

ORDINANCE NO 176

OFF-PREMISE SIGN CONTROL ORDINANCE
OF
TOWN OF OLD FORT, NORTH CAROLINA

This Ordinance shall be known and may be cited as the "Off-Premise Sign Control Ordinance of the Town of Old Fort, North Carolina."

ARTICLE I
AUTHORITY

This Ordinance is established by the Board of Aldermen of the Town of Old Fort pursuant to the authority conferred by the North Carolina General Statutes. The Board of Aldermen 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 advertising signs in the Town of Old Fort. The Board of Aldermen is committed to preserving the scenic and aesthetic features of the Town of Old Fort 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 Aldermen further seeks to insure the safety of the local and visiting motorist on the public roads in the Town of Old Fort by reducing the distracting influence of uncontrolled off-premise advertising signage throughout the city. The Board of Aldermen is aware of, and sensitive to, the need for local businesses to adequately identify their products and services and is committed to providing reasonable regulations while safeguarding the interest of local businesses. Further, the Board of Aldermen provides that any sign regulated by this Ordinance may contain, in lieu of any other copy, 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 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 incorporated areas of Old Fort, lying inside of the corporate limits of the Town of Old Fort. No type of off-premise advertising sign as herein defined may be erected, maintained, posted, placed, replaced, hung, painted or repainted in any incorporated area of the Town of Old Fort except in accordance with this Ordinance.

ARTICLE IV

DEFINITIONS

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 manmade.

Sign Exempt: Any sign which is 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 nonconforming 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 nonconforming 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 is sold, located or conducted on such premises only incidentally, if at all.

Sign, Off-Premise Directional: Any off-premise sign indicating the location of or direction to a business, office or other activity. The sign shall not include any information or message except the name of the business or activity, and directions or symbols indicating directions. 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, 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 specifically 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 background

difference on which the sign is located, if such background 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 inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign, Non-Illuminated: A sign which has neither direct nor 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 reasonably available.

404. Height of Signs Defined.

The height of a sign shall not exceed the maximum height set forth in this 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, whichever is higher.

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 Section 708.

ARTICLE V
SIGN REGULATIONS

500. Permits Required.

All off-premise signs maintained, erected, placed, posted attached, painted or otherwise made visible from an adjacent property or right-of-way, except as otherwise prohibited, exempted 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 without a required permit shall be in violation of this Ordinance.

501. Signs Exempt from this Sign 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 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 newspaper, soft drink and similar vending devices.
- (4) Flags or insignia of any governmental or nonprofit 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 of the Board of Aldermen of the Town of Old Fort.
- (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 or direction for sale of real estate or personal property, such as temporary realtor's signs and yard sale signs.
- (11) Signs with non-commercial messages.

502. Signs Prohibited.

The following off-premise signs are prohibited within the jurisdiction of this Ordinance in the Town of Old Fort, North Carolina:

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

- (2) Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of governmental signage.
- (3) Any sign which obstructs ingress or egress, creates an unsafe distraction for motorists, or obstructs the view of motorists entering a public road or highway.
- (4) Signs which incorporate flashing or blinking lights or signs with moving parts or parts which stimulate movement.
- (5) Signs located on 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) Signs which contain words or graphics which are obscene, as that term 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 permits. Directional Signs shall:

- (1) contain only the name or logo of a business located in McDowell County, North Carolina, an arrow or other mark to indicate the direction of the business location and the distance to the business from the sign.
 - (2) not exceed eight (8) square feet in area per sign face.
- (b) All non-advertising off-premise signs which meet the above definition of Directional Signs except for the sign face area but which do not exceed 32 square feet in sign face area which were in place before May 3, 1988 shall be considered legal non-confirming Directional Signs.

504. Regulation of Off-Premise Advertising Signs.

(a) Off-premise 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 located where designed to be visible from any U.S. or N.C. highways shall not exceed 300 square feet per sign face, shall be 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 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 away 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 or place of worship, cemetery, school, playground or park located within 660 feet of the right-of-way.

(3) 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 any 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.

(4) No off-premises outdoor advertising sign in any location shall be more than eight hundred (800) feet from a business, commercial or industrial enterprise located on the same side of the street, road or highway as the sign.

(5) An off-premises advertising sign structure may have 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.

(6) 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 feet 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 sub-part [4] of Section 504[a] above) PROVIDED the placement of such off-premise 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-premise 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 Deed Registry and said statement shall be properly notarized. A copy of said statement shall be delivered to the Sign Enforcement Officer (SEO).

