

JUL 19 2006

ORDINANCE 2006 -11

Docket no. _____
REBECCA J. GENTRY
Clerk-Treasurer Town of Newburgh

AN ORDINANCE AMENDING TITLE 13 OF THE NEWBURGH
CODE OF ORDINANCES ADOPTING A NEW SIGN ORDINANCE

Be it ordained:

Section 1: Town of Newburgh Zoning Ordinance, Title 13, Chapter 130, Newburgh Code of Ordinances and all other ordinances in conflict herewith are hereby amended by Section 2 of this Ordinance.

Section 2: A new Chapter 130.11: SIGN ORDINANCE is hereby adopted to read as follows:

130.11: SIGN ORDINANCE

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130.11(A) Purpose and Intent

1. The Town of Newburgh believes it is important to encourage business owners to advertise their businesses, products, and/or services to potential customers in an effective and appropriate manner that helps businesses thrive.
2. It is also recognized that unregulated signage in the Town may result in the following problems: accidents resulting from visual confusion between advertising and traffic control signs, the collapse of improperly constructed signs, distracting demands for attention, destruction of natural beauty, loss of property values, and loss of character in the Town's Historic Districts.
3. This section is intended to regulate the design and placement of signs from the date of adoption of this ordinance in the following circumstances:
 - (a) Where a newly constructed facility includes signs;
 - (b) Where a sign is replaced because of a change of occupancy, ownership, or use;
 - (c) Where a new sign is added to an existing building; and
 - (d) Granting of a special use or expansion of a facility which includes signs.
4. It is also the intent of this section to regulate the number, size, location, height, illumination, character, and other pertinent features of signs in order to provide adequate identification and advertising for businesses in a manner that will promote fair economic competition, and at the same time, protect public health, safety, and welfare in the Town.

130.11(B) Prohibited, Exempt, and Temporary Signage

1. Prohibited Signage

The following signs are prohibited in all districts:

- (a) Signs containing any flashing or running lights or lights creating an illusion of movement.
- (b) Signs which imitate official traffic signs. This category does not include signs which are accessory to parking lots or driveways.
- (c) Signs placed on a parked vehicle, trailer, or frame where the apparent purpose is to advertise a product or direct people to a business located on the same or nearby property.
- (d) Signs in any Residential District, exceeding a height of three and one-half (3 1/2) feet above the street grade, within twelve (12) feet of the intersecting street lines bordering a corner lot.
- (e) Signs in any business district within eight (8) feet of the intersecting street lines bordering a corner lot.
- (f) Private and political signs are prohibited in the public right-of-way.

(g) Signs on utility poles.

(h) Signs off premises.

2. Exempt Signage

The following are hereby designated as "exempt signs" and, as such, are subject only to the regulations contained in this subsection. Signs shall not exceed six (6) square feet in area unless otherwise specified below:

(a) House numbers and house nameplates. Nameplates shall not exceed one (1) square foot in area.

(b) Memorial plaques, cornerstones, historical plaques, and similar designations displayed for non-commercial purposes.

(c) Notices placed on bulletin boards maintained by Town government.

(d) Signs erected, required, or allowed by permit, governmental bodies, or authorized for a public purpose by any law, statute, or ordinance. Such public signs may be of any type, number, area, height, location, or illumination as authorized by law, statute, or ordinance.

(e) Signs which direct or guide persons to facilities intended to serve the public, including signs identifying rest rooms, public telephones, walkways, and similar facilities. Advertising material is not permitted on such signs. This category does not include signs accessory to parking or driveway areas.

(f) Flags bearing the officially adopted design of a nation, state, or political subdivision of a state. Flags shall not exceed thirty (30) square feet in size.

(g) Property management signs, not exceeding one square foot in area.

(h) Directional or instructional signs accessory to parking and driveway areas subject to the following regulations:

(1) Such signs shall not be permitted in single-family residential districts.

(2) One single or double-faced sign may be erected to designate each entrance to, or exit from, a parking or driveway area provided that the surface area of each such sign shall not exceed three (3) square feet.

(3) Signs designating the conditions of use of off-street parking spaces furnished by a business may be placed in parking lots or driveways. Such signs may include the name of the business furnishing the parking spaces but may not include any other advertising.

