

Chapter 107

SIGN Ordinance with proposed Adult Use Marijuana amendments

Approved by Board of Selectmen for November 5, 2019 Ballot (Proposed revisions are underlined)

§107-1. Reserved

§107-2. Purpose

The purpose of this Ordinance is to preserve the character of Damariscotta in concert with securing the safety and well-being of its residents by the regulation of signs.

§107-3. Reserved

§107-4. Definitions

ADULT USE MARIJUANA STORE: a facility licensed under State and local laws to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

BANNER: Any sign of lightweight fabric or similar material that is mounted to a pole or a building at one or more edges. For purposes of this Ordinance, national, State, or municipal flags, or the official flag of any institution or business, shall be considered banners.

BUSINESS: An independent retail, professional, service, commercial, industrial or not-for-profit activity that controls its own decisions and, if a for-profit enterprise, pays its own individual sales tax to the State.

CHANGEABLE SIGN, ELECTRONICALLY (DIGITALLY): An on-premise sign created, designed, manufactured or modified in such a way that its message may be electronically or digitally altered by the complete substitution or replacement of one display by another on one side or both sides of the sign.

(a) Display means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.

(b) Message means a communication conveyed by means of a visual display of text that includes letters and numbers (of all styles) or symbols characteristically found on a computer keyboard.

(c) Sign assembly means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.

(d) Time and temperature sign means an electronically changeable sign that displays the

time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature.

CHANGEABLE SIGN, MANUALLY: An on-premise sign designed, manufactured or modified in such a way that its text or symbols may be manually substituted in part or as a whole by other text or symbols.

SIGN: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public, including portable signs and also including a sign located inside a window or door so that it is visible from the exterior of the building. Brand names and logos that are integral parts of goods to be sold and small informational placards decals (e.g. open/close, private parking and business hours placards) are not considered signs under this Ordinance.

SIGN, FREESTANDING: A sign supported by one or more upright poles, columns, braces or structure anchored in the ground and not attached to any building or other structure.

SIGN, INFLATABLE: A balloon type sign made of flexible material into which air, helium, or other gas is pumped to fill it out and make it stand upright but including possibly waving or swaying.

SIGN, LADDER (AKA Component Sign): A sign with two or more signs attached to the same support.

SIGN, OFF-PREMISE: A sign that is not located on the same lot of record that the business, facility, or point of interest is located.

SIGN, PORTABLE: A sign that is not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels or trailers, balloons used as signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business. For the purpose of this Ordinance, blackboard and sidewalk signs are not considered portable signs.

SIGN, SIDEWALK: A moveable sign, which may be an A-frame, easel, pedestal or similar type sign placed on the sidewalk or boulevard area within the public right-of-way or private property.

SIGN, TEMPORARY: Any sign of a temporary nature, displayed less than 30 days within any 12-month period, including but not limited to the following: political signs, charitable signs, fundraising signs, construction signs, carnival signs, garage sales, lawn sales, rummage sales and all signs advertising sales of real estate and personal property, and for-rent signs. Any exterior sign displayed by an ongoing business on the business' premises in which the written or printed (non-electronic) message changes while the structure of the sign remains unchanged shall not be considered a Temporary Sign. For example, chalkboards and signs with removable (non-electronic) lettering shall not be considered Temporary Signs.

SIGN, WAY-FINDING: A Town approved sign that directs the public to public or private facility.

§107-5. Permit Required

A. Except as provided in §107-.6.E and §107.6.G, no person, firm, or corporation(s) shall hereafter significantly alter any sign or sign structure, erect, hang, or place any type of signage without a permit first having been issued by the Code Enforcement Officer (CEO).

B. The permit fee for all new signs shall be as set forth on the Town Fee Schedule.

C. Failure to obtain a permit prior to altering a sign or structure, or erecting, placing, or hanging a sign shall be subject to a permit fee two times the scheduled fee.

D. Every application for a sign permit shall be accompanied by plans to scale: showing the area of the sign, position of the building/structure/lot upon which the sign is to be attached or erected, method of illumination, if any, other information such as (but not limited to) its materials.

E. The CEO shall require the applicant to show full compliance with this and all other laws and ordinances of the Town. If the sign is in compliance with all such requirements and laws, the permit shall be issued.

F. Signage for an Adult Use Marijuana Store shall clearly indicate whether medical marijuana or adult use marijuana is available for sale.

§107-6. Permitted Signs by District – and Regulations

Signs on properties within the Shoreland Zone shall conform to the sign requirements of the Shoreland Zoning Ordinance (§105.6.III.I), except that within the Shoreland “Commercial” District the regulations of §107.6.C) of this Ordinance shall govern, and within the Shoreland “Medical Facility” District, §107.6.B) of this Ordinance shall govern.

