

## **Article I Title**

This ordinance shall be known as the *Baldwin County Billboard Ordinance* for unincorporated Baldwin County.

## **Article II Purpose**

The Baldwin County Commission finds and determines that:

- (a) The regulation of billboards is a legitimate governmental interest which is exercised by many municipalities, counties and other agencies.
- (b) The proliferation in number, size and manner of outdoor advertising unreasonably distracts operators of motor vehicles and promotes confusion with regard to traffic lights, signs, or signals or other interference with the effectiveness of traffic regulations and is therefore hazardous to highway users.
- (c) The proliferation of billboards adversely affects the aesthetic environment and quality of life in Baldwin County which is so dependent on the natural beauty of the area to attract visitors which maintains the local and State economy. The findings of numerous local governments in regards to the above mentioned factors are hereby adopted.

These ordinances adopted pursuant to authority given in Act No. 2000-429 and Act No. 2001-497, prescribe minimum standards to safeguard life, health, property, property values and public welfare by regulating and controlling the quality of materials, construction, installation and maintenance of signs, in addition to the number, size sign, and type of illumination of all signs and sign structures.

## **Article III Definitions**

For the purpose of these ordinances, unless otherwise indicated, the following term(s):

*Abandoned Billboard* means a billboard which has not carried a message for more than one hundred and eighty (180) consecutive days.

*Billboard* means any sign, display device, notice, figure, painting, drawing, message, placard, poster, billboard or thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of any portion of a road or highway which is visible from any place on the main traveled way of any portion of a roadway or highway, which is over 200 square feet.

*Cemetery* means land used for the burial of the human dead, including mausoleums and mortuaries if operated in connection with the cemetery.

*Church* means a building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

*County Highway or Road* means any highway or road whether constructed, planned, or not, which is under the control of the Baldwin County Commission.

*Department* means the Baldwin County Planning and Zoning Department.

*Double-faced sign* means a sign which has two (2) display areas placed back to back against each other, or where the interior angle formed by the display area of two separate signs is sixty (60) degrees or less, where one is designed to be seen from one direction and the other face from another direction.

*Erect* means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but does not include activities performed as an incident to the change or advertising message or customary maintenance of a sign.

*Flashing illumination* means a light source which, in whole or in part, physically changes in light intensity, color or gives the appearance of such change at intervals of less than six seconds.

*Multiple message signs* means a sign, display, or device which changes the message or copy on the sign electronically by movement or rotation of panels or slats.

*Nonconforming sign* means a sign which was lawfully erected but which does not, at least in some respect, comply with the ordinances and standards contained herein.

*Public Park* means an area of publicly owned land specifically defined or set aside for use by and for the general public in both active and passive recreational uses.

*Public Building* means a building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal.

*School* means a facility and grounds that provides a curriculum of elementary, secondary and post secondary academic instruction, including kindergartens, elementary, schools, junior high schools, high schools and colleges or universities.

*Sign face* means the part of the sign, including trim and background, which contains a message or informative content.

*Sign facing* means all sign faces, and automatic changeable faces, displayed at the same location and facing the same direction.

*Sign structure* means all the interrelated parts and material, such as beams, poles, and stringers, foundation, which are constructed for the purpose of supporting or displaying a message or informative contents.

*Visible sign* means that the advertising message or informative contents of a sign, whether or not legible, is capable of being seen without visual aid by a person of normal vision acuity.

## **Article IV      Design Standards**

### **Section 4.1      Spacing of Signs**

No new billboard shall be erected, or existing billboards be expanded, within two thousand (2,000) feet of another billboard on either side of a roadway.

### **Section 4.2      Permitted Sign Face Area**

(a) No billboard sign face area shall exceed three hundred and seventy six (376) square feet, with maximum dimensions ten feet-six (10'6") inches in height and thirty six (36) feet in width.

(b) Double face sign area shall be calculated by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart at the furthest point, the sign area shall be computed by the measurement of one (1) of the faces. The area of a sign facing is measured by the smallest square, rectangle, circle, triangle, or combination of these which will encompass the entire sign facing.

### **Section 4.3 Embellishments**

Embellishment may not extend more than five (5) feet beyond the permanent sign face and are included in any measurement of the height, width, or area of the sign facing.

### **Section 4.4 Multiple Message Signs**

Multiple message signs may be permitted subject to the following conditions:

- (a) Each sign shall remain fixed for at least ten seconds.
- (b) When message is changed, it shall be accomplished in three seconds or less.
- (c) No such sign shall be placed within five-thousand (5,000) feet of another multiple message sign on the same side of the road or highway.

