

CHAPTER 97: OFF-PREMISE SIGN CONTROL

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GENERAL PROVISIONS**§97.01 TITLE.**

This chapter shall be known and may be cited as the "Off-Premise Sign Control Ordinance of Haywood County, North Carolina."

§97.02 AUTHORITY.

This chapter is established by the Haywood County Board of Commissioners pursuant to the authority conferred in Chapter 153(A)-121(a) of the North Carolina General Statutes. The Board of Commissioners hereby ordains and enacts into law the following sections.

§97.03 JURISDICTION.

The provisions of this chapter shall apply to all unincorporated areas of Haywood County, lying outside of the corporate limits or extraterritorial jurisdiction of any incorporated town. Municipalities within Haywood County may elect to allow this chapter to be effective within their corporate limits and extraterritorial jurisdiction.

§97.04 PURPOSE.

The purpose of these sign regulations is to guide and regulate the construction and placement of off-premise signs in Haywood County. It is the intent of this chapter to preserve and maintain the scenic and aesthetic environment of the county in order to protect and promote the tourist industry and

the quality of life of the county's residents and visitors; to improve safety for local and visiting motorists and pedestrians in Haywood County by reducing the distracting influence of uncontrolled off-premise signs; to minimize the possible adverse effect of off-premise signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations.

§97.05 APPLICABILITY.

(A) An off-premise sign as herein defined may be erected, placed, established, painted, created or maintained in the jurisdiction of this chapter only in conformance with the standards, procedures, exemptions and other requirements of this chapter.

(B) The effect of this chapter as more specifically set forth herein is to:

- (1) Establish a permit system to regulate the time, place and manner of the commercial use of certain types of off-premise signs subject to the standards and the permit procedures of this chapter;
- (2) Exempt from these regulations all on-premise signs as herein defined;
- (3) Prohibit all off-premise signs not expressly permitted by this chapter; and
- (4) Provide for the enforcement of the provisions of this chapter.

§97.06 DEFINITIONS.

For the purpose of this chapter, the following words and terms used herein are defined as follows:

ABANDONED SIGN. A sign which has not been utilized for a period of 180 days or more, or a sign, the contents of which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity; or a sign, the contents of which pertains to a place, time, event or purpose which no longer exists, applies or which has occurred.

ANIMATED SIGN. Any sign that uses or incorporates flashing, blinking or strobe lighting; sound; moving parts or components that provide the sign motion or give the illusion of motion or movement.

COPY. The characters, letters or illustrations displayed on a sign face.

DWELLING UNIT. A house, mobile home, apartment, condominium or a group of dwellings occupied or intended for occupancy as separate living quarters for one or more humans.

EXEMPT SIGN. Any sign which is specifically listed as exempt from this chapter. Exempt signs are not regulated by the terms of this chapter and shall not require a permit.

FREESTANDING SIGN. Any sign which is supported from the ground and not attached to a building.

ILLEGAL SIGN. Any sign erected or maintained in violation of a preceding chapter or erected, altered, moved, repaired, maintained or replaced in violation of this chapter.

INTERSECTION. The point at which two or more public streets or roads meet and/or cross. For the purpose of this chapter, an intersection shall begin at the nearest edge of the crossing road or from the beginning of an exit ramp and the end of an acceleration ramp, whichever distance is greater.

NON-CONFORMING SIGN. Any sign in existence prior to the adoption and effective date of this chapter, or any applicable amendment thereto, which does not conform to the provisions of this chapter, as amended. An **ILLEGAL SIGN** is not a non-conforming sign.

OFF-PREMISE SIGN. Any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, service, activity or place, including products or services sold or offered for sale on premises other than on the premises where such sign is displayed.

OFF-PREMISE ADVERTISING SIGN. Any sign advertising a product, service, business or activity which is sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all.

OFF-PREMISE DIRECTIONAL SIGN. Any off-premise sign indicating the location of or directions to a business, office or other activity. The sign may provide the name of the business or activity, and directions or symbols indicating directions. If a sign exceeds the maximum permitted area, it shall be construed and regulated as an off-premise advertising sign.

ON-PREMISE SIGN. Any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, product, operation, service or activity sold or offered for sale, or to other information offered on the premises where the sign is located.

