

# Sign Control News

Newsletter of the Center for Sign Control • A project of the Coalition for Scenic Beauty

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## U.S. SUPREME COURT UPHOLDS DENVER'S MOUNTAIN VIEW PRESERVATION ORDINANCE

Scenic mountain views from Denver parks will remain intact. By refusing to hear a developer's appeal, the U.S. Supreme Court has upheld the Colorado Supreme Court's decision to preserve Denver's mountain view protection ordinance. The ordinance, passed in 1968, is designed to insure undisturbed views of the scenic Rocky Mountains from all of Denver's parks.

In the case of *Landmark Land Company, Inc., v. City and County of Denver*, 728 P. 2d 1281 (1986), a developer had proposed a 21-story office building adjacent to Denver's Southmoor Park. Because of the city's mountain view ordinance, the building site fell under a 42-foot height restriction. The developer argued that the ordinance constituted a taking of his property and that the real motivation behind the ordinance was growth management.

The Colorado Supreme Court refused to question the city's motives and held that protecting the right to see the distant scenery was a legitimate exercise of local police power.

In an appeal to the U.S. Supreme Court, the plaintiffs again argued that the ordinance devalued their land by at least 60% and that this amounted to an unconstitutional taking of their property. The Supreme Court refused to



PHOTO BY BILLBOARDS LIMITED

Houston, Texas—The Texas Supreme Court has upheld Houston's sign ordinance.

## HOUSTON SIGN ORDINANCE UPHELD IN TEXAS SUPREME COURT

A city of Houston ordinance regulating the location, size and height of billboards and other business signs was upheld by the Texas Supreme Court on December 2, 1987.

Without a written opinion, the court upheld an earlier decision by the Texas 14th Court of Appeals which had ruled in favor of the City ordinance last May (*City of Houston v. Harris County Outdoor Advertising Association*, 732, S.W. 2nd 370, (1987)).

According to the *Houston Chronicle*, City Council member Eleanor Tinsley, a key supporter of the ordinance called the Supreme Court decision "a major victory." She went on to say that, "Houston's national image is enhanced by our quality of life and trees are better than billboards."

According to the *Houston Post*, City Attorney Jerry Smith said, "The significance of this case is we are able to continue enforcing our ordinance that has been on the books since mid-1985." Because of the extended legal battle, the ordinance had not been rigorously enforced.

(Continued on page 2)

**"It is well established in most jurisdictions that localities have authority, under police power, to impose restrictions to protect scenic views and maintain a high standard of design along certain roadways."**

**—Christopher Duerkson  
Aesthetics and Land Use Controls**

hear the challenge, saying it did not represent a "substantial federal question."

This refusal left intact the Colorado Supreme Court's ruling that Denver's mountain view ordinance did not constitute a taking of property that required the payment of compensation.

This victory for view protection sets another precedent for the growing body of law that natural views are part of an area's unique environmental heritage and are a legitimate concern of local government. □

# ALABAMA BATTLES BLIGHT

A number of Alabama cities and towns have recently acted to protect their community's character by regulating signs and cleaning up visual blight.

## MOBILE

On October 14, the City of Mobile enacted a new ordinance to control the size, height, and number of on-premise signs. The new ordinance prohibits all portable signs, reduces freestanding signs to a height of 35 feet, and otherwise limits the size and number of signs. For example, in historic districts, signs are limited to a maximum of 64 square feet. Mobile acted to control on-premise signs after placing new controls on billboards last December (see *SCN*, Vol. 4, No. 2).

## DAPHNE

On September 21, the Daphne, Alabama City Council voted to ban all new off-premise billboards and to limit new on-premise signs to a maximum of 50 square feet with a 21-foot height restriction. Daphne acted after receiving the results of a public opinion survey (see related story, right) which showed area residents wanted better sign controls.

