

## CHAPTER 9

### SIGNS

#### Section 1. DEFINITIONS

As used in this Chapter:

- 1.1 “Sign” shall mean any word, letter, symbol, drawing, picture, design, device, article, and object that advertises, calls attention to, or indicates any premises, person, or activity, whatever the nature of the material and manner of composition or construction and however displayed, and which is on a public way or private property within public view of a public way, public park, or reservation.
- 1.2 “Accessory sign” shall mean any sign which with respect to the premises on which it is located advertises, calls attention to, or identifies either the person occupying the premises on which the sign is located, or the business or activity being conducted on such premises, or which advertises the sale, rental, or lease of such premises, or any part thereof, and which contains no other advertising matter.
- 1.3 “Non-accessory sign” shall mean any sign which is not an accessory sign.
- 1.4 “Free standing sign” shall mean any sign which is not attached to a building.
- 1.5 “Temporary sign” shall mean any sign, including its supporting structure, which is intended to be maintained for a continuous period of not more than sixty (60) days, and in fact removed within that period, and not repeated for a period of twelve (12) months after removal.
- 1.6 “Permanent sign” shall mean any sign which is not a temporary sign.
- 1.7 “Area of a sign” shall be determined in accordance with the following:
- (a) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing.
  - (b) The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall, or window shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
  - (c) The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.

(d) In computing the area of a sign, only one side of back-to-back sign shall be counted.

1.8 "Zoning by-law" shall mean the Zoning By-Law of the Town of Winchester as from time to time in effect.

1.9 "Public way" shall mean any street, road, or way as defined by the zoning by-law.

1.10 "Lot" shall mean any lot as defined by the zoning by-law.

## **Section 2. GENERAL REQUIREMENTS**

2.1 No sign shall contain any moving, flashing, or animated lights, or lights varying in color, or visible moving or movable parts, except such portions of a sign as consist solely of indicators of time and/or temperature.

2.2 No sign shall be illuminated between the hours of 10 p.m. and 6 a.m. unless, in the case of an accessory sign, the premises on which it is located are open for business and except for sign identifying police or fire stations, hospitals, and for such other signs as the board of appeals by special permit may authorize. Signs may be illuminated only by the following means:

- (a) By a white, steady, stationary light of reasonable intensity shielded and directed solely (or by silhouette) at the sign. The foregoing is applicable to signs exterior to a building and to permanent interior signs designed to be visible through a door or window.
- (b) By fully shielded indirect light sources in accordance with Section 12 of the Zoning By-Law Outdoor Lighting. No sign may utilize translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through. The foregoing is applicable to signs exterior to a building and to permanent interior signs designed to be visible through a door or window.<sup>1</sup>

2.3 No sign shall be placed so as to produce glare at any point on a public way or adjacent property or to cast light into any dwelling unit or dwelling building.

2.4 No sign shall be erected at or near the intersection of any streets or of a street and driveway in such manner as to obstruct free and clear vision or at any location where, by reason of the position, shape, color, illumination, or wording, the sign may interfere with, 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 because of intensity or direction or illumination.

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<sup>1</sup> Articles 9 and 10 of the 2003 Fall Town Meeting amended subsections (a) and (b).

2.5 No sign shall be painted or posted on the surface of any wall without any intermediary removable surface and such intermediary surface shall be securely affixed to such wall. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or thickness of one-fourth (1/4) of an inch and a maximum depth or thickness of four (4) inches.

2.6 Except for the provisions of Section 1 and this Section 2, the provisions of this chapter shall not apply to the following signs:

(a) Any sign which is required or authorized by any law, rule, regulation, or permit of the federal or state governments, or any agency thereof, or any public authority created thereby.

(b) Any sign erected or placed on any town premises under the provisions of any town by-law or zoning by-law or by direction or order of the town board or committee having lawful jurisdiction over such premises.

(c) Signs otherwise permitted pursuant to Section 6 but subject to the terms and conditions of such section.

(d) Any sign, not exceeding four (4) square feet in area, limited solely to directing traffic within a parking area or indicating parking restrictions in the use of such parking area.

(e) Any sign, not exceeding one (1) square foot in area, marking or identifying privately owned land.

(f) Customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof.

(g) Signs permanently fixed on registered motor vehicles regularly used to transport merchandise or persons.

(h) The following temporary signs:

(1) One (1) sign on each lot which advertises the sale, rental, or lease of such premises or any part thereof, provided that such sign shall not exceed six (6) square feet in area and provided further that such sign shall be removed within five (5) business days after such sale, rental, or lease has been completed.