PORTABLE SIGN. A sign with a permanent frame and a display area for changeable copy, designed or intended to be relocated and not permanently affixed to the ground or structure. This shall include signs on wheels, trailers or any other device which is intended to be moved from one location to another.

PREMISES. A single tract of real property which is not divided by a public street or right-of-way.

PROHIBITED SIGN. Any sign, or element of a sign, which is specifically listed as prohibited in section §97.11 of this chapter.

REAL ESTATE SIGN. A sign advertising the sale, lease or rental of an interest in property.

SETBACK. The shortest horizontal distance between a property line or the edge of the pavement or traveled surface and the closest point of a sign.

SIGHT DISTANCE TRIANGLE. The land area adjoining a road intersection that is kept clear of obstructions between three and seven feet above ground to ensure the visibility and safety of motorists and pedestrians. The protected sight distance area is the triangle created by the intersecting lines of two roads, extending 35 feet each way from the intersecting lines of the two roads.

SIGN. Any display of letters, words, numbers, figures, devices, emblems, pictures, logos or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as a part of a structure, surface or any other object whether natural or man made. The term "sign" shall include sign structure.

TEMPORARY SIGN. A sign with or without a structural frame, not permanently attached to a building, structure or the ground, and intended for a limited period of display provided, however, a temporary sign does not include a **PORTABLE SIGN** as herein defined.

YARD SALE SIGN. A temporary sign which advertises the location, date and/or time of an individual or civic yard or garage sale at a residence, place of worship or civic facility. Yard sale signs shall not include advertisements or announcements for commercial sales or flea markets.

§97.07 INTERPRETATION.

(A) Area of Signs Defined.

The area of a sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, design or symbols, together with any background difference on which the sign is located, if such background is designed as an integral part of and related to the sign. Any cut-outs or extensions shall be included in the area of a sign, but supports and bracing (including any trim, skirt, apron or border) which are not intended as part of the sign and do not contain any advertising copy shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

(B) Commercial Use Defined.

Commercial use of off-premise advertising signs, as used in this chapter, means and includes, without limitation, the use of signs having some or all of the characteristics and purposes listed in this section. These characteristics and purposes tend to describe the business practices and other arrangements of the persons who are engaged in the business of off-premise advertising, or of persons who use off-premise advertising in connection with their business and non-business advertising, and therefore tends to describe the types of signs intended to be regulated by this chapter.

(1) Signs on which advertising space is sold, leased, given or otherwise made available by the sign owner to other members of the public at large for the purpose of displaying the other person's message. The sign owner may or may not, but typically does, receive revenue or other value or benefits for allowing other persons to use the advertising space. The sign owner may or may not, but typically does not, own the land occupied by the sign;

(2) Signs having as a sign site land which is owned by a person who is not the owner of the sign or who is not the person whose messages appear on the sign;

(3) Signs which do not advertise the interests of the person who owns or occupies the land on which the sign is located, but which do advertise the interests of persons elsewhere. The sign message is determined by the sign owner or his lessee without regard for, and sometimes adverse to, the interests of the owners of the sign site;

(4) Signs owned and controlled by a person other than the person who owns or controls the land on which the sign is located;

(5) Signs which advertise interests, products, events or uses not present at the location of the sign.

(C) Height of Signs Defined.

Sign height shall be measured from the elevation of the road surface of the nearest roadway to the highest point on the sign. Measurements shall be taken from the nearest edge of the traveled way, perpendicular from the location of the proposed sign.

(D) Illumination of Signs Defined.

(1) *Directly illuminated sign.* A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

(2) *Indirectly illuminated sign.* A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

(3) *Non-illuminated sign.* A sign which has neither direct nor indirect illumination.

(E) Maintenance of Signs Defined.

For the purposes of this chapter, maintenance shall include those activities and procedures listed in sections §97.13 and §97.14 of this chapter. Work done to restore or repair a sign which is damaged or destroyed shall be considered repairs in accordance with the applicable provisions of this chapter.

Off-Premise Sign Control**(F) No Preference for Commercial and Non-commercial Messages on Off-Premise Advertising Signs Defined.**

(1) Commercial use under this section is not determined by making reference to the content of the sign message to determine whether the sign advertises a commercial message or a non-commercial message. Non-commercial messages are those usually considered to be, for example, ideological, religious or political in nature. A non-commercial message does not cause an off-premise advertising sign to no longer be a "commercial use" under this section.

