

BILLBOARD REGULATION ORDINANCE
OF OTSEGO LAKE TOWNSHIP
ORDINANCE NO. 2007-03

THE TOWNSHIP OF OTSEGO LAKE DOES HEREBY ORDAIN:

11.001 Sec. 1. TITLE.

This Ordinance shall be known as the Otsego Lake Township Billboard Regulation Ordinance.

11.002 Sec. 2. PREAMBLE.

An Ordinance to regulate and control the size, lighting and spacing of signs and sign structures along federal aid trunkline highways and most specifically I-75 within Otsego Lake Township. This Ordinance has been prepared pursuant to Act No. 106 of the Public Acts of 1972, as amended. This Ordinance is intended to be in addition to the regulations imposed pursuant to the state Highway Advertising Act.

11.003 Sec. 3. INTENT.

The purpose of this Ordinance is to improve, preserve and enhance the scenic and natural beauty of property within Otsego Lake Township by regulating and controlling outdoor advertising billboards in adjacent areas as defined. The Township Board finds that such regulation and control is in the public interest and is in furtherance of the health, safety and general welfare. Included within the intent and purpose of this Ordinance are the following:

- A. To regulate the height, size display area, setback, lighting, distance and spacing of billboards in adjacent areas and to otherwise exercise regulatory powers pursuant to Act 153 of the Public Acts of 1990.
- B. To allow billboards for the purpose of outdoor advertising that provides information, identification and/or direction without jeopardizing the beauty of the natural landscape or disrupting the environment of historically significant features or sites.
- C. To allow signage which is appropriate, proportional and in scale with adjacent uses and roadways and which is compatible with the character of the community.
- D. To promote billboards that are visual at eyelevel and can be readily seen from moving vehicles with the least amount of vision distraction and without compromising safety.
- E. To prohibit excessive property signing in order to give each billboard optimum visibility to motor vehicle traffic and to prevent signs from obstructing and blocking one another.

- F. To regulate outdoor advertising in adjacent areas in such a way as to create land use patterns that are in agreement with future land use plan goals and objectives and to prevent signage that would detract from scenic and natural beauty.
- G. To assure compatibility of land uses in order to protect land values, thereby enhancing the image of the community for residents, tourists and visitors, which is determined to be essential to the economic wellbeing of the community in general.

11.004

Sec. 4. DEFINITIONS.

APPLICANT - Means any person, individual, partnership, private association, limited liability company, corporation or other entity seeking approval to erect a billboard.

ABANDONED BILLBOARD OR BILLBOARD STRUCTURE - Means a billboard or billboard structure subject to the provisions of this act, the owner of which has failed to renew the annual license, or reuse the billboard for six (6) months or more, or as to which there has been no action by the owner to correct maintenance deficiencies.

ADJACENT AREA – Means the area measured from the nearest edge of the right-of-way of an interstate highway, freeway, or primary highway and extending 3,000 feet perpendicularly and then along a line parallel to the right-of-way line.

BILLBOARD - An outdoor sign advertising services or products, activities, persons, messages or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located. Billboards may also be referred to as off-premises signs.

BILLBOARD STRUCTURE - Means the assembled components, or any portion thereof, which makeup an outdoor advertising display, including but not limited to uprights, supports, cross members, facings and trim.

DIRECTIONAL SIGN - A sign used exclusively to direct passing motorists or pedestrians to products, services and/or facilities offered from properties in another location, but which does not advertise said products, services, or facilities.

ERECT - Means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

HIGHWAYS - means U.S. Federal Aid Highways, freeways and primary highways in Otsego Lake Township, specifically 1-75.

LOCATION - Means a place where there is located a single, double-faced, back-to-back, T-type, V-type, or similar off-premises advertising sign or billboard.

MAINTAIN - Means to allow to exist, including customary maintenance and repair of billboards and billboard structures, and the periodic changing of advertising messages.

MEAN GRADE - A reference plane representing that arithmetic mean of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a sign structure or in the area between the sign structure foundation line and the lot line, in the case where the sign structure foundation line is less than five (5) feet from the lot line.

MUNICIPALITY - For the purpose of this Ordinance, the term municipality shall mean the Township of Otsego Lake.

OUTDOOR ADVERTISING - Means calling the public's attention to a product, business, industry, service, facility, messages, or profession, by utilizing a sign or billboard which is located out of doors on a property other than that where the object of the advertising is located, and is positioned so as to be viewed by passing motorists or pedestrians.