(4) In the case of buildings used by two (2) or more commercial businesses, signs having a surface area not in excess of eighteen (18) square feet which identify the several occupants of the building shall be permitted.

3. Temporary Signage

The following signs are hereby designated as "temporary signs" and are subject only to the provisions contained in this section:

(a) Political signs or posters announcing candidates seeking public political office and/or political and public issues that will be contained on an election ballot, provided that such signs shall not exceed twelve (12) square feet in area in residential districts and thirty-two (32) square feet in non-residential districts. There shall be no limit on the number of political signs on a given property. When such signs promote a candidate for political office, they shall be removed within seven (7) days after an election. No sign shall be erected prior to March 1 for the primary and not before September 1 for the general election.

(b) A sign advertising the sale or lease of a lot or space on which the sign is placed. Such signs may not be illuminated and may not exceed sixteen (16) square feet in area in residential districts and thirty-two (32) square feet in non-residential districts. Only one (1) real estate sign may be placed on the lot or premises to which it pertains, except that two (2) such signs may be placed on double frontage lots. A real estate sign shall be removed within seven (7) days after the exchange of the deed or the execution of the lease of the lot or space to which the sign pertains. Two directional signs not to exceed eight (8) square feet may be placed off premises in order to advertise an open house or special event. Directional and special event real estate signs may be allowed for no more than seven (7) days, and locations must be approved in advance by the Zoning Administrator.

(c) One (1) construction sign per project identifying the parties involved in the construction on the lot or premises on which the sign is placed. Such signs may not be illuminated and may not exceed sixteen (16) square feet in surface area in residential districts, or thirty-two (32) square feet in surface area in non-residential districts. Such signs may identify the owner's name, the architect for the project, the contractor or contractors for the project, the financing arrangements for the project, and the purpose for which the project is intended. No products or services may be advertised on construction signs. A construction sign shall be removed within seven (7) days after use commences for the project to which the sign pertains.

(d) An event sign announcing a campaign, drive, or event of a not-for-profit organization. Such signs when displayed in the form of posters or yard signs not larger than sixteen (16) square feet in surface area. A not-for-profit organization may display more than one (1) such event sign. Not-for-profit organizations may display event signs off premises. Banners are subject to size and location approval by the Zoning Administrator. Event signs may be displayed no sooner than thirty (30) days in advance of the scheduled event and shall be removed no later than seven (7) days after the conclusion of the event. Such signs are prohibited in the public right of way. A not-for-profit organization is defined by Section 501(c) of the Internal Revenue Code.

(e) Holiday decorations, signs, or other materials displayed on Town property in connection with civic, patriotic, or religious holidays. Businesses may display stationary seasonal inflatable decorations at their location for a period not to exceed two (2) weeks, no more than five (5) times per year, with the approval of the Zoning Administrator.

(f) A yard sign which announces the sale of tangible personal property by means of the business commonly known as a "garage sale" or "yard sale." Garage sale or yard sale signs shall be a maximum of four (4) square feet in size. There shall be no more than four (4) such sales advertised at the same address in any one (1) year. No signs are permitted on utility poles. No signs may be posted prior to twenty-four (24) hours in advance of the sale and must be removed within twelve (12) hours of the close of the sale.

(g) Portable or wheeled signs for advertising a new business. Such signs shall be placed for a period not to exceed thirty (30) days and must be approved in advance by the Zoning Administrator.

(h) Banners or additional signs advertising a new business or special event shall not exceed a period of thirty (30) days. These must be approved for location, size, and number by the Zoning Administrator and must be located on the site being advertised. Approval may not be granted for the same location more than three (3) times per year.

(i) Signs which move, or give the appearance of moving, are not permitted. This category includes pennants, streamers, inflatable signs, balloons or other air or gas filled fixtures, "garrison" size flags, and all other signs which flutter, undulate, swing, rotate, oscillate, or otherwise move by natural or artificial means.

(j) Sandwich board or A-frame signs and signs on easels. These must have the approval of the Zoning Administrator. Signs must not obstruct the sidewalk or obscure the view of vehicular traffic and shall be taken in at night unless approved by the Zoning Administrator. Sandwich board signs may not exceed twelve (12) square feet in size, per side. Signs on easels may not exceed eight (8) square feet in size.

