

**CONWAY PLANNING BOARD**

**MINUTES**

**AUGUST 24, 2017**

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## CONWAY PLANNING BOARD

### MINUTES

AUGUST 24, 2017

A meeting of the Conway Planning Board was held on Thursday, August 24, 2017 beginning at 7:00 pm at the Conway Town Office in Center Conway, NH. Those present were: Chair, Robert Drinkhall; Selectmen's Representative, Steven Porter; Steven Hartmann; Raymond Shakir; Steven Steiner; Planning Director, Thomas Irving; and Recording Secretary, Holly Meserve.

#### REVIEW AND ACCEPTANCE OF MINUTES

**Mr. Porter made a motion, seconded by Mr. Hartmann, to approve the Minutes of July 13, 2017 as written. Motion carried with Mr. Hartmann and Mr. Shakir abstaining from voting.**

#### OTHER BUSINESS

**CMR Properties, LLC (File #NA17-10) – §110-4.A.(5)**: Glenn Harmon Director of Operations at Cranmore Mountain Resort, appeared before the Board. This is an application to replace an existing 300 square foot race shack and storage building with a 576-square foot race shack and storage building at 239 Skimobile Road, North Conway (PID 214-84.2).

Mr. Harmon stated the foundation that supports half of the building holds the valve box for snow making; they don't feel comfortable using it so they want to replace it. Mr. Irving stated he cannot administratively approve it as it is over 100 square feet. Mr. Porter asked why a bigger building. Mr. Harmon stated to improve storage.

**Mr. Porter made a motion, seconded by Mr. Shakir, that the Planning Board determined that based on the provisions of §110-4. A. 5., regarding applicability, that the replacement of an existing 300 square foot race shack and storage building with a 576-square foot race shack and storage building is not subject to a Minor or Full Site Plan Review because it has been demonstrated that the change of use and/or physical changes to the site are insignificant relative to the existing development. Motion unanimously carried.**

**§110-4. Applicability**: Mr. Irving reviewed changes to the site plan review regulations to increase the square footage provision from 100 square feet to 200 square feet and to increase the limit of greenspace reduction from 400 square feet to 800 square feet. **Mr. Drinkhall made a motion, seconded by Mr. Steiner, to hold a public hearing on the proposed amendments to §110-4 on September 14, 2017. Motion unanimously carried.**

**Discussion of “Municipal Sign Ordinances after *Reed vs. Town of Gilbert*:** Mr. Irving reviewed the attached Supreme Court decision. Mr. Irving submitted and reviewed the attached amendments to §190-13 & §190-20 so that they are more content neutral. The Board agreed to review them.

**Conway Daily Sun:** Mr. Drinkhall stated that the evergreens along the Conway Daily Sun building not green. Mr. Irving stated he would review their file and contact them.

**Budget Committee:** Mr. Drinkhall stated that he just wanted to let the Board know that the Budget Committee is attempting to get the legislator to allow them to vote on non-money articles.

**Air BNB’s /Short Term Rentals:** Mr. Drinkhall brought up a letter to the editor in the Conway Daily Sun and stated this is something that should be looked into.

Meeting adjourned at 8:02 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Holly L. Meserve". The signature is written in a cursive style with a large initial "H" and "M".

Holly L. Meserve  
Recording Secretary

**§ 110-4 Applicability.**

There are three possible applications of this code to development of a nonresidential or multifamily site to be determined by the designee of the Board:

- 1) The code is not applicable (Subsection A);
- 2) The Planning Board provides a minor review (Subsection B); or
- 3) The Planning Board provides a full review (Subsection C).

The following criteria specify the level of review necessary for a proposal to develop a commercial or multifamily site:

**A. Not applicable.** The determination of "not applicable" by the designee of the Board shall mean that no site plan review approval is necessary, although other types of approvals or permits may be necessary per other municipal codes and an application shall be kept on file. The site plan review regulations shall be deemed not applicable for the following:

