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ANALYSIS AND DEVELOPMENT OF EFFECTIVE
LOCAL OUTDOOR ADVERTISING CONTROL

by

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This thesis is dedicated to the memory of my brother,

JAMES BROWNELL FRISBIE

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CHAPTER I

INTRODUCTION

Since the beginning of recorded time, some form of advertising with signs has been used. There is evidence of their use in ancient Egypt. One form of this evidence is the Obelisks or monumental pillars which stood in pairs to dignify temple entrances. These are huge monoliths, square on plan and tapering to a pyramidal summit, with a metal capping. The height is nine or ten times the diameter at the base, and the four slightly rounded sides are cut with hieroglyphics.¹ Hieroglyphics, in addition to telling a story, provided a fascinating display of flat design. These symbols were not limited to Obelisks, but were arranged around doorways to be read from right to left, left to right, or down in columns. However, their actual placement and arrangement was for the sake of design.

From these Egyptian letter forms, an abstract alphabet was formed by Egyptians in the twilight of their era. The Greeks further refined this abstract alphabet into the Greek alphabet. The word "alphabet" probably derived from the first two letters in the Greek alphabet, "alpha" and "beta." This alphabet was passed on to the Romans through the intermediacy of the Etruscans. Although the Etruscans read from right to left, the Romans chose to design their writing to be read from

¹Banister Fletcher, A History of Architecture on the Comparative Method, Sixteenth Edition (New York: Chas. Scribner's Sons, 1958), p. 37.

left to right, following the Greeks.²

Probably the most publicized Roman lettering is the inscription cut into the base of the Trajan Column in 114 A. D., and located in the Basilica of Trajan, Rome. The inscription reads:

"The sculptures wind aloft
And lead, through various toils, up the rough steep
The hero to the skies."³

The inscription is not important; however, the letters are. The connection between these rounded letters, and the arches, vaults, and cupolas of their architecture is obvious. The letters were well-designed, unobtrusive, legible, and painless. In fact, the Roman capitals have had, and still have, the greatest influence on the design and use of capital letters. They have remained the classic standard of proportion and dignity for almost two thousand years.⁴

Although letters were important in ancient civilizations, picturesque means of identifying goods and services for sale were most common. The earliest actual remains of this form of advertisement were found in the buried cities of Pompeii and Herculaneum. In these cities, there are remains of signs in terra cotta and stone represented in relief, and a few painted. The general subjects of these signs are the representation of typical goods for sale, or some suggestion of these goods by allusion. Thus, a goat is for a dairy, shoe for a shoemaker, chisel

²Alexander Nesbitt, The History and Technique of Lettering (New York: Dover Publications Incorporated, 1957), pp. 4-8.

³Fletcher, op. cit., p. 187.

⁴Nesbitt, op. cit., p. 12.

and adze for carpenter, and Bacchus pressing a bunch of grapes for a wine merchant. A common tavern sign in Rome was a clump of ivy and vine leaves--symbol of Bacchus. One tavern sign in Pompeii showed two slaves carrying an amphora. Another found at Pompeii, which has persisted until modern times, was the Chequers, and was probably used because it was the mechanical help to cast up the reckoning--a money changer's abacus. Alternatively, since games of draughts and backgammon were commonly played in the inns, the sign could have derived from this circumstance.⁵

From the examples thus far cited, signs apparently were representative of the goods sold. This was extremely necessary because the largest portion of people up to the beginning of the nineteenth century could not read. Therefore, a shop was known by its sign. "At the sign of . . . ," "I will meet you at the sign of . . . ," were common phrases.

Symbolic signs were the principal type of sign revived in the Middle Ages, and they continued as the essential basic type until the end of the eighteenth century. Some of the simple signs representative of goods sold were: golden boot and last for shoemakers; cabinet, chair, looking glass and walnut tree for cabinet makers; four coffins for carpenters; haunch of venison, golden pheasant and pineapple for confectioners; case of knives for a cutler; skull and crossbones for the undertaker; red and white striped pole for the barber.⁶

⁵Arnold Whittick, Symbols, Signs and Their Meaning (Newton 59, Massachusetts: Charles T. Branford Company, 1961), p. 108.

⁶Ibid., pp. 109-111.

As towns began to grow larger and larger, signs became more elaborate and complicated because it was necessary to differentiate between the same class of shops in one district--numbering of premises was not general until the latter part of the eighteenth century. This conglomeration of signs prompted Addison, in 1711, to write an essay recommending a position be established for an officer to regulate signs.

He wrote:

That his [Officer's] first task would be to clear the city of monsters. In the second place, I would forbid that creatures of jarring, incongruous natures should be joined together in the same sign; such as the bell and the neat's tongue, the dog and the grid-iron. The fox and the goose may be supposed to have met, but what has the fox and the seven stars to do together? And when did the lamb and dolphin ever meet except upon a sign-post? . . . would [he] enjoin every shop to make use of a sign which bears some affinity to the wares in which it deals⁷

One common sign that has persisted is the barber's pole.

