

ORDINANCE #2014-XX OF DURHAM, NEW HAMPSHIRE

A COUNCIL-INITIATED ORDINANCE AMENDING CHAPTER 175 “ZONING”, ARTICLE XXIII “SIGNS AND COMMUNICATIONS DEVICES”, SECTIONS 175-129, 175-131, AND 175-133 OF THE DURHAM TOWN CHARTER

WHEREAS, after consultation with legal counsel, it has been determined that Durham’s zoning ordinance regulating the *placement* of political signage (Section 175-133 (B)(4) is contrary to (more restrictive than) RSA 664:17 (modified in 2006), which permits political signs in the highway right-of-way so long as the property owner consents to the placement of the sign and the signs do not obstruct the safe flow of traffic; and

WHEREAS, assuming that the Town does not physically own a road, state law specifically permits the placement of election signs in the right-of-way, so long as the abutting property owners approve and it does not cause a safety hazard; and

WHEREAS, the current 12-foot size limitation for snipe signs within the Town’s Zoning Ordinance creates increased expenses for its enforcement; and

WHEREAS, no language currently exists in RSA 664:17 or in RSA 664 generally which permits more restrictive municipal legislation; and

WHEREAS, the Town desires to come into conformance with the current state statutes and be more efficient with its enforcement while allowing for expression of political speech;

WHEREAS, on May 7, 2014, the Town Council discussed the proposed ordinance and referred said ordinance to the Planning Board for its review and study; and

WHEREAS, on _____, 2014 the Planning Board held a public hearing on the proposed ordinance and subsequently voted to recommend _____; and

WHEREAS, on _____, 2014, the Durham Town Council conducted a First Reading on Ordinance #2014-XX; and

WHEREAS, on _____, 2014, the Durham Town Council held a duly posted Public Hearing on Ordinance #2014-XX;

NOW, THEREFORE BE IT RESOLVED that the Durham Town Council, the governing body of the Town of Durham, does hereby adopt Ordinance #2014-XX a Council-initiated Ordinance amending certain sections within Chapter 175 “Zoning”, Article XXIII “Signs and Communications Devices” as indicated below. Wording to be deleted is annotated with ~~strikeout~~ type. New wording is annotated with underscoring.

ARTICLE XXIII
SIGNS AND COMMUNICATIONS DEVICES

175-129. Placement of Signs.

- A. All signs shall be prohibited within public rights-of-way (ROWS) ~~except as provided herein, and for~~ with the exception of necessary traffic control devices and directional signs deemed essential for the public welfare and safety and which are authorized by municipal and state agencies.
- B. The location of all sandwich board signs shall be limited to the outer edge of the sidewalk within the public ROW and no closer than within one (1) foot of the curb line. The sandwich board sign placement shall be within ten (10) feet of the primary entrance of the establishment, shall not obscure or impede pedestrian travel, and shall allow a minimum of a four (4) foot accessible path along the side walk.
- C. No sign shall be designed or placed so as to endanger, obscure or confuse or otherwise create a hazardous condition to motor vehicles or pedestrians.
- D. No sign shall project above the roof or parapet line of a building.
- E. Vending machines and Automated Teller Machines (ATMs) shall not be permitted on the exterior surface of any building or structure, or on any sidewalk or thoroughfare.
- F. This section is not intended to regulate or restrict signs expressing political, non-commercial, or non-advertising messages.

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175-131. Permitted Messages.

- A. Signs shall refer only to a use or activity conducted on the lot upon which they are situated, except that a limited number of signs, each sign not exceeding two (2) square feet in area on each of two sides and intended solely to provide directional information, may be permitted by the Code Enforcement Officer for a limited period of time.
- B. Farms shall be permitted by the Code Enforcement Officer to place not more than four (4) signs, each sign not exceeding six (6) square feet in area on each of two sides and intended solely to provide information about farm products for sale, as well as directional information.

- C. No sign which contains a registered trademark or name which portrays a specific commodity or service for sale will be allowed in any zone unless the trademark or name is of the principal commodity or service offered for sale by the establishment.

D. This section is not intended to regulate or restrict signs expressing political, non-commercial, or non-advertising messages.

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175-133. Permitted Signs, by District.

- A. ***Total Sign Area.*** Each business establishment will be allowed a total of forty-eight (48) square feet of signage. This can be composed of any combination of signs in accordance with this ordinance. Each business establishment in the Central Business District is permitted one additional Sandwich Board sign or Reader Board sign.
- B. ***Snipe Signs.*** The use of snipe signs is permitted on private property only for non-commercial events and elections. **The limitations that follow are intended to allow for political speech while minimizing any visual distraction that could become a hazard to the travelling public, and also to preserve the visual and rural environment of the town. Snipe signs beyond that permitted below create an unsightly clutter which detracts from the visual appearance of the town, and create a danger to the travelling public by obscuring sight lines, entering and exiting traffic, and curb cuts and adjoining intersections.** Such signs are limited to a period of 45 days preceding and seven (7) days after the relevant event, **except political advertisements which are governed by RSA 664:17,** provided:
1. The size of any snipe sign shall not exceed ~~twelve (12)~~ **thirty-two (32)** square feet; nor be more than five (5) feet above the adjacent finished ground level.
 2. The number of such signs is limited to one per lot in Residence A and B Districts and to two per lot in other districts; provided that this provision does not apply to signs that express political speech such as an endorsement of a candidate for office or an issue on an election ballot.
 3. Such signs are not permitted on public property.
 4. Signs within a public right-of-way ~~must be within the NHDOT or Durham DPW approved twenty-two (22) foot area for a private driveway,~~ **are allowed provided they comply with RSA 664:17 and that the top of the sign** extend no more than ~~two (2)~~ **three (3)** feet above the ground surface so as not to restrict vehicle sightlines.

PASSED AND ADOPTED by the Town Council of the Town of Durham this _____ day of _____, 2013 by _____ affirmative votes, _____ negative votes, and _____ abstentions.

Jay B. Gooze, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk-Tax Collector