- (1) Temporary events which require no permanent alterations to the site and which function safely within the approved configuration of the site as determined by the designee of the Board.
- (2) Special events approved by the Board of Selectmen.
- (3) Agricultural buildings as defined in Chapter **190**, Zoning, of the Conway Code (see § 190-32, Definitions).
- (4) Small undertakings where it is demonstrated that:
  - (a) All proposed changes to the structure and/or site conform to all other applicable codes and reasonably conform to the site design standards of this chapter;
  - (b) Proposed changes do not increase the intensity of use on the site beyond the service capacity of existing on-site infrastructure (including but not limited to parking, traffic generation and septic loading);
  - (c) Any net reduction in greenspace on the lot is less than or equal to ~~200~~ 400 square feet;
  - (d) Any increase in structure floor space is less than or equal to ~~400~~ 200 square feet; and
  - (e) In order to ensure that cumulative impacts can be evaluated by the Planning Board in a public forum, this Subsection **A(4)** shall not be applied if its application, combined with prior applications since the latest review by the Planning Board, would result in a cumulative decrease of greenspace greater than ~~400~~ 800 square feet or in a cumulative increase in structure floor space greater than ~~200~~ 400 square feet



## Municipal Sign Ordinances after *Reed v. Town of Gilbert*



Because the Town of Gilbert sign code placed stricter limits on temporary events signs but more freely allowed ideological and political signs—despite the fact that all three sign types have the same effect on traffic safety and community aesthetics—the code failed the narrow tailoring requirement of strict scrutiny.

As a result of *Reed*, a sign code that makes *any* distinctions based on the message of the speech is content based. Only after determining whether a sign code is neutral on its face would a court inquire as to whether the law is neutral in its justification.

Municipalities should review their sign codes carefully, with an eye toward whether the code is truly content neutral. If the sign code contains some potential areas of content bias—for example, if the code contains different regulations for political signs, construction signs, real estate signs, or others—consider amending the code to remove these distinctions.

In cases where a sign code update might take time, local planners and lawyers should coach enforcement staff not to enforce distinctions which might cause problems.

Check to be sure your sign code has all of the “required” elements of a sign code.

- The code should contain a purpose statement that, at the very minimum, references traffic safety and aesthetics as purposes for sign regulation.
- The code should contain a message substitution clause that allows the copy on any sign to be substituted with noncommercial copy.
- The code should contain a severability clause to increase the likelihood that the code will be upheld in litigation, even if certain provisions of the code are not upheld.
- In preparing the purpose statement, it is always best to link regulatory purposes to data, both quantitative and qualitative. For example, linking a regulatory purpose statement to goals of the local master plan, such as community beautification, increases the likelihood that the code will survive a challenge.
- If traffic safety is one of the purposes of the sign code (it should be), consult studies on signage and traffic safety to draw the connection between sign clutter and vehicle accidents.

In conducting the review of the sign code recommended above, planners and lawyers should look to whether the code contains any of the sign categories that most frequently lead to litigation. For example, if the code creates categories for political signs, ideological or religious signs, real estate signs, construction signs, temporary event signs, or even holiday lights, it is likely that the code is at greater risk of legal challenge. As a general rule, the more complicated a sign code is—i.e., the more categories of signs the code has—the higher the risk of a legal challenge.

### **Sign Code Guidance from the Court (Alito’s Concurrence):**

A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny.

The requirements of your ordinance may distinguish among signs based on any content-neutral criteria. Here are some specific standards the Court might uphold:

- Rules regulating the size of signs.
- Rules regulating the locations in which signs may be freestanding signs and those attached to buildings.
- Rules distinguishing between lighted and unlighted signs.
- Rules distinguishing between signs with fixed messages and electronic signs with messages that change.
- Rules that distinguish between the placement of signs on private and public property.
- Rules distinguishing between the placement of signs on commercial and residential property.
- Rules distinguishing between on-premises and off-premises signs.
- Rules restricting the total number of signs allowed per mile of roadway.
- Rules imposing time restrictions on signs advertising a one-time event.

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

### **Possible Sign Code Changes:**

Increase the overall allotment of temporary signs to accommodate the maximum demand for such signage at any one time, and allow that amount of temporary signs. A regulation that singles out off-premises signs that does not apply to a particular topic, idea, or viewpoint is probably valid because it regulates the locations of commercial signs generally, without imposing special burdens on any particular speaker or class of speakers.