130.11(C) Sign Districts

For the purposes of this ordinance, the Town is divided into three (3) sign districts; Residential, Non-Residential, and Historic:

1. Those properties zoned Residential within the Newburgh Zoning Ordinance are designated as Residential Sign Districts.
2. Those properties zoned Commercial and Office within the Newburgh Zoning Ordinance are designated as Non-Residential Sign Districts.
3. All properties located within a Town of Newburgh Historic Preservation District are designated as Historic Sign Districts.

130.11(D) Permits

1. Sign Permits Required

From, and after, the effective date of this ordinance, no person may erect, alter or relocate any banner, wall sign, ground sign, permanent window sign, canopy, or awning in the Town without first obtaining a permit from the Zoning Administrator and paying the required fee. Routine maintenance or changing of parts of a sign shall not be considered as an alteration of a sign, provided that the maintenance or change of parts does not alter the surface area, height, or otherwise make the sign non-conforming.

2. Electrical Code

In addition to complying with the provisions of this ordinance, all signs in which electrical wiring and connections are to be used shall be subject to the provisions of the Electrical Code of the Town.

3. Permit Applications

Applications for sign permits shall be obtained from the Zoning Administrator.

4. Issuance of Permits

Upon the filing of an application for a sign permit, the Zoning Administrator shall examine the plans, specifications, and other data submitted, and may, if deemed necessary, inspect the premises upon which the proposed sign is to be erected; and if it appears that the proposed sign is in compliance with all the requirements of this ordinance and in conformity with the Zoning Ordinance and all other applicable ordinances and codes of the Town; and if the appropriate permit fee has been paid, the Zoning Administrator shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

5. Permit Fees

With each application for a sign permit, a fee shall be paid as designated by the Town. If an electrical permit is required, an additional fee shall be paid for the cost of the electrical permit.

6. Revocation

All rights and privileges acquired under the provisions of this ordinance are mere licenses, revocable at any time by the Zoning Administrator. All permits issued pursuant to this section are subject to this provision.

7. Failure to Obtain Permit

Any person who erects, alters, or moves a permanent sign after the effective date of this ordinance without obtaining a permit, as required by this section (if applicable), shall be subject to a penalty for violation of this ordinance.

130.11(E) Historic Districts

1. The enhancement and improvement of the Town of Newburgh Historic Districts is in the best interest of the Town, its residents, and commercial business owners. An improved appearance of buildings in Historic Districts will not only enhance the appearance of the Historic Districts but adjacent areas as well, thereby helping to foster the economic vitality of the Town as a whole. This Section, is intended to complement the Preservation Guidelines for Newburgh Historic Districts. All regulations and restrictions of the Newburgh Historic Preservation Commission pertaining to signage within the Historic Preservation Districts are applicable to this ordinance. In the event of a conflict between this ordinance and the Historic District Guidelines, the more restrictive requirements will apply.

2. In addition to all required permits, any sign within a Historic Preservation District shall require approval of the Historic Preservation Commission in accordance with Preservation Guidelines. Specific sign restrictions within a Historic District, include but are not limited to the following:

(a) New signage should be unobtrusive, relating to rather than obscuring the design elements of the building or site.

(b) Sign material should complement those found on the related building, or that are common within the District. Metal, stone, or painted wood signs are generally most appropriate.

(c) Commercial signage that advertises a business or service should be simple in design, preferably identifying only the name, purpose, and address on a sign structure sized for reasonable legibility.

(d) Ground signs should be mounted low to the ground to avoid blocking the pedestrian's view. Signs mounted on low, landscaped bases may also be appropriate.

(e) Accent lighting used to illuminate signs should be installed in a manner that minimizes visibility of the light fixture and does not result in glare. External illumination should be from the top down not from the bottom up.

(f) Sandwich board or A-frame signs and signs on easels as described in this ordinance are appropriate and add to the overall character of the Historic Districts.

(g) Fabric awnings on commercial buildings are preferred over metal or wood in most cases.

- (h) Internally illuminated signs are prohibited.
- (i) Plastic signs are prohibited.
- (j) Flush mounted signs should not conceal architectural features or details.

