

# *Town of Derry*

*"Derry, New Hampshire's Place to Be"*

## **LEGAL NOTICE**

The Planning Board for the Town of Derry will hold a public hearing on **Wednesday April 05, 2017 at 7:00 p.m.** at the Derry Municipal Center (3<sup>rd</sup> Floor), 14 Manning Street, to review the following proposed amendments to the Town of Derry Zoning Ordinance.

### Relating to sign regulations

To amend Article II, Section 165-5, Definitions, to add a definition for "Display Sign"

To Amend Article XII, Section 165-100 through Section 165-103, Signs, to change the requirement for church signs, signs in residential districts, signs in commercial and business districts, campground signs, political signs, and electronic message center signs.

The purpose of the amendments is to ensure compliance with recent Federal Supreme Court case law.

Full text of the proposed amendments are available at the Office of the Town Clerk, 14 Manning Street, the Derry Public Library at 64 East Broadway, and the Planning Department at 14 Manning Street. The proposed amendments may also be viewed on line at <http://www.derrynh.org/planning-board>

POSTED: MARCH 14, 2017

Derry Municipal Center

Derry Public Library & Taylor Library (by e-mail)

Union Leader for publication March 17, 2017

*14 Manning Street . Derry, New Hampshire 03038 . Tel 603.432.6110. Fax 603.432.6109*

*Website: [www.derry-nh.org](http://www.derry-nh.org)*

## ARTICLE II WORD USAGE AND DEFINITIONS

### Section 165-5 Definitions

the owner's last address as reflected in the records of the department; or, any sign no longer fully supported by the structure designed to support the sign, for a consecutive period of 60 days. Also refer to Section 165-101.9, Nuisance Signs. This does not include signs for businesses that are undergoing permitted renovations or that operate seasonally. (Effective 02/07/2014)

**SIGN, ATTACHED** — A sign that is attached to a building wall.

**SIGN, AWNING**— The sign area affixed or otherwise included in an awning structure. For purposes of sign area, the total combined text or advertising shall be included in one sign type. Area is calculated by the combined total of all advertising elements. (Effective 02/07/2014)

**SIGN, DIRECTIONAL** - A sign on private property without a commercial message that provides direction; for example, entrances, exits, or street numbers. (Effective 02/07/2014)

**SIGN, DIGITAL** - A sign that has advertising or information projected onto it, typically by technological means. This includes electronic signs. (Effective 02/07/2014)

**SIGN, DISPLAY** – A sign that advertises an organization or an organization's event that does not advertise the particular use of the lot on which the event is to be held.

**SIGN, ELECTRONIC MESSAGE CENTER** - An on premise sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means, the installation of which is subject to the provisions of Section 165-101.11, Electronic Message Center Signs. (Effective 02/07/2014)

**SIGN, FLASHING** –A sign that has varying degrees of intensity when in use and/or which exhibits changes in light, color, light direction, and/or animation. Electronic message center signs properly operating in accordance with the provisions of Section 165-101.11 are not considered flashing signs. (Effective 05/19/2005, Revised 02/07/2014)

**SIGN, FREE-STANDING** — A sign, which is not attached or affixed, to a structure or building and which is supported by a pole/s or their supporting members.

**SIGN, GOVERNMENT** –A sign authorized by this municipality, another government agency, the State of New Hampshire or the Federal Government. This includes Historical, Cultural or Natural Site signs. (Effective 02/07/2014)

**SIGN, GROUND** –A sign supported by one or more uprights, pylons, or foundation elements, including wheel-mounted (other than on motor vehicles), in or upon the ground, and not attached to a building. (Effective 02/07/2014)

SIGN, INTERACTIVE DIGITAL –A sign that displays a menu that allows a person to touch the screen and respond to the menu's questions. (Effective 02/07/2014)

SIGN, MONUMENT — A sign that is erected on a solid base placed directly on the ground and itself being constructed of a solid material.