Define government signs and Traffic Control Devices as signs, but specifically authorize them in all districts. Provide a base allotment of signs, and allow additional signs in relation to activities or events. Every property has a designated amount of square feet of signage that they can use for any temporary signs on their property, year round. For example: [x] square feet per parcel, in a residentially-zoned area, with a limit on the size of signs and perhaps with spacing of signs from one another. All properties get additional noncommercial signs at certain times, such as before an election or tied to issuance of special event permit. The key is to tie the additional sign allowance to the use of the property, rather than the content of the sign. Consider the following:

- Allow an extra sign on property that is currently for sale or rent, or within the two weeks following issuance of a new occupational license (real estate or grand opening signs).
- Allow an extra sign of the proper dimensions for a lot that includes a drive-through window, or a gas station, or a theater (drive thru, gas station price, and theater signs).
- Allowing additional sign when special event permit is active for property (special event signs). Key: not requiring that the additional signage be used for the purpose the sign opportunity is designed for, or to communicate only the content related to that opportunity.
- Grant an exemption allowing an extra sign on property that is currently for sale or rent.
- Grant exemptions allowing an extra sign (<10 sq. ft., < 48 inches in height, and <six feet from a curb cut), for a lot that includes a drive-through window.

Every parcel shall be entitled to one sign <36 sq. inches in surface area to be placed in any of the following locations: On the front of every building, residence, or structure; on each side of an authorized United States Postal Service mailbox; on one post which measures no more than 48 inches in height and 4 inches in width.

Provide a content-neutral application process: Citizens can apply, by postcard or perhaps online, for seven-day sign permits, and receive a receipt and a sticker to put on the sign that bears a date seven days after issuance, and the municipality's name. The sticker must be put on the sign so that enforcement officers can determine whether it's expired. Because the expiration date is tied to the date of issuance, there is no risk of content-discrimination. The sticker itself would be considered government speech.

**F. Signs.**

- (1) Sign setbacks. Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 15 feet from all other property boundaries.
- (2) ~~There shall be no more than one freestanding sign per lot. Each Lot in the district shall be entitled to 12 square feet of commercial or nonresidential sign message area.~~
- (3) Maximum sign height shall be eight feet.
- (4) ~~Maximum sign width shall be six feet. In addition to the above signage provisions every lot shall be entitled to one sign not exceeding 1 square foot in surface area placed in any of the following locations:~~
  - (a) on the front of any building or residence;
  - (b) on each side of an authorized USPS mailbox, or
  - (c) on a post which measures no more than 48 inches in height and 4 inches in width.
- (5) ~~Message area shall not exceed three square feet for professional or home occupations, nor shall message area exceed 12 square feet for identification of any nonresidential use.~~
- (6) Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (7) Signs in platted ROW. Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:
  - (a) Special promotional banners that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for public or institutional events Special Events.
  - (b) ~~One directional sign to identify the entrance to a particular subdivision or development, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify~~

and location located within the jurisdiction of any local, state or federal signage program.

(8) Temporary event signage. In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
- (b) Maximum sign height shall be eight feet; and
- (c) Maximum sign width shall be 10 feet.

(9) Special event signage. In addition to signage otherwise permitted herein, special events may display up to 40 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
- (b) Maximum sign height shall be eight feet; and
- (c) Maximum sign width shall be 10 feet.

~~(10) Signs exempt from property line setbacks and no permit required:~~

~~(a) Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy";~~

~~(b) Directional signs with a message area of four square feet or less, to indicate entrance and/or exit of driveway;~~

~~(c) Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less;~~

~~(d) Business name and directional signs with a message area of three square feet or less which are posted over a driveway. Such signs may project from the wall surface. (Amended 4/14/10 by Ord. 14-01)~~

~~(e) Flags;~~

~~(f) Any other sign with a sign area not exceeding 50% of the window area or posted window signage that exceeds 50% of the window area as permitted by Ordinance 4-12-04-0114 by 7/17/11~~



- ~~(g) One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.~~
- ~~(h) Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than 12 weeks prior to the election and removed within two weeks following the election.~~
- ~~(i) Nonilluminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.~~
- ~~(j) Special promotional signs for public or institutional events, with a message area of 40 square feet or less, as approved by the Board of Selectmen for public or institutional events.~~
- ~~(k) Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.~~
- ~~(l) A home occupation may display a nonilluminated outdoor sign not exceeding three square feet in size.~~
- ~~(m) One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. [Added 4-14-2015 ATM by Art. 4]~~
- ~~(11) Signs subject to property line setbacks and no permit required:
  - ~~(a) For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.~~
  - ~~(b) For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.~~
  - ~~(c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.~~
  - ~~(d) For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.~~
  - ~~(e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or~~~~

religious, institutional, or other uses, and shall be subject to the same rules as for other signs.