The following designates the permitted specifications of signs in each district:

A. General Residential and Rural Districts

1. For an allowed use conducted on the premises, one on-premise sign per abutting street, with a maximum area of sixteen square feet per sign. The top of any portion of a sign shall be no more than 9 feet above the ground.
2. For approved subdivisions, one permanent sign designating the name of the subdivision with a maximum height of nine (9) feet measured from the ground to top of the highest support or top of sign, with a maximum sign area of 32 square feet.
3. For home occupations, one on-building sign, with a maximum sign area of six (6) square feet.
4. The setback of all free-standing signs shall be at least 5 feet from the edge of the right-

of-way of roads and the minimum designated setback for structures from side and rear lot lines of the District in which the sign is located.

5. No signs shall be illuminated internally. Externally lighted signs shall be lighted from above by full cut-off fixtures (i.e. 'down-lighted') and shall be supplied with a timer to be automatically turned-off between 11 PM and 7AM. Flashing signs are prohibited.

B. Municipal and Shoreland "Medical Facility" Districts. It is the intent to allow flexibility in the design of signs for uses in these Districts. Signs are encouraged to be in keeping with those in current and historic use.

C. Downtown Commercial C1 District. An allowed separate use or business situated on its own individual lot may have up to two on-premise signs per separate use or business per each of the four sides of the building.

1. The maximum size of any sign shall be 32 square feet.
2. Electronically changeable (digital) signs and flashing signs are prohibited.
3. In addition to any other permitted signs per business, one (1) freestanding sidewalk sign up to 20" x 28" in size may be permitted for each allowed separate use or business, with a permit from the CEO, on the business' own private property or on the public sidewalk abutting the business. In determining whether to issue a permit, the CEO shall consider pedestrian and vehicle safety. Sidewalk signs on the public sidewalk shall be placed at least 3 feet from the curb and from each other and not obstruct pedestrian or wheelchair circulation. Sidewalk signs shall be removed from public sidewalks during high wind, snow removal and at the closing time of the business every day and stored on private property until the business re-opens. The Code Enforcement Officer or a Police Officer may require sand bag or comparable stabilization of sidewalk signs that repeatedly fall over or move in the wind thereby presenting a public safety hazard.
4. To the extent permitted by State law, in addition to any other permitted signs, all separate uses or businesses, including professional offices, in the C1 District located away from Main Street may have one off-premises sidewalk sign up to 20" x 28" in size that may be allowed with a permit from the CEO on the public sidewalk of Main Street. In determining whether to issue a permit, the CEO shall require the applicant of the use or business to consider pedestrian and vehicle safety and secure the permission in writing of the property owner in front of which the off-premises sign is to be located. Placement of off-premises sidewalk signs shall also be subject to the regulations of §107.6.C.3).
5. In addition to any other permitted signs, a single blackboard sign per use or business shall be allowed on which the message may change, located near an entrance and attached to a building for the purpose of posting information. Such messages may include, but are not limited to, menus, specials, new products, sales, real eState listings or sample designs, provided the sign does not exceed six square feet.

6. In addition to any other permitted signs, businesses, including professional offices, in the C1 District located away from Main Street may have one component or ladder sign that names the business or profession and indicates the direction to the business or profession. The sign may be up to 32 square feet in total display area, on the public right-of-way of Main Street, or on private property on Main Street, so long as all the public safety measures as for sidewalk signs are maintained. Component or ladder signs on private property, other than the property of the uses or businesses on the sign, shall have a letter from the private landowner hosting the sign approving of the sign.
7. For Home Occupations, one on-building or free standing sign with a maximum sign area of six square feet shall be allowed.
8. Externally lighted signs are required to be lighted from above (i.e., down-lighted) to minimize glare onto motorists and pedestrians.

D. Other Commercial C2 District

An allowed separate use, business or professional office, situated on its own individual lot may have:

1. No more than two on-premise signs per each separate street frontage with a maximum area of 100 square feet display area for each separate sign. The highest portion of any sign shall be no more than 20 feet above the ground.
2. Flashing signs are prohibited.
3. Signs by the road of establishments with multiple businesses are encouraged to be combined together in a single location and coordinated together. A combined sign may take the form of a component or ladder sign.
4. One of the total permitted signs per business on a property may be manually or electronically changeable. Electronically changeable signs may be double-sided and free-standing or may be single-sided. Such signs may be embedded into and be a constituent part of a larger non-illuminated sign. (See §107.6.F) for electronically changeable sign requirements.)
5. All electronically changeable signs shall be programmed to be turned down to 50 percent or less of their maximum illuminating power between 11 PM and 7 AM.
6. Externally lighted signs are required to be lighted from above (i.e., down-lighted) to minimize glare onto motorists and pedestrians.
7. For home occupations, one on-building or free-standing sign with a maximum sign area of six square feet is permitted.

8. Inflatable signs may be allowed only in the C2 Commercial District by a permit from the CEO for no more than one five-day consecutive period per calendar year. Inflatable signs shall be located at least 200 feet from any public or private road.