## **ARTICLE XII SIGNS** (Repealed/Replaced 02/07/2014)

### **Section 165-100 Purpose**

- A. Signs can perform important functions that are essential for public safety and general welfare including communicating messages, providing information about goods and services, and orienting and directing people. It is further recognized that because of potential detrimental impacts, signs must be regulated to:
- 1) Prevent hazards to vehicular and pedestrian traffic safety by controlling the number, location and placement of signs;
  - 2) Provide easy recognition and legibility of permitted signs and uses and promote visual order and clarity on streets;
  - 3) Facilitate efficient communication by implementing design criteria that produces signs which can easily be read, recognized and are without distracting elements;
  - 4) Complement the historic and scenic character of the Town of Derry;
  - 5) Support business and community vitality by informing the public of available goods, services and activities;
  - 6) Provide guidance on the type, location and size of signs to protect the public from hazardous and distracting displays, and create an attractive environment which is conducive to business, industry and tourism;
  - 7) Sufficiently differentiate local signs from official/government signs so as to avoid potential confusion.
  - 8) Enable fair and consistent enforcement of the sign regulations; and,
  - 9) Address new technologies.

### **Section 165-101 General Provisions**

- A. Signs shall be permitted as designated in this Section or in other Sections of this ordinance, but all signs shall be subject to the following regulations. Existing signs that were lawful at the time of enactment or amendment of this chapter (2/7/2014) shall be allowed to be continued. However, if and when such signs are replaced or substantially repaired, the new or repaired sign or signs shall conform to the provisions contained herein. In the event that there is a conflict between this Article and another Section of the Ordinance, the more restrictive provision shall apply.
- 1) No sign shall be erected without a sign permit issued by the Code Enforcement Officer unless otherwise exempted by the provisions of this chapter.
  - 2) Pursuant to applicable State of New Hampshire RSAs as may be amended from time to time, signs may not be erected adjacent to a state or federal right of way without first obtaining a permit from the New Hampshire Department of Transportation and must comply with local rules, regulations and requirements. Signs proposed to be erected within the right of way of any state controlled Class I, II, or III highway are subject to all state regulations governing their installation and location.
  - 3) Official town, state or federal signs shall be exempt from these regulations. These include but are not limited to portable reader boards, and message boards installed at municipal facilities.

- 4) No permit is required for a temporary sign, such as signs advertising barn and yard sales, and auction signs, if the sign is no more than six square feet in size and is posted for a period not to exceed seven (7) days.
- 5) A new business may use temporary signs while awaiting the arrival of permanent signage; however, temporary signs shall be allowed only until permanent signage is installed, or for 60 days, whichever is the shorter period of time, and shall be limited to the same area and setback requirements as the permanent signage.
- 6) Poster type signs are allowed at the street level only, and must not occupy more than 20% of a window area and shall be no larger than 36" x 48". The poster type sign must be related to the use conducted or goods available on the premises.
- 7) Construction signs identifying parties involved in construction on the premises are allowed to the extent that they are no larger than 32 square feet. Such signs shall remain only for the duration of work on the property and must be removed promptly by the contractor at project completion.
- 8) No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may obstruct the view of, or be confused with, any authorized traffic sign, signal or device, or otherwise constitute a hazard to pedestrian or vehicular traffic. Such determination shall be made by the Code Enforcement Officer.
- 9) Whether attached to a building or free standing, no part of any sign or advertising device shall be closer than 10 feet to a lot line or public way. The Traditional Business Overlay District and the Central Business District are not subject to this requirement.
- 10) Animated, moving, flashing signs, and signs that emit audible sound, noise, or visible matter (i.e., smoke, bubbles, or water), are prohibited. Scrolling, flashing, or changing messages are also prohibited, including full resolution video displays, and computer generated video unless otherwise permitted. See Section 165-101.11, Electronic Message Center Signs.
- 11) Pursuant to applicable State of New Hampshire RSAs as may be amended from time to time, signs are prohibited from being affixed, attached, or displayed upon any object of nature, utility pole, telephone pole, or highway sign in such a manner that the object is utilized as an integral part of the sign's support.
- 12) No sign shall be more than 40 feet above ground level except when attached to a building.
- 13) No sign attached to a building shall project over the roof line of the building.
- 14) Billboards are prohibited.
- 15) Public traffic and directional signs, warning signs, Historical, Cultural, and Natural Site signs, and signs designating public activities shall be permitted in all districts.
- 16) Warning signs shall not exceed three square feet, except as otherwise approved by the Code Official.
- 17) Special Event signs are allowed only on the lot for which they are advertising, can be in place fourteen (14) days prior to the event and must be removed within two (2) days following the close of the event. Special Event signs shall be erected no more than once per quarter, in any calendar year, unless an exception has been granted. Exceptions to the number of events or the sign location shall be requested in writing and submitted to the Town Administrator.
- 18) Church signs in residential areas shall be limited to 24 square feet to maintain the character of the neighborhood. They shall not be internally illuminated, but may be externally illuminated. Church signs in all other districts shall comply with that district's sign requirements.