### **Section 4.5 Sign Structure Height**

The height of the sign shall be calculated as the distance from the normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of:

- (a) Existing grade prior to the construction.
- (b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public road or highway.
- (c) The maximum height for sign structures is forty-five (45) feet above the normal grade.

#### **Section 4.6 Separation and Setbacks**

No billboard or part thereof, shall be erected, used, or operated, or maintained:

- (a) Within four-hundred (400) feet of the nearest edge of the right-of-way of another intersecting right-of-way.
- (b) Within fifteen (15) feet of the outside boundary of the right-of-way.
- (c) Within two-hundred (200) feet of any church, school, cemetery, public park or public building.
- (d) Within twenty (20) feet of all side property lines.
- (e) Overhanging a public right-of-way or a private road or drive.
- (f) Within two hundred (200) feet from any zoned area.

#### **Section 4.7 Clear Area**

A ten (10) foot clear area between the normal grade as provided in 4.5 and the bottom of the sign face shall be maintained.

#### **Section 4.8 Illumination**

- (a) Illumination shall not cause beams or rays of light to be directed to a roadway or adjacent properties.
- (b) Flashing illumination such as, without limitation, flashing, running or sequential lights are prohibited except as provided in Section 4.4.

#### **Section 4.9 Prohibition in Certain Areas of the County**

Billboards shall be prohibited in the following areas:

- (a) Any area subject to County zoning.
- (b) Any Historic or Preservation District established by the Baldwin County Commission.
- (c) In any area designated by the County or State as a Scenic Highway or like designation.
- (d) Any area delineated by Act No. 2001-497, Section 2(f) (municipal planning jurisdictions).

#### **Section 4.10 Prohibited Billboards**

The following categories, types, designs or characteristics of Billboards are prohibited:

(a) Billboards employing movement including, but not limited to, changeable copy signs, pennants, flags, banners, streamers, propellers, discs, and searchlights.

(b) Glaring billboards employing direct, indirect, internal, flashing, or other illumination with light sources or reflectivity, of such brightness that constitute a hazard or a nuisance, as determined by the Baldwin County Planning and Zoning Director.

(c) Inflatable billboards, including but not limited to, balloons and inflatable figures and the like.

(d) Roof billboards which are erected or painted on a roof or which extend in height above the roofline of the building on which the sign is erected.

#### **Section 4.11 Prohibition Under Certain Conditions**

Billboards shall be prohibited in areas where no roadway of any kind currently exists. Billboards shall only be permitted on roadways which are currently functioning as a bona fide roadway and are under the care and control of the Alabama Department of Transportation, Baldwin County Highway Department or under municipal control.

### **Article V Permits**

#### **Section 5.1 Permits, Generally**

No billboard shall be erected in any area governed under this ordinance without first obtaining permit approval from the Department as provided herein.

#### **Section 5.2 Permit Requirements**

5.2.1 Permits shall not be required under the following conditions:

(a) Replacing or altering changeable copy.

(b) Painting repairing, cleaning or normal acts of maintenance.

5.2.3 Structural alteration shall not be considered maintenance and shall require a permit prior to the activity.

5.2.4 Written authorization from the owner or other person in lawful possession or control of the site designated as the location of the billboard shall be obtained prior to their submission of an application.

5.2.5 An application for a permit must be made on forms provided by the Department, and a separate application must be made for each request.

5.2.6 A permit is required for each sign facing.

5.2.7 An application for a billboard permit shall include the following:

- (a) Site Plan indicating adjacent structures including roadways, parking areas and driveways.
- (b) A vicinity map indicating nearby roadways, billboards and other locations which require distance setbacks as provided herein.
- (c) Construction plans indicating sign height, dimensions and face area.
- (d) Site plan indicating proposed billboard location, orientation to the roadway, and setbacks.
- (e) Proposed lighting plan for the billboard.

5.2.8 A billboard permit shall be valid for one (1) six (6) month period. If no construction has commenced at the site the permit shall become void.

5.2.9 A separate building permit from the appropriate jurisdiction must also be obtained prior to construction.

5.2.10 A sign permit issued under the authority of these ordinances shall in no way relieve the applicant or property owner from permitting pursuant to the building code.

## **Article VI Nonconforming Signs**

Any billboard lawfully existing under all applicable codes or ordinances in effect at the time these ordinances are adopted or amendments thereto, may continue to be maintained and operated as legal nonconforming billboard as long as it remains lawful; provided, that:

- (a) No billboard shall be changed in any manner that increases its nonconformity with these ordinances.
- (b) If the billboard is structurally altered or moved, its legal nonconforming status shall be voided and any replacement thereof shall be required to conform to the provisions of these ordinances. Nothing in this section shall be construed to restrict normal structural repair and maintenance as provided in 5.2.1.
- (c) The billboard is not a hazard or an abandoned billboard.

