

BANNER ELK PLANNING BOARD MEETING  
MONDAY, 06 JUNE 2016  
MINUTES

Members Present: Allen Bolick, BR Hoffman, Martha Laura Miller, Meredith Olan, Joel Owen, Penny VonCanon

Staff Present: Zoning Administrator Cheryl Buchanan, Town Manager Rick Owen

Chairman Joel Owen called the meeting to order at 6:04 pm. The Chairman opened with the pledge of allegiance to the flag and noted that there was a quorum present.

Consideration of the May 2, 2016 Minutes

Chairman Owen asked if anyone had changes to the minutes from the May 2016 meeting. Penny VonCanon asked if she could add some information to the minutes for the last meeting. The Zoning Administrator asked if it was talked about at the last meeting and Mrs. VonCanon replied no. Ms. Buchanan said she could not add to the minutes if it wasn't discussed. However, Chairman Joel Owen said he would be happy to give her a minute or two to talk about it in this meeting if she liked. Martha Laura Miller moved to approve the minutes as submitted. Meredith Olan seconded. The vote was unanimous and the motion carried.

Temporary Ordinance for Sandwich Board Signs

Town Council reviewed this ordinance in their May meeting, which was held after the Planning Board's May meeting. In keeping with the processes set up by the Town of Banner Elk, Town Council has deferred this back to the Planning Board for a recommendation before their Public Hearing scheduled to be held on Monday, 13 June 2016. The following items were pointed out as needing to be addressed:

- Remove the phrase "be taken in by the close of business" on page 1;
- Change all expiration dates to October 31, 2016 on page 2.

Martha Laura Miller requested that the Zoning Administrator ask the Town Attorney if they were setting a precedent by passing this temporary ordinance. Motion in favor of the temporary ordinance regarding sandwich board signs to Town Council with the above noted corrections was made by BR Hoffman. Meredith Olan seconded the motion adding that the colors and materials be addressed before it becomes permanent. All were in favor and the motion carried.

## Sign Ordinance Review

Martha Laura Miller said that she was ready to review this ordinance and suggested they go page by page with any changes anyone had. Chairman Owen agreed that this was a good way to review this.

\*\*\*Note for the minutes. Because of the length, I am copying the ordinance to these minutes with the suggested additions are in blue and other marks are changes being made in blue. The black is the current ordinance and red is added language.

### **SECTION 600 SIGNS**

The sign regulations of this Section are intended to fairly balance public and private interests. The purpose of this Section is to protect public safety, minimize the abundance and size of signs in order to reduce visible clutter, motorist distraction, and loss of sight distance. Furthermore to promote, direct, identify, advertise, advocate, endorse, and otherwise communicate information, and support and complement the land use objectives as set forth in the 2010-2030 Banner Elk Land Use Plan. Intentions are to prevent obtrusive signage that would negatively impact the Town's Streetscape, the surrounding beauty of our area, and the efforts we make every day to protect our environment. While these regulations allow for a variety of sign types and sizes, they do not necessarily ensure every property owner or business owner's desired level of visibility. It is not the intent or purpose of this Section to regulate the message displayed on any sign or the content. The objectives of this Section are:

- a. **General.** Ensure that signs are located, designed, constructed, installed and maintained in a way that protects life, health, ~~morals~~, property and the public welfare. (The word morals seemed to be questionable in its meaning and could be considered content based.)
- b. **Public Safety.** To protect the public safety by prohibiting signs that are structurally unsafe or poorly maintained; that cause unsafe traffic conditions through distraction of motorists, confusion with the information on a traffic sign, hindrance of vision, and that impede safe movement of pedestrians, and/or safe ingress and egress from buildings and sites.
- c. **Protect the Aesthetic Quality of Neighborhoods.** Prevent blight and protect the aesthetic qualities of Banner Elk preventing visual clutter and protecting views, ~~preventing commercial messages into non-commercial areas, and eliminating signs and sign structures on unused commercial properties pertaining to commerce in Banner Elk and its ETJ.~~
- d. **Free Speech.** Ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication.
- e. **Reduce Visual Conflict.** Reduce visual conflict among signs and light and establish a clear distinction between public and private information systems.
- f. **Neighborhood Character.** Reinforce and support the desired character of each Neighborhood Classification and Zone District in a manner that takes into consideration building scale and massing, lot size, building setbacks, transparency, street dimensions,

travel speed and pedestrian presence so that signage contributes to the streetscape element and aids in creating a sense of “place”.

**g. Business Identification.** Allow for adequate and effective signage for business identification of commerce located in Banner Elk and its ETJ and other commercial speech, non-commercial speech, dissemination of public information, included but not limited to, public safety information and notification as required by law. (\*\*\*\*\*Is this content based?)

## **SECTION 601 Definitions.**

For the purpose of this ordinance, the following words shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Words and phrases not defined in this article but defined in Section 2 of the Zoning Ordinance shall be given the meanings set forth in such article. (Last amended 08-08-11)

**Animation** - The movement, or the optical illusion of movement of any part of the sign structure, design or pictorial segment including the movement of any illumination or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign shall be considered to be animation. Also included in this definition are signs having “chasing action” which is the action of a row of lights commonly used to create the appearance of motion.

**Artwork** – Integral decorative or architectural feature of a building or attached to a building or works of art painted on a surface; so long as such features or works do not contain trademarks, ~~moving parts or lights~~, or any commercial reference or messages (added 08-08-11).

**Balloon** - A nonporous bag of material filled with heated or non-heated air or gas so as to rise or float in the atmosphere.

**Banner** – A fabric, plastic or other material made of non-rigid material without enclosing structural framework.

**Billboard** - Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation. (NCGS 136-128.)

**Building Front** - The linear length of building facing a street right-of-way or in the case of a planned unit development, facing a legal private access road.