(2) One (1) sign on each lot which advertises the name and address of the owner, architect, engineer, and/or contractor responsible for any construction on

such premises, or any part thereof, provided that such sign shall not exceed twenty (20) square feet in area and provided further that such sign shall be removed within five (5) business days after the completion of such construction.

(3) One (1) sign located in a residential subdivision of two (2) or more lots which advertises the development and/or the sale, rental, or lease of the individual lots therein, provided that such sign shall not exceed fifty (50) square feet in area.

(4) Signs affixed to the interior of windows, provided that the aggregate area of the window covered by all signs, including signs other than temporary signs, shall not exceed thirty (30) percent of the window area.

(i) Signs in the interior of a building which are intended to be viewed from inside the building even if they can be seen through a window or door.

(j) Displays of merchandise.

2.7 The following signs are prohibited under this chapter:

(a) Non-accessory signs.

(b) Wind signs, including banners, pennants, flags, spinners, streamers, and other wind-actuated components, except to the extent provided under Section 5.3.

(c) String lights used in connection with commercial premises, except for temporary lighting used for holiday decoration during the specific holiday season.

(d) Any sign which advertises or identifies a business which is no longer being conducted or a product which is no longer being sold.

(e) Exposed luminous tube and exposed incandescent lamp signs, including exposed neon and exposed fluorescent.<sup>2</sup>

(f) Any sign not otherwise permitted under this chapter.

2.8 Every sign shall be maintained in good condition. If a sign shows corrosion or deteriorated paint over twenty-five (25) percent of the area of one side or if damage to a sign causes the loss of ten (10) percent of its surface or if a sign suffers damage or deterioration which creates a risk of harm to the person or property of another, it shall be repaired or removed.

2.9 No sign shall contain lettering in excess of forty (40) inches in height.

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<sup>2</sup> Art 13 of the 1988 Fall Town Meeting changed subsection (e) to become (f) and added a new subsection (e).

### **Section 3. SIGNS IN RESIDENCE AND CONSERVANCY DISTRICTS**

3.1 Any activity legally conducted in a residential district from time to time established under the zoning by-law shall erect signs only conforming with the provisions of this Section 3.

3.2 The following signs shall be permitted in any residential district from time to time established under the zoning by-law.

(a) One (1) sign, not exceeding two (2) square feet in area, displaying the street number and/or name of the occupant of the premises. Such sign may include identification of any permitted use of the premises.

(b) With respect to any apartment building (as defined by the zoning by-law), one (1) additional wall-mounted accessory sign not exceeding ten (10) square feet in area.

3.3 The following signs shall be permitted in any conservancy-institutional district from time to time established under the zoning by-law:

(a) One (1) bulletin or announcement board, identification sign, or entrance marker for each public entrance to the premises of a church, synagogue, school, or other structure in which an activity permitted in the district is conducted, provided that the aggregate area of all such signs shall not exceed thirty (30) square feet.

(b) One (1) free-standing sign, not exceeding thirty (30) square feet in area, on the premises upon which the church, synagogue, school or other structure in which an activity permitted in the district is conducted.

### **Section 4. SIGNS IN BUSINESS AND INDUSTRIAL DISTRICTS**

4.1 Signs complying with the following requirements shall be permitted in any business or industrial districts from time to time established under the zoning by-law:

(a) Location

(1) Accessory signs affixed parallel to the wall of a building, and not extending beyond the face of such wall, horizontally or vertically, nor, with respect to any sign having horizontal dimensions which are equal to or greater than its vertical dimensions, extending within twelve (12) inches from the end of such wall or to a line which divides businesses sharing such wall.

(2) One (1) accessory sign affixed perpendicular to the wall of a building and not extending above the top of such wall, provided that such sign (A) shall be two (2) feet in its horizontal dimension and two and one-half (2 1/2) feet in its vertical dimension (excluding mounting hardware) on a geometric plane, (B) shall

be mounted with the lowest part of the sign ten (10) feet above the ground, and(C) shall not project from the face of the wall of a building more than two and two-thirds (2 2/3) feet (including mounting hardware).<sup>3</sup>

(3) One (1) accessory sign affixed to or forming part of the roof of any building, provided that such sign shall not obscure, when viewed from the public way which the building faces, the building eaves, ridge, or rakes and provided further that a special permit therefor has been granted by the board of appeals under the procedures of Section 7.

