

**BEAR CREEK TOWNSHIP
BILLBOARD REGULATION ORDINANCE
ORDINANCE NO. 27-08**

SECTION 1.

TITLE: The Bear Creek Township Billboard Regulation Ordinance.

SECTION 2.

PREAMBLE: This ordinance has been prepared pursuant to Act No. 106 of the Public Acts of 1972, as amended. The act authorizes a city, village, township or charter township to enact ordinances to regulate and control the size, lighting, and spacing of signs and sign structures, but the ordinance shall not permit a sign or sign structure that is otherwise prohibited by the act.

Furthermore, this ordinance is being enacted for the purposes of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of Bear Creek Township, according to the authority conferred by the Public Acts of the State of Michigan.

This ordinance shall not apply to any signs that are not billboards, including but not limited to directional signs, temporary signs and signs identifying the business, person, activity, goods, products or services sold or offered for sale on the premises where the sign is installed and maintained. Any such signs that are not billboards shall be subject to regulation by Emmet County under the Emmet County Zoning Ordinance.

SECTION 3.

DEFINITIONS:

APPLICANT - Means any person, individual, partnership, private association, corporation, or 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 there has been no action by the owner to correct maintenance deficiencies.

BILLBOARD - Means an outdoor sign, display, painting, drawing, message, placard, poster, or other device used to advertise, promote, direct, provide information or identification for a service, business, or industrial use or product located on another site.

BILLBOARD ADMINISTRATOR - Means the Supervisor of the Township, or other designated person appointed by the Township Board to administer the terms of this ordinance.

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

CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGN (CEVMS) - A billboard which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use. This includes but is not limited to billboards using LED's (light emitting diodes), or classified as digital signs, Electronic Message Centers (EMC's), or Electronic Message Boards (EMB's), and which are capable of varying in intensity or color. A CEVMS billboard sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

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 that does not advertise said products, services, or facilities.

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

ELECTRONIC BILLBOARD (EBB) - Means an electronic billboard sign on which messages may be changed on-site or remotely through hard wire or wireless communications and which have the capability to present any amount of various amounts of text or symbolic imagery. This includes but is not limited to billboards using LED's (light emitting diodes), or classified as digital signs, Electronic Message Centers (EMC's), or Electronic Message Boards (EMB's), and which are capable of varying in intensity or color.

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

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 allowing to exist, including customary maintenance and repair of billboards and billboard structures. Also includes the periodic manual changing of advertising messages, but does not include the electronic changing of messages or conversions to CEVMS's or EBB's.

MUNICIPALITY - For the purpose of this ordinance, the term municipality shall mean the Township of Bear Creek.

OUTDOOR ADVERTISING - Means calling the public's attention to a product, business, industry, service, facility, or profession, by utilizing billboard which is located 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, for rent, or for lease, shall not be regulated as

billboards, providing that such signs are temporary in nature and less than 32 square feet on anyone side of the display area.

ROADS - Freeways, primary highways, secondary, and local roads and streets in Bear Creek Township.

VISIBLE - Means capable of being seen by a person of with normal vision.

SECTION 4

INTENT: The billboard regulations contained herein are declared to be necessary in order to protect the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of Bear Creek Township, and are intended to achieve the following objectives:

To allow the Township to regulate the height, size, display area, display mechanism or method, setback, lighting, and distances between billboards, and other regulatory powers pursuant to Act 106 of 1972, as amended, in order to control outdoor advertising along roads within the municipality.

To allow billboards for the purposes of outdoor advertising, that provides information, identification, and/or direction, without jeopardizing the beauty of the natural landscape and scenic views, and without disrupting the environment of naturally or historically significant features or sites.

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.

To promote billboards that are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.

To avoid excessive property signing in order to give each billboard and use optimum visibility to passer-by traffic and to prevent one sign from blocking the view of another sign.

To avoid creation of obstacles or traffic hazards by distracting or confusing motorists, impairing motorists' ability to see pedestrians, read other traffic signs, or see other vehicles.

To regulate outdoor advertising in such a way as to create land use patterns that are in concert with future land use plan goals and objectives and to prevent signage that would detract from scenic roadways and scenic views.

To insure compatibility with rural lands, neighborhoods, and business areas, in order to protect land values, thereby enhancing the image of the community for residents, tourists, and visitors.

To acknowledge that the community's economic well being is heavily dependent upon the resort and tourist industry. Therefore aesthetic appeal in the form of respect for the Township's scenic and natural beauty is closely linked to economics. This dependence makes the preservation of the environment from unreasonable billboards a matter of critical importance.

To avoid bright lights and reflection, and to protect views of the night sky against poorly shielded lights.

