

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 4 February 2008

SUBJECT: Prohibited Signs in the Public Right of Way

ATTACHMENT(S): Memorandum

SUMMARY OF REQUEST:

Recently staff were contacted by a citizen concerned with the excessive presence of signs posted to utility poles or staked into the ground in public right of ways. These signs are prohibited by the Land Development Code and a similar provision within state law. As described in the attached memorandum there are several options available to prevent these signs. County staff seeks direction from the Board as to how to proceed with enforcement.

County staff will be present and prepared if requested to give further information on this matter.

BOARD ACTION REQUESTED:

The Board is requested to provide staff with direction as to the enforcement of prohibited signs in the County. The Board may consider one of the following options, or consider different alternatives.

SUGGESTED MOTION:

I move the Board direct staff to: (Possible options for the Board)

- *Take down prohibited signs especially on the main corridors;*
- *Send letters to targeted members of the community posting these signs alerting them to the violation.*
- *Give Notices of Violation to repeat or excessive violators;*
- *Use enforcement measures in the Land Development Code;*
- *Amend the Land Development Code to explicitly allow sign removal;*
- *Prosecute violators criminally, as a Class 3 misdemeanor; AND/OR*
- *Involve NCDOT to partner with them for enforcement, including prosecution under state law as a Class 1 misdemeanor.*



Charles Russell Burrell
County Attorney
rburrell@hendersoncountync.org

Susan L. Fosmire
Assistant County Attorney
sfosmire@hendersoncountync.org

Djuana L. Swann
Associate County Attorney
dswann@hendersoncountync.org

Sarah G. Zambon
Associate County Attorney
szambon@hendersoncountync.org

Margaret Street
Assistant
mstreet@hendersoncountync.org

Connie Babcock
Paralegal
rayfield@hendersoncountync.org

Norma Roque-Harper
Paralegal
nroqueharper@hendersoncountync.org

Jacqueline Justus
Office Assistant
jjustus@hendersoncountync.org

100 North King Street
or
1200 Spartanburg Highway, Ste. 400

Post Office Box 88
Hendersonville
North Carolina 28793

Telephone:
(828) 697-4719

Facsimile:
(828) 697-4536

Website:
www.hendersoncountync.org

Memorandum

TO: Board of Commissioners
FROM: Sarah Grace Zambon
DATE: 25 January 2008
RE: Prohibited Signs in the Right of Way

This document is a public record under North Carolina Public Records law, pursuant to N.C. Gen. Stat. §132-1.1.

Recently County staff was contacted about preventing signs from being posted in the right of way. According to the Land Development Code, all signs are prohibited in the public right of way. There is a similar provision under state law. The text of both statutes is included at the end of the memorandum for your convenience.

Since they are all prohibited, the question then becomes enforcement. Besides being an eyesore, the signs can pose a public safety risk especially in intersections and are harmful to the environment. Nothing in the Land Development Code explicitly states we can take down the signs. However, since the signs are prohibited and are of minimal cost, there should not be a significant problem taking them down and treating the signs like litter. This is similar to what other communities do.

Possible remedies:

- Direct Staff to take down prohibited signs especially on the main corridors;
- Direct Staff to send letters to targeted members of the community posting these signs alerting them to the violation.
- Give Notices of Violation to repeat or excessive violators;
- Use enforcement measures in the Land Development Code including injunction and order for abatement against violators;
- Amend the Land Development Code to explicitly allow sign removal;
- Prosecute violators criminally, as a Class 3 misdemeanor;
- Involve NCDOT to partner with them for enforcement, including prosecution under state law as a Class 1 misdemeanor.

Staff seeks direction from this Board as to the direction you would like us to take to prevent the posting of prohibited signs in the County.

Henderson County Land Development Code

§ 200A-174. Prohibited signs.

The following are prohibited *signs*. *Signs*:

- A. Placed in the public *right-of-way* (except as erected for governmental purposes);
- B. Resembling and/or obscuring traffic signals;
- C. Obstructing access to drives, doors, walks, windows, fire escapes or fire escape routes;
- D. Which are animated and/or flashing (as defined by this chapter);
- E. On the surface of lake/river water (except those navigational and warning signs);
- F. On *vehicles* parked and located for the purposes of displaying such a *sign*, where such *vehicle* is either a part of the *sign* or *sign structure*; and
- G. *Billboards* (an *outdoor advertising sign* 380 square feet in area or greater).

§ 200A-176. Sign placement.

Signs shall be placed a minimum of 15 feet from edge of pavement or from back of curb (as applicable), and shall be located out of the *road right-of-way*. Signs are not permitted in a *sight visibility triangle*.

North Carolina Statute

§ 136-32. Other than official signs prohibited.

No unauthorized person shall erect or maintain upon any highway any warning or direction sign, marker, signal or light or imitation of any official sign, marker, signal or light erected under the provisions of G.S. 136-30, except in cases of emergency. No person shall erect or maintain upon any highway any traffic or highway sign or signal bearing thereon any commercial advertising:Any person who shall violate any of the provisions of this section shall be guilty of a Class 1 misdemeanor. The Department of Transportation may remove any signs erected without authority.