**Building Marker** – Any sign indicating the name of a building, date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

**Building Sign** – Any sign attached to any part of a building, as contrasted to a freestanding sign.

**Canopy** - A protective cover over a door, entrance, window, or outdoor service area, which is attached to or cantilevered from a building; also known as an awning. Permanent marquees and porticoes that are designed as a continuous or integral part of the structure shall not be considered canopies.

**Canopy Sign** - A sign that is suspended from, attached to, support from, applied to, or constructed as part of a canopy or awning. A marquee is not a canopy.

**Changeable Copy Sign** - A sign on which message copy is changed manually in the field through attachment of letters, numbers, symbols and other similar characters of changeable pictorial panels. In no case shall the changeable copy portion exceed fifty percent (50%) of the total sign area (amended 08-08-11).

**Combined Development** - A grouping of two (2) or more business establishments on one (1) or more parcels of property that may share parking and access and are linked architecturally or otherwise present the appearance of a unified grouping of businesses. ~~The sign related to any provision of any approved land use permit that applies to a site. Examples of land use reviews are: PUDs and building site plans and CUPs, and other discretionary permits.~~

**Commercial Message** - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**Directional Signs** - A sign that directs motorists to a location or confirms a correct route such as, enter, exit, and parking signs.

**Drive-Through Window Sign** - An attached or freestanding sign listing choices and processes. The sign allows communication between the consumer and business. Limited to no more than two (2) signs and should not be seen from a road, only viewable to those waiting in line at a drive-through (added 08-08-11).

**Dynamic Display.** Any characteristic of a sign that appears to have movement or that appears to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LCD or other monitors, LED lights, manipulated through digital input, "digital ink or any other method or technology that allows the sign face to present a series of images or displays.

**Facade** - The entire building walls, including wall faces, parapets, fascia, windows, doors, canopy and visible roof structures of one complete elevation.

**Feather Signs and Banners** - promotional banners and advertising signs. Feather Signs are anchored onto bent poles via a reinforced sleeve and are left open at the bottom in order to flutter in the wind as a means for drawing attention. Feather Banners are vertically-proportioned rectangular banners that are anchored onto poles at the top and on one side via reinforced cloth sleeves and stiffened at the bottom to minimize flapping.

**Fence Sign** - A sign mounted on, attached to, or constructed as part of a fence or similar structure.

**Festoon Lighting** - A string of outdoor lights suspended between two or more points.

\*\*\* **HOLD Flag** - Any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity. The height of any flagpole cannot exceed the 35-foot height restriction. **The US Code Title 4, Chapter 1 describes the United States flag as a living symbol and must be treated with such respect.** (amended 08-08-11).

\*\*\*\* **HOLD Flag, Corporate** – a flag that contains the official registered corporate identity of a corporation in a recognizable logo or word-mark form. Corporate colors must be in compliance with the color chart or modified (added 08-08-11).

\*\*\*\* **HOLD Flag, Ornamental** – Any fabric containing distinctive colors or patterns that is used as an ornamental residential decoration. No commercial advertising is allowed. Size is restricted to no greater than 3 feet by 5 feet and should be mounted on a small pole attached to the house or a fence. If placed on a fence, the flag cannot protrude into the road or right-of-way. Quantity limited to two (2) per residence (added 08-08-11).

**Freestanding Sign** – A sign supported by a sign structure placed in the ground that is wholly independent of any building, fence, vehicle, or object other than the sign structure for support (added 08-08-11).

**Gasoline Pump Sign** – Signs which are normally associated with the sale of gasoline, including the price, self-service, etc. and information contained on the pump

**Government Entity** – The Town of Banner Elk and its departments, Avery County and its departments, the State of North Carolina and its departments, and the United States of America and its departments (added 08-08-11).

**Government Sign** – Any temporary or permanent sign erected and maintained by a governmental entity (added 08-08-11).

**Grade** - The uppermost surface directly below the sign or immediately adjacent to the support. Where the uppermost surface has been artificially raised for landscaping or other purposes, grade shall be measured from the level of the nearest Town or state street curb.

**Ground Mounted Sign** - A free standing sign with its base or its supports mounted directly to the ground. For the purposes of this ordinance, a ground sign shall be defined as two sign faces that are located back-to-back on a single structure. The maximum sign area as set forth in Tables 608-1, 608-2 and 608-3.

**Holiday/Seasonal Decorations** - Displays erected on a seasonal basis in observance of religious, national or state holidays, which are not intended to be permanent in nature, and which contain no advertising material or commercial message.

**Identification sign** – A sign whose copy is limited to the name and address of a building, institution, person and/or activity or occupation being identified (added 08-08-11).

**Illumination, Indirect** - Illumination that reflects light from an artificial light source intentionally directed upon a surface. This shall also include silhouettes of letters or symbols placed before a background of reflected light.

**Illumination, Internal** - Illumination provided from a source located inside or within the face of the sign.

**Individual Establishment or Business Commercial** - A single establishment or business occupying one or more buildings and located on an individual parcel of land, designed to function as a single enterprise.

**Inflatable Signs** - A three-dimensional object, filled with air or gas, and located in such a manner as to attract attention. [Does not include balloons.](#)

**Informational Sign** – A sign, emblem or decal informing the public of goods, facilities or services available on the premises that cannot be seen from the road, e.g. credit cards, “ATM” or a sign indicating hours of operation (added 08-08-11).

**Lettering** – Building letters that are mounted to the side of a building may be allowed in order to identify the business at that location. Lettering can be made of high-density urethane or wood. Maximum allowable area for lettering is 1 square foot per linear foot of building wall the lettering is attached to and not to exceed 50 square feet for all zoning districts and 32 square feet for all residential zoning districts (added 08-08-11).

**Logo** – A graphic mark or emblem commonly used by commercial enterprises, organizations and even individuals to aid and promote instant public recognition. Logos are either purely graphic (symbols/icons) or are composed of the name of the organization. An example of a word-mark: “IBM” (added 08-08-11).