130.11(F) Wall Signs

1. Wall Sign Size

- (a) Wall signs shall be a maximum of twenty percent (20%) of the wall area on which they are located.
- (b) If a sign is enclosed by a box or other form of outline, the total area of the sign, including the background, shall be counted in calculating the percentage of the signable area. If a sign consists of individual letters without any box or other form of outline, only the area of the letters shall be counted.

2. Wall Sign Location

A wall sign may be located on any part of the front facade except for any part of a door or window. The sign may not protrude beyond the sides or top of the business facade or protrude more than fifteen (15) inches from the wall face on which it is located.

3. Number of Signs

A business may display only one (1) wall sign per street frontage. Letters and/or logos displayed without backing material must be placed reasonably close together so as to constitute a single sign.

4. Special Limitation for Businesses on Corner Lots

If a business which is located on a corner lot displays a ground sign, such business may display only one (1) wall sign, which may be oriented to either of the streets on which the business has frontage.

5. Residential District Special Use

A special use in a Residential District may display a wall sign that has been approved by the Board of Zoning Appeals pursuant to the conditions of section (P) of this ordinance. Residential District Special Use wall signs may be a maximum of twenty (20) square feet.

130.11(G) Rooftop Signs

Rooftop signs are not allowed in any zoning district.

130.11(H) Ground Signs

1. Frontage Requirement

No business may display a ground sign oriented to any street or highway unless the business has not less than twenty-five (25) feet of frontage at grade along such street or highway. Multi-family uses located in Residential Districts may display a ground sign if the use consists of not less than twenty (20) dwelling units and has not less than one hundred (100) feet of frontage along a street or highway.

2. Area Limitations

Except as otherwise specified in this ordinance, the maximum area permitted per sign face for ground signs in all zoning districts shall be forty (40) square feet.

3. Height Limitations

The maximum permitted height for ground signs shall be fifteen (15) feet.

4. Sign Setback

In no case shall the sign obscure vehicular visibility. Private signs are prohibited in the public right-of-way.

5. Number of Ground Signs

A business may display only one (1) ground sign for each street frontage. However, a business which has in excess of three hundred (300) feet of frontage on public streets and highways may display one (1) additional ground sign for each three hundred (300) feet of frontage in excess of the first three hundred (300) feet of frontage. No business may display a ground sign within one hundred (100) feet of any other ground sign displayed by the same business.

6. Special Limitation for Businesses on Corner Lots

If a business which is located on a corner lot displays a ground sign, such business may display only one (1) wall sign.

7. Residential District Special Use

A special use sign in a Residential District may display a ground sign that has been approved by the Board of Zoning Appeals pursuant to the conditions of section (P) of this ordinance. Residential District Special Use ground signs may be a maximum of twenty (20) square feet and have a maximum height of five (5) feet.

130.11(I) Canopies and Awnings

1. Location Requirements

(a) No portion of a canopy or awning shall be less than seven (7) feet above the level of the sidewalk or other public thoroughfare over which it projects.

(b) No portion of a canopy or awning may extend beyond the curb line.

2. Coverage Limitations and Display of Information

(a) Information on a canopy or awning shall be limited to official names, logo, or purpose of business.

(b) Not more than twenty-five percent (25%) of the surface area of the canopy or awning may be used for the name, logo, or purpose of the business.

(c) The location and installation of canopies and awnings is subject to the approval of the Zoning Administrator.

130.11(J) Window Signs

1. Coverage Limitations

A business may display one (1) business window sign per window. A window sign may not exceed twenty percent (20%) of the window area. Window signs are prohibited in all Residential Districts.

2. Computation of Coverage

Window panels separated only by mullions shall be considered as one (1) continuous window pane in the computation of window surface area.

3. Window Displays

No restrictions are placed on window displays. However, no window display may be maintained which has the effect of circumventing the intent of this section. If material purporting to be a window display has such effect, it shall be deemed to be a window sign and not a window display.

130.11(K) Automobile Service Stations

1. Additional Regulation Necessary

Automobile service stations are hereby declared to be a business which requires certain additional regulations regarding signs.

2. Information on Gasoline Pumps

Matter appearing on gasoline pumps as they were purchased or installed shall not be considered as signs for purposes of this ordinance.