- 19) No sign shall include nudity; images of or references to specific sexual conduct or activities; images of or references to specific anatomical areas; or images of or references to instruments, devices or paraphernalia which are designed for use in connection with specific sexual conduct or activities.
  - a. Specific anatomical areas or specific sexual conduct or activities, including instruments, devices or paraphernalia which are designed for use in connection with specific sexual conduct or activities, or their images, shall not be visible in any fashion whatsoever from the exterior of the building in which the business is located.
  - b. The terms nudity, specific sexual conduct or activities and specific anatomical areas are defined in Section 165-27B.
- 20) Sandwich board signs, as defined in Section 165-5, are not to be placed on sidewalks in such a way that they restrict pedestrian traffic in any manner. The addition of a sandwich board shall not exceed the permitted total number of square feet of sign allowed under the ordinance.
- 21) No permit shall be required for real estate sale signs. One sign per lot containing the message that the real estate on which the sign is located (including buildings for sale, lease or rent) shall be permitted. Such signs shall not be illuminated and shall not exceed four (4) square feet in area in residential districts or eighteen (18) square feet of area in non-residential districts and shall be removed immediately after sale, lease or rental. Additional signs on commercial lots can be permitted at the discretion of the Code Enforcement Officer on a case by case basis.
- 22) All signs erected in The Town of Derry shall comply with Section 3107 of the International Building Code as currently adopted by the State of New Hampshire and as amended by the Town of Derry.
- 23) Violations of this Article are subject to the provisions of Article XVI, Section 165-32, Violations and Penalties.

### ***Section 165-101.1 Signs in Residential Districts***

- A. Notwithstanding the provisions of Section 165-101, General Provisions, the following shall apply in all residential districts.
  - 1) One sign identifying a multi-family complex/development shall be allowed provided that it does not exceed ~~20-24~~ square feet in area.
  - 2) Residents may erect a single freestanding sign not exceeding 3 square feet in area, showing the owner's name and/or address. Persons conducting home occupations may further erect a single sign not to exceed 3 square feet if so approved by the Zoning Board of Adjustment.
  - 3) Signs larger than six square feet shall be set back at least ten feet from the front lot line or public way.
  - 4) One unlit sign naming a residential development may be approved by the Planning Board as part of a subdivision or site plan review approval. The sign shall not exceed ~~sixteen (16)~~twenty-four (24) square feet in area, shall be durably constructed, solidly erected and provisions shall be made, to the satisfaction of the Planning Board, for future maintenance of the sign. No sign shall be placed in the public right of way.

### **Section 165-101.2 Signs in Neighborhood Commercial Districts**

- A. Only one free standing sign shall be permitted within a Neighborhood Commercial District. Such sign shall be for facility name and address identification only and shall not contain any product or advertising information. Such sign shall have a maximum surface area of 10 square feet on each of the two sides. The maximum height of the sign above grade shall be eight feet and shall be located a minimum of 10 feet from all property lines of the parcel. The sign shall not be internally illuminated and internally illuminated lettering shall not be utilized.
- B. In addition to the one free-standing sign, one flat sign attached to the surface of the building will be permitted. Such sign shall have a maximum surface area of 20 square feet, shall not be internally illuminated and shall not utilize internally illuminated lettering. No other signs will be permitted in a Neighborhood Commercial district.