**Maintenance** – The cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign (added 08-08-11).

**Monument Sign** – A ground sign that is mounted generally flush with the surrounding grade. It may not be attached to a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed 24 inches in height and are included in the measurement of sign height.

**Neon Signs** – Luminous tube sign that contains neon or other gasses at a low pressure. Refer to Section 501.1 Colored Lighting (added 09-14-2009).

**Noncommercial Sign** – A sign that is not related to or connected to trade or commerce in general.

**Nonconforming Sign** – A sign that was legally erected, but that does not comply with the subsequently enacted sign regulations and restrictions (added 08-08-11).

\*\*\*\* [Is this content based???](#) **Off-Premise Sign** - A sign identifying/advertising and/or directing the public to a business [an activity or event no limited to](#) , or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased, produced,

manufactured and/or furnished at a place other than the real property on which said sign is located. ~~Such signs are used to further promote those locations which are not along a major thoroughfare and cannot benefit from the same exposure as those who are.~~

**IS this content based???** **On-Premise Sign** - A sign or display that identifies or communicates a message related to the activity conducted, the service offered, or anything sold on the premises where the sign is located ~~or event, whether that be commercial or residential.~~ A sign permit shall not be approved until a principal use has been established on the property. The activity for an event must actually be occurring to be classified as an on-premise sign.

**Panel** - The primary surface of a sign that carries the identifying/advertising message.

**Pennant** - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. ~~Including feather signs and banners.~~

\*\*\*\* **Is this content based???** **Portable Sign** - Any sign designed or intended to be readily relocated whether or not it is permanently attached to a building, structure, ~~vehicles~~ or on the ground. Portable signs also include signs on wheels or on portable structures such as trailers, ~~motor vehicles, and/or~~ tent signs, A-frame or T-shaped signs, attached to a person and/or normal advertising placed on motor vehicles which are not used regularly and are placed in such a manner as to attract attention, ~~especially if parked at a location other than at the location it is identified with, but never moves as a means of advertising.~~ (amended 08-08-11).

**Projecting Sign** - A sign which projects from a structure into a vehicular or pedestrian access way, more than one foot from the surface on which it is mounted, and is mounted usually, but not always, at right angles to the building.

**Public Right-of-Way** – The land or interest therein acquired for or devoted to transportation purposes by the Town of Banner Elk or the State of North Carolina Department of Transportation (added 08-08-11).

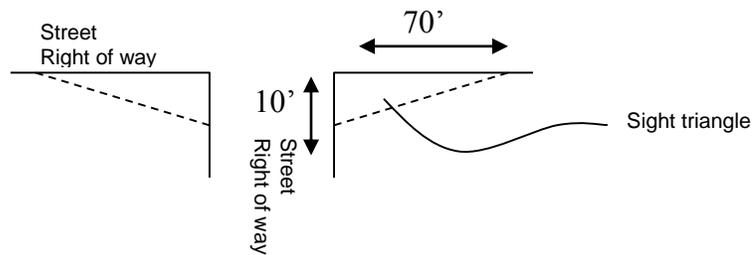
**QR Code** – The use of QR Codes (Quick Response Codes) will be allowed on a smooth flat surface, as an addition to an existing sign or as an attachment to an existing sign, to be no greater than 4” x 4”. (Added 10-08-2012)

**Roof Sign** – Any sign erected and constructed wholly on and over the roof of a building, supported by the roof, and extending vertically above the highest portion of the roof.

~~**Real Estate Signs** advertising the sale, rental, and/or lease of the property on which said sign is located. Signs must be mounted on a wooden pole that shall not exceed 4” x 4” or a one-inch channel iron post or similar material, if approved by the Zoning Administrator. The sign shall be removed within seven (7) days of the sale, rental or lease of the property. Construction of said sign shall be in compliance with Section 605 (a). See Tables 608-1 and 608-2 for size and placement. One (1) info tube shall be allowed per sign and must be attached to the bottom of the sign. (Added 12/21/2010 amended 08-08-11). A sign placed upon property advertising that the particular property is for sale. available.~~

**Roof Sign** – Any sign erected and constructed wholly on and over the roof of a building, supported by the roof, and extending vertically above the highest portion of the roof.

**Sight Triangle** - The triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way. The sight triangle, as required by the North Carolina Department of Transportation, is illustrated below; however, this sight triangle may be varied by the Administrator on Town and private streets as deemed necessary. On a corner lot in any zoning district, no planting, structures, sign, fence, wall, or obstruction to vision more than two and one-half (2 ½) feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street right-of-way.



**Sign** - Any display of letters, words, numbers, symbols, emblems, objects, pictures, or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display is made on, attached to, or constructed as part of a building, structure, vehicle, or object.

**Snipe Sign** – A temporary sign or poster affixed to a tree, public utility pole, fence, etc...(added 08-08-11).

**Spinner** - A wind activated, propeller-type device, which may or may not be attached to advertising copy.

**Streamer** - A string or strip of miniature or full size pennants or flags that may or may not be suspended between two points.

**T-Shaped Sign** - A portable sign comprised of one or more panels or faces joined at the bottom to a perpendicular base on which the sign stands.

**Temporary Sign** - A sign intended to be displayed for a temporary period of time. Temporary signs are exempt from permit requirements and are allowed in the Banner Elk's Zoning Jurisdictions provided that they are displayed for no more than 30 days cumulative within a six (6) month period for the same sign. Temporary signs are limited to three (3) per parcel and must be placed at least five (5) feet from the edge of the road without blocking other signs. Temporary signs cannot exceed three (3) square feet or a height of 2.5 feet if inside the sight triangle or four (4) feet and must be made of a material that is suitable for the timeframe they are visible without deterioration. A deteriorated sign can be pulled if it is unreadable to the public or does not promote a business in Banner Elk's Zoning Jurisdiction.