(2) Commercial use is determined by making reference to the overall practices and arrangements of the sign owners and sign site owners in making the sign available to others.

(3) Nothing in this section shall be construed to allow a commercial message any preference or greater protection over a non-commercial message, or to allow one non-commercial message any preference or greater protection over another non-commercial message. Any reference to the message content of an off-premise advertising sign, to the limited extent such reference is necessary, is made for the sole purpose of classifying and segregating the two basic types of signs regulated in this section:

(a) Signs subject to the requirements of this section and which are known and defined as off-premise advertising signs;

(b) Signs defined as on-premise signs in this chapter and exempt from the terms of this chapter.

(G) Noncommercial Messages.

Any sign, display or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale or lease, and that complies with the size, height, spacing, setback, lighting and other requirements of this chapter.

(H) Value of Signs Defined.

The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the Sign Enforcement Officer shall estimate the original cost based upon the best information reasonably available.

REGULATIONS**§97.08 SIGN REGULATIONS.**

Except as specifically exempted, prohibited or regulated but not requiring a permit in this section, all off-premise signs or sign components constructed, reconstructed, placed, relocated or maintained shall require a permit in accordance with the provisions of this chapter. All off-premise signs permitted by this chapter shall be constructed and erected in accordance with the North Carolina State Building Codes, as amended.

§97.09 SIGNS EXEMPTED.

The following off-premise signs are exempted from this chapter:

(A) Government signs including, but not limited to, traffic warning or regulatory signs or signals, building identification, directional, information and welcome signs.

(B) Trade names and graphics which are located on newspaper, soft drink, gasoline pumps and similar vending devices.

(C) Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.

(D) Warning signs posted by utility or construction companies.

(E) Commemorative tablets, markers or monuments constructed by or with the permission of the Haywood County Board of Commissioners.

(F) Signs on operational motor vehicles indicating the name of a business, when the vehicle is not intended solely for a display of signs.

(G) Signs required by law, statute or ordinance.

(H) Decorations or displays of a temporary nature which are associated with any national, local or religious holiday or celebration.

(I) Political signs.

(J) Yard Sale signs.

§97.10 SIGNS REGULATED BUT NOT REQUIRING A PERMIT.

The following off-premise signs are regulated under this chapter but do not require a permit.

(A) Off-premise directional signs as herein defined provided such signs shall not exceed a maximum of 32 square feet in area per directional flow of traffic and 10 feet in height. Not more than four directional signs shall contain directions or reference the same activity or business. Off-premise directional signs shall be non-illuminated and located outside of any sight distance triangle.

(B) Off-premise real estate signs not exceeding a maximum of four square feet in area.

(C) Any sign four square feet in area or smaller.

§97.11 SIGNS PROHIBITED.

The following off-premise signs and off-premise sign features or components are prohibited:

(A) Signs obstructing the view of motorists entering or exiting roads or highways, or interfering with the driver's view of approaching, merging or intersecting traffic.

(B) Animated signs and signs with direct illumination or signs with indirect illumination which directs or allows a lighting source to direct light on any residential dwelling or at any portion of a roadway with an intensity which may impair a driver's vision.

(C) Any non-governmental sign resembling a public safety warning or traffic signal.

(D) Signs, whether temporary or permanent, within any road or highway right-of-way, with the exception of governmental signs.

(E) Signs constructed or maintained upon trees and utility poles or painted or drawn upon natural rock formations or other natural features.

(F) Signs containing words or graphics that are obscene, as defined in Chapter 15 of the North Carolina General Statutes.

(G) Off-premise advertising signs along federal or State scenic byways, and local scenic byways designated by the county commissioners.

§97.12 OFF-PREMISE ADVERTISING SIGN REGULATIONS.

The following regulations shall be applicable to all off-premise advertising signs as herein defined. Any sign not specifically allowed is prohibited.

(A) Size.

(1) No off-premise advertising sign permitted by this chapter shall exceed the following maximum sign area:

(a) A maximum of 300 square feet (excluding any trim, apron, skirt or border provided it not contain any advertising copy) per directional flow of traffic on roads with four or more lanes.

