

TOWN OF AMHERST

BILLBOARD PROHIBITION ORDINANCE #11-11-04

WHEREAS, excessive and inadequately controlled off-premise signs endanger the unique character and scenic beauty of the Town of Amherst, harms the appearance of neighborhoods and reduces property values of neighboring property owners, and

WHEREAS, tourism and commerce from both residents and non-residents is an essential part of the economy of the Town of Amherst and economic development will suffer if the visual attractiveness of the roadways and community is damaged by excessive signage, and

WHEREAS, standardized logo signs provided by the Wisconsin Department of Transportation, informative centers, on-premise signs, and other media offer local businesses ample opportunity to promote their goods and services to both residents and visitors, and

WHEREAS, the proliferation in number, the increase in size, and the use of special effects in message presentation of off-premise outdoor advertising signs distracts operators of motor vehicles and causes confusion with traffic lights, signs, or signals, and therefore, increases the risks to the safety of pedestrians, cyclists, and motorists, and

WHEREAS, land use regulations authorized by Section 84.30 Wisconsin Statutes and Wis. Administrative Code Trans. 201 enable the Town to control or prohibit the construction and reconstruction of new off-premise outdoor signs, and

WHEREAS, the Town Board of the Town of Amherst finds that a complete prohibition of the construction of new off-premise outdoor advertising signs advances the public health, safety and welfare of the Town of Amherst,

THEREFORE BE IT ORDAINED that new off-premise outdoor advertising signs be prohibited in accord with the following provision of this ordinance.

Section 1: Definitions

A. Abandoned Sign: Any sign in an obvious state of neglect, or one which advertises a business no longer in operation for which the owner is unknown.

B. Banner: A sign placed without permanent structure containing a time-bound message and used in aggregate no more than seven (7) days in any calendar year on any private parcel.

C. Construction Sign: A sign which identifies the architects, engineers, contractors, and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is

intended during the construction period. The sign shall be confined to the site of construction and shall be removed within fourteen (14) days of the beginning of the intended use of the project. Construction signs shall not exceed thirty-two (32) sq. ft. in area.

D. Double-faced Sign: A sign with a message on both sides of a support structure thus counting as two sign faces.

E. Off-Premise Advertising Sign: A commercial sign which directs the attention of the public to a business activity conducted or product sold or offered at a location not on the same premises where such commercial sign is located. For purposes of this ordinance, easements and other appurtenances and non-contiguous parcels under the same ownership shall be considered off the premises of the parcel of land on which the business or activity located or conducted.

F. Real Estate Sign: Sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed up to a total area of six (6) sq. ft. Such sign shall be on private property only and shall be removed within fourteen (14) days of the sale, rental or lease.

G. 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.

H. Special Events: 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.

I. Tethered: An advertising sign, grand opening sign, or special on merchandise sign which includes the "blimp-type" signs that are anchored to the ground and are suspended in the air like a balloon. Such signs are only allowed in non-residential areas. One tethered sign per event per premises will be allowed up to a total of ten (10) days. It may also be used for a total of six (6) events per year, not to exceed sixty (60) total days in one twelve-month period.

J. Warning: A sign, less than three (3) sq. ft., 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 danger, and explosives.

Section 2: Off-Premise Advertising Signs are Not Permitted

Off-Premise advertising signs are **not permitted** within the jurisdiction of The Town of Amherst. Such signs include billboards, signs on parked semi-trailers and machinery, and on the sides and roofs of barns viewable from highways.

Exceptions:

A. Signs, which are not more than 12 square feet in area and no more than 5 feet above uniform grade and provide only directions to a business or establishment are excluded from the definition of an off-premise advertising sign and are covered in the municipality's Sign Ordinance.

1. Signs must be located within 5 miles of the business being advertised.
2. One (1) two-sided 12 sq. ft. sign or two (2) one-sided 12 sq. ft. signs per highway in opposite directions would be allowed. Such signs must be 500 ft. apart and 300 ft. from official highway signs on the same side of the highway.
3. Signs must be permanent structures with non-changeable messages.
4. No flashing lights or moving parts shall be allowed.
5. Businesses wishing such signs must get a permit from the Amherst Town Board and pay appropriate fees per sign.

B. Real estate signs, rummage/household sale signs, political signs, special events signs, warning signs, government signs and flags, banners, tethered signs, and construction signs. (See Definition Section for guidelines). Said signs do not need permits.

C. TODS and SIS programs, white arrow signs.

D. Municipal Identification/Welcoming signs (Must meet County and State requirements.)

Section 3: 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 above. However, it is also the intent of this Ordinance to avoid unreasonable invasion of property rights while accomplishing removal of non-conforming signs.

B. Amortization: A sign not complying with this Ordinance, but in place on the effective date of this Ordinance, shall be removed within twelve (12) years after the effective date of this Ordinance.

C. Permit: Within ninety (90) days after the effective date of this Ordinance, the Person owning a non-conforming sign shall apply for a permit to the Town Clerk and shall pay the appropriate fee. The Town Clerk shall issue the permit for not more than twelve (12) years. (**Note**: If said sign is viewable from any STH or USH currently in the OA Program, an annual fee may need to be paid to the D.O.T.)

D. Continuance: A non-conforming sign may be continued during the amortization period 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 Amherst Town Board determines that the estimated cost of reconstruction

exceeds 50% of the estimated replacement cost. However, it may be replaced if intentionally damaged or destroyed by person(s) who are apprehended and proven to be unconnected to the owner(s) of the sign.

E. Nuisance: An unsafe or abandoned sign is declared a public nuisance, which shall be abated by the owner within sixty (60) days of receiving notice from the Amherst Town Board. After 60 days, the sign may be removed by the Amherst Town Board.

Section 4: Penalty

Upon written notice, the owner of an illegal outdoor advertising sign shall have thirty (30) days to remove the entire structure supporting the sign to ordinary uniform grade. After the 30-day removal period provided by the order expires, each day past the expired removal date shall constitute a new violation subject to the forfeiture and adjudication provision of the Ordinance.

Any Person violating any provision of this Ordinance shall upon adjudication forfeit not less than \$50.00 and not more than \$250.00 for each violation. Each day, subsequent to the 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 action, legal, injunctive and equitable, to assure compliance with the Ordinance.

Section 5: Protection of First Amendment Rights

Any sign allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business, activity conducted or product sold or offered at a location not on the same premises where such business sign is located.

Section 6: Appeals

Appeals to this ordinance may be made in writing directly to the governing body who shall hear the appeal within sixty (60) days. Variances may be granted if the following criteria are fulfilled.

A. That the circumstances are not of the applicant's making, i.e. site conditions.

B. That the applicant's request is consistent with the spirit and intent of this ordinance, i.e., maintain the rural character, cut down on excessive signage, and reduce distractions for motorists.

Section 7: Severability and Conflict

A. Severability: This ordinance and its various parts are hereby 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. Such decision shall not affect the validity of either this ordinance as a whole or any parts not declared invalid or unconstitutional.

B. Conflict: If any part of this ordinance is found to be in conflict with any other ordinance of the Town of Amherst, the most restrictive or highest standard shall prevail.

ADOPTED THIS 11TH DAY OF NOVEMBER, 2004.

ATTEST: _____

(Arlene Domaszek)

(Michael Peplinski)

AMENDMENT ADOPTED _____