**Vision Obstruction** – The placement of a sign that would limit a full view of both pedestrian and vehicular traffic within the sight triangle. See Section 402.9. (Amended 10-10-11).

**Wall Sign** - A sign affixed on and parallel to the exterior wall of any building and projecting not more than 12 inches from the wall. Signs mounted on porticoes shall be considered as wall signs.

**Window Sign** - A sign that is applied to the building glass area.

### **SECTION 602 Sign Materials**

Signs should be designed to have minimum detrimental impact on the environment *while also taking into consideration the weather patterns that occur in this area*. Material and craftsmanship should be in harmony with the natural and mountain character of the surroundings. As a quick summary, you may refer to items (a) and (b) below. For more complete details refer to Sections 603 through 606. (Amended 12/21/2010)

#### **(a) ALLOWED:**

- Colors provided in Section 600.2 (gold leaf lettering is allowed)
- Sandblasted (minimum ¼ depth)
- Hand carved signs
- Routed signs
- Supports constructed from rock, brick, or wood posts (Amended 05-13-13)
- Ground signs with incorporated landscaping
- Attracting direction to business conducted on the premises upon which the sign is displayed
- Day glow or reflective signage is permitted for addressing and emergency purposes
- Neon signs that display open and/or closed only
- Signs in the Heritage Overlay District shall be reviewed and approved by the Architectural Review Committee

#### **(b) PROHIBITED:**

- ~~Signs that do not advertise or directly support businesses in Banner Elk's Zoning jurisdiction (Added 10-10-11)~~
- Off-premise signs including billboards, except where permitted by Table 608-3
- Portable signs
- Directly/Internally illuminated signs
- Flashing or moving signs
- Fluorescent colors
- Roof signs
- Sign faces with an aluminum, vinyl, or similar material
- High gloss finishes
- Day-glow and fluorescent colors (except for as permitted in 600.1 (a))

### **SECTION 602.2 Sign Colors**

Colors shall blend in well with the natural surroundings. The Banner Elk Color Chart shall serve as a guideline. The color chart can be found at [www.oldecenturycolors.com](http://www.oldecenturycolors.com). (Added 10-10-11) Should the color for repainting match the existing, then no permit will be required, unless the colors are out of compliance. Accent color(s) may be allowed with no greater than 2% of the overall sign calculated for the accent color(s) and with prior approval from the Zoning Administrator.

## **SECTION 603 Applicability and Regulatory Purposes.**

1. To promote the creation of an attractive visual environment that promotes a healthy economy by:

- Enhancing the Town's ability to attract sources of economic development and growth, while protecting the beauty and unique character of Banner Elk and enhancing the aesthetic environment of the Town by eliminating visual blight (added 08-08-11).
- Permitting anyone to inform, identify, and communicate effectively;

2. Protecting and enhancing the physical appearance of Banner Elk in a lawful manner that recognizes the rights of every property owner by:

- Encouraging the appropriate design, scale, and placement of signs.
- Encouraging the orderly placement of signs for the safety and best use for all affected.
- Assuring that the information displayed on a sign is clearly visible, conspicuous, legible, and readable so that the sign achieves the intent it is purposed to do.

3. Fostering public safety along public and private streets within Banner Elk's Zoning Jurisdiction by assuring that all signs are in a safe and appropriate place:

- Promoting public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the Town.

4. Allowing for administrative review procedures that are the minimum necessary to:

- Allow for consistent enforcement of the Sign Ordinance.
- Establishing a permit system for an allowable variety of signs in commercial districts, and a limited variety of signs in other districts, subject to the standards and permit procedures of this ordinance
- Allowing certain signs that are small and unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this article, but without the a requirement for permits.
- Providing for temporary signs for a limited timeframe and under limited circumstances.
- Minimizing the possible adverse effect of signs on nearby public and private property.
- Prohibiting all signs not expressly permitted by this article.

5. Alteration of the Sign Face versus Maintenance. Repainting of a sign face for maintenance purposes, and not including changes to color or message shall be considered maintenance or repair and a sign permit is not required. However, any physical alteration of the sign frame or supporting structure shall be considered the same as construction of a new sign and shall require a sign permit and conformance with the standards established in this section.

\*\*Deleted Pylon (or Pole Sign definition 10-10-2011.)

## **SECTION 604 General Regulation of Signs**

Measurement of Sign Area and Height. The following guidelines shall control the computation of the sign area and height: (amended 08-08-11).

- (a) Computation of Area of Single-Faced Signs: The area of a sign face shall be considered to be that of the smallest 2-dimensional panels which encompasses all lettering, wording, design, or symbols together with any background difference in the balance of the wall on which it is located, if such background is designed as an integral part of and obviously related to the sign.
- (b) Computation of the Area of a Double-Sided Sign: The area of each panel of a sign that is designed to be seen from both sides shall be calculated independently. (Amended 10-10-11)
- (c) Supports: The supports, which affix a sign to the ground or to a building, shall not be considered in the area of the sign unless supports are obviously designed to be an integral part of the sign, as defined by these regulations. Wooden ground supports shall be a minimum of 4" x 4". Temporary signs may use one 2" x 2" channel iron support.
- (d) Computation of Height: The height of a sign shall be measured from the highest point of a sign or its support; whichever is greater, to the base of the sign at the highest adjacent grade.
- (e) Copy Area: The area of the sign face that is covered by text or symbols. No more than 50% of the sign area shall be covered with text or symbols

**SECTION 605 Permit Required. Except as set forth oin 608, a permit shall be required prior to the erection of any sign regulated under this Article.**

~~Permitting Required. . A sign commercial message which advertises a product, service, activity, event, person, institution, or business that is shall not be located on the subject lot until a permit has been issued.~~