(b) A maximum of 75 square feet (excluding any trim, apron, skirt or border provided it not contain any advertising copy) per directional flow of traffic on all other roads.

(2) A maximum of two faces per sign structure is allowed, positioned either back to back or v-shaped, such that only one face is allowed per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than one face per directional flow of traffic.

(B) Height.

(1) No off-premise advertising sign permitted by this chapter shall exceed the following maximum sign height.

(a) A maximum height of 30 feet for signs 200 square feet in area or larger.

(b) A maximum height of 20 feet for signs smaller than 200 square feet in area.

(C) Spacing.

(1) The minimum spacing between off-premise advertising signs adjacent to highways as measured along either side of any roadway centerline shall be as follows:

(a) Highways with four or more lanes, spacing shall be a minimum of 1,500 linear feet.

(b) Highways with less than four lanes, spacing shall be a minimum of 1500 linear feet.

(2) Additional spacing for off-premise advertising signs is required as follows:

(a) 300 feet from the intersection of two or more public roads; and 300 feet from any bridge more than 50 feet in length;

(b) 500 feet from the nearest point of any dwelling unit on an adjacent parcel; church or any place of worship; and the property boundary of any school, cemetery or public park located within 600 feet of a public right-of-way.

Off-Premise Sign Control**(D) Setbacks.**

Off-premise advertising signs shall meet the following setback requirements:

(1) The setback shall be ten feet from the right-of-way of any adjacent road but shall be no closer than 25 feet from the edge of the traveled way of any road.

(2) All off-premise advertising signs shall be located at least five feet from any abutting property lines and outside of all sight visibility triangles.

(E) Extensions.

No off-premise advertising sign shall have any extensions that cause the sign to exceed the maximum size, height or setback.

(F) Illumination.

Off-premise advertising signs may be indirectly illuminated or non-illuminated. No off-premise advertising sign shall contain any form of direct illumination.

MAINTENANCE**§97.13 MAINTENANCE.**

All signs and their structures shall be maintained in good repair and safe condition and shall conform to the standards in this section. Maintenance carried out in accordance with this section shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a non-conforming condition. Any sign violating these requirements shall be repaired or removed as required.

(A) No sign shall be allowed to have more than 20% of its total surface area covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions for more than 30 consecutive days.

(B) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which cause the sign to stand more than 15 degrees from the perpendicular for more than 30 consecutive days.

(C) No sign shall be allowed to have weeds, vines or other vegetation growing on more than 20% of the sign face for more than 30 consecutive days.

(D) No illuminated sign shall be allowed to stand with only partial illumination for more than 30 consecutive days.

§97.14 UNLAWFUL CUTTING OF TREES OR SHRUBS.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim or remove any trees, shrubs or other vegetation located within any public road or highway right-of-way, except where a legal permit has been obtained from the North Carolina Department of Transportation.

PERMITS, FEES AND NON-CONFORMING SIGNS

§97.15 PERMITS.

All signs, except as otherwise provided in sections §97.09, §97.10, and §97.11 of this chapter, shall require a sign permit prior to being constructed, moved, altered, placed or repaired. Sign permits shall be issued by the Sign Enforcement Officer of Haywood County. No sign requiring a building permit shall be issued such permit until a valid sign permit has been issued in accordance with this section. If a sign permit is denied, the decision may be appealed to the Haywood County Planning Board within 30 days of the decision. All appeals shall be submitted in writing to the Sign Enforcement Officer.

§97.16 PERMIT APPLICATION.

No permit shall be issued until an application for each separate sign is completed, submitted and approved by the Sign Enforcement Officer. The initial permit shall be valid until revoked by the Sign Enforcement Officer.

§97.17 PERMIT AND PERMIT EMBLEM.

A permit, along with a permit emblem, shall be issued upon proper application and approval. New sign construction shall not commence until a permit and emblem are issued. The sign must be completely constructed and erected, with the permit emblem affixed, within 180 days from the date of the permit issuance. During the 180 day period, newly permitted signs shall be considered to be in existence for the purpose of spacing signs. The permit emblem shall be placed on sign structures in such a position as to be visible from the nearest adjacent road.

§97.18 PLANS, SPECIFICATIONS AND DATA REQUIRED FOR PERMIT.