SIGN MAINTENANCE, ABANDONED SIGNS, 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 per cent (20%) of its total surface 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 cause 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 or 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 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, trim, destroy or remove any trees, shrubs 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 North Carolina Department of Transportation.

ARTICLE VII
PERMITS, FEES AND NONCONFORMING SIGNS

700. Permits.

All off-premise signs, except as otherwise 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 (SEO). If a sign permit is denied, the decision may be appealed to the Board of Aldermen of the Town of Old Fort within thirty (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 the completing and processing the application are included on the permit form.

702. Permit Fees.

Initial and annual renewal fees shall be required to be paid by the owners of the off-premise sign structures for each permit requested in order to defray the cost of the administrative and inspection expenses incurred by the Town of Old Fort in administering the permit procedures. Such fee schedules shall be determined by the Board of Aldermen of the Town of Old Fort.

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 new sign structures shall not commence until a permit and emblem have issued. The sign structure must be completely constructed and erected with the permit emblem affixed within 180 days from the date of issuance of the permit. During the 180-day 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 roadway 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 Board of Aldermen of the Town of Old Fort on May 16, 1989 shall be required to obtain a

permit by the procedures set forth in this article and affix a city permit emblem within 30 days after the 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 on 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 subject 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, Town Manager, sign owner, and a designated representative from Clean County System, and use of the videotape made of the county roadways 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 owner's 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 thirty (30) days of the actual transfer.

706. Revocation of Permit.

Any valid permit issued for a lawful off-premise sign structure 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 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 the sign.
- (3) Failure to pay annual renewal fees.
- (4) Failure to construct the sign structure and affix the permanent emblem within 180 days from the date of issuance of the permit.
- (5) Any alteration of a sign structure for which a permit has previously 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 Board of Aldermen of the Town of Old Fort pursuant thereto.
- (6) Any violation of Section 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 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 of the sign. Total repairs within any 24 consecutive months may not exceed 50% of the value of the sign. To avoid liability under this clause, the advertiser should contact the SEO prior to making any repairs to discuss the scope of the proposed improvements. The scope of the improvements is limited to the following: repairing the sign or sign structure, replacing broken glass or other work to keep the sign safe and in good repair.

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 outdoor advertising as set out in this ordinance or the rules and regulations promulgated thereto by the Board of Aldermen of the Town of Old Fort 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 also 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 nonconforming sign shall be:
 - (a) Changed or replaced with another nonconforming sign, except that copy may be changed on an existing sign.
 - (b) Expanded.
 - (c) Relocated, 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 nonconformity.
- (f) Re-established after the sign structure has been removed.

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 (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 the 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 SEO discovers that a sign has been damaged or is in an unsafe condition, the SEO 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 Aldermen of the Town of Old Fort 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 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 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 thirty

(30) days after the 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 Remove 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 thirty (30) days from receipt of such order, and to assess the recipient 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 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 within 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 ten (10) days, the Sign Enforcement Officer shall remove such sign at the expense of the recipient of the notice.

801. Appeals.

Violation Notices and Remove Orders issued by the Sign Enforcement Officer may be appealed to the Board of Aldermen of the Town of Old Fort within thirty (30) days of receipt thereof. Pending appeal, the time limits set out in the notice or order shall be suspended. If the Board of Aldermen 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 board's finding. If the Board of Aldermen 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 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 city may enforce this ordinance by any one or more of the remedies authorized by the North Carolina General Statutes, with the exception of 153A-123(b).

ARTICLE IX
LEGAL STATUS PROVISIONS

900. Conflict with Other Laws.

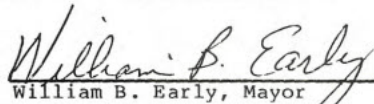
Wherever the regulations of this Ordinance impose more restrictive standards than are required in or under any other Ordinance or statute, the requirements of this Ordinance shall govern. Whenever the provisions of any other Ordinance or statute require more restrictive standards than are required by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

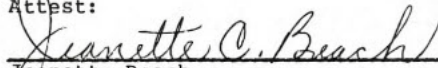
902. Effective Date.

This Ordinance shall take effect and be in force on and after the date of its adoption by the Board of Aldermen of the Town of Old Fort, this the 26th day of June, 1989.



William B. Early, Mayor

Attest:



Jeanette Beach
Clerk to the Town of Old Fort