**SECTION 606 Design, Construction and Maintenance.**

All signs shall be designed, constructed, and maintained in good structural condition according to applicable provisions of the North Carolina State Building Code, all applicable electrical codes and this ordinance. (Amended 08-08-11)

- (a) Technique: All signs shall be sandblasted, hand carved or routed.
- (b) Materials: A minimum of ¼ inch depth; made of wood or like material manufactured to replicate wood, with craftsmanship to be in harmony with the natural and mountain character of the surroundings. The approved Banner Elk Color Chart shall serve as a guideline for the acceptable colors. Any color outside this color chart will need to be approved by the Planning Board. Temporary materials may be allowed for temporary signs with prior approval from the Zoning Administrator.
- (c) Landscaping: All ground mounted signs shall have incorporated landscaping which is consistent with the Banner Elk Streetscape Format with support being constructed from rock, wood posts or other natural materials being located outside of road rights-of-way.
- (d) **Placement:** Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinances, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another

structure by direct attachment. Signs shall not be placed in the road right-of-way and shall be kept out of the sight triangle (See 402.9 for an illustration of sight triangle).

- (e) Design Area: All signs, unless otherwise stated or implied, shall have no more than two faces, displayed on opposite sides and without a space or angled projection to one another. Said signs shall have the same message and general design on both faces.
- (f) Maintenance: The trimming, removal or addition of trees, shrubs, or other vegetation located within the public right-of-way or within designated streetscape or greenway areas shall be coordinated efforts between the Town and the adjoining property owner. The final approval shall be the domain of the Town. (Amended 10-10-11)
- (g) Lighting: Illuminated signs shall be by a shielded indirect white or amber light of reasonable intensity and directed solely at the sign face. Internally lit signs are not allowed.
- (h) Vision Obstruction: No sign shall create a vision obstruction onto a public right-of-way, including alleys and sidewalks, except for government signs. All signs shall be set back out of the right-of-way and the sight triangle as addressed in Section 402.9.
- (i) Changeable Copy: In no case shall the changeable copy area of a sign or marquee exceed fifty percent (50%) of the total sign area.
- (j) Projecting, Suspending, and/or Canopy Signs: Projecting, Suspending, and/or Canopy signs may be no less than eight feet at their lowest point above any sidewalk or walkway.
- (k) Private Property. All signs and sign structures shall be located on private property, except when expressly allowed to encroach into a public right-of-way. Setbacks. Sign setbacks shall be measured from the lot lines. All signs, unless otherwise provided for, shall be setback a minimum of fifteen (15) feet from the front, side, or rear of a property line.
- (m) Natural Features. Construction, erection, installation or modification of a permitted sign shall not cause the removal of trees, alteration of the natural topography, or obstruction of a natural drainage course.

### **SECTION 607 Prohibited Signs.**

The following signs are prohibited within the Town of Banner Elk and its ETJ :

- (a) Signs that are similar, or mimic, official highway signs, warning signs, or regulatory devices.
- (b) Signs displaying blinking, flashing, or intermittent lights, animation and moving parts or electronically displayed messages, ~~with the exception of LED Reader Board style signs which display the time and temperature.~~
- (c) Portable signs or any fashion of moveable sign
- (d) Off-premise signs except those expressly permitted herein \*\*\*\*\* [Content based?](#)
- (e) Off-premise Outdoor Advertising signs ([billboards](#)).
- (f) Facsimile signs
- (g) Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches and refuse containers or any other inanimate object.

(h) Roof signs

(i) Pavement markings for purposes other than traffic control

(j) Signs placed within or extending into the right-of-way of Town and state maintained streets and roads, except those erected by a duly constituted government body.

(k) Signs that contain language and/or pictures obscene to the general public in accordance with NCGS 14-190.1.

\*\*\*\* Note: Is this content based?(l) Signs that advertise an activity or business no longer conducted on the property on which the sign is located, except as addressed in Table 608.3, "Business Relocation Signs".

(m) Indirect illumination, such as floodlights, erected in such a manner as to cause glare that impairs driver vision on streets or roadways or that causes a nuisance to the occupants of adjoining property.

(n) Signs that obstruct fire escapes, windows, doors or other openings used as a means of egress or as required legal ventilation

(o) Signs containing or consisting of pennants, ribbons, streamers, festoon lighting, balloons (or inflatable signs), spinners, feather signs or banners.

\*\*\*\* Is this content based?(p) Directly illuminated signs, with the exception of seasonal holiday decorations without commercial advertising

(q) Signs whose face is composed of vinyl, aluminum or similar materials

(r) Signs that do not conform to the provisions of these regulations

(s) Snipe signs

~~(t) Signs that do not advertise or promote businesses or the Town of Banner Elk's zoning jurisdiction. (Added 10-10-11)~~

### **SECTION 608 Exempt Signs.**

The following signs do not require a permit:

(01) **Building Marker Signs.** A sign etched into masonry, bronze or similar material on a building.

~~(02) **Business Identification Sign.** A pedestrian oriented sign attached to a building to identify the tenant within. Such sign shall contain no advertising other than trade name and/or logotype. One sign is permitted per entrance. MAXIMUM SIZE: 6 SQUARE FEET~~

~~(03) **Construction/Contractor's and Subdivision Project Signs.** Such signs shall be non-illuminated and may be located in any district to identify future tenants, homebuilders, contractors, and architectural or engineering designers during the period of construction.~~

~~These signs shall be removed no later than seven days after the completion of the project and for Planned Residential Developments one year after final plat approval, whichever comes first. MAXIMUM SIZE: 24 SQUARE FEET TOTAL PER SITE; LOCATED 15 FEET BACK OF STREET AND/OR SIDEWALK. (Amended 07-14-08)~~ Treat as an on premise sign