### **Section 165-101.3 Signs in Business, Commercial, and Industrial Districts**

- A. Signs or other advertising devices in business or industrial districts shall be permitted as follows:
  - 1) ~~Signs as are permitted in the residential districts.~~ Signs are permitted for residential uses subject to residential district requirements.
  - 2) A maximum of three signs for a business or industrial establishment whether attached to a building or free standing to include two building signs and one free standing sign.
  - 3) Shopping mall signs shall be limited to three per business to include the signs on a common pylon for the plaza/mall and the individual building business sign. This does not include unit number identification on the rear door(s) of the business which provides life safety information.
  - 4) For commercial use, the aggregate area of all signs shall not exceed two square feet for each linear foot of public street frontage. This provision does not apply to shopping malls.
  - 5) For industrial uses in solely industrial districts, the aggregate area of all signs shall not exceed four square feet for each linear foot of public street frontage.
  - 6) No sign shall be greater than one hundred square feet in size in a commercial district, or greater than 200 square feet in size in an industrial district.
  - 7) Temporary signs such as notices of special sales or sandwich boards, etc., shall be permitted, but shall not be located off the lot containing the business. See also Section 165-101A.17, Special Event Signs and Section 165-101A.20, Sandwich Boards.
  - 8) In the Central Business District, there shall be no setback requirement provided that a free-standing sign, or a sign mounted to a building which projects in a perpendicular fashion shall not impede line of sight.
  - 9) Existing free standing signs that are not in compliance with the regulations shall remain non-conforming uses until such time as the business associated with such sign shall not be open to the public for a period of sixty (60) days; the specified business, for which the sign exists as of the date of the adoption of this chapter should change; or the sign should be more than fifty percent (50%) destroyed by fire, accident and/or natural disaster; then all free standing signs shall be brought into compliance with this chapter. This does not include signs for businesses that are undergoing permitted renovations or that operate seasonally.
  - 10) Wireless Communication Facility signs shall be limited to those required for cautionary or advisory purposes only.



- 11) Signs for single occupant commercial buildings located in the Office Business District shall be limited to one sign per business which shall not exceed 10 square feet in size, shall not be internally illuminated nor contain internally illuminated lettering, and shall be set back on the lot a distance of 10 feet from the nearest edge of the roadway pavement. In cases of multi-tenant buildings, the sign for each business shall be located on one common sign and be limited to six (6) square feet per tenant.

#### **Section 165-101.4 Signs in the General Commercial III District**

A. Signs in this district shall be of a low profile, monument style and must compliment the architectural design of the building and surroundings.

B. No internally illuminated, scrolling, or electronic signs of any type shall be permitted.

B-C. Signs shall be no larger than 100 square feet.

#### **Section 165-101.5 Signs in the Traditional Business Overlay District (TBOD)**

~~A.~~ The following provisions shall apply to signs in the TBOD only. Except where specifically defined herein or otherwise defined in this chapter, all words used in this subsection pertaining to the regulation of signs shall carry their usual and customary measure. The purpose of this subsection is to promote the health, safety and the general welfare in accordance with the future development of the Traditional Business Overlay District and to protect important views, create a quality downtown image, and to reduce visual clutter in this district. The sign regulations for the Traditional Business Overlay District concerning the size, placement and certain aspects of design, have been developed to integrate signs with the visual environment, and to improve the effectiveness of individual signs through emphasis on appropriate design. It is the intent to encourage signs which will be compatible with the buildings and their surroundings, be informative, legible, and provide examples of quality graphics appropriate for the community. Signs shall be permitted in this district in accordance with the provisions of this chapter, subject to further compliance with the following limitations.

##### **1) General Regulations:**

~~a. Signs shall be permitted in this district in accordance with the provisions of this chapter, subject to further compliance with the following limitations.~~

~~b.a.~~ Any sign located within a public right-of-way is subject to town approval.

~~e.b.~~ In the Traditional Business Overlay District there shall be no setback requirement provided that a free-standing sign or a sign mounted to a building which projects in a perpendicular fashion shall not impede line of sight.

~~d.c.~~ Display signs not greater than two square feet, pertaining to ~~churches~~, service clubs or civic organizations may be erected or displayed. For the purpose of this section, civic and service organizations shall be defined as non-profit establishments organized by a group of local citizens.

~~e.d.~~ No sign shall be placed upon a marquee, unless displayed on or around the outside faces or edge of the marquee. The lettering within such signs shall not be over 1.5 feet high. This sign area shall be included in the maximum aggregate sign area allowed for said property.

~~f.e.~~ Signs shall not be permitted to be painted upon or affixed to any object within a public right of way, a community facility, or public recreation area, except signs essential for the public safety and welfare.



~~g.f.~~ No roof signs shall be permitted.

~~h.g.~~ A parapet sign will be allowed as part of an approved exterior elevation design, but not more than one-third (1/3) of the sign may exceed the roofline.

~~i.h.~~ Sandwich boards are allowed subject to the requirements of Section 165-101, Sandwich Boards.