The application shall be accompanied by complete information as required on forms provided by the Sign Enforcement Officer and shall include, without being limited to, a site plan and elevation drawings of the proposed sign, indicating the proposed location of the sign, setbacks, height, illumination, dimensions and square footage of the proposed sign, and any other data as the Sign Enforcement Officer may determine is necessary for review of the application. The Sign Enforcement Officer shall not issue a sign permit unless the plans, specifications and intended use of such sign conform in all respects to the applicable provisions of this chapter.

§97.19 PERMIT FEES.

Initial fees are required to be paid for permitting the construction of all new signs. Existing signs are exempt from the initial permit fee. A fee schedule shall be determined by the Haywood County Board of Commissioners and posted in the Haywood County Inspections Department.

§97.20 PERMIT TRANSFERS.

Valid sign permits may be transferred to new sign owners, provided that the Sign Enforcement Officer is given notice of the transfer of ownership within 30 days of the actual transfer.

§97.21 PERMIT REVOCATIONS.

Valid sign permits for new signs may be revoked for any one of the following reasons:

- (A) Misrepresenting material facts by the applicant on the permit.
- (B) Failing to construct the sign and affix the permanent emblem within 180 days from the permit issue date.
- (C) Altering, enlarging or relocating a permitted sign or a non-conforming sign, except in conformance with the requirements of this chapter.
- (D) Allowing a sign to remain blank for a period of 180 consecutive days or reaching a state of dilapidation or disrepair as determined by the Sign Enforcement Officer.
- (E) Any violation of section §97.22 of this chapter.

§97.22 NON-CONFORMING SIGNS.

(A) All non-conforming signs in existence prior to the effective date of this chapter are permitted to continue, provided that no such sign shall be:

- (1) Changed, altered or expanded in any way which increases the sign's non-conformity; or replaced by another non-conforming sign, except that copy may be changed on an existing sign;
- (2) Relocated, except in conformance with the requirements of this chapter;
- (3) Reestablished after it has been removed or has been abandoned for 180 days or more.

(B) If the existence of a sign prior to the adoption of this chapter is questioned, the issue will be determined by the Sign Enforcement Officer with the advice of the Haywood County Planner and the sign owner using a county roadway video tape made on March 18, 1997. Signs found to be in violation shall be removed at the owner's expense.

§97.23 NOTICE GIVEN FOR REFUSING TO ISSUE PERMIT.

The Sign Enforcement Officer shall refuse to issue a permit for a proposed sign that will not conform to this chapter and shall notify the owner of the proposed sign by first class mail as to why the proposed sign does not comply.

§97.24 RECONSTRUCTION OF DAMAGED SIGNS.

(A) Any conforming sign which has been damaged may be repaired and used as before, provided all repairs are initiated within 30 working days and completed within 60 working days of such damage. However, if the sign should be declared unsafe by the Sign Enforcement Officer, the owner of the sign, or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions to the Sign Enforcement Officer's satisfaction.

(B) As a courtesy to the sign owner, if the Sign Enforcement Officer discovers that a sign is damaged or is in an unsafe condition, the Sign Enforcement Officer will promptly notify either the sign owner or the owner of record of the real property whereon the sign is located. The affirmative duty and liability shall, however, remain with the owner of the sign to keep each sign in a safe and undamaged condition in accordance with the terms of this chapter.

*ADMINISTRATION, ENFORCEMENT, APPEALS, PENALTIES***§97.25 ADMINISTRATION.**

The Haywood County Planning Department shall be responsible for the administration and enforcement of this chapter. The Planning Director shall appoint a Sign Enforcement Officer to administer and enforce this chapter. The Sign Enforcement Officer shall have the following authority:

(A) To issue a Violation Notice. A Violation Notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the chapter. Whenever the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such Violation Notice. The Violation Notice shall identify the sign and shall describe the nature of the violation, refer to the section of the chapter violated, specify in detail what action must be taken to correct the violation, and specify a reasonable time limit of up to 30 working days within which the violation must be corrected.

(B) To issue a Compliance Order for any sign not corrected within the time allotted under the Violation Notice, or for a prohibited sign as established by this chapter. A Compliance Order shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice and shall not be effective until received. The Compliance Order recipient shall be allowed 30 calendar days to remove the subject sign at his expense. The Compliance Order shall identify the sign and refer to the section of the chapter violated.

