

## CUSTER COUNTY ORDINANCE # 12

### PROVIDING REGULATIONS FOR SIGNS AND ADVERTISING STRUCTURES

#### ARTICLE I -- ESTABLISHMENT OF AUTHORITY

The authority of Custer County to regulate signs and advertising structures is specified in South Dakota Codified Law 31-29-68.

#### ARTICLE II -- DEFINITIONS

Abandoned Sign: Any sign that for a period of 90 days is one of the following:

1. has a sign structure that is damaged or not properly maintained.
2. is declared unlawful by Custer County.
3. displays no advertising message.
4. does not advertise a bona fide business or event.

Board: The Board of Commissioners, which is the governing body of Custer County.

Director: The Custer County Planning Director or his designee.

Legal Nonconforming Sign: Any off-premise sign erected prior to July 1, 2002. However, any alteration or modification to the structure of such a sign, excluding routine maintenance that does not alter the sign structure, will constitute a new structure and the provisions of this Ordinance shall apply. Repair of damage to the structure of such a sign caused by an act of vandalism or an act of God shall not constitute a new structure and shall not alter the Legal Nonconforming Sign status.

Off-Premise Sign: A sign that advertises goods or services **not** available at the premises of the sign.

On-Premise Sign: A sign that advertises goods or services available at the premises of the sign.

Scenic Beauty/Historical Interest areas: The Custer County Commission hereby designates all lands within Custer County as areas of scenic beauty and as areas of historical interest for the purposes of this Ordinance.

Signs: Any identification, description, illustration or device, illuminated or non-illuminated, which directs attention to a product, service, place, activity, person, institution, business, opinion, or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, billboard, pennant, placard, or temporary structure designed to advise, identify or convey information, except window displays.

Sign Structure: Any structure that supports, has supported, or is capable of supporting a sign. Truck trailers shall not be allowed as permanent sign structures.

Temporary Signs: Sign(s) and sign structure that is temporary in nature and used in conjunction with a specific event that is placed, moved or erected in such a manner to be easily removed from the property and not permanently affixed.

## ARTICLE III -- SIGNS AND OTHER ADVERTISING STRUCTURES

The purpose of Article III shall be to establish effective local regulation of outdoor advertising. It is intended to provide for the convenience of the traveling public, for the promotion of locally available facilities, goods, and services, to minimize any negative impact on adjacent properties, and preserve the natural aesthetics of Custer County. It is also attempting to pursue a reasonable number and placement of signs. In any area where signs are permitted, all applicable state and federal regulations shall apply. In addition, any sign erected in Custer County shall be required to conform to the following regulations:

- 1) *Scenic Beauty or Historical Interest Areas.* No off-premise sign shall be located in any area defined in this Ordinance or designated by the County Commissioners as one of Scenic Beauty or Historical Interest.
- 2) *Illumination Distance.* No illuminated sign of any type shall be permitted unless the illumination of such sign is installed and maintained in such a manner that lighting fixtures do not cause light to shine or reflect upon any adjacent property.
- 3) *Illumination.* All lighting fixtures used to illuminate any sign must be focused on the sign face in order to avoid illuminating objects other than the sign, and to avoid illuminating the sky.
- 4) *Size.* No sign structure shall be erected to exceed an industry standard display size of ten (10) feet in height or thirty-six (36) feet in width, with an overall height not to exceed thirty (30) feet above the adjoining road

surface or an overall width not to exceed thirty-eight (38) feet including all supports and aprons. Roof signs shall not exceed the maximum height limit of thirty (30) feet. The bottom edge of every ground sign shall be a minimum of three (3) feet above the ground. Stacked sign faces are not allowed.

- 5) *Setbacks.* No sign structure shall be placed or erected within twenty (20) feet of the side and rear property boundaries of the property where the sign will be located. There shall be no minimum setback requirement from the front property boundary. However, no sign structure of any type shall be constructed, placed, or erected at, or near, any road intersection where the sign would violate a twenty-five (25) foot sight triangle at the intersection, or within thirty-three (33) feet of the centerline of any public road. No sign structure shall overhang a public right-of-way. No off-premise sign shall be placed within one thousand (1,000) feet of another off-premise sign.
  
- 6) *Home Business.* An on-premise sign that directs attention to a home occupation shall not exceed four (4) square feet in area and shall be limited to one sign per residence. Said sign shall be either a wall sign or a ground sign that is located a minimum of fifteen (15) feet from any public right-of-way line.

## ARTICLE IV – SIGN PERMIT REQUIREMENTS

- 1) *Application and Permit.* Application for a sign permit shall be made in writing upon forms furnished by the Director. No permit for a sign shall be issued by the Director until the applicant has obtained approval of the permit application for said sign from the Custer County Planning Commission. The following information shall be provided:
  - a) Name and address of the owner of the sign and of the sign installer;
  - b) Name and address of the owner of the premises where the sign is located or to be located;
  - c) Clear and legible drawings to scale showing the location of the sign which is the subject of the permit on a site plan of the premises;
  - d) Clear and legible drawings to scale of the sign structure;
  - e) Other data and information deemed necessary by Custer County.
- 2) *Application Fee.* An application fee for each permit shall be due and payable with the submission of the application to the Director. The application fee for each sign shall be established by resolution of the Board. Application fee rates may be adjusted, when deemed appropriate, by resolution by the Board. The first two on-premise signs at any premises shall be exempt from the application fee.
- 3) *Signs allowed without permits.* In any area in Custer County the following signs shall be allowed without a permit:

- a) *Parking.* One sign, not more than four (4) square feet in area, designating each entrance or exit for parking areas having a capacity of more than four cars and one sign, not more than nine (9) square feet in area, identifying or designating the conditions of use for the parking area.
- b) *Property Management.* One non-illuminated "For Sale" or "For Rent" sign, not exceeding thirty-two (32) square feet in area, which advertises the sale, rental or lease of the premises where the sign is placed.
- c) *Subdivisions.* One sign, not over sixty-four (64) square feet in area, per entrance for each subdivision advertising the sale of property in such subdivision.
- d) *Construction.* One sign, not more than thirty-two (32) square feet in area, for construction on, or development of, a lot which states the names of the contractors, engineers or architects, shall be allowed when construction or development is ongoing.
- e) *Residential.* Residential locator or E9-1-1 signs, rural and agricultural residence location signs.
- f) *Home occupation.* On-premise home-occupation signs.
- g) *Political.* Temporary political or campaign signs.
- h) *Special events.* Temporary special event signs.

- i) Municipal information signs. Municipalities not adjacent to a state maintained highway may erect one non-illuminated sign for purposes of providing non-commercial community information. Such signs may be double-sided; however, no sign face shall exceed sixteen (16) square feet in area.

#### ARTICLE V – MAINTENANCE AND REMOVAL OF SIGNS.

- 1) *Removal of Temporary Signs.* Temporary signs must be placed, built, erected, or moved on site in a way that the signs can be easily removed. Temporary signs are allowed sixty (60) days prior to any lawful event and shall be removed within ten (10) days following the conclusion of the event. Size and location of temporary signs shall conform to the regulations within this ordinance.

- 2) *Unsafe and Unlawful Signs.* The following regulations shall apply to unsafe and unlawful signs, and for the maintenance of signage:

Whenever the Board, by resolution, determines that a sign was constructed or erected, or is being maintained in violation of the terms of this Ordinance, or is unsafe, insecure or has deteriorated, such signage shall either be made to conform with all sign regulations as provided by this Ordinance, or shall be removed within thirty (30) calendar days following written notification thereof by the Director. Such signage shall be removed at the expense of the owner or lessees thereof.

3) *Removal of Signs.* The Board or the Director shall cause to be removed any abandoned or unlawful signage. The Director shall prepare a written notice and order describing the signage, specifying the violation, and stating that if the signage is not removed or the violation is not corrected within thirty (30) calendar days, the signage will be removed in accordance with the provisions of this Ordinance, with the owner of the building, structure, premises or sign to bear the cost for its removal. Service of the notice and order shall be made upon all persons entitled thereto. Service will be effective either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each entitled person at the address as it appears on the last equalized assessment roll of the county or as known to the Director. If no address appears or is known to the Director, then a copy of the notice and order shall be mailed to the address of the premises involved in the proceedings. The failure of an entitled person to receive notice and order shall not affect the validity of the proceedings undergone to enforce the removal of any abandoned or unlawful signage. Service by certified mail in the manner herein provided shall be effective upon receipt of mailing. Any person having an interest in the signage or the premises may appeal the determination of the Director to the Board by filing a written notice of appeal to the Director within seven days of receiving the notice and order. Failure to file a timely appeal of the notice and order shall constitute a waiver of rights to an administrative hearing.

## ARTICLE VI -- VIOLATIONS AND PENALTIES.

The owner, or agent of the owner, of any sign located within Custer County who violates any provision of this Ordinance, or any amendments thereto, or who fails to perform any act required thereunder or who does any prohibited act, shall be guilty of a Class II misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars (\$200) or by imprisonment for a period not to exceed thirty (30) days, or by both fine and imprisonment for each offense, pursuant to SDCL 7-18A-2. Each and every day during which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.

Additionally, any person who violates any provision of this Ordinance or any amendments thereto, or who fails to perform any act required thereunder or who does any prohibited act, shall be subject to an action for civil injunctive relief, pursuant to SDCL 21-8.

## ARTICLE VII -- SEVERABILITY AND SEPARABILITY.

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of this Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

Effective July 22, 2003

Dated at Custer, South Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

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Marvin Bishop, Custer County Commission

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Ken Irwin, Custer County Commission

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Joe McFarland, Custer County Commission

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Attest: Linda Nelson, Custer County Auditor

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