to exceed ninety-five (95) square feet per advertising face.
- D. The height of an advertising or painted panel sign shall not exceed thirty-five (35) feet. The height of the uppermost point of any advertising or painted panel (including frame) shall not exceed the following:
  - 1) If such sign is placed flat against a wall or is within five (5) feet of a wall and essentially parallel to it, the height shall be no greater than thirty-five (35) feet above the nearest curb or street centerline, or the finished lot grade along the wall on which the sign is erected, whichever is the higher.
  - 2) If such sign is a ground sign and does not come within paragraph (1) above, the height shall be no greater than thirty-five (35) feet above either the nearest curb or street centerline, or ground level at which point the sign is erected, whichever is higher.
- E. No single face advertising sign shall be erected unless it is erected on a single pole if the substructure is visible to moving traffic.
- F. Appropriate low maintenance landscaping areas shall be planted and maintained at the base of all single-face advertising signs. Such planting areas shall be approved by the Office of Community Enhancement of the City of Spartanburg.
- G. Advertising signs are permitted in zones D-T4, D-T5, and D-T6. Said signs shall be subject to the following limitations:
  - 1) The sign shall contain no more than twenty (20) square feet.
  - 2) The sign shall be located no more than three-hundred

*Section 503. Sign Regulations*

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- (300) feet from the business advertised.
- 3) The inscription on the sign shall only direct attention to the specific business related to it. It shall not advertise anything else whatsoever.
- H. No advertising sign shall violate the corner visibility restrictions of Section 503.13 (J).
- I. No advertising sign shall have more than two (2) advertising faces and only one (1) such face shall be visible from each direction of traffic.

503.45 Additional Requirements for all Signs in Institutional, Business, and Industrial Districts.

- A. Electronic variable message signs and electrical fixed message signs are prohibited, **for business and industrial uses** excepting electrical fixed message signs displaying gasoline prices. Additionally, public agencies may use such signs for traffic control, emergency management, and speed trailers, etc. (\*) (\*\*\*) (\*\*\*\*)
- B. If such sign or signs are placed flat against a wall or are within five (5) feet of a wall and essentially parallel to it, the total area of all such signs shall not exceed one-third (1/3) the area of the wall (including window and door area and cornices).
- C. Within the GID, LOD, LC, B-1, D-T4, D-T5, D-T6, B-3, B-4, I-1 and I-2 Districts, no freestanding ground sign or pole sign shall be located within ten (10) feet of any lot line. The point of measurement shall be from the lot line to the outmost edge of the sign and not to the pole or foundation. (\*\*)(\*\*\*)(\*\*\*\*)
- D. Business signs to advertise or generally identify a planned business or industrial development such as a shopping center, office park, or industrial park will be permitted on the premises. Such signs may have one or two faces for each lot line adjacent to a street; provided, no such sign shall exceed a surface area, per face, 0.5 square foot for each one (1) lineal foot of said lot line, provided that not more than one (1) sign may be placed along any one (1) street. All such signs shall be removed when the business or industrial concern is operational.
- E. **Electronic Message Board Signs for Institutional Uses:** Electronic message boards shall incorporate photo cell, or similar technology that adjusts brightness of the sign relative to outdoor ambient light. The actual change between sign copy shall be instant. Such signs shall be permitted on monument signs for institutional uses only.
  - a. When such signs are to be located on a property, the area of the electronic sign face shall not exceed 30 percent of the overall sign face, and the electronic message shall maintain a static message for at least 15 seconds;
  - b. The area of the electronic message board face may be increased to up to 40% of the total signage area if additional landscaping and/or natural materials are used as part of the monument, including but not limited to: stone, wood, brick,

**Section 503. Sign Regulations**

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- etc.;
- c. The sign may not display messages from 9 p.m. to 6 a.m.
  - d. An electronic message board sign illumination shall not exceed 0.3 foot candles over ambient lighting condition;
  - e. In order to minimize light trespass on abutting and nearby residential property, illumination measured at the nearest residential structure or rear yard setback line shall not exceed the moon's potential ambient illumination of one-tenth (0.1 fc) foot-candle;
  - f. The leading edge of the sign shall be a minimum of 100' from any single-family residential property line;
  - g. A monument sign with electronic message signage shall not exceed 6' in height;
  - h. The sign shall have a default mechanism that will either stop the sign in one position, or turn off the sign should a malfunction occur and;
  - i. The sign company responsible for installation of the sign shall certify the illumination specifications for the message board and the default mechanism is functional. The owner of the sign shall also certify knowledge of the requirements of this ordinance

\* (Amended by Council 5/8/95)

\*\* (Amended by Council 12/12/94)