E. Other Allowed Signs – All Districts (No Permit Required)

1. Any sign that was lawfully in existence prior to the date of the adoption of this Ordinance is permitted. However, any change in size, construction, location, or lighting that significantly changes the visual impact of said sign shall constitute a new sign and such change shall be governed by the terms of this Ordinance. Change alone of style, design or content of wording or graphic display shall not constitute a “significant change” for the purposes of this Ordinance. The interpretation of this provision shall be in the sole discretion of the CEO. Sidewalk signs are not “grandfathered”; see §107.6.C(3) and (4).
2. House addresses, family name signs, and no trespassing signs and historic markers or plaques.
3. Traffic control signs, handicapped access signs or signs at schools and all other municipal buildings intended to identify public hazards or ensure and promote public safety. These signs may be electronically changeable or manually changeable.
4. Signs of a business that are painted on, affixed to, or placed behind a window for the purpose of exterior display. No window signs shall flash or emit nuisance level brightness.
5. Informational and directional signs concerning hospitals, emergency medical care facilities, handicapped or way-finding signs.
6. Signs to direct vehicles and/or pedestrians to or within private or public property, provided the signs are no larger than 6” by 18”.
7. Banners and flags are permitted but shall not be placed in a manner or in a location that obstructs pedestrian walkways or vehicular traffic or otherwise compromises public safety.

F. Electronically (Digitally) Changeable Signs

Changeable Signs shall conform to 23 M.R.S.A. §1914 (11-A). In addition:

1. Changeable display area of a single sign shall be allowed up to 24 square feet within an overall changeable sign surface of up to 32 square feet per side (i.e., the digital display area may cover up to 75 percent of a 32 square foot overall sign).
2. The highest point of the display of a changeable sign may not exceed a height of 20 feet above either the centerline of the nearest public way (if the public way is within 50 feet of the sign) or actual ground level adjacent to the sign, whichever is lower.

3. Electronically changeable signs (that may change at any frequency but that do not flash) are allowed at gas stations to announce the current price of gasoline. Such signs require a permit from the CEO.
4. The display on a changeable sign may be changed no more frequently than once every 30 minutes, except for changeable signs at gas stations.
5. When an electronic changeable sign transitions from one display to the next, it must change as rapidly as technologically practicable. The display is permitted to change through phasing, rolling, scrolling or blending. The display is prohibited from flashing.
6. All electronically changeable signs shall be turned down to 50 percent or less of their daytime illumination between 11 PM and 7 AM.

G. Temporary Signs

A temporary sign, as defined in this Ordinance, shall not require a permit. A temporary sign shall not exceed six square feet in sign area and shall not be illuminated. Temporary signs shall be placed so as not to be hazardous to public safety. If deemed hazardous to public safety by the CEO or a Damariscotta Police Officer, the CEO or Police Officer is authorized to require re-location to the nearest place that secures public safety.

H. Prohibited Signs

1. Electronically (Digitally) Changeable Signs are prohibited in all Districts except as expressly permitted in this Ordinance.
2. Obsolete Signs. Any sign now or hereafter existing that no longer advertises a bona fide business conducted, product sold, or activity or campaign being conducted shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or lot upon which such sign may be found. If not removed within 10 days after written notification from the CEO, failure to comply with such notice constitutes a violation of the terms of this Ordinance.
3. Billboards, animated signs, flashing signs, searchlight signs throwing images skyward, rotating and other signs with moving parts and portable signs are prohibited in all zones.
4. Sidewalk signs are prohibited on any public or private way, except as permitted under §§107.6.C(3) and (4), in Commercial C-1 District.
5. Any portion of any sign is prohibited above 20 feet above the ground.

§107-7. Reserved

§107-8. Administration

A. The CEO is authorized to review and act on all applications for a sign permit pursuant to this Ordinance. In considering sign permit applications, the CEO may act to approve, disapprove, or approve with variances as authorized by the Board of Appeals. All work on installing or modifying signs shall be carried out in accord with the documentation submitted on a sign permit approved and signed by the CEO.

B. The CEO and Police officers are authorized to approve minor adjustments in the field to any existing signs and to monitor the public safety of all signs and require relocation if it is determined that public safety is endangered.

§107-9. Appeals and Variances

Variance and administrative appeals may be brought by appellants concerning the interpretation and administration of this ordinance in accordance with of the appeal provisions in the Damariscotta Land Use and the Board of Appeals Ordinances.

§107-10. Enforcement

A. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

B. Code Enforcement Officer

1. This ordinance shall be administered and enforced by the Town's CEO. If the CEO shall find that any provision of this Ordinance is being violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of a sign. A copy of such notices shall be maintained as a permanent record.
2. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to sign permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
3. The CEO shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in interpretation of the ordinance, it shall modify or reverse the action accordingly.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen or the Code Enforcement Officer are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. The Board of Selectmen or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal sign to continue unless there is clear and convincing evidence that the illegal sign was constructed as a direct result of erroneous advice given by an authorized municipal board or official and there is no evidence that the owner acted in bad faith, or unless the removal of the sign will result in a threat or hazard to public health and safety or will result in substantial environmental damage

D. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

§107-11. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Legislative History

Enacted June 15, 2016, effective June 16, 2016

Ordinance amendments effective: January 6, 2020