- (04) **Directional Signs.** Signs that are located on the premise/property to provide directions. Such signs contain no copy (i.e. company name or logo) other than directional information such as “exit”, “entrance”, “parking”. No more than two (2) signs per entrance or exit shall be permitted. Max. Size: 4 SF; Max. Height: 4 feet.
- (05) **Drive-Through Signs.** Signs that are permitted as either a freestanding or attached wall sign. Such signs may not exceed 28 square feet and should not be visible from the front of the building. No more than two drive-through signs are allowed per location (added 08-08-11)
- (06) **Official Flags.** ~~Per the United States Code, Title 4, Chapter 1, authorization is granted to fly the United States flag as prescribed in that code and is considered a living symbol. Per NCGS 144.3 and 144.7, The North Carolina State Flag is authorized to fly at Public Institutions.~~ Flags or insignia of any nation (United States), organization of nations (United Nations), state (North Carolina), county or municipality (Avery County or Banner Elk), any religious (Star of David), civic or fraternal organization (Kiwanis or Lees McRae College Phi Beta Kappa), or any educational or cultural facility and/or any one corporate flag per lot. The total number of flags allowed is three (3) in all zoning districts; except residential. With the exception of flags flown in an official capacity, flags are restricted to no greater than 4' x 6' on a flag pole and 3' x 5' otherwise. Ornamental residential flags are allowed with no more than two (2) per residence and no greater than 3' x 5'. Flagpoles cannot exceed the 35-foot height restriction. **Ornamental flags are allowed with no more than one (1) per location no greater than 2' by 3'.**
- (07) **Government Signs.** Signs posted or authorized by various local, state, and federal agencies in the performance of their duties such as regulatory signs, welcome signs, and traffic signs. Also, Bulletin Boards erected and maintained by the Town of Banner Elk.
- (08) **Historical Marker.** An historic marker may be placed on the premise or property for the expressed purpose of signifying the site or an event that occurred on the site as having historical value. The request should be accompanied with a notation of the historical value of the site or the event or person(s) it is representing. Max Size: 16 SF (Added 07-14-08)
- (09) **Informational Signs.** Signs displayed for the direction and convenience of the public. Such signs shall not exceed two (2) square feet in area and are to be used to ~~advertise~~ **inform the public about a** service or function not immediately in view of the public, i.e. “ATM”. (amended 10-10-11)
- (10) **Legal and Warning Signs.** Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies; signs required for or specifically authorized for a public purpose by any law, statute or ordinance.
- (11) **Occupant/Street Number Signs.** Signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or

occupant. All such signs shall be placed in such a manner as to be visible from the street.  
MAXIMUM SIZE: 2 SQUARE FEET.

- (12) **Political Signs.** ~~See temporary signs. Political signs may not be located within a public street right-of-way and in no case closer than three (3) feet from the edge of the pavement, and shall not be attached to trees or utility poles. Signs may be displayed on the 30<sup>th</sup> day before the beginning date of "onestop" early voting under GS§ 163-227.2 and ending on the 10<sup>th</sup> day after the primary or election day. Permittee must obtain permission from any owner of a residence, business, or religious institution fronting the right-of-way. No sign shall obscure motorist visibility of an intersection or replace another sign. Max. Size: 16 SF; No more than 4 signs per lot; not to exceed aggregate of 64 SF. (Amended 02-11-2013)~~
- (13) **Temporary Signs.** Temporary signs are exempt from permit requirements and are allowed in the Banner Elk Zoning Jurisdiction provided that they are displayed for no more than 30 days cumulative within a six (6) month period for the same sign. Temporary signs are limited to three (3) per parcel and must be placed at least five (5) feet from the edge of the road without blocking other signs. Temporary signs cannot exceed three (3) square feet or a height of four (4) feet, 2.5 feet in the sight triangle, and must be made of a material that is suitable for the timeframe they are visible without deterioration. ~~A deteriorated sign can be pulled if it is unreadable to the public.~~ A sign that has deteriorated to where it is no longer functional as a sign is prohibited. Size cannot exceed 18" by 24" or 3sf. For temporary signs, the height cannot exceed 4 feet, and cannot be placed closer than five (5) feet from the edge of the highway.
- (14) **Temporary Holiday/Seasonal Decorations.** Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration/season.
- (15) **Window Displays.** Merchandise, pictures or models of products or services that are incorporated as an integral part of a window display.
- (16) **Window Signs.** Signs temporarily attached or temporarily painted to a window or door, announcing sale or special features, provided they do not exceed 50% of the area of said window or door. Signs that exceed 50% of the area of said window shall be treated as wall signs. Temporary signs shall be removed within 2-days after the termination of such sale or special event.

(Section on requirement of Planning Board to review all signs was deleted on 4-12-10 by adoption of deletion from Town Council.)

**Table 609-1 Standards for Permanent Signs in R-1, R-1-U, and R-2.**

Type of sign	MAXIMUM SIZE OF SIGN	MAXIMUM NO. OF SIGNS	MAXIMUM HEIGHT	LOCATION OF SIGNS
Free Standing <ul style="list-style-type: none"> <li>• <i>Outside the Heritage Overlay District</i></li> <li>• <i>Inside the Heritage Overlay District</i></li> </ul>	48sf  32sf	1 per frontage  1 per frontage	14'	Outside of street right-of-way and sight triangle**
<del>Residential Property Sales</del> <ul style="list-style-type: none"> <li>• <i>Residential Areas</i></li> </ul>	2sf	1 per street frontage	3'	Outside of street right-of-way and sight triangle**
<b>Wall Mounted Signs</b>	1sf per linear foot of building wall the sign is attached to and not to exceed 32 square feet.  4sf	1 per building wall with frontage  1	Not to extend above vertical wall	—  —
<b>Free Standing Project/Construction Sign</b>  <b>Planned Residential Development</b>  <b>** For Illustration see 402.9 Parking</b>	24 square feet for tracts exceeding three acres or advertising lots for sale in approved subdivision	1 per PRD allowed for up to one year from final plat approval with renewal option by Architectural Review Committee	4'	Outside of street right of way and sight triangle **