\*\*\* (Further Amended by Council 10/8/01)

\*\*\*\* (Further Amended by Council 4/28/03)

\*\*\*\*\* (Further Amended by Council 5/24/04)

\*\*\*\*\* (Further Amended by Council 11/26/07)

**503.5 Portable Signs.**

503.51 Portable signs shall be permitted in Zones B-3, B-4, I-1 and I-2, and must receive a permit prior to being displayed or erected. They may not be permanently attached to the ground, building or other structure. All portable signs must be located on the premises for which they are advertising. Portable signs shall be permitted, provided the following standards are met. (\*)

- A. Said sign shall not have flashing lights.
- B. Said sign shall not have lights the color of red, amber or green.
- C. If a business establishment sign or signs have already been constructed to the maximum area allowable under Section 503.43, item A, of this Ordinance, no mobile portable sign shall be permitted on the zoning lot.
- D. Sidewalk and sandwich signs may be placed in the public right-of-way only in zones D-T4, D-T5, and D-T6 and where an encroachment permit has been issued. (\*)
- E. All such signs shall be setback a distance of eight (8) feet from the edge of the sidewalk or edge of the street right-of-way, whichever is less.
- F. All such signs shall be protected with ground fault devices within six (6) months after the effective date of this Ordinance.
- G. Within six (6) months after adoption of this Ordinance, all such signs shall show the name and address of the owner.
- H. In such event a portable sign shall be installed, erected, or constructed in violation of this section, the Zoning Administrator shall notify by registered mail or written notice served personally, the owner or lessee thereof to alter such sign so as to comply with this section and to secure the necessary permit thereof or to remove the sign. If such order is not complied with within ten (10) days thereof the Zoning Administrator shall remove such sign at the expense of the owner or lessee thereof.
- I. All signs shall be designed to resist 28 PSF wind pressure. Signs placed on property and not properly anchored will be subject to immediate citation. Anchoring of portable signs shall be provided by one of the following methods: (\*\*)

\* (Further Amended by Council 4/28/03)

\*\* (Further Amended by Council 1/12/04)

- 1) A minimum of two ¼” diameter steel galvanized cables attached to ½” diameter expansion type anchors imbedded in concrete or asphalt type paving.
- 2) A minimum of two ¼” diameter steel galvanized cables attached to a deformed bar type anchor driven to a depth of 16 inches minimum.
- 3) ¼” diameter steel galvanized cable attached to a minimum 48 lb. weight extending to ground level on each corner thereof.

J. Portable signs shall be permitted only once in any six-(6) month period of each year and for not more than thirty (30) consecutive days, after which time, the sign must be removed from the property. Removing of letters does not constitute compliance. (\*\*)

**503.6 Political Signs. (\*)**

Political signs shall mean any sign advocating or supporting a political candidate or political view defined as any matter upon which an election, general or special, is held.

Political signs shall be permitted on private property for a period not to exceed sixty (60) days before the applicable election and seven (7) days after the election. Political signs shall not exceed a total of sixteen (16) square feet (eight (8) square feet per side of a two-sided sign or two (2) feet by four (4) feet). Political signs shall not be placed on public property or on public right-of ways, except when a portion of the right-of-way is maintained by a private property owner, provided that the private property owner consents to the placement of a political sign. Any sign that the city determines to be a visual obstruction shall be removed. In addition, the placement of political signs must comply with Section 501.8, Visibility at Intersections, of the City of Spartanburg Zoning Ordinance.

**503.7 Banners. (\*\*)**

A. **Banners For Non-Profit Organizations.** Banners promoting special events and events of public interest sponsored by non-profit organizations or government sponsored agencies shall be permitted at approved designated street right-of-ways or/on buildings authorized for display by the City of Spartanburg or Spartanburg County. The Zoning Administrator or his designee shall approve permits for all such banners. No fee shall be incurred by the sponsoring entity provided: (\*\*\*)

\* (Amended by Council 8/9/99)

\*\*\* (Further Amended by Council 1/12/04)

\*\* (Amended by Council 4/28/03)

1. There are no more than two (2) banners placed at no more than two (2) approved designated locations by any one organization for a maximum total of four (4) banners; these locations are:
  - (a) W.O. Ezell Boulevard & W. Blackstock Road
  - (b) John B. White, Sr. Blvd. & E. Blackstock Road
  - (c) North Church & Chapel Streets
  - (d) North Church & E. Saint John Streets
  - (e) South Church & League Streets
  - (f) North Pine Street & Garner Road
  - (g) Cedar Springs & Southport Roads
  - (h) South Pine Street & Country Club Road
  - (i) North Pine & E. Saint John Streets
  - (j) East Main Street & Fernwood-Glendale Road
  - (k) East Main Street & Webber Road
2. Banners at the above designated locations shall be permitted two weeks prior to the special event and must be removed within forty-eight (48) hours after the event has ended;
3. The maximum size of any banner placed at a designated location shall not exceed twenty-four (24) square feet; and
4. In addition to the designated locations above, the maximum size of any banner placed on/or at a building shall not exceed 1.5 square feet of sign face per linear foot of front building wall, to a maximum of two hundred (200) square feet for a period not to exceed sixty (60) days.