Although the origin of the barber's pole is somewhat uncertain, one tradition is that it dates from the time when the functions of barber and surgeon were combined. In the operation of blood letting, a pole was held tightly to make the blood flow freely. The pole was painted red to prevent the blood stains from showing; and barbers often hung it, when not in use, outside the shop with bandages twisted round it--thus, the red and white spiral of the barber's pole today.⁸

With the spread of literacy at the end of the eighteenth century, and the numbering of premises, shop signs gradually ceased to perform

⁷Ibid., p. 109.

⁸Ibid., p. 212.

the function of symbolic identification, although they continued to serve an advertising and decorative function. Lettering began to take the place of symbols, and many of the letter forms of the past were recalled to use after considerable refinement and beautification of the basic forms.

In the nineteenth century, extensive use was made of Sans-serif, Tuscan, Ionic, and Egyptian lettering elaborately placed upon shop signs. Egyptian letters, which became extremely fashionable in 1815, are identified by unbracketed, slab serifs, normally an even-line letter and also a heavy letter.⁹ Figure 1 below is an example of the Egyptian letter form. The next letter form to become popular in the nineteenth



FIGURE 1

EXAMPLE OF EGYPTIAN LETTER FORMS

⁹Nicolette Gray, "Egyptians," Architecture Review, Vol. 115 (June, 1954), pp. 387-388.

century was the Sans-serif. This letter, which gained wide usage in 1816, is readily identified by its nonvariable width and its abrupt terminations without thickening or serif.¹⁰ As Figure 2 below illustrates, of all the letter forms used in the nineteenth century, Sans-serif was by far the dullest.



FIGURE 2

EXAMPLE OF SANS-SERIF LETTER FORMS

Another letter form used was the Ionic or Clarendon. This letter is actually a cross between Egyptian and Roman letters. Therefore, the letter is an Egyptian with a curve softening the ruthless angle where the slab serif meets the letter stem; or a Roman letter with the points chopped off the ends of the serifs. Consequently, this letter form abandons any attempt to carry the quest for perfection or seriousness

¹⁰Nicolette Gray, "Sans," Architecture Review, Vol. 115 (April, 1954), p. 269.

to its final limit.¹¹ Figure 3 below is an example of this letter form.

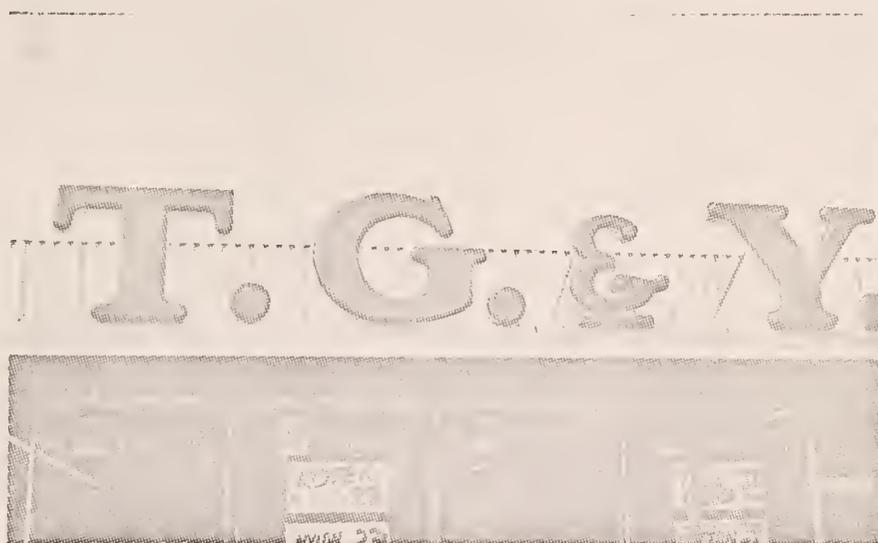


FIGURE 3

EXAMPLE OF IONIC LETTER FORMS

Finally, the letter most remembered as characteristic of the nineteenth century is the Tuscan. Although this letter form dates from the fourth century when a mason named Filocalvs signed his name in Tuscan style under an inscription at the catacombs, the "golden age" for Tuscan was the nineteenth century. This letter is identified by the curled serifs and special design treatment to the interior of the letter.¹² The Figure on the following page illustrates the Tuscan letter form.

¹¹Nicolette Gray, "Ionic," Architecture Review, Vol. 116 (August, 1954), p. 119.

¹²Nicolette Gray, "Tuscan," Architecture Review, Vol. 116 (October, 1954), p. 259.

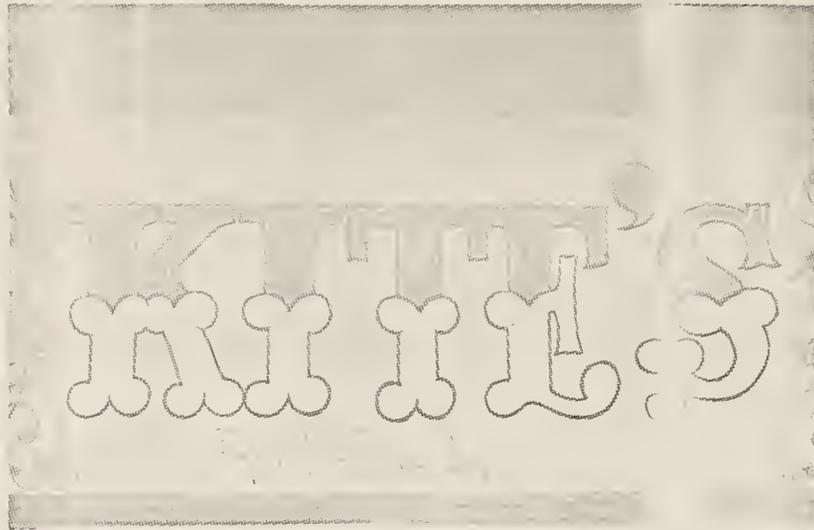


FIGURE 4

EXAMPLE OF TUSCAN LETTER FORMS

Along with the refinement in letter styles, a completely different form of outdoor advertising began to emerge--poster, or as it eventually became known, billboard advertisement. Poster advertising began in the United States with notices of sale of farm stock and equipment, fairs, circuses, horse races, carnivals, and medicine shows. Phineas T. Barnum was one of the pioneers in this medium, being the first to use poster advertising successfully and repeatedly on a large scale.

By the close of the Civil War, poster advertisement had grown to the extent that there were 275 bill posting firms employing from two to twenty men each. During the 1870's, theaters used poster advertising extensively because of the improvement made in the lithographic process for reproducing pictures. Lurid portrayals on posters by burlesque

shows so offended the public that some members of the bill posters' association refused to handle offensive type of graphics. In 1891, the first national association of poster men was formed, and was called the Associated Bill Posters' Association. This organization began to standardize poster advertisement.¹³

As the nineteenth century neared completion, a casual observation by the nineteenth century citizen concerning future advertising achievements might have been fairly optimistic. With symbols and letter forms which had developed through several centuries, and with new materials, such as aluminum alloys, plastics, and electrified glasses, the twentieth century could have created the most stimulating, exciting, and pleasing advertising displays ever. Unfortunately, this has not occurred--the reverse has.

The evidence of this downward trend was present during the nineteenth century when poster advertising began to develop. The development of poster advertising, now commonly called billboards, was fostered greatly by the advent of the automobile and the increased mobility that it provided twentieth century man. These billboards, unsightly colored, lettered, and shaped, line highways between cities and increase in density as the distance to a city decreases. After passing through the "ribbon slums" entrance of a city, a candid impression is formed by the traveler that this city is not unique, but is sadly similar to many others. If the central business district is not bypassed, another

¹³Max A. Geller, Advertising at the Crossroads (New York: The Ronald Press Company, 1952), pp. 56-58.

unpleasant visual experience lies ahead--central business district (CBD) sign atrocities. Once in the CBD, these atrocities take the form of signs designed not to delight or enhance the visual senses, but to attack them and demand their attention. Consequently, signs are crude, overworked, cluttered, competitive, projective, and ineffective.

Although in the minority, not all cities have allowed sign usage to go uncontrolled. These cities have their entranceways lined with nature allowing unhindered, enjoyable landscape and cityscape views. The first impression of one of these cities is that it is different, maybe even unique. Arriving in the CBD, the impression is proved. Signs in the business area are clever and original, symbolic of the goods and services they advertise, and pleasing in scale. But, most of all, attention is not demanded--it is invited. Besides issuing a grand invitation, signs are sensible, logical, aesthetic enhancements of their buildings. In fact, the atmosphere, rather than cheap, is affluently interesting, a condition conducive to leisurely shopping with subsequent buying. However, these cities were able to accomplish proper levels of sign usage only after some form of effective outdoor advertising control was established.

Since some cities have met with success in controlling outdoor advertising in America, other cities should be able to benefit from their experience. Furthermore, previous generations have devised letter forms on a classical basis. With their techniques, these letter forms were developed into artifacts and placed on signs in accord with the

conventions of the time. These two aspects, techniques and conventions, have been fused into lively and functional works of art. The time has arrived when all American cities should do the same.

I. THE PROBLEM

Statement of the problem. The purpose of this study is (1) to indicate that the control of outdoor advertising devices is necessary to achieve optimum public benefit--regulation will achieve this end by improving public safety, enhancing the aesthetic beauty of America, improving the effectiveness of outdoor advertising, and insuring orderly land use development; and (2) to develop effective and equitable measures for local outdoor advertising control.

Importance of the study. For centuries, the use of outdoor advertising had been allowed to develop without any formal control. As already noted, there was no need for control until this century. Some people still contend that control is not necessary; the Outdoor Advertising Association is a leading proponent of no control. This group operates on the premise that any form of control directly interfering with private enterprise is not warranted. In other words, strict adherence to the principle of "laissez faire," which implies that each individual in pursuing his own selfish end is led, as if by some invisible hand, to achieve the best good for all. Therefore, any interference with free competition by government is deemed to be injurious to the free enterprise system.

However, the operations of the market in the free enterprise system are not always in line with the public interest. But, before government can interfere in the supply and demand facets of the market system, there must be concrete evidence presented to prove that the "public interest" will be served by the regulation of outdoor advertising. Although many articles have been written by knowledgeable authors such as Richard Starnes, Gerald Krefetz, Allan Temko, and Peter Blake stressing the public interest in control of outdoor advertising, none of these authors have managed to concentrate all of the valid reasons for control in their writings. Furthermore, these writings, for the most part, are merely inventories of present conditions lacking firm recommendations to improve the status quo. Hopefully, this thesis will alleviate these shortcomings.

While forces have been building up against present outdoor advertising practices--the federal highway beautification acts of the past eight years, for example--more leisure hours, increased personal income, and easy access by automobile have increased the competition among urban areas as market centers, industrial areas, recreational retreats, and so on. Individuals are no longer dependent upon the goods and services of the nearest community but are attracted to those communities which provide the most appealing trade centers and ample cultural and recreational opportunities, which satisfy their physical, aesthetic, and emotional needs, and which fulfill their occupational requirements.

Economic growth in the United States is concrete evidence of the important role that amenities play in current industrial locations.

Economic growth in the United States has been in three cycles. The first cycle is termed the agricultural period. In this cycle, the basic requirements for economic development were arable land, good climate, plenty of water, and access to a port from which agricultural products could be shipped to European markets. The next cycle, reliance on minerals, began about 1840. In this cycle, there was at first a growing demand for iron and steel. Therefore, geographical juxtaposition of coal, iron ore, and markets provided the impetus for economic growth. From those areas, secondary industrial development began to take place-- manufacturing. This development became most significant in the Great Lakes area.

Finally, the cycle of amenity resources is reached. In this cycle, natural resources need not enter directly into the process of production, but only influence directly the location of markets as well as of production. Hence, the amenities are paramount, such as climate, land, coastline, and so on. This amenity-resource effect derives from the interplay of a number of developments within the national economy and society.

First, there is the increasing importance of the growing numbers of nonjob-orientated migrants. According to the 1960 United States Census, some 8 per cent of the United States population is over sixty-five years of age, and the proportion of this age group in the total is growing. Approximately two-thirds of these persons are not working, and many enjoy some form of paid retirement. Since most consumption items can be acquired in any area, many of these persons will seek out

the more intangible resource services, such as climate and coastal amenities.

Second, the growth in the number and significance of industries whose ties to resource inputs and national market centers are relatively weak is an important factor fostering amenity locational determinants. These industries are termed "foot-loose" because they have an unusually broad spectrum of locational alternatives available. Such an industry may be labor-oriented, climate-oriented, or the items produced are of such value that transportation costs are insignificant in terms of product value--instrument and optical goods. All of these have in common an array of locational possibilities that permit them to settle in amenity-rich areas without doing violence to the economics of their activities. California's manufacturing growth is an excellent example of this factor.

Third, there is the effect of rising per capita income throughout the nation. Given the high elasticity of demand for travel and recreation, rising incomes have meant an increasing export market for regional amenity resources in the form of tourist services to vacationers.¹⁴

Therefore, it is imperative for a community, if it desires to continue to grow, to take inventory of its amenities and then exhibit them to their fullest potential. Communities that do not optimize their amenity resources will not be able to compete successfully with those that do optimize. No quality can be neglected because not all cities have an abundance of natural amenities.

¹⁴W. Alonso and J. Friedmann, Development and Planning a Reader (The M. I. T. Press, 1965), pp. 216-224.

Consequently, two cities with similar natural endowments may seem to offer equal amenity values. However, if one of these cities has some form of effective outdoor advertising control, it will have a definite edge over the other city. For this city says, without the use of a sign, orderly and controlled growth is promoted here. On the other hand, a city with scenic views and no form of outdoor advertising control to prevent the scenic views from desecration by ridiculous placement of signs, could lose out to a city with outdoor advertising control having less scenic views, but ones which can be seen. This is true even though the first city did have a beautiful yellow, green, and orange twenty-four standard poster billboard proclaiming, "Industry is Welcome."

From the following discussion, it is not difficult to imagine the benefits that could be derived by many communities if definite, concrete standards were developed proving that outdoor advertising control is in the public interest. These standards are safety, aesthetics, functional identity, and orderly land use development. Although the next chapter will deal with each of these in detail, some idea of their general content might prove beneficial at this point.

The first standard is safety. This is a familiar argument for outdoor advertising control. The basic premise is that advertising devices, such as billboards, make driving more hazardous. There appear to be two schools of thought on this aspect of control. One, when a device obstructs the view at a curve, a railroad crossing, or when its illumination camouflages traffic signals, the device then is clearly a hazard. However, the second school of thought is not so definite.

This one operates on the premise that any advertising device constitutes a danger since its purpose is to attract the motorist's attention.

The second standard, aesthetics, has received some discussion already in this introduction. Advertising devices, as a whole, are just plain ugly or gaudy. But because of the differences in opinion relating to beauty, a design criterion must be developed so that advertising devices can be systematically evaluated. This criterion is based on six good design characteristics: good maintenance, simplicity and unity, contrast, balance, originality, and integration with surroundings.