(12) Permit required for all non-residential ~~other~~ signs exceeding 6 square feet in message area.

(a) Sign application process. Any action requiring a sign permit shall be permitted only upon the application to, and approval of, the Zoning Officer. Applications shall use the following process:

[1] An application form for each sign shall be completed and signed by the owner of the property.

[2] A complete application shall also include the following:

[a] Fee as set from time to time by the Board of Selectmen; [Amended 4-11-2017 ATM by Art. 2]

[b] Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;

[c] Statement specifically addressing compliance with off-site commercial sign restrictions; and

[d] Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.

[3] Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.

[4] If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.

[5] If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.

(13) Design standards. The following design standards shall be required to ensure compliance with the intent of these regulations:

(a) Illumination. Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no

direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.

[Amended 4-12-2016 ATM by Art. 2]

- (b) Neon. Neon lighting shall be prohibited.
  - (c) Motion. Moving signs, or signs which give the appearance of motion, shall be prohibited.
  - (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting, such as a digital message board, shall be prohibited.
  - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
  - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
  - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (14) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (15) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag

shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically or within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

(b) Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein. [Amended 4-14-2015 ATM by Art. 2]

(c) This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

(16) Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

§ 190-20 **Highway Commercial (HC) District.**

**F. Signs.**

- (1)** Sign content. The Town has no intention of restricting individual free speech, but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off-site commercial signs shall be prohibited.
- (1 2)** Freestanding sign. There shall be no more than one freestanding sign per lot, except that where a lot fronts on two or more public rights-of-way and has two entrances at least 500 feet apart, two freestanding signs shall be permitted.
- (a)** The size of the message area shall not exceed 40 square feet.
- (b)** The height of the message area shall not exceed 15 feet above the undisturbed ground.
- (c)** The width of the message area shall not exceed 12 feet.
- (d)** Setbacks.
- [1]** The minimum setback shall be 25 feet from a platted right-of-way, or 100 feet from the platted right-of-way of the North-South Road between the extension of the center line of Barnes Road and the center line of Depot Road and five feet from all other property boundaries.
- [2]** Freestanding sign setbacks may be reduced ~~to 10~~ by 15 feet from a platted right-of-way if the size of the message area is reduced to 30 square feet maximum. All of the dimensional requirements, except the size of the message area and the minimum front setback, shall be required of these signs.
- ~~**(e)** Where an existing nonconforming sign serves more than one commercial establishment, each having at least 60,000 square feet, or residential development, each comprised of at least 20 residential units sharing common access, the size of the message area may be expanded based upon 40 square feet per commercial establishment and 20 square feet per residential development; provided, however, that the total message area shall not exceed 80 square feet in any case.~~

~~(F)~~ Projecting signs, including sign structure, not to exceed 20 square feet in the Highway Commercial Districts, ~~signs~~ square feet in the Village Commercial Districts are permitted in lieu of a freestanding sign. The sign shall be at least 10 feet above the ground; the top of the sign shall be no more than 15 feet above the ground.

~~(G)~~ The Zoning Board of Adjustment may grant the following special exceptions:

**[1]** For two or more businesses located in a single building or within attached buildings and where the businesses share a common pedestrian entrance, an additional freestanding sign may be permitted for use as a directory sign, provided that the following conditions are met:

**[a]** The sign shall be used only to identify and locate businesses within;

**[b]** The message area shall not exceed 12 square feet;

**[c]** The height of the message area shall not exceed 20 feet above the undisturbed ground;

**[d]** The sign shall meet all setbacks; and

**[e]** The additional wall sign permitted by special exception under Subsection F(2)(d)[2] is not used.

**[2]** Where existing buildings are set back from the right-of-way less than the setback required for freestanding signs in Subsection F(1), the right-of-way setback of the freestanding sign may be reduced from 25 feet to any lesser amount down to five feet, provided that the following conditions are met:

**[a]** The message area shall be reduced to not more than 20 square feet;

**[b]** The sign shall not obstruct vehicular or pedestrian traffic;

**[c]** The sign shall not obstruct the line-of-sight for traffic entering or exiting the site; and

**[d]** The sign shall not unduly obstruct the visibility of other signs or property in the area.

~~(H)~~ One appendage may be attached to a freestanding or projecting sign, and the message area of this appendage shall be considered part of the total message area of the sign. No appendage shall be permitted on supports nor directional signs.

