

Introduced by: Mr. Reda
Date of Introduction: March 25, 2014

ORDINANCE NO. 14-026

TO AMEND *NEW CASTLE*

***COUNTY CODE* CHAPTER 40 (“UNIFIED DEVELOPMENT CODE” OR “UDC”), ARTICLE 6 (“SIGN REGULATIONS”), REGARDING ELECTRONIC VARIABLE MESSAGING SIGNS**

WHEREAS, electronic variable message (“EVM”) signs include signs or portions thereof whereon the message copy contains characters, letters or illustrations that may be changed or rearranged electronically without touching or physically altering the primary surface of the sign (*New Castle County Code* Section 40.06.020); and

WHEREAS, because these signs only may be changed from a remote location, safety is enhanced because the owner or designee is not required to climb a ladder or manually change a message; and

WHEREAS, although it has been recognized that the dissemination of information and enhancement of communication in a non-visually distracting manner is helpful to the consuming and civic-minded public because the uniformity, readability and consistency of EVM signs render them more visible and aesthetically pleasing, the County in an abundance of caution limited changes to on-premise EVM signs to 12 hours and off-premise EVM signs to 10 minutes; and

WHEREAS, motorists generally only have a few seconds or, at best, a few minutes to see and comprehend any given sign, such that the 12-hour change limit enacted in an excess of caution by the County has proven to be outdated; and

WHEREAS, the Federal Government and many other jurisdictions, for example, use electronic information panels on freeways to warn drivers of potential hazards, as well as portable electronic warning signs at construction and accident sites, and some believe that such signs combat “highway hypnosis;” and

WHEREAS, a business may communicate more effectively with the travelling public by posting messages particular to the passerby at a particular time of day, matching the message to the street profile to enhance economic development; and

WHEREAS, many cases support a sign owner’s right to change the face of a sign without government interference; there are lighting standards in the Code to protect adjoining property owners; the Code restricts moving or scrolling messages; and the Code requires buffers and other restrictions that support the modernization of the change interval for electronic variable message signs within the constraints of federal, state and County laws.

NOW, THEREFORE, THE COUNTY OF NEW CASTLE HEREBY ORDAINS:

Section 1. *New Castle Code* Chapter 40 (“Unified Development Code” or “UDC”), Article 6 (“Sign Regulations”), Division 40.06.000 (“Applicability”), Section 40.06.030 (“Specifications”) is hereby amended by deleting the matter that is stricken and adding the matter that is underscored, as set forth below.

Sec. 40.06.030. Specifications.

A. *Generally....*

B. *Specifications by sign type...*

6. *Electronic variable message sign (EVMS).*

a. Electronic variable message signs may be substituted in lieu of the permitted signs pursuant to Section 40.06.060, Schedule of Sign Restrictions. Portable or temporary EVMS are prohibited. The EVMS shall be further restricted by the additional standards in this Subsection and the lighting standards in Section 40.22.750.

b. With the exception of off-premises signs, the EVMS is restricted to no more than fifty (50) square feet of sign area and shall not be located within seventy-five (75) feet of any residential use. Off-premise signage shall be subject to the standards set forth in Section 40.06.070. The set-back shall include any right-of-way and be measured property line to sign structure.

c. With the exception of off-premises signs, the message displayed on the EVMS shall remain fixed for a minimum of ~~twelve (12) hours~~ fifteen (15) minutes. Off-premise signage shall remain fixed for a minimum of ten (10) seconds.

d. The following standards shall apply to all EVMS:

i. When the message is changed, the transition time between messages shall be instantaneous and without special effects such as dissolving, spinning, or fading in/out;

ii. The EVMS shall contain a default design in one (1) position if a malfunction occurs or in the alternative shut down; and

iii. The EVMS shall not display any message that moves, appears to move, scrolls, or changes in intensity during the display period.

e. EVM off-premise advertising signs...

f. EVMS may be used to display a public emergency announcement...

g. The owner, operator or lessee responsible to program, operate and control the EVMS for an electronic variable message sign permit shall certify in writing to the Department that the message (except for public emergency announcements) to be displayed on the sign shall remain static and shall not flash or scroll at any time and that the message will remain unchanged for the applicable durational time.

h. The EVMS shall not attempt, or appear to attempt, to direct the movement of traffic or contain wording, color shapes or likenesses to official traffic control devices.

Section 2. This ordinance shall become effective immediately upon its adoption by County Council and approval of the County Executive or as otherwise provided in 9 *Del. C.* Section 1156.

Adopted by County Council of
New Castle County on:

President of County Council
of New Castle County

Approved on:

County Executive
New Castle County

SYNOPSIS: This ordinance, if adopted, amends Chapter 40 with regard to electronic variable messaging signs (EVMS) by providing that, with the exception of off-premises signs, messages displayed on the EVMS shall remain fixed for a minimum of fifteen (15) minutes.

FISCAL NOTE: