

OFF-PREMISE SIGN CONTROL ORDINANCE
OF
MCDOWELL COUNTY, NORTH CAROLINA

Title

This Ordinance shall be known and may be cited as the “Off-Premise Sign Control Ordinance of McDowell County, North Carolina.”

Article I
Authority

This ordinance is established by the McDowell County Board of Commissioners pursuant to the authority conferred in Chapter 153-A 121(a) of the North Carolina General Statutes. The Board of Commissioners hereby ordains and enacts into law the following articles and sections.

Article II
Purpose

The purpose of this ordinance is to regulate the erection and placement of certain off-premise signs in McDowell County. The Board of Commissioners is committed to preserving the scenic and aesthetic features of McDowell County in order to protect and promote the development of the tourist industry and provide for the protection of the quality of life for residents and visitors. The Board of Commissioners further seeks to ensure the safety of the local and visiting motorist on the public roads in McDowell County by reducing the distracting influence of uncontrolled off –premise signage through out the county. The Board of Commissioners is aware of, and sensitive to, the need for local business to adequately identify their products and services and is committed to providing reasonable regulations while safe-guarding the interests of local businesses. Further, the Commissioners provide that any sign regulated by this ordinance may contain, in lieu of any other copy, any otherwise lawful, non-commercial messages that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with the size, lighting, spacing, setbacks, and other requirements of the area in which it is located.

Article III Jurisdiction

The provisions of this ordinance shall apply to the unincorporated areas of McDowell County, lying outside of the corporate limits of any incorporated city or town. No type of off-premise sign as herein defined may be erected, maintained, posted placed, replaced, hung, painted or repainted in unincorporated area of McDowell County outside of the corporate limits of any incorporated city or town except in accordance with this ordinance.

Article IV

400. Definitions

The following words or terms have the meaning as herein defined:

Sign: Any display of letters, words, numbers, figures, devices, emblems, pictures, logos, or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as a part of a structure, surface, or any other object whether natural or man made.

Sign, Exempt: Any sign which specifically listed as exempt from this ordinance. Said listed exempt signs are not regulated by the terms of this ordinance and shall not require a permit.

Sign, Nonconforming: Signs that are erected and in place prior to the adoption of this ordinance and which do not conform to the provisions of this ordinance are declared non-conforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign ordinance at the time it is erected, but which does not conform to an amendment of this ordinance enacted subsequent to the erection of said sign is declared a non-conforming sign.

Sign, Off-Premise Advertising: Any Sign advertising a product, service, business or activity sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity sold, located or conducted on such premises only incidentally, if at all.

Sign, Off-Premise Directional: Any off-premise sign indicating information or directions to a business, office or other activity located in McDowell County, North Carolina. If a sign contains any additional message or exceeds the maximum area, it shall be construed as an off-premise advertising sign.

Sign, On- Premise Advertising: Any sign advertising or identifying a product, service, or business or activity sold, located or conducted on the premises where the sign is located.

Sign, Prohibited: Any Sign, or element of a sign, which is especially listed as prohibited shall not be permitted within the jurisdiction of this ordinance.

401. Area of Signs Defined.

The area of a sign shall be considered to be that of the smallest rectilinear figure which encompasses all lettering, wording, design or symbols, together with any back ground difference on which the sign is located, if such back ground is designed as an integral part of and related to the sign. Any cut-outs or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

402. Illumination of Signs Defined.

Sign, Directly Illuminated: A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign, Indirectly Illuminated: A sign designed to have illumination from a detached light source , shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is in operative, such sign shall be deemed to be a directly illuminated sign.

Sign, Non – Illuminated: A sign which has neither direct or indirect illumination.

403. Value of Signs Defined:

The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the sign enforcement officer (SEO) shall estimate the original cost based upon the best information reasonable available.

404. Height of Signs Defined:

The height of a sign, shall not exceed the maximum height set forth in the ordinance. The height of a sign shall be measured from the existing adjacent street grade to the uppermost point of the sign or sign structure.

405. Sign Maintenance Defined:

For the purposes of this ordinance, maintenance shall include those activities and procedures listed in section 600 of this ordinance. Work done to restore or repair a sign

which is damaged or destroyed shall be considered repairs in accordance with the provisions in Section 706 and 708.

Article V Sign Regulations

500. Permits Required.

All off-premises signs maintained, erected, placed, posted attached, painted or other wise made visible from an adjacent property or right -of- way, except as other wise prohibited, exempt or not requiring a permit by this article, require a sign permit in accordance with the provisions of Article VII of this ordinance. Any sign that is erected, placed or maintained with out a required permit shall be in violation of this ordinance.

501. Signs Exempt From this Ordinance.

The following signs are exempt from this Ordinance:

- (1) On premise advertising and on-premise incidental signs
- (2) Signs of a governmental body, including traffic warning lights or regulatory signs and devices. These signs shall also include other governmental signs including building identification, directional, information and welcome signs
- (3) Trade names and graphics which are located on newspapers soft drink and similar vending machines
- (4) Flags, or insignia of any governmental or non-profit organization when not displayed as an advertising device.
- (5) Decorations associated with a national or religious holiday
- (6) Signs warning of danger posted by utility or construction companies
- (7) Commemorative tablets, markers or monuments erected by or with the permission
- (8) Signs on operational motor vehicles indicating the name of a business, when the vehicle is not intended to be used for a display of signs.
- (9) Signs required by law, statute, or ordinance.
- (10) Signs smaller than eight (8) square feet giving notice direction for sale of real estate or personal property, such as temporary realtor's signs and yard sale signs.
- (11) Church Signs and other signs with non-commercial messages.

502. Signs Prohibited .

The following off-premise signs are prohibited within the jurisdiction of this ordinance in McDowell County, North Carolina:

- (1) Any non-governmental sign which resembles a public safety warning or traffic terrain.

- (2) Signs, whether temporary or permanent, within any street or highway right-off way, with the exception of governmental property
- (3) Any sign which ingress or egress, creates an unsafe distraction for motorists, obstructs the view of motorist entering a public road or highway, or obstructs or interferes with the driver's view of approaching, merging or intersecting traffic.
- (4) Signs which incorporate flashing or blinking lights or signs with moving parts or parts that simulate movement.
- (5) Signs located or attached to the roof of a structure.
- (6) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features
- (7) Advertising signs located in a manner which are designed to be visible from the Blue Ridge Parkway or any road, street or highway, or portion thereof, which is designated a scenic corridor by the McDowell County Board of Commissioners.
- (8) Signs that contain words or graphics that are obscene, is defined in Chapter 15 of the North Carolina General Statutes

503. Directional Signs, Subject to Ordinance Provisions.

- (a) The following off premise signs, known as Directional Signs, shall conform to the standards and provisions of this ordinance except section 504 and all sections of Article VII, but they shall not require the issuance of a permit. Directional Signs shall:
 - (1) contain only information and direction to a business located in McDowell County, North Carolina
 - (2) not exceed thirty –two (32) square feet in area per sign face and shall not exceed eight (8) feet in height or length per sign face.
 - (3) have a maximum height of twelve (12) feet from the adjoining street or road level.
- (b) Not more than three (3) off premises Directional Signs shall contain directions to the same business location without the advance approval of the McDowell County Board of Commissioners. No more than (2) sign shall faces shall be placed on the same sign structure.

504. Regulation of off premise Advertising Signs:

- (a) Off-premises advertising signs are permitted in accordance with the following regulations:
 - (1) A permit is required for each off-premise advertising sign, regardless of size.
 - (2) Off-premise advertising signs within 660 feet of the right- of-way of Interstate 40 shall not exceed 380 square feet per sign face, shall be no closer to the right of way than 10ft and shall have a height no greater than

30 feet. Such signs shall be at least 2,000 linear feet (Measuring along both sides of the high way) from any other off premise advertising sign : at least 500 feet from any interchange(measuring from the beginning of ending of pavement widening at an exit or entrance ramp) : and at least 1,000 feet from any dwelling unit , church or place of worship , cemetery, school playground or park located within 660 feet of the right-of- way.