**(3)** Wall sign. For lots without multiple commercial tenants, each lot shall be permitted one wall sign. For lots with multiple commercial tenants, each commercial tenant shall be permitted one wall sign. All wall signs shall be located on a wall which is common to both the interior and exterior of the business identified by the sign. The height of the message area shall not exceed the greater of 20 feet from the undisturbed ground or a height equal to 75% of the total height of the building, nor shall it exceed the height of the wall to which it is attached. The message area of the wall sign shall be based on the following formulas, subject to increase by bonus granted per Subsection **F(12)(c)**.

- (a)** For floor areas up to and including 50,000 square feet, the maximum message area shall be calculated as follows:  $20 + (\text{total square feet floor area} \times 0.0016)$ .
- (b)** If the floor area of the business is greater than 50,000 square feet, the maximum wall sign message area shall be 100 square feet. A business with a floor area greater than 50,000 square feet shall be permitted one additional wall sign if it has two or more exterior public or customer entrances, excluding emergency entrances, that are at least 20 feet apart. The message area of the second wall sign shall not exceed 20 square feet.

**(c)** The Zoning Board of Adjustment may grant the following special exceptions:

**[1]** For a major business in a shopping center or mall that does not have wall frontage facing its primary parking lot, one additional wall sign may be permitted, provided that the following conditions are met:

- [a]** The size of the message area shall not exceed 40 square feet;
- [b]** The sign shall be located on a wall facing the primary parking lot;
- [c]** Total wall sign area on the wall shall not exceed 10%; and
- [d]** All relevant height restrictions specified in Subsection **F(2)** apply.

**[2]** For two or more businesses located in a single building or within attached buildings and where the businesses share a

common pedestrian entrance, an additional wall sign may be permitted, subject to the following:

- [a] The sign shall be used only to identify and locate the businesses within;
- [b] The message area shall not exceed 12 square feet;
- [c] The sign shall be located immediately adjacent to the common entrance; and
- [d] The additional freestanding sign permitted by special exception under Subsection **F(1)(g)[1]** is not used.

~~(3) Sign content. The Town has no intention of restricting individual free speech but the Town does recognize its right to place reasonable restrictions upon commercial speech. Further, the Town wishes to prevent excessive or unnecessary signage along road corridors. In keeping with this reasoning, off site commercial signs shall be prohibited.~~

**(4) Signs in platted ROW.** Except as otherwise permitted below, no signs shall be permitted within any platted right-of-way:

**(a) Special promotional banners** that cross a public or private road, with a message area of 200 square feet or less, as approved by the Board of Selectmen for public or institutional events **Special Events.**

**(b) One-directional sign** to identify the entrance to a particular subdivision or development, ~~not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width.~~ For subdivisions which are approved by the Planning Board and which have nonresidential uses, this sign may identify businesses located within the subdivision. Signs sanctioned by a municipal, state or federal signage program.

**(5) Temporary event signage.** In addition to signage otherwise permitted herein, temporary events may display up to 20 square feet of additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a) Signs** shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
- (b) Maximum sign height** shall be eight feet; and
- (c) Maximum sign width** shall be 10 feet.

**(6) Special event signage.** In addition to signage otherwise permitted herein, special events may display up to 40 square feet of



additional signage and that signage may be in the form of banners. Such signage shall comply with the following dimensional restrictions:

- (a)** Signs shall be set back a minimum of five feet from a platted right-of-way, and signs shall be set back a minimum of 10 feet from all other property boundaries;
  - (b)** Maximum sign height shall be eight feet; and
  - (c)** Maximum sign width shall be 10 feet.
- (7)** Signs exempt from property line setbacks and no permit required:
- ~~(a)~~ Signs with a message area of one square foot or less which bear only property numbers, post office numbers, names of occupants of the premises, other noncommercial identification, or with one of the following messages: "open"; "closed"; "vacancy"; or "no vacancy."
  - (a)** Directional signs with a message area of four square feet or less, to indicate entrance and/or exit driveways.
  - ~~(c)~~ Legal notices, such as "no trespassing" signs, with a message area of 12 square feet or less.
  - (b)** Business name and directional signs with a message area of three square feet or less which are located over doorways. Such signs may project from the wall surface. [Amended 4-14-2015 ATM by Art. 3]
  - ~~(e)~~ Flags.
  - (e)** One portable A-frame sign per lot of record is permitted in the district. It may be displayed during business hours only, it shall have a message area of six square feet or less, no illumination of the sign is permitted, and no appendages to the sign are permitted.
  - (f)** Window signs with a sign area that does not exceed 50% of the window area are permitted. Window signage that exceeds 50% of the window area is prohibited. [Amended 4-12-2016 ATM by Art. 4]
  - ~~(h)~~ One sign identifying lawn, garage or barn sales, with a message area of 12 square feet or less, to be erected not more than two days prior to the event and removed within one day of the end of the event.
  - ~~(i)~~ Sign for a government election, with time limits as specified in state law, or if no state law applies, then erected no more than

