

STATE OF NORTH CAROLINA

COUNTY OF WATAUGA

## **AN ORDINANCE TO REGULATE SIGNS IN WATAUGA COUNTY**

Pursuant to the authority granted counties in North Carolina General Statute 153A-121, the Board of Commissioners of Watauga County do order and ordain the following:

### Purpose

The purposes of this ordinance are to promote the safety and general welfare of the citizens of Watauga County and to maintain the aesthetically pleasing environment of the mountain setting through regulation of signs. Specifically, the purposes are as follows:

- A. To provide for the safety of vehicular and pedestrian traffic by limiting visual interference of distractions.
- B. To protect the public from injury due to collapse, fire, decay, or abandonment of signs;
- C. To maintain the aesthetically pleasing environment which is unique to the mountains by regulating the size and location of signs.

It is also acknowledged that the County's economic well being is heavily dependent upon the resort and tourism industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to the County.

### A. Definitions.

1. Sign. Any surface, fabric or device bearing lettered, pictorial or sculptured matter designed to convey information visually and exposed to public view, or any structure (including billboard or poster panel) designed to carry the above visual information.
  - a. Sign Face. The part of the sign that is or can be used to identify, advertise, or communicate information or for visual representation which attracts the attention of the public for any purpose. The sign structure shall not be included as a portion any of the aforementioned sign face criteria are displayed on or designed as part of the sign structure.
  - b. Sign Structure. A supporting structure upon which any sign may be fastened, affixed, displayed, or applied, provided however said definition shall not include a building, fence, wall or earthen berm.
2. Advertising Sign (Billboard). A sign directing attention to a business, commodity, service, or entertainment which is conducted, sold or offered on premises other than the premises upon which the sign is located.

3. Business Sign. A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered on the same premises.
4. Identification Sign. A sign identifying only the name of the individual, family, organization or enterprise occupying the premises, or the profession of the occupant, or the name of the building on which the sign is displayed.
5. Attached Sign. A sign permanently attached to the building located on the premises.
6. Detached Sign. A free standing sign, including those mounted on towers or stations, not affixed to the building.
7. Illumination. A lighted sign shall be one which is illuminated only by light cast upon the sign from a concealed source; a luminous sign is one illuminated by any type of internal or external electrical light source.
8. Portable Sign. Any sign which is attached to a mobile vehicle or is not permanently affixed to a building, structure, or the ground.
9. Temporary Sign. A sign or advertising display intended to be displayed for no longer than six (6) months to inform the public of an unusual or special event, or as otherwise specified in this ordinance.
10. Changeable Electronic Variable Message Sign. A sign (other than a public variable message sign, which is erected by a town, city, county, state for federal government or agency for traffic communication purposes) which results in illuminated display or messages or information by the use of a matrix of electric lamps, i.e., digital, LED (light emitting diode) or similar or refined display technology, movable discs, movable panels, light apertures, or other methods, which allow the message change to be actuated by a control mechanism rather than manually changing of message.

B. Signs Permitted Without Limitation. Signs Exempt from Permit Requirements but Subject to Ordinance Provisions. The following shall be permitted without limitation, except as ~~those~~ described in Sections B and C of this ordinance.

1. Signs to regulate traffic.
2. Signs required to be posted by law.
3. Warning signs and no-trespassing signs.
4. Signs established by governmental agencies.
5. Signs indicating bus stops, taxi stands, and similar transportation facilities.

6. Signs giving information concerning the location or use of accessory off-street parking facilities or loading and unloading facilities. Signs shall not exceed two (2) square feet.
7. Identification signs on premises of one and two-family dwellings (name and/or address).
8. Temporary real estate signs advertising specific property for sale, lease, rent, or development. Such signs shall be removed within five (5) working days after the sale, lease, etc. of the property. Signs advertising single-family residential property shall not exceed sixteen (16) square feet. Signs advertising large tract, commercial or multi-family property shall not exceed thirty two (32) square feet.
9. Temporary signs not exceeding sixteen (16) square feet **directing to the premises of advertising yard sales or real estate for sale.**
10. Subdivision and multi-family complex identification signs not exceeding fifty (50) square feet in area.
11. Signs not exceeding thirty-two (32) square feet involved in campaigns of religious, charitable, civic, fraternal, political and similar organizations. Such signs shall be placed no more than sixty (60) days prior to an event, such as an election, and shall be removed within seven (7) days after completion of campaign unless permitted in accordance with Section E. Political signs shall not be placed upon property **that is a polling place and is** owned and/or leased by the County or the County Board of Education except after 6 pm on the day before an election, and shall be removed no later than the day after the election. **Political signs shall not be placed upon property owned and/or leased by the County or the County Board of Education that are not polling places at any time.**
12. Signs not exceeding fifty (50) square feet on premises of schools, colleges, hospitals, nursing homes, community recreation centers, parks, libraries, museums, art galleries, playgrounds, golf courses, country clubs, and similar uses.
13. Signs not exceeding six (6) square feet which are on the premises of residences and are advertising home occupations.
14. Identification and directional signs on premises of or directing to the premises of churches.
15. **Identification and directional signs on premises of or directing to the premises of sales of Watauga-grown agricultural commodities or locations of agritourism.**
16. Flags or emblems of political, civic, philanthropic, educational or religious organizations erected on private property.