**Table 609-2A Standards for Permanent Signs in C-2, M-E\*, and M-1 (to include all signs also permitted in Table 608-1)**

Type of sign	MAXIMUM SIZE OF SIGN	MAXIMUM NO. OF SIGNS	MAXIMUM HEIGHT	LOCATION OF SIGNS
Freestanding/Ground Signs	48 square feet	1 per street frontage	14'	Outside of street right-of-way and sight triangle**
<b>Wall Mounted Signs</b>	1 square foot per linear foot of building the sign is attached to, up to a maximum of 50sf.	1 per building wall that has frontage on a public street or parking lot.	Not to extend above the vertical wall or roof line	—
<b>Commercial Property Sales</b>	3sf	1 per street frontage and no illumination will be allowed	4'	Outside of street right-of-way and sight triangle**
<b>Projecting/Suspending/Canopy Signs</b>	8sf	1	—	Vertical clearance from sidewalk and/or Public Street is a minimum of 8'
<b>Combined development</b> <i>(Multiple units in one or a group of buildings)</i>	Not to exceed an additional 50% of the area allowed for a free-standing sign or a total of 72 sf, whichever is greater.	1	14'	Outside of street right-of-way and sight triangle**
<p>*Signage in addition to that listed above is permitted in M-E district as a conditional use, when signs are needed to identify the name of more than one structure or use, or specific signs are needed for public health and safety. HOD areas require special permitting. **For illustration see Section 402.9.</p>				

**Table 608-2B Standards for Permanent Signs in C-1, C-1P, M-E\*, and HOD (to include all signs also permitted in Table 608-1)**

Type of sign	MAXIMUM SIZE OF SIGN	MAXIMUM NO. OF SIGNS	MAXIMUM HEIGHT	LOCATION OF SIGNS
Freestanding/Ground Signs  <i>Individual businesses may not exceed a combined total of 32square feet.</i>	32 square feet	1 per street frontage	14'	Outside of street right-of-way and sight triangle**
<p align="center"><b>Wall Mounted Signs</b></p>	1 square foot per linear foot of building the sign is attached to, up to a maximum of 35 sf.	1 per building wall that has frontage on a public street or parking lot.	Not to extend above the vertical wall or roof line	—
<p align="center"><b>Projecting/Suspending/Canopy Signs</b></p>	8sf	1	—	Vertical clearance from sidewalk and/or public street is a minimum of 8'
<p align="center"><b>Individual business</b></p>	8sf, plus 2sf per additional tenant, up to 32sf total	1	—	Outside of street right-of-way and sight triangle**
<p align="center"><b>Combined development</b>  <i>(Multiple units in one or a group of buildings with multiple entrances designed for this purpose)</i></p>	<i>Not to exceed an additional 50% of the area allowed for a free-standing sign or 48 sf total.</i>	1	14'	Outside of street right-of-way and sight triangle**
<p>*SIGNAGE IN ADDITION TO THAT LISTED ABOVE IS PERMITTED IN M-E DISTRICT AS A CONDITIONAL USE, WHEN SIGNS ARE NEEDED TO IDENTIFY THE NAME OF MORE THAN ONE STRUCTURE OR USE, OR SPECIFIC SIGNS ARE NEEDED FOR PUBLIC HEALTH AND SAFETY. HOD AREAS REQUIRE SPECIAL PERMITTING. **FOR ILLUSTRATION SEE SECTION 402.9.</p>				

**Table 608-3 Standards for Temporary or Incidental Signs Requiring a Permit**

<b>Zoning District</b>	<b>MAXIMUM SIZE OF SIGN</b>	<b>MAXIMUM NO. OF SIGNS</b>	<b>MAXIMUM HEIGHT</b>	<b>LOCATION OF SIGNS</b>
<b>R-1, R-1-U</b> <i>Temporary Agricultural Product Signs</i> <i>Directional Signs<sup>1</sup></i> <i>Security and Warning Signs<sup>2</sup></i>	4sf 4sf 2sf	2 per property  3 per business/ activity	4' 4'	Outside of street right-of-way and sight triangle**
<b>Temporary Signs</b>	4sf  2sf	2  1 on a major thoroughfare and one on the actual property being shown.	4'  4'	Must be kept 4' off the edge of the pavement.  Outside of street right-of-way and sight triangle**
<b>C-1, C-1P, C-2, M-E and M-1</b> <i>Temporary Banners<sup>3</sup></i> <i>Temporary Seasonal Business Signs<sup>4</sup></i> <i>Directory Signs</i>	24sf 24sf 24sf, but not to exceed the size of the freestanding sign to which it is attached	1 1 1	4' (endnote 4)	Outside of street right-of-way and sight triangle**  “
<i>Menu Wall Signs</i>	6sf	1	4' Not to extend above the vertical wall or roof line	Within ten feet of main entrance of principal building

~~<sup>1</sup>Off-premise directional signs shall only be used by places of business and institution; which are located in Banner Elk's zoning jurisdiction and said locations do not have direct frontage from NC 184 and NC 194. (Amended 06-11-2007)~~

~~<sup>2</sup>On-premise signs which designate health or safety warnings as required by law, and security signs which regulate the use of property (i.e. "no trespassing," "no hunting," "no soliciting") or provide other warnings of danger on the premises. Larger signs are permitted where required by law or statute provided the signs shall not exceed the maximum number or size required by said law or statute.~~

~~<sup>3</sup>Permitted for opening and other special events for a maximum of thirty (30) days during a six month period~~

~~<sup>4</sup>Sign shall be attached to or suspended from an existing conforming freestanding sign; the sign shall not extend above the permitted height of the existing sign, nor placed on top of the existing sign. Additions shall not extend below the permitted 8' vertical clearance over streets or sidewalks. Permit shall be valid for a period of 120 days. Only one sign shall be permitted at any one time. (Amended 10-16-2007)~~

