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Pictures from Wisconsin's
Rustic Roads

MODEL BILLBOARD CONTROL ORDINANCE FOR A TOWN

THAT WANTS STRONGER REGULATIONS THAN PROVIDED BY THE COUNTY

The specific authority for towns to regulate free-standing outdoor signs (billboards) is based on highway safety. A plan for the general development and preservation of the community, including billboard regulation, can be implemented through a town or county zoning ordinance. If the county zoning ordinance provides inadequate billboard control, the town may provide its own more restrictive regulations.

1. Ordinance #____ and Title.

An Ordinance Regulating Large Outdoor Signs in the Town of _____.

2. Purpose and Applicability.

The citizens of the Town of _____, acting through the Town Board and Planning Commission and in various other forums have indicated their strong desire to maintain the rural character and scenic beauty of the Town. To that end the Town has participated in the comprehensive planning and zoning of _____ County. This ordinance builds on those efforts by providing additional protection not available under _____ County regulations.

Depending on their size, number, and character, signs either provide useful information or detract from the quality of life for residents and attractiveness of the area for visitors. Large and tall signs may reduce tourism and the location of certain business with high paying jobs. Large and tall signs destroy rural character and threaten scenic beauty. Since large and tall signs are out of proportion with small rural roads they distract motorists and thus pose a threat to public safety. Therefore to protect public health, safety, and welfare, and specifically to promote the safety of public travel on town and county highways, this ordinance prohibits the construction and reconstruction of outdoor signs that are excessively high or excessively large. This ordinance, authorized by Sec 60.23 (29), Wisconsin Statutes sets those standards to protect and promote the safety of public travel on town and county highways by minimizing distractions and obstacles to clear views of the road and of directional or warning signs.

3. Definitions

a. Abandoned Sign:

- i. Any Sign that does not display a well maintained message for a consecutive one hundred-twenty (120) day period;
- ii. Any Sign the Owner of which cannot be located at Owner's last address as reflected on the records of the department; or
- iii. Any Sign no longer fully supported, by the structure designed to support the sign, for a consecutive one hundred-twenty (120) day period

b. **Area of a Sign:** The area of one (1) side of a sign is calculated from the smallest rectangle that encompasses all the exposed face that could be filled with a message or graphics.

c. **Banners:** Sign placed without a permanent structure containing a time-bound message and used in aggregate no more than seven (7) days in any calendar on any private parcel.

- d. **Office:** The Town of _____ office that has responsibility for administering this ordinance.
- e. **Double-Faced Sign:** Sign with a message on both sides of a support structure thus counting as two sign faces.
- f. **Government Sign:** A Sign authorized by this municipality, another governmental agency, the State or Wisconsin, or the federal government.
- g. **Highway:** Any roadway that is accessible to the public and maintained by the town or by the county for purposes of vehicular traffic.
- h. **Non-conforming Sign:** A Sign in place before the effective date of this ordinance that does not comply with all of the requirements of this ordinance, but that does comply with all of the requirements of the previous ordinance.
- i. **Owner:** A person owning a Sign.
- j. **Parcel in Unincorporated Area:** Contiguous real estate, irrespective of public roads, with tax bills sent to a single address.
- k. **Permit:** The authorization for a Sign issued by the Office.
- l. **Person:** Any individual or entity, including a firm, partnership, association, corporation, Limited Liability Company, trustee, and their legal successors.
- m. **Sign:** An object, including a structure, wall, image, or movable device displaying any message visible to the public. Notices legally placed on public property and removed on a daily basis are not considered Signs. Letters individually painted on or attached to a building that merely identify the owner or occupant or name of the establishment are not considered Signs.
- n. **Special Event Sign:** A Sign for events such as grand openings, displays, craft shows, benefits, fund-raisers, festivals, and other limited term events and that in aggregate are used no more than fifteen (15) days in any calendar year on any private parcel.
- o. **Warning Sign:** A Sign, less than three (3) square feet, that warns the public about trespass to private property, dangerous conditions such as an aggressive dog and unusual hazards such as drop-offs, high voltage, fire dangers and explosives.

4. Prohibited Signs.

No new outdoor Sign may be constructed in the Town of _____, that has any of the following characteristics:

- a. An area of more than thirty-five (35) * square feet.
 - b. A combined area of all Sign faces on any one parcel of more than seventy (70) square feet.
 - c. A height of any part of the Sign that is more than ten (10) feet above the uniform finished grade.
- * Refer to note 2. on last page.

5. Exemptions to the Ordinance.

The following signs are exempt from the provisions of this Ordinance:

- a. Governmental Signs and Flags
- b. Banners
- c. Warning Signs
- d. Special Event Signs

6. Non-Conforming Signs.

- a. **Intent.** This ordinance is intended to encourage the eventual elimination of Signs which do not comply with the Ordinance. The elimination of Non-conforming Signs is important to the purpose stated in Section 2. However, it is also the intent of the Ordinance to avoid unreasonable invasion of property rights while accomplishing removal of Non-conforming Signs.

- b. Compliance.** A Sign not complying with this Ordinance, but in place on the effective date of this Ordinance, shall be brought into compliance with the Ordinance, if it is practical to do so, as determined by the Owner of the Sign.
- c. Continuance.** A Non-conforming Sign may be continued if it is maintained in good condition. It shall not, however, be replaced by another Non-conforming Sign. It may not be structurally altered so as to prolong the life of the Sign. It may not be reestablished after damage or destruction if the Office determines that the estimated cost of reconstruction exceeds fifty percent (50%) of the estimated replacement value. However, it may be replaced if intentionally damaged or destroyed by Person(s) who are proven to be unconnected to the Owner(s) of the Sign.
- d. Nuisance.** An unsafe or Abandoned Sign is declared to be a nuisance which shall be abated within sixty (60) days of receiving notice from the Department. After sixty (60) days, the Sign may be removed by the Department.

7. Variances

Appeals to the determination of the Office may be made in writing directly to the Governing Body who shall conduct a noticed public hearing and decide the request within sixty (60) days. Variances may be granted if all of the following criteria are fulfilled:

- i. That the circumstance are not of the applicant's making;
- ii. That the applicant's request mitigates unusual site conditions;
- iii. That the applicant's request would not create a detriment to the neighborhood or reduce property value;
- iv. That the applicant's request is consistent with the spirit and intent of this ordinance;
- v. That without a variance, the applicant would experience a hardship and cannot make any reasonable use of the property.

8. First Amendment Protection

Any Sign allowed under this Ordinance may contain, in lieu of any other text, 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 all other provisions of this Ordinance including the specific provisions for signage in the land use category on which the sign is placed. The Owner of any Sign which is otherwise allowed by this Ordinance may substitute noncommercial copy in lieu of any other copy without additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary.

9. Administration.

- a. Administration.** The Office shall appoint personnel to administer and enforce the terms and conditions of this Ordinance.
- b. Enforcement.** The Office shall issue Permits as required by this Ordinance. The Office shall also ensure that Signs comply with this Ordinance and any other applicable law. The Office shall also enforce the requirement that all Sign Owners properly comply with this Ordinance by procuring a Permit. The Office shall make such inspections as may be necessary and shall initiate appropriate action to enforce compliance with this Ordinance and other applicable laws.
- c. Office Powers.** The Office shall have the power and authority to administer and enforce this Ordinance. Included among such powers are the following specific powers:
 - i. Upon presentation of proper identification to the Owner or Owner's agent, the Office may enter the Sign area for purposes of inspecting the Sign's area and height. In cases of emergency, where imminent hazards to persons or property are known to exist, and

where the Owner, or Owner's agent, is not readily available, the Office may enter the Sign area for purposes of inspection or remediation. When on private property, the Office shall observe rules and regulation concerning safety, internal security, and fire protection. If the Office is denied admission to inspect any Sign, inspection shall be made only under authority of a warrant issued by a court of proper jurisdiction. When applying for such warrant, the Office shall submit an affidavit setting forth a belief that a violation of this Ordinance exists with respect to a particular Sign, and the reasons for forming this belief. The affidavit shall designate the place and name of the Person believed to own or possess the Sign. If the court finds probable cause exists for the search of the Sign, and supporting structures, then a warrant authorizing the search shall be issued. The warrant shall describe the property with sufficient certainty to identify the same. This warrant shall constitute authority for the Office to enter the Sign area and to inspect the property.

- ii. Upon issuance of a Stop Order from the Office, work on any Sign that is being conducted in any manner contrary to this Ordinance shall be immediately stopped. This notice and order shall be in writing and shall be given to the Owner of the Parcel, the Owner, or to the person performing the work. The Stop Order shall state the conditions under which work may be resumed. The police department of the Town or the County Sheriff shall have authority to enforce a Stop Order.
- iii. The Office has the authority to revoke any Permit authorized by this Ordinance if the Sign violates this Ordinance or another law, provided that the Office shall offer the Owner an opportunity to be heard. The Person whose Permit is under consideration shall be given at least ten (10) days written notice of the time, place, and reason for the hearing. The Owner and/or Person identified in the Permit shall be permitted to present relevant facts and legal argument concerning the pending revocation. Following this hearing, the Office shall consider the merits of the case and shall present a written decision. If the Office determines that a violation has occurred, the Owner shall have thirty (30) days to remove the sign. If, however, the Office believes violation of the Ordinance is causing imminent danger, the Office may immediately revoke any sign Permit and order immediate removal.
- iv. A Sign installed after the effective date of this Ordinance, and not conforming to this Ordinance, shall be removed by the Owner. The Owner shall not be entitled to compensation for the Sign removal and shall reimburse the Office for any cost incurred in connection with the removal.
- v. Any Person violating any provision of this Ordinance shall upon adjudication forfeit not less than \$_____ and not more than \$_____ for each violation. Each day, subsequent to the thirty (30) day removal timetable, on which a violation continues to occur shall constitute a separate offense. In addition, the municipal attorney is authorized to take all action, legal, injunctive and equitable, to assure compliance with this Ordinance.

10. Severability and Conflict

- a. **Severability.** This Ordinance, and its parts, are declared to be severable. If any section, clause, provision, or portion of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, this decision shall not affect the validity of the Ordinance as a whole. All parts of the Ordinance not declared invalid or unconstitutional shall remain in full force and effect.
- b. **Conflict.** If any part of this Ordinance is found to be in conflict with any other Ordinance or with any other part of this Ordinance, the most restrictive or highest standard shall prevail. If any part of this Ordinance is explicitly prohibited by federal or state statute that part shall not be enforced.

11. Effective Date

This Ordinance shall be effective on _____.

ABOUT THIS MODEL SIGN ORDINANCE

This Model Billboard Control Ordinance for a Town has been prepared by Citizens for a Scenic Wisconsin as an aid to towns that want to establish good sign management.

- 1. The language in this suggested ordinance should be reviewed by your municipal attorney and other appropriate professionals before enactment. The model should be modified to address special local conditions and to conform to local laws and codes. Citizens for a Scenic Wisconsin provides this model for guidance and not as a substitute for legal counsel or for town planning. Citizens for a Scenic Wisconsin makes no guarantee that this model will be upheld by a court of law in its entirety.*
- 2. This model can be easily modified to accommodate local needs. For example, the allowable maximum area of a sign face in Section 4 may be decreased or increased.*

Latest revision
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08 Model Billboard Control Ordinance for a Town