C. Prohibited Signs.

1. Signs that are structurally unsafe and thereby endanger the public safety shall be removed unless they are repaired and made to comply with the requirements of the North Carolina State Building Code.
2. Flashing and moving signs are prohibited. A sign provided as a public service showing the time and temperature shall not be considered a flashing sign. Changeable electronic variable message signs are not considered flashing and moving provided the signs comply with the following provisions:
  - a. The sign does not contain or display flashing, intermittent, or moving lights, including animated or scrolling advertising;
  - b. The sign facing remains in a fixed position for at least ~~eight (8) seconds (for off-premise signs) and~~ one (1) hour (for on-premise signs);
  - c. If a message is changed electronically, it must be accomplished within an interval of two (2) seconds or less;
  - d. The sign must contain a default design that will freeze the sign in one position if a malfunction occurs;
  - e. A changeable electronic variable message sign shall be equipped with a control system that automatically adjusts light emission level to ambient light conditions so as to not cause glare or excessive brightness. In no case shall the light level of any such sign exceed 300 nits (candelas per square meter) between the time of sunset and sunrise, nor 5,000 nits at other times. No more than 25% of the sign message may be white. Notwithstanding the acceptable light levels, internal illumination shall not be at an intensity that is distracting to vehicular traffic; and
  - f. Subsequent to installation, Watauga County shall have the ongoing discretion to require that brightness, frequency, colors or other qualities be adjusted in order to address safety concerns.
3. Advertising and business signs that are tacked, nailed, posted, pasted, painted, glued, or otherwise attached to trees or rocks.
4. No source of illumination on a sign, such as floodlights, spotlights, unshielded bulbs, etc. shall shine directly into any public right-of-way. Internal illumination shall not be at an intensity that is distracting to vehicular traffic.

D. On Premises Signs.

1. Attached business and industrial identification signs.

Permitted number and area of signs:

Wall signs shall be limited to signs 10% of each wall. The roof shall be considered as a wall and separately from each wall. Only visible portions of the roof may be used when calculating sign area. Projecting signs shall be

limited to one (1) twenty-four (24) square foot for each street/road front.

Permitted illumination:

Luminous-lighted.

Permitted location:

Signs shall be mounted flush against the building extending not more than ten (10) feet above the parapet of the building, or may project from the wall of the building (sign face is perpendicular to wall). Projecting signs must not extend into a street/road right-of-way and may not exceed twenty-four (24) square feet in area.

## 2. Detached business and industrial identification signs

Permitted number of signs:

One (1) per street/road front, plus an additional sign may be utilized for each two hundred (200) feet of street/road frontage. (There must be a distance of 200 feet between each sign located on the same premises when the signs are located on the same street/road. This spacing requirement does not apply to signs on premises of adjacent businesses.) Permanent subdivision signs shall not exceed fifty (50) square feet. Produce signs shall be limited to two (2) detached signs per business. Each sign may not exceed twenty-four (24) square feet.

Maximum area of signs:

Fifty (50) square feet. If a property and/or business industry owner is eligible for more than one (1) detached sign (due to road frontage) and he waives the right to erect more than one (1) detached sign and also waives the right to have any advertising sign(s) on his property, he may petition the Planning Board for a permit to erect one (1) detached sign with an area of up to one hundred fifty (150) square feet.

Permitted illumination:

Luminous-lighted

Permitted location:

Behind street/road right-of-way

Maximum height:

Thirty five (35) feet in height above the street/road or natural grade level, whichever is higher, depending upon terrain.