## DECATUR

On September 10th, the Decatur, Alabama Planning Commission unanimously approved a new sign ordinance proposal. The proposal regulates the size, height, number, density, location and lighting of billboards and other signs throughout the city. The proposed ordinance reduces the size of billboards and other signs from the 1,250-square-foot limit to a maximum of 400 square feet. The ordinance bans all signs with animated, moving or flashing parts. Before final adoption the ordinance must be approved by the city council. □

# ALABAMA SURVEY SUPPORTS SIGN CONTROLS

A new public opinion survey conducted in Alabama shows that residents are concerned about the negative impact of uncontrolled growth and favor measures to control signs, protect trees, and enhance the quality of life.

The survey of residents of Baldwin County, Alabama was conducted by the Corridor 98 Committee, a group concerned about development along the Eastern Shore of Mobile Bay. John Friend, who conducted the survey, said a large percentage of those polled thought the Eastern Shore needed controls to halt improper development and to solve traffic problems. Friend said the survey showed that a large majority of residents don't like visual clutter and are willing to take action to protect their quality of life.

For example, the survey showed that:

- 92% favor tree and landscape ordinances to help improve the beauty of the Eastern Shore.
- 87% think signs and other visual devices should be regulated.
- 75% feel there are too many signs, flags, streamers and other visual clutter along commercial corridors.
- 74% prefer to patronize commercial establishments whose structures and parking lots are landscaped with trees and other forms of landscaping.
- 76% favor implementation of zoning and other land use controls.
- 59% will look for alternate shopping locations if congestion and sign clutter continue to increase along Highway 98.

Wayne Loudermilch, one member of the Corridor 98 Committee, said he would like to give visitors a gracious introduction to the Eastern Shore instead of assaulting them with large, numerous signs which compete with the view of the bay. To obtain a copy of the "Road to Chaos" survey, contact The Coalition For Scenic Beauty, 218 D Street, S.E., Washington, DC 20003. □

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**SIGN CONTROL NEWS** is a publication of the Coalition for Scenic Beauty. It is available free to Coalition members. If you want to help save our scenery and work for meaningful controls on visual blight, you can join the Coalition. Membership fees are \$20 a year; for local clubs, associations, organizations, private businesses, or government agencies, annual dues are \$50; for state or regional organizations, \$100; for national organizations, \$150. To join, send check payable to the "Coalition for Scenic Beauty" to: Coalition for Scenic Beauty, 218 D Street, S.E., Washington, D.C. 20003.

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## Houston Ordinance Upheld

*(Continued from front page)*

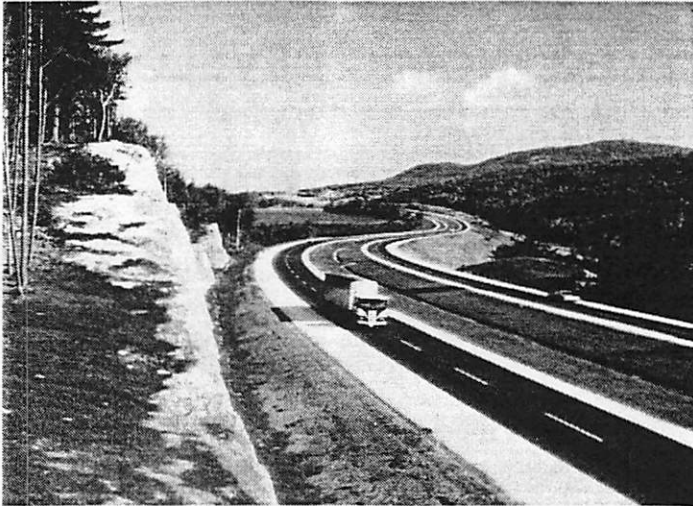
Harris County Outdoor Advertising Association (HCOAA), originally filed suit against Houston in 1985 after an ordinance regulating billboards was passed. The first ruling in the case favored HCOAA but the 14th Court of Appeals and now the Texas Supreme Court have ruled in favor of billboard regulation and the City of Houston.