- (3) Off-premise advertising signs located more than 660 feet from Interstate 40 or located where designed to be visible from any U.S. or N.C. shall not exceed 300 square ft. per sign face, shall be no closer to the right of way than 10 feet. (or no closer than 30 feet from the edge of the traveled way where the right of way is unknown or does not exist) and shall have a height of no greater than 30 feet. Such signs shall be at least 1,500 linear feet (measuring along both sides of the highway) from any other off –premise advertising sign, at least 500 feet from any intersection of the centerlines of any streets: at least 500 feet from any at grade railroad crossing or any bridge : and at least 1,000 feet from any dwelling unit, church of place of worship , cemetery, school, playground or park located within 660 feet of the right -of-way.
 - (4) Off-premise advertising signs located, where designed to be visible from any other road or street shall not exceed 150 square feet per sign face, shall be no closer to the right-of-way than 10 feet (or no closer than 20 feet from the edge of the traveled way where the right- of -way is unknown or does not exist) and shall have a height of no greater than 30 feet. Such signs shall be at least 1,000 linear feet (measuring along both sides of the highway) from any other off-premise advertising sign, at least 300 feet away from an intersection of the centerlines of any streets, at least 300 feet away from any at grade railroad crossing or any bridge, and at least 500 feet from any dwelling unit, church or place of worship, cemetery,. School, playground or park located within 660 feet of the right-of-way.
 - (5) No off-premises outdoor advertising sign in any location should be more than 800 ft. highway or road front feet from a business, commercial or industrial enterprise located on the same side of the street, road or highway as the sign.
 - (6) An off-premise advertising sign structure may have only one sign face for each side. No structure shall have more than one sign face per side or more than a total of two sign faces
 - (7) No off-premise advertising sign shall be attached to or painted on any building or structure.
- (b) Notwithstanding the restrictions set forth in sub-parts (2) (3) and (4) of section 504 (a) above an off premise advertising sign may be constructed within 1,000 ft. from any dwelling unit (for purposes of sub-parts [2] and [3] of section 504 [a] or within 500 feet of a dwelling unit (for purposes of [4] of Section 504 [a] above) PROVIDED the placement of such off premises advertising sign is in

strict compliance with all other requirements and regulations of this ordinance as long as each owner of any dwelling unit located within such distance executes a statement granting express permission for the placement of such off-premises advertising sign within the distance called for by this ordinance. Such statement shall refer to the book and page number on which the deed for the owner's property is recorded in the McDowell County Registry Deed Registry and said statement shall be properly notarized. A copy of said statement shall be delivered to the Sign Enforcement Officer (SEO).

Article VI Sign Maintenance, Abandoned Sign, Tree Cutting

600. Maintenance Provisions.

All off-premise advertising and off-premise directional signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall be kept in good repair, maintained in safe condition, and shall conform to the standards in this section. Maintenance carried out in accordance with this section and not the result of damage or destruction shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a non-conforming condition.

- (1) A sign shall be in a state of disrepair when more than twenty percent (20%) of its total area is covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this ordinance.
- (2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which causes the sign to stand more than fifteen (15) degrees from the perpendicular.
- (3) No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed.
- (4) No neon illuminated sign shall be allowed to stand with only partial illumination operational or partial neon operational.

Any off-premise advertising sign or off-premise directional sign which violates the maintenance provisions listed above shall be in violation of this ordinance and shall be repaired or removed as a required by the applicable sections of this ordinance.

601. Unlawful Cutting of Trees Or Shrubs

No person may, for the purpose of increasing or enhancing the visibility of any off-premise sign, damage or other vegetation located within a public right-of-way

of any road or highway, except where a legal permit for such has been obtained from the N.C. Department of Transportation.

602. Modification of Support Structures.

- (a) The support structure of any off-premise outdoor advertising sign which conforms in all aspects to all of the requirements and provisions of this ordinance may be modified by removing wooden poles and replacing them with single metal support pole. Before such modification can take place, the owner of the advertising sign must give written notice to the Sign Enforcement Officer (SEO) of the proposed modification.
- (b) The support structure of any –non-conforming off-premise out door advertising sign may be modified by removing wooden poles and replacing them with a single metal support pole after giving written notice to the Sign Enforcement Officer of the proposed modification under the following conditions. :
 - 1. If the wooden support structure displays two sign faces from the same direction (i.e., double decked), only one sign face per direction can remain on display after the support structure is modified. The area of the remaining sign face must be brought into conformity with the provisions of Section 504 of this ordinance and the sign and sign support structure must, after modification must after modification of the support structure, be in full and complete conformity with all of the requirements and provisions of this ordinance except those portions of Section 504 of this ordinance which establish the minimum spacing and distance requirements.
 - 2. For all other signs on wooden support structures which were in place on or before May2, 1988, the sign and support structure must, after modification of the support structure, be in full and complete conformity with all of the requirements and provisions of this ordinance except those portions of Section 504 of this ordinance which establish the minimum spacing and distance requirements.

Article VII

700. Permits.

All off premise signs, except as other wise provided in Article V of this ordinance shall require a sign permit prior to being maintained, located or erected on any property within the jurisdiction of this ordinance. Sign permits shall be issued by the Sign Enforcement Officer. If a sign permit is denied, the decision may be

appealed to the McDowell County Board of Commissioners within thirty days (30) days of the decision.