3. Changeable electronic variable message signs are subject to Section C.2 to the extent applicable.

E. Advertising Signs.

~~1. Newly erected advertising signs shall not be permitted.~~

~~2. Maintenance of existing advertising signs shall be in accordance with Sections J and L.~~

~~3. No existing advertising signs may be converted to or replaced with a changeable electronic variable message sign.~~

1. Advertising signs shall not exceed three hundred (300) square feet in area unless otherwise approved by the Planning Board. This square footage includes both sign face and border.
2. Advertising signs shall be located as follows:
  - a. Be located outside the right-of-way of all roads, or thirty five (35) feet from the center line if there is no recorded right-of-way, provided that on corner lots no part of an advertising sign may be located within a triangular area formed by the street right-of-way lines and a line connecting them at points fifty (50) feet from the right-of-way intersection.
  - b. Be located only in "unzoned commercial areas" as defined in the North Carolina DOT Outdoor Advertising Manual and spaced as set forth in said manual except that new "side-by-side" signs shall be prohibited. This paragraph shall be applicable on all streets/roads in Watauga County which are not within the jurisdiction of a municipality.
  - c. Be located not closer than one hundred (100) feet to a pre-existing residential structure on an adjoining lot. This does not prevent the owner of a residence from placing an advertising sign on the same lot as the residence provided that the placement of such sign complies with subparagraph b. above.
  - d. Not exceed thirty five (35) feet in height above the street/road grade level.
  - e. Not exceed a width of thirty (30) feet.
  - f. Be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code and local electric utilities' requirements.

3. No existing advertising signs may be converted to or replaced with a changeable electronic variable message sign. No new locations for changeable electronic variable message signs shall be permitted.

F. Special Sign Regulations.

1. For the purpose of this sign regulation an industrial or business complex or a shopping center consisting of two (2) or more businesses located in a unified building or group of buildings may have business and/or identification signs as permitted in Section D.1 in this ordinance. The center as a whole may have one (1) detached directory sign per street front. The center or complex sign shall not exceed fifty (50) square feet and each business and/or identification sign shall not exceed twenty-five (25) square feet.
2. Three (3) temporary signs shall be permitted on the site of any construction work bearing the name of the buildings, business, owner or those furnishing services or materials used on such construction work. Such sign(s) shall be removed within five (5) working days after completion of construction.

G. Portable Signs.

1. Advertising (off-premises) portable signs shall be prohibited except as specified in Section B.
2. Electrical cords for any portable sign may not extend across any surface where they will be traversed by vehicular or pedestrian traffic. If it is essential for a cord to extend across such a surface, then the cord must be buried or secured overhead. Furthermore, an electrical sign must comply with the National Electrical Code and display the Underwriter's seal of approval. Coupled with this provision all signs must be clearly marked with the name, address and telephone number of the person, firm, or corporation erecting or maintaining the sign.
3. All portable signs must have some type of tie down provisions to prevent them from becoming a hazard during high winds.

H. Permit Required.

For signs regulated by Sections D, E, F, and G of this ordinance, a permit shall be required in accordance with the North Carolina State Building Code, ~~Subsection 2301.3~~ Appendix H. Such permit shall be obtained from the Watauga County Department of Planning and Inspections. Applications for permits must be accompanied by a fee which will be set from time to time by the County Commissioners and must show the following information:

1. Ownership of the property on which the signs will be located.

2. Name and address of the sign owner.
3. Plans showing the exact location of the sign with respect to the building driveway or street access, property line and parking areas.
4. Size, shape, design and method of attachment for the sign.

For signs proposed to be located on Highways 321, 221, 421, and 105, evidence of N.C. DOT approval shall be required.

#### I. Variances and Appeals.

1. Appeal: With Request for Variance. Recognizing that the strict application of the requirements of this chapter may work an undue hardship on certain applicants, variances from the strict application of the provisions of this chapter may be granted by the Watauga County Board of Adjustment. Each application for a variance shall be in writing and shall state the reasons for the request for variance. The basis for a claim of hardship shall not be economics alone. The Board of Adjustment shall grant the variance, grant the variance with conditions, or deny the variance within sixty (60) days of the date of appeal from the decision of the County administrative official.
2. Appeal: Without Request for Variance. Any sign owner or applicant who alleges that a County administrative official acted erroneously in enforcing this ordinance may appeal the decision of that administrative official to the Board of Adjustment as specified in I.1. above.
3. Every decision of the Board of Adjustment shall be subject to review at the instance of any aggrieved party by the Superior Court by proceedings in the nature of certiorari. The appeal to Superior Court must be filed within thirty (30) days of the filing by the secretary of the Board of Adjustment to the decision in the office of the Department of Planning and Inspections.