The third standard, functional identity, is related to the effectiveness of present advertising devices. For an advertising device to be effective, it should be distinctive and easily recognizable from competing devices. By proving current methods used to achieve attention fail, another point in favor of regulation is gained.

The fourth standard is entitled orderly land use development. In addition to discussing the relationship of outdoor advertising devices to land use, the parasitic function of certain forms of outdoor advertising devices is examined.

Once the need for regulation of outdoor advertising is firmly established, then effective outdoor advertising controls must be developed. These controls must be such that they will best fit the needs of certain sizes of cities. For example, a town of twenty thousand may not be able to afford all the necessary court costs associated with a comprehensive regulation; but they may, through daily personal contacts with merchants and outdoor advertising agencies, develop desired levels

of outdoor advertising. On the other hand, the city with a population of two hundred thousand may find that personal contacts are of no real benefit because of the complex relationships that exist in large cities. However, a large city has the power and the money to push comprehensive regulations to full effectiveness.

Limitations of the study. As the discussion thus far implies, this study is limited to the local level. There are two reasons for this limit. First, the researcher is adhering to a belief that federal control and money are not necessarily the only salvation for American cities, and that outdoor advertising control logically begins at the lowest level. Second, because of the magnitude of this study, federal, state, and county controls are not developed to any extent. However, federal controls are discussed somewhat, since they are extremely necessary to control areas outside of city jurisdiction--specifically along highways.

II. DEFINITIONS OF TERMS USED

In this section, some definitions of outdoor advertising devices are presented. These definitions represent a compromise between common usage and desirable terminology. For example, instead of using "sign," "outdoor advertising device" is used because it is a more comprehensive term. The first term to be defined is "outdoor advertising device." Then it is further defined as to location, construction, and illumination.

Outdoor Advertising Device. Any outdoor structure or natural

object--such as tree, rock, bush, and the ground itself--or part thereof, or device attached thereto, or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an announcement, direction, or advertisement. However, it does not include the flag, pennant, or insignia of any nation, state, city, or other political unit.¹⁵

Any outdoor advertising device may be further defined as to location:

Accessory Outdoor Advertising Device. An outdoor advertising device advertising activities being conducted upon the real property where the advertising device is located.

Nonaccessory Outdoor Advertising Device. An outdoor advertising device advertising activities not being conducted upon the real property where the advertising device is located.

Mobile Outdoor Advertising Device. Any outdoor advertising device constructed so it can be moved from place to place with ease and

¹⁵ Throughout this thesis, several photographs are referred to. The use of these photographs is not for the purpose of singling out individual advertisers or advertising companies for criticism or commendation. The pictures were taken at random locations, and they are intended merely to illustrate certain good or bad points of outdoor advertising common usage.

without requiring any additional construction work for the movement.

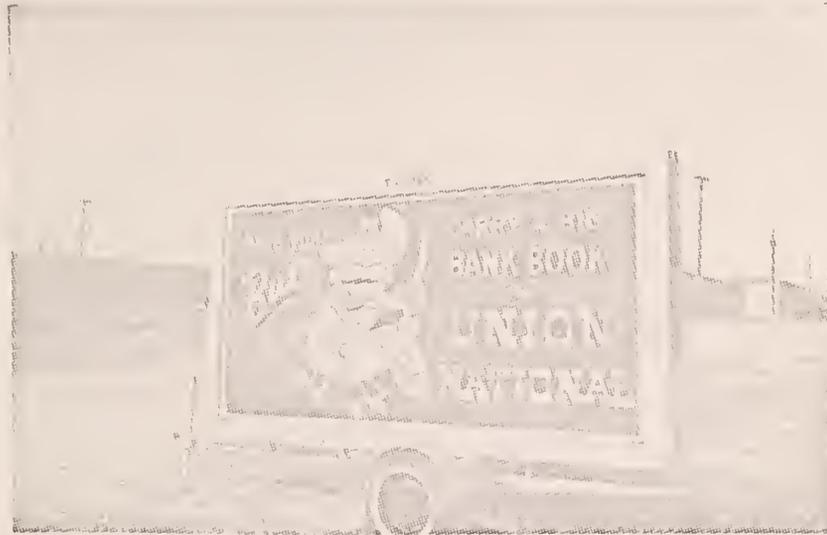


FIGURE 5

EXAMPLE OF A MOBILE OUTDOOR ADVERTISING DEVICE

Any accessory, nonaccessory, or mobile outdoor advertising device may be further defined as to construction:

Overhanging Outdoor Advertising Device. Any outdoor advertising device extending over the public sidewalk or beyond the street line. An example of an Overhanging Outdoor Advertising Device is on the following page.

Ground Outdoor Advertising Device. Any outdoor advertising device supported by uprights or braces, placed upon the ground and not attached to any part of any building. An example of a Ground Outdoor Advertising Device is on the following page.