REAL ESTATE SIGNS - Real estate signs, for sale signs, and related minor directional signs when used in the customary manner of advertising a property being for sale, rent, or lease.

SIGN - The use of any words, numerals, figures, devices, designs, trademarks, or logos, by which anything is made known or is used to show a product, business, industry, service, facility, message or profession, and is visible to the general public.

SIGN ADMINISTRATOR - Means the Clerk of the Township, the Ordinance Enforcement Officer, or other designated person appointed by the Township to administer the terms of this Ordinance.

TEMPORARY SIGNS - Those signs commonly used for advertising community events and celebrations, garage sales and the like shall be exempt from provisions of this Ordinance, provided they are used on a temporary basis only, erected not more than 10 days before an event and removed within 3 days following the event.

VISIBLE - Means capable of being seen by a person of normal visual acuity.

11.005

Sec. 5. BILLBOARD REVIEW AND PERMITTING PROCESS.

- A. It shall be considered unlawful to erect, alter, relocate, or maintain a billboard, except as specified in this Ordinance.
- B. The Township Planning Commission shall evaluate sign applications for conformance to the standards of this Ordinance, and make recommendations to the municipality's governing body, which shall approve, deny, conditionally approve, or defer action on requests for a good cause. The application shall be processed within a reasonable time period not to exceed 45 days, unless the owner and the Township Planning Commission agree otherwise.
- C. Billboard applications shall be submitted to the Sign Administrator. The application shall be accompanied by such application fee as established by the Township Board and shall include the following information:
 - 1. The name, address, and telephone number of the applicant.
 - 2. Identification, phone number, address, and written permission from the landowner, billboard owner, billboard designer, and person responsible for erecting the billboard.
 - 3. An area map showing the location of the lot on which the billboard is to be erected within the Township, and adjacent roads.
 - 4. A billboard site plan showing the position of the billboard in relationship to property lines and all other signs and

billboards within 3,000 feet of the proposed billboard, including both sides of the fronting road or roads.

5. A billboard plan showing the height and width of the proposed billboard, as well as its supporting structure, landscaping, and other similar features, and the type or design of the billboard (T-type, V-type, etc.)
 6. The detail of all lighting elements, where billboard illumination is proposed, including the type and wattage of the luminary, mounting brackets, location of mounting devices on the ground or billboard, housing or shielding devices, the direction of light beams, and related specifics as needed to evaluate lighting.
 7. Other information as may be required by the Township in order to determine compliance with this Ordinance or any applicable laws.
- D. The permit fee shall be set by resolution of the Township Board, payable to the Township for each billboard authorized by this Ordinance and approved for a permit. The Township Board shall establish the application fee and permit fee in consideration of the costs of processing the application from initiation to conclusion. The permit fee shall be paid on an annual basis at such time as a permit is issued or renewed as provided by this Ordinance. The Township Board may, by appropriate resolution and from time to time, alter or amend the application and permit fees under this Ordinance.
- E. Expiration and renewal of billboard permits.
1. All billboard permits shall expire on April 30 of each year. Any billboard permit issued pursuant to this Ordinance shall be valid from the date of issuance until the date of expiration (April 30), as written on the billboard permit. Provided, however, for a billboard permit issued after January 1 of a given year, that billboard permit shall not expire until April 30 of the succeeding year.
 2. The person to whom a billboard permit is issued, or his or her successor, may renew that billboard permit annually by filing a billboard permit renewal application with the township board, or its designated representative, and paying the required permit renewal application fee. After receiving the application and fee, the township board, or its designated representative, shall inspect the billboard and shall issue a billboard permit renewal if the billboard is then in compliance with the requirements of this Ordinance.
- F. All billboards in existence at the effective date of this Ordinance shall thereafter meet the renewal permit requirement of this Ordinance.
- G. If there are 3 (three) or more billboards existing in Otsego Lake Township on the effective date of this Ordinance, then no permits for new billboards shall thereafter be issued.

11.006

Sec. 6. Permitted Billboards.

An approvable billboard must meet all the requirements outlined below:

- A. ALLOWABLE ZONING DISTRICTS. Billboards along federal aid trunkline highways shall be restricted to properties zoned B-2, B- 3, or I, as defined by the Zoning Ordinance in effect for Otsego County.
- B. SETBACKS. All billboards must be set back a minimum of 50 feet from all property lines. The Township may, in its discretion, waive or modify these setback standards for one or more of the following purposes: 1) To prevent the removal of existing vegetation deemed important enough to be retained, 2) To prohibit the blocking of scenic views, 3) To avoid blocking the view of another sign or structure, 4) To prevent obstructing vision at any driveway or street intersection. Any such waiver request shall be made in writing to the Otsego Lake Township Planning Commission which shall recommend approval or denial to the Otsego Lake Township Board. The decision of the Township Board shall be final.
- C. LIGHTING. External sign lighting shall be from an overhead position only shining downward onto the sign face in such a way that there results a minimum reflection of light off the sign face. Light sources shall be shielded from view from adjacent streets and properties by light fixture shields and polarizing devices. No flashing lights or animated advertising devices shall be permitted.
- D. For internally lighted billboards, the background or field shall be opaque. Letters, numerals, logos and similar message elements may be of a transparent material to permit internal lighting to reveal the message or information for which the billboard is intended. No billboard shall be illuminated if it is within 500 feet of any residence. No billboard shall be illuminated between the hours of 10:00 pm and 6:00 am.
- E. SPACING AND LOCATION. There shall be a minimum horizontal spacing of 3,000 feet, between any two billboards, including both sides of a highway. The distance between billboards on opposite sides of the highway shall be measured on the perpendicular, not diagonally.
- F. SIZE AND HEIGHT. A billboard may not exceed 56 square feet in area, and no billboard shall be longer than four times its width. The area of the billboard shall be determined by circumscribing the exterior limits of each display erected on one billboard structure, including the background, but not supporting features or roof like covers with the smallest square, rectangle, triangle, circle, parallelogram, or trapezoid, that will connect all extreme points of the billboard display and including voids, unused space, or air spaces between multiple display features. The square footage area measurement shall be based on one display face, but both sides of the billboard face may be used for advertising purposes without increasing the area of the billboard. Parallel billboard faces shall not be separated by more than four (4) feet. V-type billboard faces shall not exceed an inside angle of 45 degrees. Otherwise, the second face shall be counted as another sign or billboard. The maximum height of each billboard shall be 10 feet, measured from the mean grade at the base of the sign to the top of the sign structure.

11.007

Sec. 7. PROHIBITED BILLBOARDS.

The following types of billboards shall not be permitted:

- A. A billboard in a zoning district other than B-2, B-3 or I.
- B. A billboard in a shopping district, commercial core, or historic district.
- C. A billboard within 500 feet of any residential district, historic district, park, school, church, hospital, retirement home, cemetery, convention center, or government building.
- D. A billboard that is stacked, tiered, stepped, or placed next to or alongside of any other billboard or sign.
- E. Billboards containing flashing, intermittent, changing, or moving lights or sequential reflectorized lettering or parts, and billboards with moving or revolving parts or messages.
- F. Billboards affixed to trees, rocks, shrubs, fences, utility poles and/or natural features.
- G. A billboard, which would, by its erection, destroy significant natural vegetation and/or cause significant existing vegetation to be removed.
- H. Billboards utilizing vehicles, trucks, vans, or other wheeled devices, or tripods, sandwich boards, or changeable message boards.
- I. Attached advertising devices such as banners, balloons, flags, pennants, pinwheels, windsocks, searchlights and/or other devices with similar characteristics.
- J. A billboard mounted on or over the roof of a building.
- K. A billboard located within 500 feet of a residential, commercial, industrial, or agricultural use of the same property.
- L. Billboards, which may otherwise be prohibited by any other laws, ordinances, or regulations.
- M. Billboards using luminous or phosphorescent paints, tapes, glass beads, and/or reflectors of any kind shall be prohibited as main background treatment of the sign, but may be used in minor proportions for lettering or incidental artistic details, provided there are no visual conflicts with official traffic signs.

11.008

Sec. 8. NON-CONFORMING BILLBOARDS:

- A. Any billboard lawfully in existence at the effective date of this Ordinance may be continued, subject to the permit renewal requirements hereof, even

though such billboard does not conform to the provisions of this Ordinance. Provided, however, that any such non-conforming billboard shall be subject to all of the terms and conditions set forth in this section.