#### J. Maintenance of Signs.

All sign supports, braces, poles, wires, and anchors thereof shall be constructed and kept in good repair as specified in the North Carolina State Building Code, ~~Section 2304~~ Appendix H. They shall be maintained in safe conditions, free from deterioration, missing parts, and peeling paint. Any sign not in compliance with these standards shall be deemed a nuisance and the following action may be taken.

1. The Building Inspector or his agent shall give written notice to the owner specifying the sign indicated and telling what needs to be done to bring the sign into compliance.
2. The owner of the sign shall respond to the notice within two (2) weeks and shall have sixty (60) days to complete said repairs. Additional time shall be granted by the Building



Inspector only upon delay of parts when it has been clearly shown that the parts have been ordered.

3. Failure to complete repairs in the specified time shall result in the Building Inspector causing the sign to be repaired, removed or altered at the expense of the owner(s).
4. In the event of a sign which is damaged in excess of 60% of its replacement value, such shall be restored or repaired only in compliance with the provisions of this ordinance.  
**This limitation does not apply to repair of any outdoor advertising signs for which there is in effect a valid permit issued by the NC Department of Transportation so long as the square footage of its advertising surface is not increased.**

K. Obsolete or Abandoned Signs.

1. Signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity, or purpose which no longer exists or that has not been in use for ninety (90) days or more shall be deemed to be an abandoned sign. Signs which are associated with seasonal business such as ski shops, Horn in the West, etc., shall not be considered obsolete or abandoned provided there is clear intent to continue the business in the up-coming season.
2. Obsolete or abandoned signs are prohibited and shall be removed by the owner or his agent within thirty (30) days of termination of the business, activity, event, etc.
3. Failure to remove such signs or parts of signs shall result in written notice from the Building Inspector. Failure to comply with this notice shall result in the sign being removed at the owner's expenses.

L. Non-Conforming Signs.

1. Intent - Signs in existence prior to the adoption of this ordinance and which do not conform to the provisions of this ordinance are declared non-conforming signs. It is the intent of this section to recognize that the eventual elimination of non-conforming signs is just as important to the health, safety, welfare, and appearance of Watauga County as is the prohibition of new signs which would violate this ordinance. It is also the intent of this section to allow sign owners a reasonable period of time to remove or bring into compliance such signs. This section provides a period of compliance which avoids any unreasonable invasion of established property rights.
2. General Provisions for Non-Conforming Signs – A non-conforming sign may be continued provided that it:
  - a. Shall not be modified in any way which increases its degree of non-conformity.
  - b. Shall not be expanded or relocated, unless such relocation brings the sign into conformance with this ordinance.

- c. Shall not be re-established after damage or destruction in excess of sixty (60) percent of its replacement value at the time of the damage or destruction, except as provided in Subsection J.4.
- d. Shall not be structurally changed or replaced with another non-conforming sign. Advertising copy shall not be considered a structural change. **This limitation does not apply to reconstruction of any outdoor advertising signs for which there is in effect a valid permit issued by the NC Department of Transportation so long as the square footage of its advertising surface is not increased.**

3. Removal and Compliance Schedule for Non-Conforming Signs:

- a. Signs which do not comply with Section J, Maintenance of Signs; and Section K, Obsolete or Abandoned Signs; shall come into compliance in accordance with the notification schedule therein.
- b. Signs prohibited in Section C, Prohibited Signs and Section G, Portable Signs shall be removed or brought into compliance within thirty (30) days of adoption of this ordinance.
- c. In cases where signs exceed the other requirements of this ordinance (square footage, height, setback) such signs may be amortized-provided North Carolina General Statutes-do not require cash compensation according to the following schedule.
- ~~d. In cases where signs exceed the other requirements of this ordinance (square footage, height, setback) such signs may be amortized—provided North Carolina General Statutes—do not require cash compensation according to the following schedule.~~

ORIGINAL COST OF SIGN

MUST CONFORM WITHIN

Less than \$1000	2 years from effective date of ordinance
\$1000 - 3000	3 years from effective date of ordinance
\$3001 - 5000	5 years from effective date of ordinance
over \$5000	7 years from effective date of ordinance

- e. Non-conforming signs shall be removed except as regulated by N.C.G.S. 136-131.1 or brought into conformity according to the time schedules herein. Failure to comply shall result in Watauga County instituting penalties and/or remedies as per Section M and N of this ordinance.