FIGURE 6

EXAMPLE OF AN OVERHANGING OUTDOOR ADVERTISING DEVICE

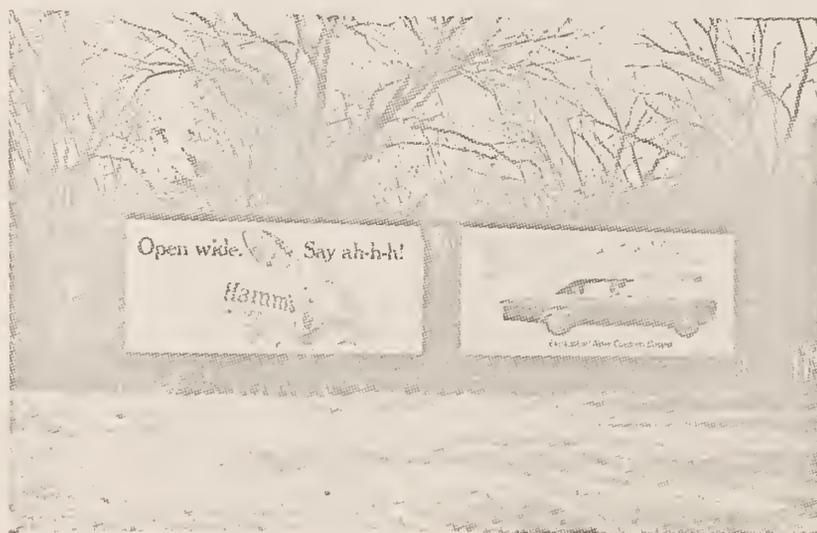


FIGURE 7

EXAMPLE OF A GROUND OUTDOOR ADVERTISING DEVICE

Roof Outdoor Advertising Device. Any outdoor advertising device

erected, constructed, or maintained upon the roof of any building.



FIGURE 8

EXAMPLE OF A ROOF OUTDOOR ADVERTISING DEVICE

Wall Outdoor Advertising Device. Any painted outdoor advertising device or poster on any surface or plane that may be affixed to the front, rear, or side wall of any building.

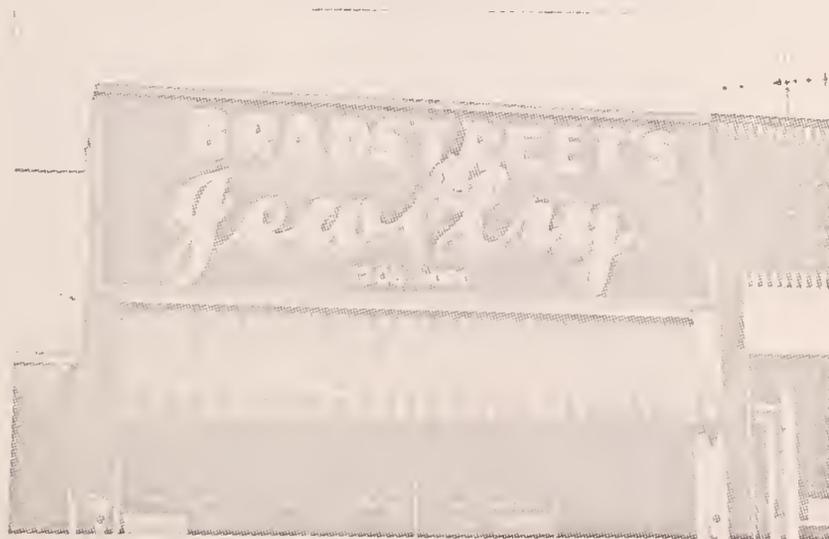


FIGURE 9

EXAMPLE OF A WALL OUTDOOR ADVERTISING DEVICE

Pole Outdoor Advertising Device. Any outdoor advertising device erected on a pole or poles and that is wholly or partially independent of any building for support.



FIGURE 10

EXAMPLE OF A POLE OUTDOOR ADVERTISING DEVICE

Snipe Outdoor Advertising Device. Any outdoor advertising device tacked, nailed, or attached in any way to an object or tree advertising a product not directly related to the premises on which it is located. An example of a Snipe Outdoor Advertising Device is on page 23.

Any outdoor advertising device, in addition to being defined by location and construction, may be further defined as to means of illumination:

Nonilluminated Outdoor Advertising Device. Any outdoor advertising device designed not to give off any light or to have any light



FIGURE 11

EXAMPLE OF A SNIPE OUTDOOR ADVERTISING DEVICE

directed to its surface. Figure 12, below, is an example of a Non-illuminated Outdoor Advertising Device.