**SECTION 5.
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.

**SECTION 6.
BILLBOARD REVIEW AND PERMITTING PROCESS:**

- 1) No applications for billboards will be accepted or building permits for billboards shall be issued while there are 5 (five) or more billboards existing in Bear Creek Township, including non-conforming billboards.
- 2) It shall be considered unlawful to erect, alter, relocate, or maintain a billboard, except as specified in this ordinance.
- 3) The Township's Planning Commission shall evaluate billboard applications for conformance to the standards of this ordinance, and make recommendations to the municipality's governing body, which shall approve, deny, or conditionally approve applications within 90 days of receipt of a complete application.
- 4) Billboard applications shall be submitted to the Billboard Administrator. The application shall include the following information:
 - A. The name, address, and telephone number of the applicant, the landowner, the billboard owner, the sign designer, and the person or entity responsible for erecting the billboard.
 - B. Written permission from the landowner for the location and erection of the proposed billboard.
 - C. An area map showing the location of the lot on which the billboard is to be erected within the Township, and adjacent roads.
 - D. A billboard site plan showing the position of the sign in relationship to property lines, and all other billboards within 2,000 feet of the proposed billboard, including both sides of the fronting road or roads.
 - E. 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.)
 - F. The detail of all lighting and illuminating methods and elements, where billboard lighting or

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.

- G. Other information as may be required by the Township, in order to determine compliance with this ordinance or any applicable laws.

5) The initial permit fee shall be (\$300), payable to the Township for each billboard authorized by this ordinance. The permit fees consider the costs (or partial costs) of staff processing, Planning Commission/Township Board meetings, site inspections, follow-up, and other costs of administration of this ordinance. There shall be a fee of (\$100) if a structural change is made to a billboard. In addition, there shall be an annual license renewal fee of (\$100). The Township Board by resolution shall have authority to change the foregoing fees to meet changing costs to the Township of the administration and enforcement of this ordinance.

SECTION 7.

PERMITTED BILLBOARDS: An approvable billboard must meet all requirements outlined below:

1) ALLOWABLE ZONING DISTRICTS

Billboards shall be restricted to properties zoned B-2 General Business, as defined by the Emmet County Zoning Ordinance, and that are located adjacent to Highways US 31, US 131, and M-119.

2) SETBACKS

All billboards must be setback a minimum of 50 feet from all property lines. The Township may wave or modify these setback standards if one or more of the following conditions apply: 1) Prevents the removal of existing vegetation deemed important enough to be retained, 2) Prohibits the blocking of scenic views, 3) Avoids blocking the view of another sign or structure, 4) Obstructs vision at any driveway or street intersection.

3) LIGHTING

Lighting of a billboard shall be of no greater wattage than is necessary to make the sign visible at night and shall not reflect onto adjacent properties, or into the sky. Lighting sources shall not be directly visible to passing vehicles or pedestrians, and shall be concealed by a flush-mounted lens design or similar performance construction, so that direct light does not shine through, under, over, or above any element of a billboard. Any external illumination of a billboard shall only shine down upon the billboard from above. As indicated in Section 8, below, CEVMS's and EBB's are prohibited.

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 300 feet of any residence. No billboard shall be illuminated between the hours of 10:00 pm and 6:00 am.

4) SPACING AND LOCATION

There shall be a minimum horizontal spacing of 2,000 feet, between any two billboards, including both sides of a highway.

5) SIZE AND HEIGHT

A billboard may not exceed 160 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 foot 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 20 feet, measured from the existing grade at the base of the sign to the top of the sign structure.

SECTION 8.

PROHIBITED BILLBOARDS: The following types of billboards shall not be permitted.

1. A billboard in any zoning district other than B-2.
2. New CEVMS's and EBB's and conversion of existing billboards to CEVMS's or EBB's.
3. A billboard within 300 feet of any residential district, historic district, park, school, church, hospital, retirement home, cemetery, convention center, or government building .
4. A billboard that is stacked, tiered, stepped, or placed next to or along side of any other billboard or sign.
5. Billboards containing flashing, intermittent, changing, or moving lights or sequential reflectorized lettering or parts, and billboards with moving or revolving parts or messages.
6. Billboards affixed to or incorporating living or dead trees, plants, shrubs, crops, or otherwise affixed to or incorporating rocks, fences, utility poles and/or other landscape features.

7. A billboard which would, by its erection, destroy significant natural vegetation and/or cause significant existing vegetation to be removed.
8. Billboards utilizing vehicles, trucks, vans, or other wheeled devices, or tripods, sandwich boards, or changeable message boards.
9. Attached advertising devices such as banners, balloons, flags, pennants, pinwheels, windsocks, searchlights and/or other devices with similar characteristics.
10. A billboard mounted on or over the roof of a building.
11. Billboards which may otherwise be prohibited by any other laws, ordinances, or regulations.
12. 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.

**SECTION 9.
NONCONFORMITIES:**

1) INTENT:

It is recognized that there exists within the Township by reason of this ordinance or by amendments, billboards and billboard structures which were lawful before this ordinance was passed or amended, which would be prohibited or restricted under the terms of this Ordinance or future amendment. These shall be termed nonconforming billboards.

It is the intent of this Ordinance to permit these non conforming billboards to continue until they are removed or destroyed but not to encourage their survival.

2) NONCONFORMING USE OF BILLBOARDS AND/OR BILLBOARD STRUCTURES:

- A) No nonconforming 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.
- B) No such nonconforming billboard shall be moved in whole or in part to any other portion of the lot or parcel occupied.
- C) No such nonconforming billboard shall be enlarged or altered in a way which increases its nonconformity.
- D) If the face(s) and structure of a nonconforming billboard is destroyed, then it shall not be re-erected except in conformance with the area, height, size, lighting, and property setback

standards of this ordinance.

- E) No existing billboards shall be converted to CEVMS's or EBB's.

3) 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 as such by the official responsible for administering building codes within the township.

4) REMOVAL OF NONCONFORMING BILLBOARDS:

The Township may acquire, by purchase, condemnation, or otherwise private ownership interest in nonconforming billboards for purposes of removing any nonconforming billboard or billboard structure. The costs and expenses, or portion thereof of acquiring the nonconforming 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 nonconforming 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.

**SECTION 10.
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:

	<u>Minimum</u>	<u>Maximum</u>
1st Offense within 3-year period*	\$ 75.00	\$ 500.00
2nd Offense within 3-year period*	150.00	500.00
3rd Offense within 3-year period*	325.00	500.00
4th or More Offense within 3-year period*	500.00	500.00

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

Additionally, the violator shall pay costs of Bear Creek Township, which may include all expenses, direct and indirect, in connection with the municipal civil infraction. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, damages, or other appropriate remedy to compel compliance with this Ordinance. Each day that a

violation exists shall constitute a separate offense. The sanctions provided herein may be imposed upon the owner of the premises upon which the violation occurs or upon the owner or lessee of the billboard.

**SECTION 11.
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 effect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**SECTION 12.
PRIOR BILLBOARD ORDINANCES SUPERSEDED; CONFLICT OF REGULATIONS:**

All prior Township Billboard Ordinances and amendments thereto are hereby superseded. If a provision of this ordinance shall conflict with the provisions of any other ordinance in effect for Bear Creek Township, the ordinance with the more stringent provisions shall control.

**SECTION 13.
EFFECTIVE DATE:**

This Ordinance shall take effect thirty (30) days after publication of the ordinance or an ordinance summary in the manner provided by law. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed. A copy of this ordinance and any subsequent amendments shall be transmitted to the Michigan Department of Transportation.

CLERK'S CERTIFICATION

I hereby certify this Ordinance was adopted by the Bear Creek Township Board at a regular meeting held on October 1, 2008, and that the vote was as follows:

FOR: *Keiser, Hoffman, Notestine, Mays*

AGAINST: *none.*

I further certify this Ordinance or, a summary thereof, was published in the *Petoskey News-Review* on October 6, 2008.

Judy, Mays, Township Clerk

BEAR CREEK TOWNSHIP
EMMET COUNTY, MICHIGAN

Summary of a Billboard Regulation Ordinance, No. 27-08, adopted by the Bear Creek Township Board of Trustees at its regular meeting on October 1, 2008.

Section 1 - Title. The Bear Creek Township Billboard Regulation Ordinance.

Section 2 - Preamble. Provides the statutory basis for the ordinance. Further provides that the ordinance does not apply to non-billboard signs, which are regulated under the Emmet County Zoning Ordinance.

Section 3 - Definitions. Provides definitions for certain terms used in the ordinance.

Section 4 - Intent. Indicates the intended objectives of the ordinance.

Section 5 - Other Permits. Indicates that the issuance of a permit under this ordinance does not eliminate the need for any other permits that may be required by law.

Section 6 - Billboard Review and Permitting Process. Provides the process for applying for a billboard permit pursuant to the ordinance.

Section 7 - Permitted Billboards. Provides the requirements for billboards that are permitted by the ordinance, including the standards for allowable zoning districts, setbacks, lighting, spacing, location, size, and height.

Section 8 - Prohibited Billboards. Indicates the types of billboards that are prohibited by the ordinance.

Section 9 - Nonconformities. Identifies and restricts the expansion or conversion of non-conforming billboards.

Section 10 - Violations and Sanctions. Indicates the penalties for violations of the ordinance.

Section 11 - Severability. Provides that if any portion of the ordinance is found to be invalid by a court, the validity of the remaining portions shall not be affected.

Section 12 - Prior Billboard Ordinances Superseded; Conflict of Regulations. Indicates that all prior township billboard ordinances are superseded by this ordinance. Provides that if there is a conflict between any provision of this ordinance and another ordinance, the ordinance with the more stringent provision shall control.

Section 13 - Effective Date. Provides that the ordinance shall take effect 30 days following the publication of the ordinance or an ordinance summary.

A true copy of the entire Bear Creek Township Billboard Regulation Ordinance may be inspected or obtained at the Bear Creek Township Hall, 373 N. Division Road, Petoskey, Michigan, 49770.

Judy Mays
Bear Creek Township Clerk