**B. Banners for Office and Commercial Locations.** On-premise banners are permitted at office and commercial locations. Such banners shall not count against permanent signage when meeting the following standards. Any banner(s) not meeting the following standards shall be counted against the particular locations allowable permanent signage. Examples of such office and commercial banners would include, but not limited to, grand opening and sales banners. Such banners shall be permitted, provided: (\*)

1. All banners shall require a permit, which shall be valid for a period of ninety (90) days;
2. No more than three permits in any one (1) year period shall be issued;
3. There are no more than two (2) banners placed at an applicable business location;
4. The maximum size of any banner(s) shall not exceed 1.5 square feet of sign face per linear feet of front building wall, to a maximum of two hundred (200) square feet.
5. **The following types of banners are prohibited:**
  - (a) Flag style banners
  - (b) Pennant flags
  - (c) Inflatables
  - (d) Additional structures or items that are not traditional banners or

*Section 503. Sign Regulations*

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signs and which are used to display a commercial message.

\* (Further Amended by Council 1/12/04)

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The background features a teal-to-blue gradient with a subtle pattern of small white dots. On the left side, there are several technical diagrams, including a large circular scale with markings from 140 to 260 and several smaller circular diagrams with arrows indicating rotation or flow.

# ELECTRONIC SIGNAGE REVIEW

AUGUST 28TH, 2017

## CURRENT ORDINANCE

- Does not permit any LED/electronic signage with the exception of gas station price and fuel type
- *Does permit* manual changeable copy signs

# EXAMPLE OF CHANGEABLE COPY



# EXAMPLE OF DIGITAL SIGNAGE DONE WELL



	Location/use	Size	Type	Brightness	Timing
Greenville	Office, Commercial, Industrial & Residential Zones	30% of sign face	Monument and Pylon signs only	No guideline – but may not cast intense illumination on any residential premises by	O,C, & I: Still images, 6 second timing
					R: Still images, 12 second timing – no message from 9PM to 6 AM
Clemson	Commercial and Residential Districts	C: 16 sf Shopping Centers: 24 sf	Monument, no higher than 70% of sign height (6' max)	.3 foot candles, shut off mechanism, 100lf from property lines, automatic dimmer to adjust to outdoor light	C: Still images, 30 sec., 100' lf from residential property,
		R: 16 sf total			R: Still images, 30 sec, turned off from 10M to 6AM

	Location/use	Size	Type	Brightness	Timing
Greenville	Office, Commercial, Industrial & Residential Zones	30% of sign face	Monument and Pylon signs only	No guideline – but may not cast intense illumination on any residential premises	O,C, & I: Still images, 6 second timing
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Clemson	Commercial and Residential Districts	C: 16 sf Shopping Centers: 24 sf	Monument, no higher than 70% of sign height (6' max)	.3 foot candles, shut off mechanism, 100lf from property lines, automatic dimmer to adjust to outdoor light	C: Still images, 30 sec., 100' lf from residential property,
		R: 16 sf total			R: Still images, 30 sec, turned off from 10PM to 6AM
Spartanburg	Institutional Uses (zone may vary)	30% of sign face, 40% with additional landscaping/natural materials	Monument signs (max height of 6')	.3 foot candles ambient, .1 foot candle to residential structures and 100 lf from residential property lines	Still images, 15 second timing, no messages displayed from 9 P.M. to 6 A.M.

# OTHER PROPOSED CLARIFICATIONS & IMPROVEMENTS

- Clarification of intent
- Statement of permit requirement
- Sign maintenance standards
- Sign removal guidelines
- Updated reference to SCDOT /Access and Roadside Management Standards
- Additional freestanding signage permitted for shopping centers per street frontage
- Lowering of pylon heights from 35' to 20'
- Updates to permitted banner types

# PROCESS

Council Preliminary Review

- August 28<sup>th</sup>, 2017



Planning Commission Review

- September 21<sup>st</sup>, 2017



Council 1<sup>st</sup> Hearing

- October 9<sup>th</sup>, 2017



Council 2<sup>nd</sup> Hearing and approval

- October 23<sup>rd</sup>, 2017