3. Price and Service Information at Pump Areas

In addition to all other signs permitted by this ordinance, an automobile service station may display one (1) sign, not larger than nine (9) square feet, above each pump island stating whether the area is a "self service" or "full service" area and the current price per gallon of the gasoline sold at the station. No element of the cost to the customer of the gasoline shall be omitted from statement of the price per gallon.

4. Automobile Service Station Signable Area

Service stations which include interior facilities for the servicing of automobiles or a supplementary business shall be treated as consisting of two (2) buildings, each with its own signable area, with the limitation that no more than two (2) signable areas can be established per building regardless of the number of streets on which the business has frontage. One (1) of such buildings shall be that part of the service station structure in which the principal entrance to the station office is located. The other of such buildings shall be that part of the service station structure in which the automotive service or supplementary facilities are located.

130.11(L) Illumination

1. The use of unshielded lights, including incandescent light bulbs hung or strung on poles, wires, or any other type of support to illuminate buildings, outdoor sales areas, or outdoor storage areas is prohibited. The use of such lights in connection with carnivals is not prohibited. The use of such lighting for areas in which Christmas trees are offered for sale during the month of December is not prohibited.

2. Whenever external illumination is used for a sign, the source of light shall be located, shielded, and directed in such a manner that the light is not directly visible from any surrounding public street or private residence.

3. Any receptacle or device used to provide external illumination for a wall sign shall not protrude more than twelve (12) inches from the face of the sign.

4. The lighting intensity of all signs is further subject to the provisions regarding glare as set forth in the Newburgh Zoning Ordinance.

5. Illuminated signs are not permitted in Residential Districts.

130.11(M) Outdoor Advertising Sign Structures

An Outdoor Advertising Sign Structure is defined as a large freestanding sign supported by poles for the purpose of advertising a location other than the premises where the sign is located. Such signs are commonly known as billboards. The location and size of all existing outdoor advertising sign structures at the effective date of this ordinance shall remain. No additional outdoor advertising sign structures are permitted.

130.11(N) Maintenance

All signs, canopies, and awnings shall be kept and maintained in a safe, neat, and orderly condition and appearance and shall be repainted or otherwise maintained periodically by the owner to prevent corrosion or deterioration caused by weather, age, or any other condition.

130.11(O) Administration and Enforcement

1. Enforcement Officer

The Zoning Administrator is hereby designated as the enforcement officer for this ordinance and shall have the following duties and powers:

- (a) Review plans and specifications submitted by persons desiring to erect, alter, or move signs,
- (b) Issue sign permits,
- (c) Conduct inspections of signs and issue notices of non-compliance when required, and
- (d) Maintain all records necessary for the appropriate administration and enforcement of this ordinance, including applications for variances and appeals.

2. Notices of Violation

The Zoning Administrator shall notify each owner of an existing permanent sign found to be in violation of any provision of this ordinance pursuant to inspections made. The notice shall be by certified or registered mail and shall refer to each section of this ordinance under which a violation has been found to exist, and the notice shall describe the features found to be deficient.

3. Effect of Notice

Each existing permanent sign which is the subject of a notice given under this section shall thereupon be classified as a Non-Conforming sign subject to 130.11(Q).

4. Appeals and Variances

The owner of a sign with respect to which a notice has been given under this section may file for an appeal of the administrative decision of the Zoning Administrator or may file for a variance in order to retain the sign. Such appeals must be filed not later than thirty (30) days after the date of the notice.

(a) Appeal

Any person aggrieved by an administrative order, requirement, decision, or determination made under this ordinance by the Zoning Administrator may appeal to the Board of Zoning Appeals. The procedure on appeals shall be the same as those prescribed in the Newburgh Zoning Ordinance for appeals from administrative decisions. The decision of the Board of Zoning Appeals shall be final.

(b) Variance

Any person may request a variance from the provisions of this ordinance. Requests for variances shall be filed with the Zoning Administrator who will make a presentation of such request and recommendation to the Board of Zoning Appeals.

130.11(P) Special Use

1. Certain types of signs shall only be allowed by a Special Use Permit granted by the Board of Zoning Appeals upon having reviewed and approved of the characteristics of the proposed signs. Such Special Use Permits are required because these categories of signs are of such a nature that their construction and operation may give rise to unique problems with respect to their impact upon neighboring properties.

