

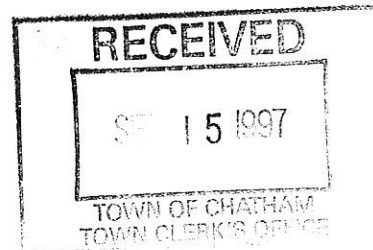


*The Commonwealth of Massachusetts*  
*Office of the Attorney General*  
*One Ashburton Place*  
*Boston, MA 02108-1698*

SCOTT HARSHBARGER  
 ATTORNEY GENERAL  
 (617) 727-2200

September 10, 1997

Joanne M. Holdgate  
 Town Clerk  
 549 Main Street  
 Chatham, Massachusetts 02663



Dear Ms. Holdgate:

I return the amendments to the general by-laws adopted under article 11 of the warrant for the Chatham annual town meeting that first convened on May 12, 1997, with the enclosed approval of this Office, with the exception of Chapter 31 of that article, which is deleted and disapproved.

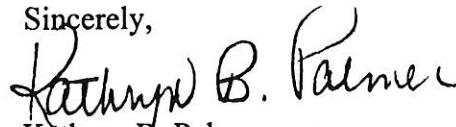
Chapter 31 is entitled "Signs" and regulates the size, types, placement and number of the same within the Town. Sections 31007, 31009 and 31011 all refer to restrictions applying to signs within certain zoning districts, i.e. in general business and industrial zones; in small business zones; and in residential zones, respectively. The restrictions imposed by those three sections are inextricably linked with the "use of the land" described in each section. As such, these three sections are, in actuality, an exercise of the Town's zoning authority and should these sections be redrafted and readopted at a future town meeting they should be adopted as zoning by-laws, pursuant to G.L. c. 40A, § 5, rather than as they now appear as general by-laws. See Rayco Investment Corp. v. Board of Selectmen of Raynham, 368 Mass. 385 (1975).

More fundamentally, however, Chapter 31, particularly with regard to non-commercial signs on residential property (in section 31011) presents an even larger problem with regard to the First Amendment to the United States Constitution and the Declaration of Rights of the Massachusetts Constitution. Signs are often a form of speech and as such are afforded special constitutional protection. In City of Ladue v. Gilleo, 114 S. Ct. 2038 (1994), the Supreme Court upheld the right of a person to place a political cause sign on her house expressing opposition to the Persian Gulf war. In Whitton v. City of Gladstone, 54 F.3d 1400 (8th Cir. 1995), a candidate challenged an ordinance which prohibited a commercial or residential landowner from placing a political sign on his property more than 30 days prior to an election and required removal of the sign within 7 days after the election. The Whitton court found this to be an "unconstitutional restraint on free speech," reasoning that the ordinance impermissibly singled out protected speech (the signs) for regulation because other signs were allowed to remain up for a longer

period of time. Id. at 1409. A sign protected by the First Amendment may be as large as other signs not protected by the First Amendment. Id. at 1406.

The definition of "signs" in section 31005(13) is broad and encompasses signs protected by the First Amendment. Moreover, the restrictions applicable to the content of residential signs, in particular, under section 31011 all but foreclose the type of freedom of expression guaranteed by the Constitution. City of Ladue, supra. (The right to display political and religious signs on one's own residential property "carries a message quite distinct from placing the same sign someplace else . . . [and is afforded a] special respect . . . [in] our culture and our law." 2046-47.)

Sincerely,

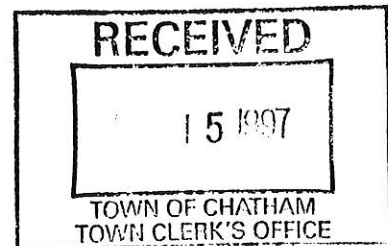


Kathryn B. Palmer

Assistant Attorney General

Coordinator, Municipal Law Unit

(617) 727-2200, ext. 2085

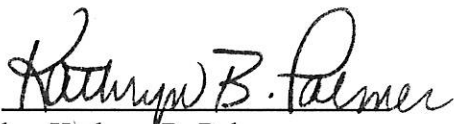


Encl.