~~Two weeks prior to the election and removed within two weeks following the election.~~

- ~~(g)~~ **(g)** Non-illuminated sign advertising the sale or lease of the premises upon which the sign is located, with a message area of 16 square feet or less in all districts.
- ~~(h)~~ **(h)** Special promotional signs for ~~public or institutional~~ Special Events as approved by the Board of Selectmen events, with a message area of 40 square feet or less.
- ~~(i)~~ **(i)** Directional signs to help locate facilities for disabled persons, with a message area not to exceed four square feet, as required for compliance with the Americans with Disabilities Act of 1990.
- ~~(j)~~ **(j)** A home occupation may display a non-illuminated outdoor sign not exceeding three square feet in size.
- ~~(k)~~ ~~One real estate sign to identify lots for sale at each entrance to the subdivision in which the subject lots are located, not to exceed 12 square feet, and not to exceed eight feet in height nor six feet in width. [Added 4-14-2015 ATM by Art-4]~~
- (8) Signs subject to property line setbacks and no permit required:**
  - ~~(a)~~ ~~For a religious institution, nonprofit organization, public service agency, public school or municipal building, one announcement board, with a message area of 12 square feet or less.~~
  - ~~(b)~~ ~~For fraternal or social clubs, local service and philanthropic organizations to identify meeting locations, one sign with a message area of three square feet or less.~~
  - (c) Signs in parking lots to identify aisles, handicapped spaces, and reserved spaces.**
  - ~~(d)~~ ~~For construction in progress, one sign identifying the owner, architect, contractor and/or developer, to be removed within one month of completion of the project, with a message area of 12 square feet or less.~~
  - (e) Signs which convey only a noncommercial message, including but not limited to ideological, political, social, cultural, or religious messages, with a message area of 12 square feet or less.**
- (9) Permit required for all other signs.**
  - (a) Sign application process.** Any action requiring a sign permit shall be permitted only upon the application to and approval of

the Zoning Officer. Applications shall use the following process:

- [1]** An application form for each sign shall be completed and signed by the owner of the property.
  - [2]** A complete application shall also include the following:
    - [a]** Fee as set from time to time by the Board of Selectmen; [Amended 4-11-2017 ATM by Art. 2]
    - [b]** Written description of the proposed type, size, height, setback, sign and supporting structure materials, and illumination of the sign;
    - [c]** Statement specifically addressing compliance with off-site commercial sign restrictions; and
    - [d]** Analysis regarding impact of safety, specifically addressing lighting/glare and line-of-sight blockage for vehicles and pedestrians.
  - [3]** Upon receipt of a complete application, the Zoning Officer shall have up to 14 days to either approve or deny the application.
  - [4]** If the application is denied, the Zoning Officer shall issue a written decision stating the reason(s) for denial.
  - [5]** If the application is approved, the Zoning Officer shall issue an approval for the erection of a sign. The sign permit is valid for one year from date of approval. If the sign is not erected within one year, the permit shall expire.
- (10) Design standards.** The following design standards shall be required to ensure compliance with the intent of these regulations:
- (a) Illumination.** Signs shall not be illuminated from within; signs may be illuminated only by external light. Lighting shall be affixed to and, for dimensional purposes, considered part of the sign structure. Lighting shall be located, directed and/or shielded such that it only sheds light downward and is limited to the message display area. The lighting sources shall be of white light and be energy-efficient fixtures when possible. Fixtures shall be located, directed and/or shielded such that no direct light emissions are visible at any point along the property boundary, nor shall they be distracting to vehicular traffic.
  - (b) Neon.** Neon lighting shall be prohibited.
  - (c) Motion.** Moving signs, or signs which give the appearance of motion, shall be prohibited.