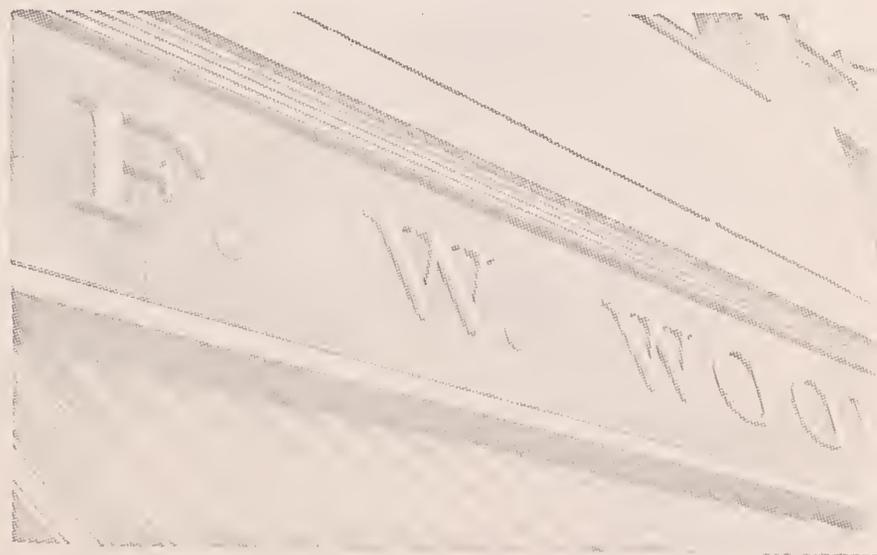


FIGURE 12

EXAMPLE OF A NONILLUMINATED OUTDOOR ADVERTISING DEVICE

Directly Illuminated Outdoor Advertising Device. Any outdoor advertising device designed to give any artificial light directly, or through any transparent or translucent material, from a source of light connected with such device.

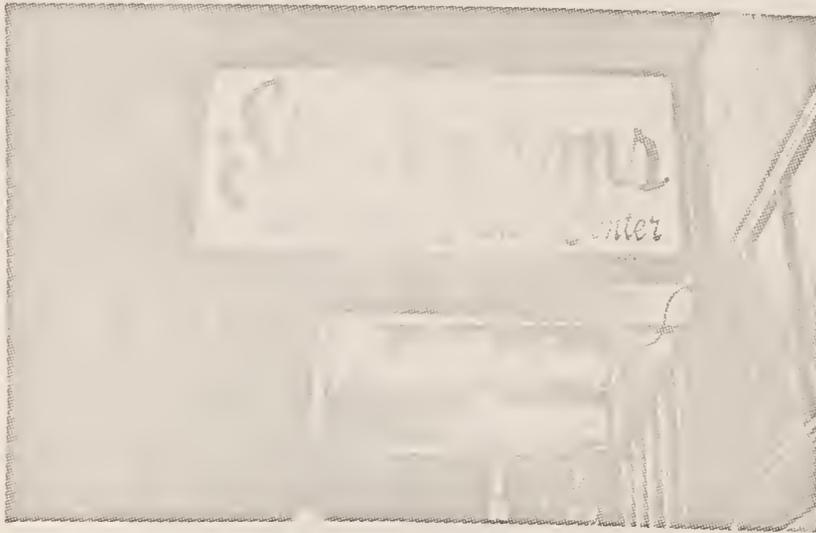


FIGURE 13

EXAMPLE OF A DIRECTLY ILLUMINATED OUTDOOR ADVERTISING DEVICE

Indirectly Illuminated Outdoor Advertising Device. Any outdoor advertising device illuminated with a light so shielded that no direct rays from it are visible elsewhere than on the lot where illumination occurs. An example of this device is on page 25.

Flashing Illuminated Outdoor Advertising Device. Any directly or indirectly illuminated outdoor advertising device on which artificial light is not maintained stationary and constant in intensity and color at all times when in use. An example of a Fláshing Illuminated Outdoor Advertising Device is on page 25.



FIGURE 14

EXAMPLE OF AN INDIRECTLY ILLUMINATED OUTDOOR ADVERTISING DEVICE

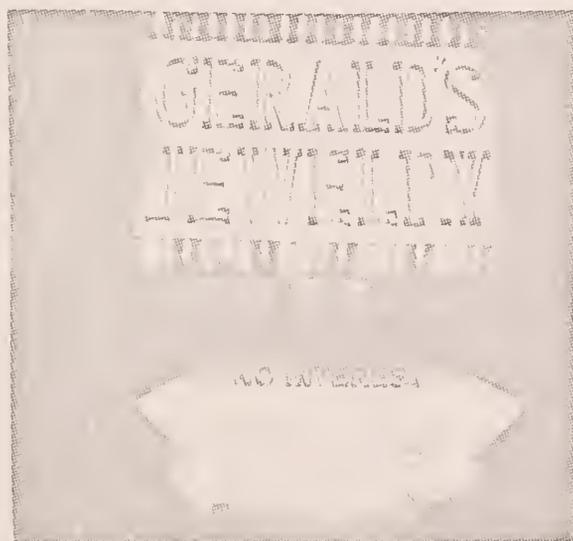


FIGURE 15

EXAMPLE OF A FLASHING ILLUMINATED OUTDOOR ADVERTISING DEVICE

Any outdoor advertising device, in addition to being defined by location, construction, and illumination, may be further defined by

certain imposed limitations:

Controlled Outdoor Advertising Device. Any outdoor advertising device that is permitted, but is subject to certain specified requirements such as size, shape, color, display, and so on.