(4) Permanent signs affixed to a window or visible through a window, which do not occupy an area in excess of thirty (30) percent of the area of such window.

(5) Free-standing signs, provided that (A) the building which any such sign advertises shall not be located within forty (40) feet of the street edge of a public way, (B) the base of any such signs shall be at least thirty (30) inches above the ground, (C) any such signs shall not be more than twenty-five (25) feet from the ground, and (D) a special permit therefor has been granted by the board of appeals under the procedures of Section 7.

(b) Size

(1) The aggregate area of all signs permitted pursuant to Sections 4.1(a) (1) through (4), 5.2, and 5.3 shall not exceed (A) the product of two (2) square feet times the number of linear feet or major fraction thereof located on the wall in which the principal entrance to the business for which the signs will be erected or maintained is located, less (B) the aggregate area of all accessory signs (other than free-standing signs) for such business including signs legally erected before the adoption of this chapter which do not conform to the provisions of this chapter.

(2) The area of a sign permitted pursuant to Section 4.1 (a) (3) shall not exceed fifty (50) percent of the aggregate area of signs permitted for such business pursuant to Section 4.1 (b) (1).

(3) The area of a sign permitted pursuant to Section 4.1 (a) (5) shall not exceed (A) one (1) square foot for each two (2) feet of frontage on a public way of the lot on which such sign rests and toward which public way such sign faces, less (B) the aggregate area of all free-standing signs on such lot legally erected before the adoption of this chapter which do not conform with the provisions of this chapter.

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<sup>3</sup> Art 3 of the 1983 Fall Town Meeting 1983 deleted the language in Section 4.1 (a) (2) and inserted the language now shown.

(c) Number

(1) Up to two (2) signs permitted pursuant to Sections 4.1 (a) (1) and 4.1 (a) (2) may be affixed to each wall of the building. Any accessory sign affixed to a wall which was legally erected before the adoption of this chapter and which does not conform to the provisions of this chapter shall be counted for the purpose of determining the number of signs which may be affixed to each wall of a building.

(2) Up to two (2) signs permitted pursuant to Section 4.1 (a) (5) may be erected and maintained on each lot, provided that if the lot on which such signs shall rest has less than two hundred (200) feet of frontage on a public way, no more than one (1) sign shall be permitted on such lot. Any free-standing sign which was legally erected before the adoption of this chapter and which does not conform to the provisions of this chapter shall be counted for the purpose of determining the number of free-standing signs permitted under this Section 4.1 (c) (2).

4.2 In addition to the signs permitted under Section 4.1, there may be one (1) directory sign of the businesses occupying a building affixed parallel to the wall of the building at each public entrance to the building. Such directory sign shall not exceed an area determined on the basis of one (1) square foot for each business in the building.

#### **Section 5. SPECIAL SIGNS**

5.1 Gasoline filling stations and garages may display one (1) state automobile inspection sign, not exceeding twelve (12) square feet in area.

5.2 Canopies and metal or cloth awnings, whether containing advertising or not, shall be permitted under this chapter provided that they are used primarily to protect the building front and/or entrance from the weather or to conserve energy.

5.3 Banners, flags and pennants, whether containing advertising or not, shall be permitted under this chapter provided that (a) they contain an area of no more than four (4) square feet, (b) no more than one (1) such banner, flag, or pennant shall be permitted for each building or, if not attached or affixed to a building, for each lot, and (c) they shall not be composed of vinyl, plastic, metal, or like material to any substantial extent.

#### **Section 6. NON-CONFORMING SIGNS**

6.1 Accessory signs legally erected before the adoption of this chapter which do not conform to the provisions of this chapter may continue to be maintained without a permit pursuant to Section 7.2, provided, however, that no such sign shall be permitted if, after the adoption of this chapter, it is enlarged or structurally altered in any substantial way, except to conform to the requirements of this chapter, and provided, further, that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replace-

ment cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this chapter. Any exemption provided herein shall terminate with respect to any sign which:

- (a) shall have been abandoned; or
- (b) shall advertise or call attention to any products, businesses, or activities which are no longer sold or carried on, whether generally or at the particular premises; or
- (c) shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the building commissioner.