HCOAA is threatening to continue the legal battle but the ruling in Texas, coupled with the recent rulings in the U.S. Supreme Court regarding billboard control and scenic view preservation, establish a strong legal precedent for aesthetic regulation. □

# FACT SHEET: SIGN CONTROL & ECONOMIC DEVELOPMENT

## Sign Control is Good for Business

- To a great degree, business, industry and new residents are all attracted to or repelled by a community's appearance; in other words, what it looks like. An attractive community generates business and attracts homeowners. An attractive community is also a healthy community. It has a sense of pride, a sense of caring, and a sense of place.
- Sign control is even more important when it comes to communities that depend on tourism. As tourists, Americans collectively spend millions of dollars seeking unspoiled countryside and unobliterated architecture. Yet nothing destroys the unique character of a place faster than uncontrolled billboards and signs.
- The more a community does to enhance its unique set of natural, historic, and architectural assets, the more tourists it will attract. On the other hand, the more one place comes to look like everywhere else, the less reason there is to visit.
- Without exception, communities that have enacted sign control ordinances have benefited economically. For example, Montgomery County, Maryland; Fairfax County, Virginia; Boulder, Colorado; Chapel Hill, North Carolina; Boca Raton, Florida; Marin County, California; and Honolulu, Hawaii all have three things in common: strict sign controls, healthy economies, and national images as good places to live, work and do business.
- The Joint Economic Committee of the United States Congress reports that a city's quality of life is more important than purely business-related factors when it comes to attracting new businesses, particularly in the rapidly growing high-tech and service industries.
- The three American cities voted most conducive to business—San Diego, Seattle, and Portland, Oregon—have all banned new billboards and enacted tough on-premise sign controls.
- Almost all of America's premier vacation resorts ban billboards and control signs. For example, Palm Springs, Lake Tahoe, Carmel and Big Sur, California; Santa Fe, New Mexico; Scottsdale, Arizona; Hilton Head, South Carolina; Williamsburg, Virginia; Boca Raton, Florida; and Martha's Vineyard, Massachusetts have all recognized that sign control helps attract tourists' dollars and aids the local economy.
- Chaotic overabundance of billboards almost invariably accompanies an area's deterioration and lowers property values.
- Indeed, the copy-cat competition to see who can build the biggest, tallest, and most distracting sign always backfires. Like screaming children in a crowded classroom, the more everyone shouts the less you can hear. Sign clutter works the same way. It means the viewer sees less, not more.
- When a community passes regulations that effectively limit the size and number of signs, the viewer actually sees more. As a result businesses do a more effective selling job at lower cost. Elimination of clutter also increases motorist safety, and reduces the visual assault on our senses.
- You need only look about you to see that every step taken to improve a community's livability includes without question good billboard and sign control. You always find it in modern shopping malls, revitalized business districts, and top grade industrial parks.
- The National Academy of Sciences Urban Policy Committee reports that "improving the appearance and attractiveness of buildings and open spaces in a community increases its desirability as a place to live, work, visit, and invest."
- The Texas Industrial Commission recommends "visual enhancement" as one of the five major steps for a city that is seeking industrial development."
- The Mississippi Research and Development Center, after a five-year study of 35 cities, reports that "the way a community looks affects how both residents and visitors feel about it. An attractive community has a better chance at industry, including tourism."
- The President's Commission on Americans Outdoors reports that "natural beauty" is the single most important factor for adults when they choose a site for outdoor recreation.
- The Vermont Travel Division reports that "one of our greatest natural resources is our scenic beauty. Although there was some question that removing billboards might hurt tourism, it has had the opposite effect. Tourism is up for all businesses large and small."
- The Maine Department of Tourism reports that "we have no commercial signs on Interstates. People say they can see the state now. Our mail shows that there is a great deal of appreciation for the fact that we have removed billboards. The initial concerns that businesses would be hurt have been completely unfounded." □



*Efforts to protect scenic roadways are on the rise.*

## LET THE HIGHWAYS BLOOM . . .

Congress has passed new legislation mandating the planting of native wildflowers along Federal Highway rights-of-way. The idea to sow the seeds of beauty nationwide came from Senator Lloyd Bentsen (D-TX), who guided the legislation through Congress as part of the 1987 Highway Bill.

In September, the Federal Highway Administration published final rules which require that 25 cents out of every 100 dollars of Federal Highway landscaping funds is to be used to plant wildflowers. According to this regulation, any landscaping project undertaken along a Federal Aid Highway must include wildflowers.