~~j.i.~~ Existing signs that are not in compliance with the regulations shall remain valid, pre-existing, non-conforming uses until such time as the business associated with such sign shall not be open to the public for a period of sixty (60) days, or the specified business for which the sign exists as of the adoption of this chapter should change, or the sign should be more than 50% destroyed by fire, accident and/or natural disaster; then all signs shall be brought into compliance with this chapter. This does not include signs for businesses that are undergoing permitted renovations or that operate seasonally.

~~k.l.~~ All projecting signs shall be located in such a manner so as not to block line of sight from a motor vehicle or from pedestrian foot traffic and no portion of the sign shall be located less than 8 feet from the grade.

~~l.k.~~ Decorative flags, banners and awnings depicting a product sold or a service rendered shall be considered a sign and shall comply with all the requirements of this chapter.

~~m.l.~~ No neon, argon, or krypton, shall be permitted.

~~n.m.~~ No sign shall be internally illuminated nor shall a sign utilize internally illuminated lettering.

~~o.n.~~ No monument signs shall be permitted.

~~p.o.~~ Unless otherwise specified, the following permanent sign provisions shall apply:

- i. The aggregate area of all signs permitted on any lot shall not exceed one square foot for each linear foot of street frontage but in no case shall it exceed 50 square feet, whichever is less for single tenant buildings.
- ii. A minimum total sign area of 20 square feet shall be permitted on any lot regardless of linear footage of street frontage.
- iii. One additional separate wall sign, not to exceed 50 square feet shall be allowed which contains no advertising but promotes the name of the building.
- iv. On lots with multiple businesses, each business shall be allowed a sign having a maximum of twenty (20) square feet.

### **Section 165-101.6 Campground Signs**

- A. Campground signs shall conform to a maximum size of ~~20-24~~ square feet and be limited to one sign per entrance.

### **Section 165-101.7 Political Signs**

- A. Political signs shall conform, be erected, and removed pursuant to the appropriate State of New Hampshire RSAs as may be amended from time to time. Political signs are not allowed on public property, but they may be displayed on private property with the consent of the landowner. ~~The candidate must remove the sign within five (5) days following the~~

~~election. The candidate is personally liable for removal/disposal of the sign after the five (5) day period.~~

### **Section 165-101.8 Off Premise Signs**

- A. Off-premise signs are permitted, provided that the owner of the lot on which the sign is to be placed, has granted a recorded easement for the sign.

### **Section 165-101.9 Nuisance Signs**

- A. An unsafe or abandoned sign is declared a public nuisance, and shall be abated by the Owner within fifteen (15) business days of receiving notice from the Code Enforcement Officer. After thirty (30) days from the date of notice, the sign may be removed by the Town of Derry. The property owner shall be personally liable for costs incurred by the town for removal of the sign. Such costs shall become a lien on the real estate.

### **Section 165-101.10 Interactive Digital Signs**

- A. Interactive digital signs are permitted in the Business, Commercial, and Industrial districts but shall meet all setback and other relevant requirements for the zone and shall be subject to Planning Board review and approval.

### **Section 165-101.11 Electronic Message Center Signs**

- A. Electronic message center signs are allowed in the General Commercial, General Commercial IV, and Industrial IV districts only. All illumination elements on the face of an electronic message center sign shall remain at a fixed level of illumination for a period of not less than five (5) seconds. Changes from one message to another shall be accomplished by the change of all illumination elements on the face of an electronic message center sign simultaneously, with the provision that the sign may fade to complete darkness and then re-illuminate with or fade to the new message. Electronic message center signs shall be equipped with the ability to adjust the brightness of the sign, and shall not be operated at a brightness which is greater than 0.3 foot candles above ambient light conditions as measured by using a foot candle light meter held at height of five feet and aimed towards a sign consistent with the sign-to-viewer distance. Electronic message center signs shall not contain animation.

### **Section 165-102 Non-Conforming Use Signs**

- A. Any conforming sign advertising and located on the same premises with a non-conforming use, may be maintained, repaired, and replaced during the life of the non-conforming use subject to compliance with this Article.

- B. Existing signs that are not in compliance with these regulations shall remain valid, pre-existing, non-conforming uses until such time as the business associated with such sign shall permanently be closed and not be open to the public for a period of sixty (60) days, or the specified business for which the sign exists as of the adoption of this chapter should change, or the sign should be more than 50% destroyed by fire, accident and/or natural disaster; then all signs shall be brought into compliance with this chapter. This does not include signs for businesses that are undergoing permitted renovations or that operate seasonally.

***Section 165-103 (Reserved for Future Use)***