## **Section 7. ADMINISTRATION AND ENFORCEMENT**

7.1 The building commissioner is hereby designated and authorized as the officer in charge of the enforcement of this chapter. The building commissioner shall transmit all sign applications to the Winchester design review committee (DRC) for its review and recommendation prior to acting upon sign permit applications.<sup>4</sup>

7.2 No sign subject to this chapter shall be erected on the exterior of any building or on any land, and no such sign shall be altered or enlarged, until an application, on appropriate forms furnished by the building commissioner, has been filed with the building commissioner with such information, including photographs, plans, and scale drawings, as he may require, and a permit for such erection, alteration or enlargement has been issued by him. Such permit shall be issued only if the sign complies or will comply with all applicable provisions of this chapter. The fee for such permits shall be determined from time to time by the board of selectmen.

7.3 The building commissioner may order the repair or removal of any sign and its supporting structure which in his judgment is dangerous or in disrepair or which is erected or maintained contrary to this chapter.

7.4 If the building commissioner shall find that any provision of this chapter is being violated, he shall notify in writing the person deemed responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall cause to be instituted civil or criminal actions to secure enforcement of the provisions of this chapter or shall take any other action authorized by this chapter to insure compliance with or prevent violation of its provisions.

7.5 An appeal may be taken to the board of appeals by any office or board of the town, or by any person aggrieved by any order or decision of the building commissioner under this chapter. Such appeal must be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a motion of appeal, specifying the grounds therefor, with the town

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<sup>4</sup> Art 8 of the 2003 Fall Town Meeting added the second sentence of this subsection.

clerk, who shall forthwith transmit copies thereof to the building commissioner and to the members of the board of appeals. Any applicant shall provide the information required under Section 7.2 and specific information in the form of perspectives, renderings, photographs, or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings, and the reasons for allowing it.

7.6 The board of appeals shall fix a reasonable time for the hearing of any appeal or other matter referred to it under this chapter and shall cause a notice of the time and place of such hearing hereof and of the subject matter, sufficient for identification, to be published at the expense of the appellant or petitioner in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and also send notice by mail, postage prepaid, to the appellant or petitioner and to the owners of all property deemed by the board of appeals to be affected thereby. The publication required by this section shall contain the following, printed in bold face type:

- (a) the name of the appellant or petitioner,
- (b) the location of the area, sign or premises which are the subject of the appeal,
- (c) the date and place of the public hearing.

7.7 All hearings of the board of appeals hereunder shall be open to the public. The chairman or acting chairman may administer oaths, summon witnesses, and call for the production of papers. The decision of the board of appeals shall be made within forty-five (45) days after the conclusion of the hearing. The board of appeals shall issue its decision in writing, setting forth clearly the reason or reasons for such decision. A copy of the decision shall be filed with the town clerk and shall be a public record. Notice of a decision of the board of appeals shall be mailed to the appellant or petitioner. All decisions of the board of appeals shall be by a majority vote.

7.8 The board of appeals may grant special permits as permitted by this chapter and may by special permit allow the erection or maintenance of a sign otherwise prohibited under this chapter, provided, however, that the board of appeals may not by special permit allow the erection or maintenance of any sign otherwise prohibited under Sections 2.7 (e)<sup>5</sup>, 4.1 (a) (5) (c), 4.1 (b) (3) and 4.1 (c) (2). Such a special permit shall be granted only if the board of appeals determines that such a sign would not be adverse to the public interest. In determining the public interest, the board of appeals shall consider (a) the architecture of any building which is involved, (b) the location of such building with reference to the street, (c) the nature of the use of such building and the premises on which the sign will be located (d) the hardship to the applicant if the sign is not permitted, (e) with respect to signs contemplated by Section 4.1 (a) (3), whether and to what extent signs may be affixed to the face of the building, and (f) the size, location, design, color, texture, lighting, and materials of the proposed sign and its impact upon the character, use and

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<sup>5</sup> Art 13 of the 1988 Fall Town Meeting added the reference to Section 2.7 (e).

enjoyment of proposed buildings and structures and surrounding properties. In granting any such permit, the board of appeals shall specify the size, height, type and location of the sign and impose such other terms, restrictions and conditions as it may deem to be in the public interest.

7.9 The penalty for violations of any provision of this chapter, or failure to comply with any of its requirements, shall be a fine not greater than ten dollars (\$10) for each day the violation continues, not to exceed the maximum penalty permitted by Chapter 93, Section 33 of the General Laws.

## **Section 8. GENERAL**

8.1 The invalidity of any part or provision of this chapter, or of the application hereof to any particular subject matter, shall not invalidate any other part or provision hereof or affect the application hereof to any other subject matter.

8.2 All signs shall be subject to any and all other applicable by-laws and regulations of the Town of Winchester and the Commonwealth of Massachusetts.

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