## **Article VII Appeals and Variances**

### **Section 7.1 Appeals, Generally**

The Baldwin County Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Planning Director (or designee) or other administrative official in the enforcement of these billboard ordinances.

### **Section 7.2 Appeal Procedure**

Appeals to the County Commission may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these ordinances. Such appeal shall be

taken within thirty (30) days of said decision by filing with the officer from whom the appeal is taken and with the Chairman of the County Commission a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the County Commission all papers constituting the record upon which the action was taken.

### **Section 7.3 Stays**

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the County Commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property.

### **Section 7.4 Variances**

Any party, who has been refused a Bill Board permit by the Baldwin County Commission because the proposed bill board does not meet the provisions of these regulations, may request a variance of the provisions from the Baldwin County Billboard Regulations. The Baldwin County Commission shall hear and decide applications for variance from these regulations, as provided for herein. An applicant shall be granted a variance only upon the applicant's establishing the existence of all factors set out herein below. In presenting and addressing applications for variance, the applicant shall demonstrate and the County Commission shall consider the following:

- (a) There are special conditions or circumstances affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the applicant's land; and
- (b) The granting of the variance will not be detrimental to the public welfare or injurious to the other property in the area in which the property is situated and will not have an adverse effect upon traffic or traffic safety; and
- (c) The type of sign structure and the location proposed would not pose a significant risk to the public health, safety and welfare; and
- (d) The benefit to the general public and/or applicant under the circumstances outweighs any risk to traffic safety and the County's desire to eliminate the accumulation of visual clutter in accordance with the stated purpose of these regulations.

The burden of providing substantiating evidence rests with the applicant.

### **Section 7.5 Application Procedure**

- (a) Any appeal or variance application must be filed with the Planning & Zoning Department at least thirty (30) days prior to a regularly scheduled meeting of the County Commission.

(b) The Planning Director (or designee) shall, upon determination that the application complies with all applicable submission requirements, receive the application and schedule it for public hearing by the County Commission.

(c) The Planning Director (or designee) shall, 5 days before the scheduled public hearing by the County Commission, provide notice of such hearing by certified mail to adjacent property owners as their names appear in the county tax records.

(d) The County Commission shall render a decision at the conclusion of the public hearing or within 45 days from the date of the public hearing if it is determined that action must be deferred to allow for additional input and review.

(e) Any application for appeal or variance may be withdrawn prior to action thereon by the County Commission, at the discretion of the applicant initiating the request upon written notice filed with the Chairman of the County Commission.

(f) Any party aggrieved by a final decision of the Baldwin County Commission may, within 15 days thereafter, file an appeal therefrom to the Circuit Court of Baldwin County, Alabama, by filing with the circuit court and the Planning & Zoning Department a written notice of appeal stating the decision from which appeal is taken, and stating the grounds therefore with sufficient specificity to allow the framing of a responsive pleading.

## **Article VIII    Violations and Penalties**

### **Section 8.1    Procedures**

8.1.1    Whenever a violation of these ordinances is identified or is alleged to have occurred, any person aggrieved may file a complaint. Such complaint shall fully state the cause and basis thereof, and shall be filed with the Planning and Zoning Director at his/her office at the Planning and Zoning Department in Bay Minette, Alabama. Whenever the Planning and Zoning Director or his/her designee has knowledge of a violation or an alleged violation, a thorough investigation may be initiated. After such investigation, and upon the finding of a violation, the violation procedures contained in this Article shall be initiated.

8.1.2    Violation of the provisions of these ordinances, including violation of conditions and safeguards established in connection with a grant of a variance, special exception, conditional use, land use certificate or appeal, shall be addressed and punishable in accordance with sections contained herein.

8.1.3    In the event that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in the event that any building, structure, or land is used in violation of these ordinances, the Planning and Zoning Director may institute or cause the institution of any appropriate action or proceeding to:

(a) Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of a billboard.

(b) Restrain, correct, or abate the violation.

### **Section 8.2    Violations**



8.2.1 *Persons in violation.* Any person(s), whether owner, lessee, principal, agent, employee, or occupant of any land or part thereof, and any architect, engineer, builder, contractor, agent or other person who:

- (a) Violates any provision of these ordinances.
- (b) Permits, participates, assists, directs, creates or maintains any such violation.
- (c) Fails to comply with any of the requirements hereof, including conditions, stipulations, or safeguards attached to any approval or permit.
- (d) Who erects, constructs or reconstructs any billboard structure, in violation of any written statement or plan submitted and approved pursuant to these ordinances, shall be in violation.