~~<sup>5</sup>Off-premise directional signs shall only be used by places of business and institution; which are located in Banner Elk's zoning jurisdiction and said locations do not have direct frontage from NC 184 and NC 194. Directional signs are limited to one per entity/activity, indirect illumination, and written permission of the property owner on which the sign is located is required for permit. Business Relocations: A sign may be placed at the original location giving directions to the new location provided the new location is within Banner Elk's Zoning Jurisdiction. If new location is not in Banner Elk's zoning jurisdiction then on the City/Town location may be used for a new location information. The sign may be placed at the original location for up to 30 days; the Administrator may consider extensions if the relocation is due to casualty loss. (Amended 06-11-2007)~~

### **SECTION 609 Non-Commercial Messages.**

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

### **SECTION 610 Community Events Advertisements.**

Advertisements for community events may be placed upon a facility designated by the Town. These advertisements shall be in the form of a banner; a maximum of 24 square feet. The facility shall provide room for only one (1) advertisement at any time per set of posts. An advertisement shall be displayed for no longer than seven (7) consecutive days, **unless prior approval has been granted for a Town sponsored event and shall be displayed only one time within a six (6) month period.** If an event is ongoing through several months, the Town can decide how long the banner can remain as long as other events can have access as needed. Any person or group using this facility shall have the burden of removing the banner on the business day directly following the event. Unclaimed banners shall become the property of the Town of Banner Elk. Placement of banners upon the community facility shall be at the discretion of the Zoning Administrator. Permit is required. Reword under a temporary signage as a community bulletin board. Time place and manner with a permit.

### **SECTION 611 Non-conforming Signs**

(a) Limitations to Continued Use of Non-Conforming Signs. Subject to the following schedule, a non-conforming sign may be continued and shall be maintained in good condition, but it shall not be:

- (i) Changed to another non-conforming sign;
- (ii) Structurally altered as to prolong the life of the sign;
- (iii) Expanded;
- (iv) Reestablished after discontinuance for ninety (90) days; or
- (v) Reestablished after damage, destruction, or deterioration if estimated expense of reconstruction exceeds fifty percent (50%) of the appraised replacement cost.

(b) Removal of all non-conforming signs. All signs already in place as of October 16, 2007 that

do not conform with the regulations of this ordinance shall be brought into conformance with this ordinance or shall be removed within seven (7) years of **October 16, 2007**. Any sign placed after October 16, 2007 that becomes non-conforming as a result of any future amendment or rezoning shall have seven (7) years from the effective date of said amendment or rezoning to bring the sign into conformance with the ordinance or be removed.

- (c) Publicly owned signs. All publicly owned signs that are erected upon any public street, public right-of-way, or public property shall be approved by Town Council and they shall not come under the context of this ordinance.
- (d) Impoundment of Signs. The Town shall have the authority to remove and impound any sign, without further notice, where such signs are not in compliance with this Ordinance as per Section 606, Prohibited Signs, and the sign is placed in any street, state road or highway right-of-way or other right-of-way, attached to trees, fence posts, telephone and/or utility poles, and/or any other than natural features.
  - (i) The Town shall impound such signs for a period of ten (10) days. The owner of a sign impounded may recover it prior to the expiration of the ten-day impoundment period. In the event a sign is not claimed within the ten (10) days of its impoundment, the Town shall have the authority to dispose of such sign.
  - (ii) In the event a violating sign requires special resources for its removal and impoundment, the Town, or independent contractor secured by the Town, shall remove the sign and the resulting charges shall be assessed and the resulting charges shall be assessed to the owner and/or lessee. (Amended 7-13-09)

### **SECTION 612 Penalties**

Each sign that is illegally displayed shall be subject to a civil penalty of \$25.00 per sign per day for each day that the offense continues, plus court costs and attorney fees. The Town shall have the authority to remove and impound any sign, without further notice, where any sign is creating a public safety hazard through placement in any street, state road or highway, right-of-way, or other right-of-way, attached to trees, other natural features, fence posts, telephone and/or utility poles. The Town will attempt to notify the sign owners by phone and/or first-class mail that the signs may be picked up after payment of the associated penalties within ten (10) business days at Town Hall before the sign(s) are destroyed. The Town will assess a \$10.00 pick-up fee for each sign the town removes. The Town shall impound such signs for a period of ten (10) days. The owner of a sign impounded may recover it prior to the expiration of the ten-day impoundment period upon paying all penalties assessed. In the event a sign is not claimed within ten (10) days of its impoundment, the Town shall have the authority to dispose of such sign. In the event a violating sign requires special resources for its removal and impoundment, the Town, or independent contractor secured by the Town, shall remove the sign and the resulting charges shall be assessed to the owner and/or lessee. (Added 08-08-11)

**Section 613.** Violation of ~~this article Section 600~~ of the Town of Banner Elk Zoning Ordinance shall not be deemed a misdemeanor. (Added 08-08-11)

~~Section 614. Notwithstanding any other provision of this code, each parcel of real property shall be allowed, without a permit, an additional thirty two (32) square feet of temporary~~

~~noncommercial signage, not to exceed three (3) signs per parcel at any one time, for a period not to exceed ninety (90) days per calendar year. This provision would allow non-permitted temporary noncommercial signage, but restrict that signage to a certain size and number requirement, and to a certain display time. Moreover, this code provision is content neutral, as it does not limit or restrict what the sign might say—except that it must be noncommercial.~~

With no further discussion, Martha Laura Miller moved to adjourn. Meredith Olan seconded. All were in agreement and the meeting came to a close at 8:01 pm.

Respectfully submitted,  
Cheryl Buchanan, Zoning Administrator, Town of Banner Elk