B. NON-CONFORMING USE OF BILLBOARDS AND/OR BILLBOARD STRUCTURES:

1. No non-conforming billboard shall be made taller, wider, or larger or be increased nor extended to occupy a greater area of land than was occupied at the effective date of this Ordinance.
2. No non-conforming billboard shall be enlarged or altered in any way which increases its non-conformity with the terms and conditions with this Ordinance.
3. No non-conforming billboard shall be moved in whole or in part to any other portion of the lot or parcel upon which the same is situated, nor shall it be moved to any other lot or parcel of land.
4. If the face(s) or structure of a non-conforming billboard is damaged by fire, explosion, Act of God, or any other cause, to the extent that the reasonable cost of repair is more than 50% of its reproduction value at the time of damage, then such billboard shall not be restored, repaired or re-erected except in conformity with all of the requirements of this Ordinance.
5. If a parcel on which a non-conforming billboard is located is divided or subdivided under the state Land Division Act, as amended, or developed under the state Condominium Act, as amended, or a non-billboard structure is constructed on the same parcel as the non-conforming billboard, then the non-conforming billboard shall be brought into compliance with all of the requirements of this Ordinance.

C. REPAIRS AND MAINTENANCE. Normal repair and maintenance of any billboard structure is allowable under the terms of this Ordinance. Restoration and strengthening is permitted for reasons of public safety when approved by the building official.

D. REMOVAL OF NON-CONFORMING BILLBOARDS. The Township may acquire, by purchase, condemnation, or otherwise private ownership interest in non-conforming billboards for the purposes of removing any non-conforming billboard or billboard structure. The costs and expenses, or portion thereof, of acquiring the non-conforming billboards may be paid from general funds of the Township, assessments to a special district in accordance with applicable statutory provisions relating to the creation and operation of special assessment districts for municipalities, or from revenues acquired through the administration of this Ordinance.

If practical, feasible, or desirable, any non-conforming billboard acquired by the Township may be retained by the Township to generate revenues only for the purpose of self amortization of said billboard and which billboard shall be immediately removed when the billboard generated revenues equal the cost of acquiring and removing said billboard and billboard structure.

11.009 Sec. 9. VIOLATIONS AND SANCTIONS.

Any person, firm, association, partnership, corporation, or entity that violates the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punished by a civil fine determined in accordance with the following schedule:

1 st Offense, within a three year period:*	\$ 250.00
2 nd Offense, within a three year period:*	\$ 500.00
3 rd Offense, within a three year period:*	\$ 750.00
4 th Offense, or more, within a three year period:*	\$1,000.00

*Determined on the basis of the date of commission of the offense(s).

In addition, a person found responsible for the municipal civil infraction shall pay the costs and expenses of the action as set forth in Michigan Compiled Laws 600.8727 and as determined by the District Court or Magistrate. The Township Board may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any unlawful billboard. The rights and remedies provided herein are cumulative, and in addition to all other remedies provided by law. Each day that a violation exists shall constitute a separate offense. The sanctions, fines and penalties herein provided may be imposed upon the owner of the premises upon which the violation occurs or upon the owner or lessee of the billboard.

The Otsego Lake Township Ordinance Enforcement Officer is authorized to issue municipal civil infraction citations for violations of this Ordinance.

11.010 Sec. 10. SEVERABILITY:

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

11.011 Sec. 11. OTHER PERMITS:

Issuance of a billboard permit pursuant to this Ordinance does not exempt the applicant from obtaining other state and locally required permits, including but not limited to, a billboard permit from the State of Michigan Department of Transportation and a building permit.

11.012 Sec. 12. EFFECTIVE DATE:

Affirmative action having been held hereon, and other requirements of Act No. 246 of the Public Acts of 1945, as amended, having been complied with, the provisions of this Ordinance are hereby declared to be necessary for the preservation of the public health, safety, peace, morals, comfort, convenience, and general welfare and are hereby ordered to take effect thirty (30) days after publication in a newspaper of general circulation. This Ordinance was made and passed this 15th day of March, 2007 and a copy of it, as well as any subsequent amendments shall be transmitted to the Michigan Department of Transportation.

11.013 Sec. 13. CONFLICT OF REGULATIONS:

If a provision of this Ordinance shall conflict with the provisions of any other ordinance in effect for Otsego Lake Township, the ordinance with the more stringent provisions shall control.

CLERK'S CERTIFICATE

THE UNDERSIGNED, Lorraine Markovich, Clerk of Otsego Lake Township certifies that the above Ordinance No. 2007-03 entitled "Billboard Regulation Ordinance" was adopted by the Otsego Lake Township Board at a regular meeting held on March 15, 2007, and that the vote was as follows:

FOR: Whyte, Markovich, Brown, and Baker

AGAINST: Wagar

Lorraine Markovich
Township Clerk