Texas has had a successful planting program for 50 years and finds that it not only beautifies the highways and tends to decrease litter, but the program actually saves taxpayers money by decreasing the number of times the right-of-ways need to be mowed. □

## WILMINGTON VOTES TO CONTROL BILLBOARDS

The Wilmington, North Carolina City Council has voted for new controls on both billboards and on-premise signs.

The new ordinance, adopted on October 3rd, limits billboards to areas zoned for heavy industry and tightens size restrictions on billboards to a maximum of 150 square feet along four-lane streets and 75 square feet along other streets. The council also enacted an amortization provision which requires that all signs be brought into compliance with the ordinance or be taken down within 5½ years.

The council showed strong support for sign control when they rejected seven amendments proposed by billboard industry giant, Naegele Outdoor.

The Wilmington action followed the adoption of similar controls by adjacent New Hanover County, North Carolina in May 1987 (see *SCN*, Vol. 4, No. 2). Over the past two years, more than 20 North Carolina communities have enacted new controls on signs and billboards. □

## VIEW PROTECTION EFFORTS ON THE RISE

Despite the growing array of environmental protection measures, many cities and towns are recognizing the need to do more to protect what is special and unique about their communities. Today, concern for protecting community identity is manifesting itself in efforts to protect the visual characteristics that give an area a distinctive sense of place.

View protection regulations are an important tool for communities which want to protect special vistas, scenic roads, and other unique visual attributes. View protection regulations run the gamut from height controls to scenic highway legislation.

Capital cities such as Austin, Denver, Sacramento and Washington, D.C., preserve views of their capitols and other landmarks with height and setback controls. For example, in order to protect views of the Nation's Capitol, Washington, D.C. enacted a citywide building height cap of 110 feet in 1910.

More recently, Austin, Texas, has designated 23 view protection corridors. The historical significance of the capitol and the Austin skyline are the main features addressed in the extensive study and analysis which led to adoption of the 1984 ordinance. The ordinance protects public views of the state capitol from selected points in the city.

The panoramic vistas of the Rocky Mountains have long been recognized as the focus of Denver's distinctive identity. In 1968, Denver enacted a view protection ordinance to protect views of the Rocky Mountains from the capitol grounds and the city's public parks. The ordinance also preserves views of the capitol itself from various vantage points in the city. Amendments to the ordinance have broadened it to include nearly 12% of the city. Denver's mountain view protection ordinance has been upheld against a variety of legal challenges. For example, in upholding the ordinance, the Colorado Supreme Court ruled that the mountains are part of Denver's unique environmental heritage. The Colorado Supreme Court decision was later upheld by the U.S. Supreme Court.

Another approach to view protection is evident in Pittsburgh's height restrictions on new buildings along the banks of the Monongahela River which forms one side of the unique geographical triangle of the City of Pittsburgh. The height restrictions are geared to protect views of the city's waterfront and require staggering of building heights according to their distance from the river.

View protection is a flexible tool because it can apply to a variety of contexts. New Orleans, for example, adopted zoning provisions in 1984 to prevent further strip development along major roads into the city. The purpose is to provide a "superior environment and positive design image" for this historic city. The city established an overlay district with special architectural design, sign and landscaping requirements for all uses. In addition, fast food restaurants and other franchise developments were made conditional uses to insure site plan review. □

## GREENVILLE COUNTY MOVES TO BAN BILLBOARDS

The Public Service Committee of the Greenville County Council has voted 4-to-1 to ban all new billboard construction in Greenville County, South Carolina. The proposed ordinance not only bans new construction, but prohibits future replacement of existing billboards.

According to the *Greenville Piedmont*, "a ban on all new billboard construction in Greenville County may be the best solution to difficulties in enforcing existing sign laws, members of the council committee said."

According to the *Greenville Piedmont* the difficulties stem from continued billboard industry violation of the existing sign ordinance. After extended community debate, the County Council adopted the existing ordinance in 1986. It placed a cap on the number of billboards in the county. The 1986 ordinance allowed erection of a new billboard only if an existing sign was removed. The ordinance also required each company to provide the location, a photograph and directions to each billboard in the county.