M. Penalties for Violation.

Any person violating provisions of this ordinance shall be given ten (10) working days to comply. Failure to comply within ten (10) working days shall be a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding fifty (50) dollars or by

imprisonment not to exceed thirty (30) days, or both. Each day such violation continues shall be deemed a separate offense.

N. Remedies.

In case any sign is erected, constructed, reconstructed, altered, repaired, converted or continued in violation of this ordinance the Building Inspector or any other appropriate County authority, as outlined in Sections J, K, L, may institute an action for injunction , or other appropriate action or proceeding to prevent or abate such violations.

O. Interpretation and Conflicts.

1. Minimum requirements. The standards and provisions of this ordinance shall be interpreted as being the minimum requirements necessary to uphold the purposes of this ordinance.
2. Other regulations, ordinances, etc. Whenever this ordinance imposes a higher standard than required by other regulations, ordinances or rules, or by easements, covenants, or agreements, the provisions of this ordinance shall govern.
3. Statutes. When the provisions of any applicable state or federal statutes impose higher standards, the provisions of such statutes shall govern unless it is determined that such higher standard is not being enforced. In such case, the provisions of this ordinance shall govern until such time as the higher standard is enforced.

P. Severability.

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been legislative intent to pass said ordinance without such unconstitutional provision, and the remainder of said ordinance shall be deemed and held to be valid as if such portion had not been included. If to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

Q. Effective Date.

This ordinance shall take effect and be in force from its adoption by the Watauga County Board of Commissioners. Adopted this the 16th day of April 1985. Amended this the 18th day of April, 2005. Amended this the 20th day of October, 2009.

**ADOPTED** this the 20<sup>th</sup> day of October, 2009.

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SEAL

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Anita J. Fogle, Clerk to the Board

TRANSPORTATION - DIVISION OF HIGHWAYS

T19A:02E.0200

SECTION - 0200 - OUTDOOR ADVERTISING

.0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL

(a) Commercial or Industrial activities for Unzoned Areas. Those activities generally are recognized as commercial or industrial by zoning authorities in the state, except that for the purpose of controlling outdoor advertising none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures;
2. Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;
3. Transient or temporary activities;
4. Activities not visible from the main traveled way;
5. Activities more than 660 feet from the nearest edge of the right of way;
6. Activities conducted in a building principally used as a residence;
7. Railroad tracks and minor sidings;
8. Any commercial or industrial activity engaged in or established primarily for the purpose of qualifying an area for the establishment of outdoor advertising. It shall be conclusively presumed that any such activity is for the primary purpose of qualifying an area for outdoor advertising which:
  - (A) does not regularly have an attendant or individual, who is an employee of the business, present during normal working hours;
  - (B) has not earned within the immediate past year a gross annual income of at least twenty-five thousand dollars (\$25,000), except that, in those cases where the business has been in continuous operation at the same location for at least two years, there shall be no gross annual income requirement. Evidence of gross annual income shall be furnished by the sign owner as required by the District Engineer; and
  - (C) derives the majority of gross income from coin/currency operated vending devices. Any sign erected using the criteria stipulated in Subparagraph .0201 (a) (8) shall be removed at the sign owner's expense if any provision of Subparagraph .0201(a) (8) is violated or is no longer in existence within 24 months of the date of issuance of the permit;
9. Any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity.

(b) Zoned Commercial or Industrial Areas. Those areas which are zoned for business, industry, commerce, or trade pursuant to a state or local zoning ordinance or regulation.

(c) Unzoned Commercial or Industrial Areas:

(1) Those areas which are not zoned by state or local law, regulation, or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition;

(2) All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property line of the activities, and shall be along or parallel to the edge or pavement of the highway.

(d) Traveled Way. The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(e) Main-traveled Way. The traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(f) Sign. A sign is any outdoor sign, display, light, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is visible from any part of the main traveled way of the interstate or federal-aid primary highway system.

(g) Maintain. To allow to exist.

(h) Scenic Area. A scenic area is any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation and enhancement of scenic beauty.