701. Permit Application.

No Permit shall be issued until an application has been completed for each separate off-premise sign structure and until that application has been submitted to the SEO along with the required initial fee. The only application that shall be required is the application for the initial issuance of a permit and that initial permit shall be valid until revoked by the SEO.

Applications for a permit to maintain an existing off-premise sign and/ or construct a new off-premise sign may be obtained from the McDowell County Building Inspector's office. Instructions for completing and processing the application are included on the permit form.

702. Permit Fees.

Initial and annual renewal fees shall be requirement to be paid by the owners of the off-premise sign structures for each permit requested in order to defray the costs of the administrative and inspection expenses incurred by McDowell County in administering the permit procedures. Such fee schedules shall be determined by the McDowell County Board of Commissioners.

703. Permit and Permit Emblem.

A permit along with a permit emblem shall be issued upon proper application, approval, and the payment of fees for lawful off-premise sign structures.

The erection of a new sign structures shall not commence until a permit and emblem have been issued. The sign structure must be completely constructed and erected with permit emblem affixed within 180 days from the date of issuance of the permit. During the 180 period, the new sign structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in the appropriate rules and regulations of this ordinance.

The permit emblem, which will have an identifying number, shall be placed on the off-premise sign structure in such a position as to be visible from the main traveled road way of the adjacent highway.

704. Registering Existing Off-Premise Signs.

All sign structures constructed and in place prior to the adoption of a moratorium ordinance by the McDowell County Commissioners on May 2, 1988 shall be required to obtain a permit by the procedures set forth in this article and affix a county permit emblem within 30 days after issuance of the permit unless

exempted under Section 503. The permit shall be obtained within a period of 180 days beginning with the effective date of this ordinance.

All existing signs that require a permit that have not been registered within the 180 days shall be in violation of the provisions of this ordinance and subjected to penalties provided in Section 802.

If the existence of a sign prior to the passage of the moratorium ordinance is questioned, the issue will be determined by a panel made up of the SEO, County Manager, sign owner, and a designated representative from Clean County System, and use of the video tape made of the county road ways at the time of the passage of the moratorium. Any sign determined by this committee to have violated the moratorium act shall be removed at the owners expense.

705. Transfer of Permit.

The transfer of ownership of an off-premise sign structure for which a permit has been lawfully issued to the original owner shall not in any way affect the validity of the permit for that specific structure, provided that the SEO is given notice of the transfer of ownership within 30 days of the actual transfer.

706. Revocation of Permit

Any valid permit issued for a lawful off-premise sign structures shall be revoked by the SEO for any one of the following reasons:

- (1) Mistake of material facts by the issuing authority for which had the correct facts been made known, the sign permit in question would not have been issued.
- (2) Misrepresentation of material facts by the applicant on the application for permit for sign.
- (3) Failure to pay annual renewal fees.
- (4) Failure to construct sign structure and affix the permanent emblem within 180 days form the date of issuance of permit.
- (5) Any alteration of a sign structure for which permit has been issued which would cause that sign structure to fail to comply with the provisions of this ordinance and the rules and regulations promulgated by the McDowell County Board of Commissioners pursuant there to.
- (6) Any violation of 708
- (7) Unlawful destruction of trees or shrubs or other growth located on the right-of-way in order to increase or enhance the visibility of a sign structure.
- (8) Abandonment or discontinuance of a sign.
- (9) Failure to maintain a sign such that it remains blank for a period of twelve consecutive months.

- (10) Failure to maintain a sign that such that it reaches a state of dilapidation or disrepair as determined by the SEO
- (11) Making repairs to a nonconforming sign which exceed 50% of the initial cost

707. Notice Given for Refusing to Issue Permit

Should the SEO determine that a proposed off-premise sign structure would not conform to the standards of out door advertising as set out in this ordinance or the rules and regulations promulgated thereto by the McDowell County Board of Commissioners, the SEO shall refuse to issue a permit for that proposed sign structure.

When such noncompliance of this ordinance has been determined, the SEO shall so notify the owner of the proposed sign structure in question by first class United States Mail in the form of a letter setting forth the reasons why the proposed sign structure in question does not comply, and shall return the application and 75% of the application fee to the applicant.

708. Nonconforming Signs.

- (1) Any sign which becomes a legal nonconforming sign as herein defined may continue to exist provided that no non-conforming sign shall be:
 - (a) Changed or replaced with another non-conforming sign, except that copy may be changed on an existing sign.
 - (b) Expanded
 - (c) Re-located, except in conformance with the requirements of this ordinance.
 - (d) Re-established after damage or destruction in excess of fifty percent (50%) of the value at the time of the damage or destruction.
 - (e) Modified in any way which increases the sign's degree of non-conformity.
 - (f) Re-established after the sign structure has been removed.
- (2) Notwithstanding the above provisions, the support structure of a non-conforming sign may be modified as provided in section 602 of this ordinance.