8.2.2 Any person(s) in violation of these ordinances may be held responsible for such violation and be subject to the penalties and remedies as provided herein and as provided by law.

8.2.3 *Separate violation.* Each and every person who commits, permits, participates in, assists, directs, creates or maintains a violation may be found individually in violation of a separate offense. Each day that any violation continues to exist shall constitute an additional and separate violation.

### **Section 8.3 Notice of Violation**

8.3.1 *Issuance.* The Planning and Zoning Director or his/her designee shall issue a written notice of violation upon receipt of a complaint or knowledge of violation, to all persons in violation. The Notice of Violation may be served by certified mail, return receipt requested, or pursuant to Alabama Rules of Civil Procedure. The Notice of Violation shall allow a reasonable time to correct or abate such violation.

8.3.2 *Notice requirements.* The Notice of Violation (“Notice”) shall clearly identify the property and particular alleged violation involved, the action necessary to correct it, the time permitted for such correction, and penalties for failure to comply. The Notice shall include but not be limited to:

- (a) A description of the location of the property involved, either by street address or by legal description.
- (b) A statement indicating the nature of the violation.
- (c) A statement showing the time within which all necessary remedial action must be accomplished, which time may not be less than 10 days nor more than 90 days from the date of such written Notice.
- (d) The name of the person(s) upon whom the Notice of Violation is served.
- (e) A statement advising that upon the failure to comply with requirements of the Notice, such enforcement procedure as may be required under these zoning ordinances shall be taken.

8.3.3 *Violations threatening health, safety and welfare.* The Planning and Zoning Director may shorten or eliminate the time period to correct a violation if he/she determines that the alleged violation presents an imminent and serious threat to the public health, safety, or welfare, or the violation is irreparable or irreversible. The Notice of Violation shall, in such case, state that an immanent and serious threat to public health, safety, or welfare exists or the violation is irreparable or irreversible, along with the allowed time period for correction if any.

8.3.4 *Noncompliance.* When the Planning and Zoning Director or his/her designee determines that the violation has not been corrected or abated by end of the prescribed time period, he/she shall issue a written notice forwarding the matter to the County Legal Department.

8.3.5 *Compliance.* Upon the submission, by the violator, of evidence of compliance that has been deemed to be adequate by the Planning and Zoning Director, the Director may hold the violation to be resolved and compliance achieved.

8.3.6 *Diligent efforts to comply.* When, after issuance of a Notice of Violation but prior to commencement of any judicial proceedings, the Planning and Zoning Director determines that the person in violation is making a diligent effort to comply with the requirements of the Notice, the Planning and Zoning Director may issue a written stay of further enforcement actions pending full compliance. The stay shall list the diligent efforts to comply and should be provided to the violator(s). No enforcement actions shall be stayed longer than ninety (90) days.

8.3.7 *Repeat violations.* When any Notice of Violation is issued to any person for substantially the same violation for which a previous Notice of Violation has been issued to such person, no period shall be allowed for correction or abatement of the violation. Rather, in such event, the Planning and Zoning Director shall immediately cause the matter to be forwarded to the County Legal Department for further action.

8.3.8 *Fines.* Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation. The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal. Prior to the levying of any fine the violator shall be given notice in accordance with 8.3.2 and a hearing set before the County Commission pursuant to Article VII.

## **Section 8.4 Additional Penalties**

8.4.1 *Stop work order.* The Planning and Zoning Director may issue, or cause to be issued, a Stop Work Order on a premises, lot or parcel that is in alleged violation of any provision of these ordinances, or is being maintained in a dangerous or unsafe manner. A Stop Work Order may be issued in place of or in conjunction with any other actions and procedures identified in these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state conditions under which work may be resumed. Upon receipt of a Stop Work Order, all work associated with the violation shall immediately cease. Any person who continues to work shall be in violation of these ordinances and subject to penalties and remedies contained herein.

8.4.2 *Cease and abate orders.* The Planning and Zoning Director may issue, or cause to be issued, a Cease and Abate Order to any person(s) maintaining any condition, or engaged in any activity or operation, which violates these ordinances. Such Order shall be in writing and shall be given to the owner of the property, or to the person maintaining such condition or engaged in such activity and operation. Upon receipt of a Cease and Abate Order, all conditions, activities and operations associated with the violation shall immediately cease and be abated. Any person who continues or fails to abate such condition, activity or operation shall be subject to penalties and remedies contained herein.

8.4.3 *Revocation of permits.* The Planning and Zoning Director may revoke, or cause the revocation of, permits or approvals in those cases where an administrative determination has been duly made that false statements or misrepresentations of material fact(s) were made in the application or plans upon which the permit or approval was based.