(C) To issue an Unsafe Sign Notice. Should any sign become imminently unstable or in danger of falling or otherwise unsafe, an Unsafe Sign Notice shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice, except that the recipient of the notice shall immediately, in the case of imminent danger, secure or remove the sign in a manner to be approved by the Sign Enforcement Officer in conformance with the provisions of this chapter. If the condition prompting the notice is not corrected within 24 hours after receipt of the notice, the Sign Enforcement Officer shall have the authority to remove the sign at the recipient's expense.

§97.26 APPEALS.

(A) Violation Notices, Compliance Orders and other decisions issued by the Sign Enforcement Officer may be appealed to the Haywood County Planning Board. Appeals shall be made in writing and submitted to the Sign Enforcement Officer within 30 days of receipt of notice and in accord with N.C.G.S. 160D-405. Pending appeal, the time limits set out in the notice or order shall be suspended. The Planning Board shall conduct its proceedings in accord with N.C.G.S. 160D-406. If the Planning Board finds that the action of the Sign Enforcement Officer has been taken for good cause and in accordance with this chapter, it shall so declare and the time period for compliance shall run from the

issuance of that board's findings. If the Planning Board sustains the appeal of the petitioner, no further action will be taken by the Sign Enforcement Officer.

(B) An appeal of the Planning Board's decision may be made to the Haywood County Board of Commissioners, provided said appeal is made in writing within 30 days of the Planning Board's decision, with the Commissioners' proceedings to be held in accord with N.C.G.S. 160D-406. (Ord. passed 5-1-97; Am. Ord. passed 7-19-21)

§97.27 VIOLATIONS AND PENALTIES.

After due notice and order as provided above for any violation of the terms of this chapter, the Sign Enforcement Officer may issue a citation imposing a penalty of not more than one hundred dollars (\$100) on the owner of the sign in question or on the owner of record of the real property whereon the sign is located whenever the owner of the sign cannot be located and notified of said citation. In the case of continuing violation, each 24 hour period in which the violation exists shall constitute a separate violation. In addition to the above described penalty, Haywood County may enforce this chapter by any one or more of the remedies authorized by Chapter 153A-123 of the General Statutes, with the exception of 153A-123(b).

LEGAL PROVISIONS

§97.28 CONFLICT WITH OTHER LAWS.

Whenever the regulations of this chapter conflict with the requirements of another statute, the more restrictive standard shall govern.

§97.29 VARIANCES.

(A) The Haywood County Planning Board is hereby empowered to vary or adapt the strict application of the requirements of this chapter. A variance may be appropriate whereby reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary and exceptional situation or conditions on a piece of property, the strict application of the following regulations enacted under this chapter would result in peculiar, exceptional and undue hardship on the owner of such property: sign setback and sign height. The following regulations enacted in this chapter are not to be considered for a variance and are not appealable: maximum allowable sign area, sign spacing, total number of sign faces per directional flow of traffic, sign illumination and regulations that protect public safety.

(B) Upon denial of a sign permit by the Sign Enforcement Officer, a property owner or sign contractor may apply to the Planning Board for a variance. The Planning Board will conduct its proceedings for the consideration of the variance in accord with N.C. G.S. 160D-406. No variance in

the strict application of the provisions of this chapter shall be granted by the Planning Board unless it finds that the strict application of the provisions would cause exceptional hardship to the property owner, and that the hardship shall not be the result of the applicant's own actions. In general, the power to authorize a variance from the terms of this chapter shall be sparingly exercised. It is the intent of this chapter that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty and prevents the owner from obtaining the full use and purpose of the sign as intended by this chapter. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the sign.

(C) The applicant must prove that the variance will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. The Planning Board may prescribe any safeguard that it deems necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

(D) Appeal from the Planning Board denial of a variance may be made to the Superior Court of Haywood County in accord with N.C.G.S. 160D-406(k).
(Ord. passed 5-1-97; Am. Ord. passed 7-19-21)

§97.30 SEPARABILITY.

Should any section or provision in this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

§97.31 EFFECTIVE DATE AND REVISION OF ORIGINAL ORDINANCE

This revised ordinance revises and supplants the ordinance in Chapter 97 originally adopted May 1, 1997, and all subsequent amendments, and shall be effective on and after July 19, 2021.