2. The following types of signs will be allowed by Special Use Permit only:

- (a) Historic designation signs,
- (b) Projecting signs,
- (c) Residential wall and ground signs, and
- (d) Murals and works of art painted or affixed to an exterior surface.

3. Special Use Permit Standards

The following standards shall be the criteria by which the Board of Zoning Appeals evaluates the suitability of proposed signs to be granted by special permit:

- (a) The proposed location does not block the view of other signs in the area.
- (b) The size does not unduly infringe upon the health, safety, or welfare of persons occupying or moving through the surrounding area.
- (c) The sign does not detract from the "historic fabric" of the Town.
- (d) The sign is materially consistent with the objectives of this ordinance.

4. Administration of Special Use Permit

Regulations for procedures and hearings shall be the same as that outlined for Conditional Uses, Section 130.2 of the Newburgh Zoning Ordinance.

130.11(Q) Non-Conforming Signs

If an existing sign which was previously in conformance becomes Non-Conforming due to this ordinance, it may be required to be removed or brought into compliance provided "just compensation" is paid to the sign owner. Existing signs which were previously Non-Conforming and continue to be Non-Conforming as described in this ordinance shall be removed or brought into compliance within six (6) months of the effective date of this ordinance.

Non-Conforming signs that have been in existence for over twenty (20) years prior to the effective date of this ordinance shall be exempt.

130.11(R) Removal of Certain Signs

1. Obsolete Signs

Any on-premise sign, retractable canopy or awning, whether existing on, or erected after the effective date of this ordinance, which advertises a business no longer being conducted or a product no longer being sold in or from the premises to which the sign relates shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or premises upon which such sign is found. Removal shall be effected within thirty (30) days after written notice from the Zoning Administrator. If such a sign is not removed after such thirty (30) day period, the Zoning Administrator is authorized to cause the sign to be removed forthwith. Any expense incidental thereto shall be paid by the owner, agent, or person having the beneficial use of the building, structure, or premises on which such sign is found.

2. Unsafe Signs

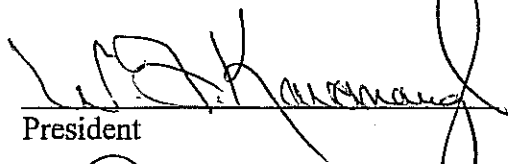
If the Zoning Administrator finds that any sign, outdoor advertising sign structure, retractable canopy, or awning is unsafe or is a menace to the public, the Zoning Administrator shall give written notice to the person displaying such sign. Correction of such condition(s) shall be effected within fifteen (15) days after receipt of the notice. If such condition is not corrected within fifteen (15) days, the Zoning Administrator is authorized to cause the sign to be removed forthwith at the expense of the person displaying the sign. Such removal does not require further notice if the sign, canopy, or awning is an immediate peril to persons or property.

130.11(S) Private Signage Agreements

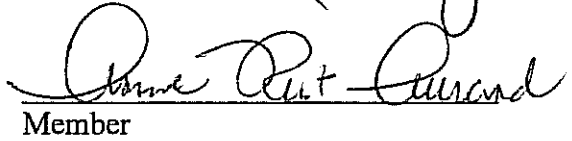
Nothing in this section or elsewhere in this ordinance shall prevent any building owner or association of merchants from establishing by lease, or other form of agreement, sign regulations which are more stringent than those set forth in this ordinance.

Adopted this 9th day of Aug 2006.

TOWN COUNCIL OF THE TOWN OF NEWBURGH



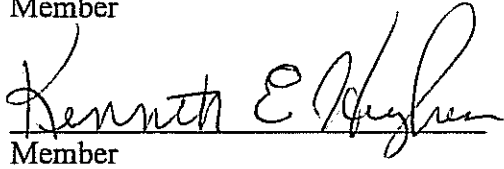
President



Member



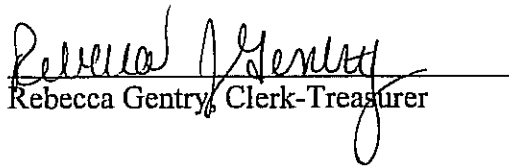
Member



Member

Member

ATTEST:



Rebecca Gentry, Clerk-Treasurer