Boston, Massachusetts

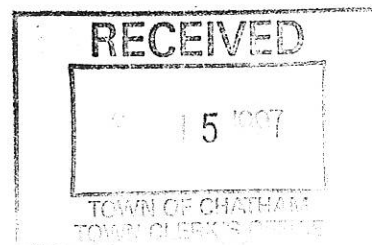
The foregoing amendments to the general by-laws adopted under article 11 of the warrant for the Chatham town meeting that convened on May 12, 1997, are approved, with the exception of Chapter 31, which is deleted and disapproved.

SCOTT HARSHBARGER  
ATTORNEY GENERAL



by: Kathryn B. Palmer  
Assistant Attorney General

September 10, 1997





TOWN CLERK  
549 Main Street  
Chatham, Massachusetts  
02633



TO WHOM IT MAY CONCERN:

I, Joanne M. Holdgate, duly appointed Clerk of the Town of Chatham, hereby certify that the MAY 12, 1997 ANNUAL TOWN MEETING adopted ARTICLE 11 as follows:

MOTION: Bylaw Review Committee Chairman Ken Ritchie moved that the Town vote to amend the General Bylaws of the Town as set forth in Article 11, Appendix A of the Warrant (see attached) as recommended by the Bylaw Review Committee, to be effective upon approval of the Attorney General and further should any section be disapproved by the Attorney General the corresponding section of the previous Bylaw shall continue.

Moderator Litchfield stated that because he has been told the Finance Committee intends to propose several amendments to the motion he suggests Chairman Ritchie explain his motion first.

Chairman Ritchie told the Meeting of the committee's work to bring the general bylaws into compatibility with the charter.

FINANCE COMMITTEE RECOMMENDATION: approved all with two exceptions. The Finance Committee offered the following amendments:

MOTION: (Amendment #1): In Chapter 7 Appointed Committees, section 7005 (a) (1) delete the word "financial" before the words "...articles in the warrant..."

DISCUSSION: Co-chairman Arthur Bloomer told the Meeting the committee feels its authority will be diminished if it is restricted to financial articles only. Three voters spoke in favor of the amendment; three voters spoke in favor of the article as proposed.

VOTE (Amendment #1): voice: not clear. Hand count: Yes: 115; No: 78. Amendment passed.

A second amendment was proposed by the Finance Committee but it did not pass.

VOTE (MAIN MOTION AS AMENDED): voice: unanimous.

*Joanne M. Holdgate*



TOWN CLERK  
549 Main Street  
Chatham, Massachusetts 02633



Joanne M. Holdgate, CMC

TOWN BULLETIN      TOWN BULLETIN      TOWN BULLETIN      TOWN BULLETIN

September 24, 1997

The Commonwealth of Massachusetts Office of the Attorney General has approved Article 11 (A Comprehensive General Bylaw Revision) of the May 12, 1997 Annual Town Meeting except that Chapter 31 (Sign Code) has been deleted and disapproved. Therefore, in accordance with the Town Meeting vote ("...should any section be disapproved by the attorney general the corresponding section of the previous bylaw shall continue.") the former general bylaw "Sign Code" is still in effect.

Article 21 of the same Meeting which amended the Zoning Map, Schedule of Use Regulations (Appendix I) and Schedule of Dimensional Requirements (Appendix II) was also approved.

Such approval was granted on September 10, 1997, within the legally allotted 90 day time period as described in MA. General Laws, Chapter 40, section 32 (see attached).

Also, pursuant to MA General Laws, Chapter 40, section 32, the public is advised of the following:

***Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within ninety (90) days of this posting.***

*Copies of this bylaw may be examined and/or obtained at the Town Clerk's Office, Chatham Town Offices, 547 Main Street, Chatham, MA 02633.*

*Joanne M. Holdgate*  
Joanne M. Holdgate, Clerk

TOWN BULLETIN      TOWN BULLETIN      TOWN BULLETIN      TOWN BULLETIN

Posted 9/26/97

By [Signature]