709. Reconstruction of Damaged Signs or Sign Structures.

- (a) Any conforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty days (30) days and completed within sixty (60) days of such damage . However, if the sign should be declared unsafe by the Sign Enforcement Officer, the owner of the sign or the owner of record of the real property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the Sign Enforcement Officer.

- (b) As a courtesy to the sign owner, if the Sign Enforcement Officer discovers that a sign has been damaged or is in an unsafe condition, the Sign Enforcement Officer will promptly notify the owner of the sign or the owner of record of the real property whereon the sign is located of such damage or unsafe condition. The affirmative duty and liability shall, however, at all times remain with the owner of each sign to keep each sign in a safe and undamaged condition in keeping with the terms of this ordinance.

Article VIII
Administration, Enforcement, Appeals, Penalties

800. Administration.

The board of Commissioners of McDowell County shall appoint a Sign Enforcement Officer. The Sign Enforcement Officer is hereby given the authority to enforce the provisions of this ordinance and shall have the following authority:

- (1) To issue a violation notice for any violation of the ordinance. A Violation Notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the ordinance. Whenever, the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such violation notice. The Violation Notice shall identify the sign and shall describe the nature of the violation, refer to the section of the ordinance violated, specify in detail what action must be taken to correct the violation, and specify a reasonable time limit of up to thirty (30) days within which the violation must be corrected.
- (2) To issue a Remove order for any sign or sign structure not corrected within in the time allotted under the Violation Notice, or for a prohibited sign as established by this ordinance. A Remove Order shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a violation notice and shall not be effective until received. The recipient of the Remove order shall be allowed (30) days after receipt of the remove order within which to remove the subject sign at his expense. The remove order shall identify the sign and reasons for the issuance of the removal order and shall refer to the section of the ordinance violated.
- (3) To remove or cause to be removed any sign or sign structure not removed in accordance with a remove order after (30) days from receipt of such order, and to assess the receipt of such order with the cost of such removal.
- (4) To issue citations for any violation of this ordinance in accordance with section 802.

(5) To issue an Unsafe Sign Notice should the Sign Enforcement Officer find that any sign has become insecure or in imminent danger of falling or otherwise unsafe. An unsafe Sign Notice shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a violation notice except that the recipient of the notice shall forthwith in the case of immediate danger and in any case ten (10) days of receipt, secure the sign in a manner to be approved by the Sign Enforcement Officer in conformance with the provisions of this ordinance or remove such sign. If the notice is not complied with in (10) days, the Sign Enforcement Officer shall remove such sign at the expense of the recipient of the notice.

801. Appeals.

Violations notices and remove orders issued by the sign enforcement officer may be appealed to the board of commissioners of McDowell County within (30) days of receipt thereof. Pending appeal, the time limits set out in the notice or order shall be suspended. If the Board of Commissioners finds that the action of the sign enforcement officer has been taken for good cause and in accordance with the terms of this ordinance, it shall so find and the time period for compliance shall run from the issuance of that's board's finding. If the board of commissioners sustains the appeal of the petitioner, no further action will be taken by the sign enforcement officer.

802. Violations and Penalties.

After due notice and order as provided above for any violation of the terms of this ordinance, the sign enforcement officer shall issue a citation imposing a penalty of not more than one hundred dollars (\$100.00) on the owner of the sign in question or on the owner of the record of the real property whereon the sign is located whenever the owner of the sign cannot be located and notified of said citation. In the case of continuing violation, each twenty-four (24) hour period in which the violation exists shall constitute a separate violation. In addition to the above described penalty, the county may enforce this ordinance by any one or more of the remedies authorized by Chapter 153-A- 123 of the General Statutes, with the exception of 153A-123 (b)

Article IX
Legal Status Provisions

900. Conflict With other Laws.

Wherever the regulations of this ordinance impose more restrictive standards than are required in or under any other statutes, the requirements of this ordinance shall govern. Whenever the provisions of any other statutes require more restrictive

standards than are required by this ordinance, the provisions of such statute shall govern.

901. Separability

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

902. Effective Date

This ordinance shall take effect and be in force on and after the date of its adoption by the Board of Commissioners of McDowell County, this the 30th day of May, 1989.

Hon. Jack Wood, Chairman
McDowell County Board of Commissioners

ATTEST:
Carrie Padgett, Clerk to the Board