

The Sign and Sidewalk Issues

I'm sure you probably remember last Spring when we had all the ruckus about the Board of Aldermen (and specifically me and the City Manager) trying to destroy our businesses with the new regulations on A-frame signs and obstructions on the sidewalks. Of all the controversial issues I've had to deal with so far as an alderman, this one has been the most baffling. It has also been the subject of gross misinformation and misunderstanding among the merchants and citizens. Herewith are the facts surrounding those ordinance changes.

Despite the claims from No Fog, there were complaints from citizens and merchants about the streetscape along Howe and Moore Streets. The specific target was the preponderance of A-frame signs—many of them crudely made—that were clogging the sidewalks and, in some cases, the streets. A look at the city ordinances regarding A-frame signs showed that they were **prohibited** in almost all areas of the city.

After talking it over with my fellow aldermen, we decided to form a committee to develop a new ordinance that would allow A-frame signs. The key considerations were safety (follow ADA guidelines, take signs in at night) and maintaining the character of Southport. There were 3 merchants on the committee, which also included Alderman Mary Ellen Poole, and 2 members of the planning board. Director of Planning, Amy Nelson, was present to give us advice on how other cities deal with A-frame signs and what would be reasonably enforceable.

Another huge concern was the state highway right-of-way (ROW) along Howe and Moore Streets. The state ROW varies, especially along Howe Street, but in many areas it includes most or all of the sidewalk in front of businesses.

NC State Statutes specifically prohibit signs, or anything else, to be placed in state highway ROW's.

This fact has been ignored by the critics of our new sign policy. Technically, NCDOT can either insist we remove all signs within their ROW, or they will do it. Is NCDOT likely to enforce this law? It depends on who you ask. Most citizens and business owners say, "No." I decided to ask NCDOT, so I contacted the Wilmington regional enforcement director. He told me that enforcement is generally driven by complaints, but they can and have done it in areas where signs were "out of hand." If the City has a solid sign ordinance it would reduce the likelihood that NCDOT would swoop down and remove our merchant's signs. That is exactly what we tried to do with the new ordinance.

Acceptance and compliance with the new A-frame sign ordinance by the merchants has been excellent. As a result, our main entrance into Southport and the central business district looks much better. Complaints the ordinance would seriously hurt the viability of our businesses has been proven to be unfounded. Those who have refused to comply are only going to hurt their fellow merchants who have gone through the process of having their signs permitted and approved. It is not possible for the lack of an A-frame sign to kill an otherwise viable business.

Enforcement is critical if we expect universal compliance, and this was going well until the City Manager resigned. Now, some of the merchants who were the last to comply are going right back to putting up their illegal A-frame signs and not obeying any other provisions of the ordinance. Our Code Enforcement Officer has been vigilant, but certain business owners feel the rules are for the other guys. They are used to the good ol' boy form of government: if you know someone "influential," or if you've been here for many years, you won't get a citation or have your sign removed. That's the way it's been in Southport for far too many years.

I must also point out that the vote in favor of the new A-frame sign ordinance was unanimous. It had universal support from the Board of Aldermen, so it cannot be considered the will of 1 or 2 people.

When the information went out to the merchants about the new A-frame regulations, city staff felt it was a good time to clarify and enforce other ordinances related to sidewalks and pedestrian right-of-ways in the business districts. That's when we discovered that our current ordinances prohibited *anything* from being placed on sidewalks.

Like the A-frame sign prohibition, the sidewalk obstruction ordinance was also unreasonable. We had to act soon because the tourist season was upon us and elimination of the various benches and art-decorative items on the sidewalks contributes greatly to the appeal of the downtown business district. The new ordinance had to be reasonable enough to allow many of the items currently on the sidewalks, but safety and the ADA regulations had to be foremost in our minds.

A note on ADA regulations: The ADA (Americans With Disabilities Act) covers all access and safety issues related to people with physical impairments. This includes (but not limited to) sight, hearing and mobility problems. Businesses and public places should be accessible to all citizens and visitors. Compliance is not only a moral imperative, it's the law.

The law itself is long and complex. Guidelines for compliance take up many volumes and massive gigabytes on the web. The City must make certain that all areas over which it has control are ADA compliant. One of the largest areas of concern is public sidewalks, and the guidelines are quite clear in this regard. Pointing out that some city sidewalks don't have proper ramps for wheelchairs is not an excuse for allowing obstructions in the public ROWs. The current ordinance at the time of our intervention was ADA compliant (no items on the sidewalks at all). The new ordinance also had to include ADA provisions.

General safety was another important issue. Sidewalk items placed next to the curb were of particular concern because they interfered with sidewalk access, could be struck by parking cars, or could fall into the street. Specifically, benches placed next to the curb could tip backwards and create a danger for pedestrians hoping to sit a spell. Benches are a nice amenity for the visitors and residents who walk through our shopping district. Selected art and decorative pieces that can be displayed securely on the sidewalk are what makes each shop special, and it gives a warm and inviting ambience to the area.

The resulting ordinance change was an excellent one. It allows many of the items that have always been in front of the shops to remain while ensuring safety and access for all pedestrians. I've added a flyer on the website that gives an overview of the new ordinance changes. <http://www.ken4alderman.com/>

Overriding issue and the role of city government: Perhaps the most overlooked and misunderstood issues regarding all of these ordinance changes are:

- What right does a business have to place a sign or other items on property that belongs to the city or the state?
- How far should the government go to protect the safety of people within its jurisdiction?
- Should our government enforce the laws equally, or give preference to some citizens and not others.

I know it's all the rage to reduce the role of government in our lives, but there are some fundamental things that only the government can accomplish effectively. Many of the laws on our books, from criminal acts to regulations on buildings and their construction, are aimed at public safety. It would be a wonderful world if we could count on fellow human beings to be honest and concerned about the well-being of others. Unfortunately we can't, and that's why laws are needed. Decisions must be made by government officials where to draw the line between being unreasonably intrusive on the lives of our citizens and having safeguards for the benefit of all people.

I feel strongly that these ordinance changes were not an intrusion on the personal rights of any person or business in Southport. Please take a close look at what the law was before we started and how much has really changed.