Council members complained of numerous violations and noted that of 293 billboards in the county, only 182 were registered before the deadline. □

## ORLANDO ENACTS BILLBOARD MORATORIUM

In public hearing on August 31st, the Orlando, Florida, City Council put a 90-day moratorium on new billboards. Later the moratorium was extended for another 90 days until February, while proposed regulations are ironed out.

Rick Bernhardt, Director of Planning and Development says the "bottom line is compliance," and if negotiations between the council and the industry yield satisfactory agreements, a ban will not be considered. However, if negotiations don't work out, the council has some alternatives to consider.

The first alternative would permanently ban all new billboards. The second alternative would temporarily ban all billboards until all existing signs are brought into compliance with the current ordinance.

Enforcement of existing regulations is the main focus of the negotiations and is the route preferred by the council. The temporary ban is being considered because of the enormous number of non-conforming billboards in the county. Of 225 signs, 80% are out of compliance with the existing law.

According to Bernhardt, negotiations are progressing and he is "cautiously optimistic." The two interests are discussing compliance time schedules and possible trade-offs such as the industry removing four to five billboards in exchange for retaining one tri-vision sign. Bernhardt stressed that, because the county's current standards are fairly stringent, including a height restriction of 30 feet and a 400-square-foot size limit, industry compliance with existing law would make a significant difference in the billboard problem. □

## COLORADO SPRINGS BANS DOWNTOWN BILLBOARDS

The Colorado Springs City Council has voted 9-0 to ban permits for new billboards in an eight-block core area of downtown Colorado Springs.

The vote to ban new billboards came on September 9, 1987, four months after the city had declared a moratorium on the erection of billboards throughout the city.

According to the *Denver Post*, Anna Lou Chapman, Vice-President of Lamar Outdoor Advertising, a Louisiana firm with 425 billboards in the city, including two in the core area, told the council she agreed with the decision. Referring to Lamar's two downtown signs, Chapman told the council, "they're yours." □

## COURT OF APPEALS UPHOLDS CLEARWATER'S SIGN LAW

On October 13 the 11th U.S. Circuit Court of Appeals restored a Clearwater, Florida law that regulated portable signs even though a lower court had rejected the regulation on First Amendment grounds.

According to the Associated Press, small businesses that leased and rented portable signs and merchants who used them to advertise filed suit to challenge the city of Clearwater's portable sign regulation.

U.S. District Judge Elizabeth A. Kovachevich ruled in Tampa that the regulation violated the First Amendment because it did not directly advance the city's interest in enhancing its appearance. She enjoined the city from enforcing the regulation, but the city appealed.

In the October ruling, a three-judge panel held that the regulation did not violate the First Amendment. The opinion, written by Judge Luther M. Swygert, held that the city's attorneys had submitted adequate evidence to support "the city's judgment that the regulation of portable signs will help to eliminate visual clutter and thereby further the city's interest in improving the visual character of the city." □

## NEW JERSEY COURT UPHOLDS BILLBOARD CONTROLS

The Appellate Division of the New Jersey Superior Court has ruled that the right to free speech is not infringed upon by denial of an outdoor advertising permit.

In a ruling handed down on November 23, 1987, a three-judge panel held that the state's right to deny a permit to a billboard company meets the standards for regulating commercial speech as established by the U.S. Supreme Court in 1980.

The court ruled that if the government proves it is in the public interest to do so, commercial speech can be regulated. The appeals court also held that traffic safety and avoidance of eyesores along roadways were valid reasons to regulate commercial speech.

The ruling upheld the New Jersey Outdoor Advertising Act and reversed a decision by the state transportation commissioner to grant a permit to a Philadelphia outdoor advertising company which had sought to erect a billboard along the Atlantic City Expressway. □

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# THE COALITION FOR SCENIC BEAUTY NEEDS YOUR HELP IN OUR FIGHT TO SAVE OUR SCENERY.

We are now working with cities and towns all over America, helping them halt the spread of visual pollution. We need your help to protect the character of our communities and to preserve our scenic heritage. Please sit down right now and write out a check for \$30 or more to help us fight the ugliness lobby.

*Please join us in helping to stop the ruthless destruction of our scenic heritage.*

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