- (d) Flashing/Blinking. Flashing, blinking, alternating-type or digital-type lighting such as a digital message board shall be prohibited.
  - (e) Structural supports and base. The support and base structure of a sign shall not exceed 50% of the maximum permitted message area of the sign. Such supports and base shall be measured on the single side or face having the greatest surface area. If the sign structural supports and base are made of wood, brick and/or stone, with only incidental use of other materials, the structure/base size limit shall be increased to 100% of the maximum permitted message area of the sign. The top of the supporting structure of a freestanding sign shall extend no farther above the top of the message area than 1/3 of the maximum permitted height of the message area.
  - (f) No sign shall project over a street or sidewalk, except for projecting signs as permitted herein.
  - (g) No sign shall be placed in such a position as to endanger vehicular or pedestrian traffic by obstructing a clear view, by causing confusion with government signs and signals, or by any other means.
- (11) Movable signs. Movable signs shall be prohibited. No vehicle, including parts thereof, trailers, and other accessories, shall be used as a means of circumventing the purpose and intent of this chapter. A vehicle displaying a commercial message which is licensed, registered and inspected shall be exempt from these sign regulations if it is regularly and customarily used to transport persons or property for the business.
- (12) Flags, banners, pennants, etc.
- (a) In addition to the signs otherwise permitted by this chapter, there may be displayed, on any lot, up to three flags displaying any otherwise legal symbol, message or information, commercial or noncommercial; except that off-site commercial flags shall be restricted as set forth in this chapter. No such flag shall exceed 24 square feet measured by one face of the flag only. Any such flag shall be mounted directly to one flagpole. A "flagpole" is a pole intended and placed solely for the support and display of a flag or flags, and does not include utility poles, light poles, trees or other sign structures. All flagpoles shall be erected vertically, or

within 45° of the vertical. No portion of any flagpole shall be sited within 10 feet of a property line. No flagpole shall extend more than 35 feet in height above grade or, if mounted on a building, 55 feet above the average finished grade of the building.

**(b)** Banners, feather flags, pennants, searchlights, twirling signs, balloons or other gas-filled figures, and other such materials shall be prohibited, except as specified herein.

[Amended 4-14-2015 ATM by Art. 2]

**(c)** This subsection shall not be construed to prevent any sign otherwise permitted by this chapter, and which conforms to all sign requirements of this chapter, from taking the form of a flag or other fabric. Banners may be used to cover part or all of an existing freestanding, projecting or wall sign to advertise temporary events. The net effect of this activity shall not increase the message area of any permitted sign or signs.

**(13)** Maintenance. All surfaces and supporting structures of signs, whether erected prior to the effective date of this chapter or not, shall be maintained in a safe and sightly condition to the satisfaction of the Board of Selectmen or its authorized agent. A permit is required for any maintenance except the following: repainting; other surface renewal; or change of message on the same surface.

**(14)** Sign incentives. The purpose of these sign incentives is to reduce visual clutter and distraction from the natural environment caused by signs. This system offers design and size bonuses as a means of encouraging certain site and sign designs.

**(a)** Any freestanding, projecting or wall sign which conforms to all provisions of this chapter shall be permitted to utilize up to 20% of the maximum permitted message area for changeable copy.

**(b)** A freestanding sign which conforms to all provisions of this chapter shall be permitted to increase its message area by up to 20 square feet above that otherwise permitted under this chapter if the lot has at least 300 feet but less than 500 feet of frontage on a Class V or better road; or by up to 40 square feet above that otherwise permitted under this chapter if the

lot has 500 feet or more of frontage on a Class V or better road. In no case, however, shall such increases cause any sign message area to exceed 80 square feet. The applicant shall submit a satisfactory written declaration, to be recorded at the Carroll County Registry of Deeds, in which the owner, its heirs, successors and assigns agree that, if the frontage of the property is subsequently reduced below that amount required for the bonus granted, the sign shall be removed or replaced with a sign which fully conforms with the provisions of this chapter; and that no subdivision of a lot shall be permitted unless a freestanding sign erected under this provision continues to conform to this provision; and such agreement must be legally enforceable by the Town of Conway. [Amended 4-11-2017 ATM by Art. 2]

- (c) On a site where the freestanding sign conforms to all provisions of this chapter, the maximum wall sign message area permitted per Subsection **F(2)** may be increased by 50%.