

LOCAL LAW NO. 7 OF 2018
A LOCAL LAW
AMENDING CHAPTER 160 ENTITLED
“STREETS AND SIDEWALKS”
OF THE CODE OF THE TOWN OF NEWBURGH:
SIGNS ON TREES, LAMPOSTS, TRAFFIC SIGNAL POLES AND
UTILITY POLES IN PUBLIC STREET RIGHTS OF WAY

BE IT ENACTED by the Town Board of the Town of Newburgh, County of Orange, State of New York, as follows:

SECTION 1 – TITLE

This Local Law shall be referred to as “A Local Law Amending Chapter 160 entitled “Streets and Sidewalks” of the Code of the Town of Newburgh: Signs on Trees, Lampposts, Traffic Signal Poles and Utility Poles in Public Street Rights of Way”

SECTION 2 – AMENDMENTS TO CHAPTER 160

1. Chapter 160 of the Code of the Town of Newburgh “ Streets and Sidewalks” is hereby amended by adding a new Article V, entitled "Signs on Trees, Lampposts, Traffic Signal Poles and Utility Poles in Public Street Rights of Way" to read as follows:

“ARTICLE V
SIGNS ON TREES, LAMPOSTS, TRAFFIC SIGNAL POLES AND UTILITY
POLES IN PUBLIC STREET RIGHTS OF WAY

§ 160-39. Legislative findings and intent.

The Town Board hereby finds that signs on trees, lampposts, traffic signal poles and utility poles on or near street rights of way create unreasonable distractions to operators of motor vehicles, create confusion with regard to traffic lights, signs and signals, impair visibility of pedestrians and motor vehicles, create safety hazards to the public and, in particular, pedestrians, distract from identification of surrounding businesses and home-house numbering and detract from the aesthetic character of buildings, sites, districts and the Town as a whole. In addition, the Town Board finds that the undue proliferation of signs, posters and, stickers on trees, lampposts and utility poles detracts from the established character of adjoining properties and of the neighborhood in which they are located and depreciates the values of said properties and neighborhoods. It is hereby found that removal of said signs, posters and stickers will promote the health, safety, morals and general welfare of the community It is accordingly the intent of this local law to prohibit signs, posters and stickers on trees, lampposts, traffic signal poles and utility poles in public street rights of way.

§ 160-40. Definitions.

As used in this article, the following terms shall have the meanings indicated:

Sign - Any material, structure or device or part thereof composed of lettered or pictorial matter or upon which lettered or pictorial matter is placed for display of an advertisement, announcement, notice, directional matter or name, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public. The term does not include objects which are not virtually discernable to the public.

§ 160-41. Prohibition on placement of signs on trees, lampposts, traffic signal poles and utility poles in public street rights of way.

With the exception of any sign erected by the Town, county, state or other governmental authority or public utility and all signs pertaining to traffic regulations, parking regulations and fire zones which are subject to the rules and regulations of the New York State Vehicle and Traffic Law, no sign, poster, sticker or advertising device shall be located upon any tree, lamppost, traffic signal pole or upon a utility pole without the express written permission of the utility company, within the right-of-way of any Town, state or county road or highway.

§ 160-42. Presumption.

It shall be presumed that any person, business or entity identified on any sign, poster, sticker or advertising device regulated by this Article, or the owner, agent, registrant, manager, business, entity or person in charge of any telephone number, web site, entity, business or address identified on any sign, poster, sticker or advertising device regulated under this chapter is responsible for the placement of that sign, poster, sticker or advertising device. This presumption shall be rebuttable.

§ 160-43. Removal by Town authorized.

- A. Upon failure of the person responsible for the placement or of the owner, if a telephone number, e-mail address or address is readily obtainable, to remove a sign, poster, sticker or advertising device regulated under this Article after notice has been given to remove the sign, the Superintendent of Highways or his designee is hereby authorized to remove any sign, poster, sticker or advertising device placed upon any tree, light pole, traffic signal pole or utility pole in a Town street right of way. Said signs, posters stickers or advertising devices shall be held for a period of 72 hours (provided the removal could be accomplished without destroying the sign, poster, sticker or advertising device), and if not claimed by the owner thereof within said seventy-two-hour period, the Superintendent of Highways is authorized to dispose of said signs. There shall be a fee of \$10 per sign for any person or organization redeeming a sign seized pursuant to the terms of this section. Upon receipt of written authorization from the New York State Department of Transportation and/or the Orange County Department of Public Works, the Superintendent of Highways shall be authorized to remove signs, posters, stickers or advertising devices in accordance with this section from state and/or county roads

and highways. In the event the only contact information for the owner is a telephone number, website or e-mail, notice prior to removal may be given by the contact means provided 48 hours in advance of the removal. If a mailing address is obtainable, notice prior to removal shall be given either by hand delivery to the address or by certified mail, return receipt requested, at least three (3) calendar days prior to the removal of the sign, poster, sticker or advertising device.

- B. Upon notification by the Code Compliance Department to the Superintendent of Highways or his designee that a temporary commercial sign is present in a public street right of way, or a temporary non-commercial sign which violates the requirements of Chapter 185 is present in a public street right of way, the Superintendent of Highways may remove such signs in accordance with the procedures set forth in Subsection 160-43A above.

§ 160-44. Penalties.

- A. A violation of this article is hereby declared to be a violation, and any person violating the same shall, upon conviction, be punished by a fine of not less than one hundred dollars (\$100.) nor more than two hundred fifty dollars (\$250.) for each offense. Each day or part thereof such violation continues after notification by the town shall be deemed a separate offense punishable in like manner. The town may also bring an action or proceeding to enjoin the violation and/or to recover the costs incurred by the town for remedying the conditions brought about by the violation of this article.
- B. In addition thereto, the Town may proceed to enforce and remove any illegal sign as provided for under Chapter 185, Zoning, of this Code.”

SECTION 4 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder of this local law or the application thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. The Town Board of the Town of Newburgh hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION 5 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.