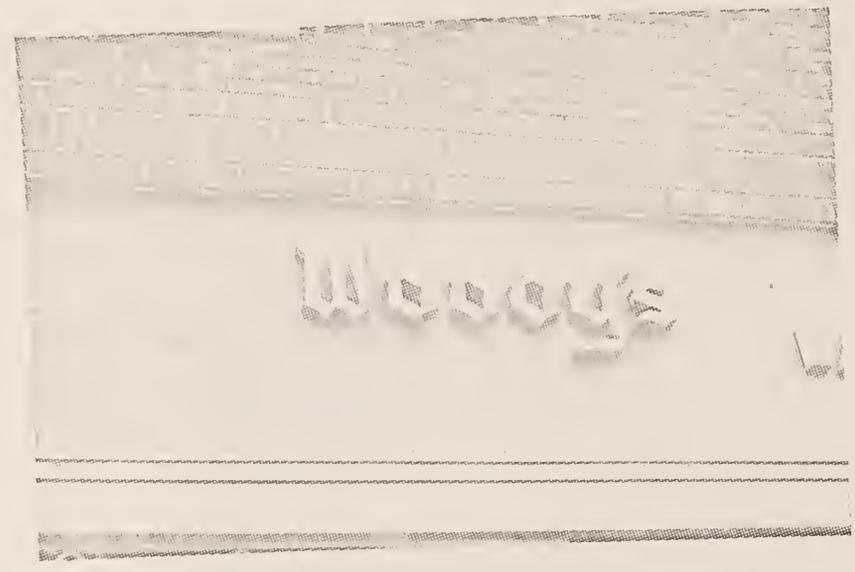


FIGURE 16

EXAMPLE OF A CONTROLLED OUTDOOR ADVERTISING DEVICE

CHAPTER II

REASONS FOR REGULATION

As the first chapter indicated, there is a definite need to develop concrete reasons for regulation of outdoor advertising. These reasons are developed in this chapter, and they illustrate why it is in the public interest to regulate outdoor advertising. There are actually four general reasons for regulation. One, without regulation, the safety of the public is severely jeopardized. Two, without regulation, the aesthetic beauty of America suffers unnecessarily. Three, without regulation, outdoor advertising is unable to effectively perform its primary function. Four, without regulation, orderly land use development cannot be accomplished.

I. SAFETY

Safety is a familiar argument for outdoor advertising control. This argument is developed on two bases. First, when any device is designed to resemble a traffic control device or when its location makes traffic control devices difficult to see, then the safety of the public is surely impaired. Second, because the main function of an advertising device is to attract attention, the device that successfully performs its function is a safety hazard since drivers viewing the device are not attentive to the job of driving.

Design and location. Any outdoor advertising device that

purports to be, or is an imitation of, or resembles an official traffic control device, railroad sign or signal, or which attempts to direct the movement of traffic is surely a hazard to safe traffic flow. This form of advertising device uses words such as "caution," "slow," "stop," or "turn"; or it takes unusual shapes such as diamond, octagonal, or triangular. The Figure below is an example of this unsafe form of outdoor advertising. The sign in Figure 17 is even painted red so as to completely resemble a stop sign.



FIGURE 17

EXAMPLE OF A HAZARDOUS DEVICE

Further, if an advertising device hides from view or interferes with the effectiveness of traffic control devices, then the advertising device is a safety hazard. These types of advertising devices are located so that the sight distance of drivers is significantly reduced, or they are positioned so that traffic control devices are extremely

difficult to see. Figure 18 below is an example of this form of hazardous advertising. After viewing Figure 18 for some time, the viewer may be able to identify a railroad crossing signal.

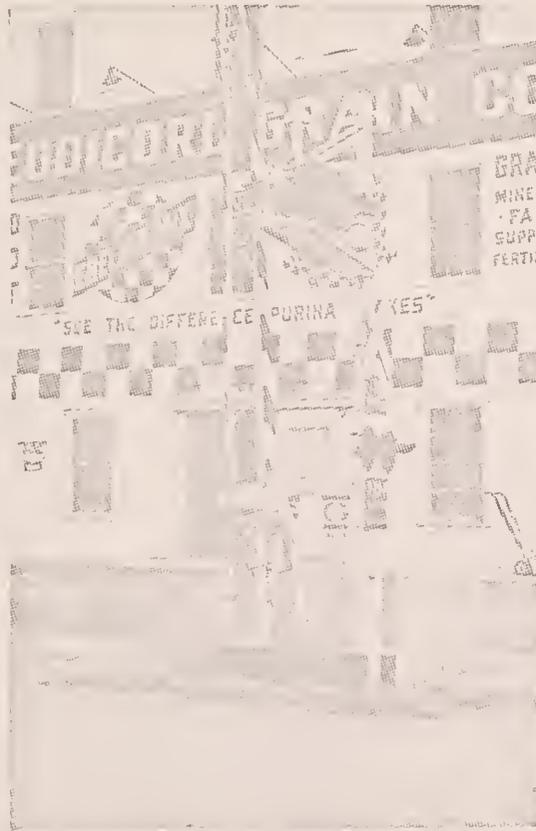


FIGURE 18

EXAMPLE OF A HAZARDOUS DEVICE

Contributing to driver inattentiveness. The discussion presented on the first premise is obviously nonargumentative, but the second premise--advertising devices attract drivers' attention, thereby creating unsafe conditions--does not enjoy a nonargumentative position. However, if there appears to be any parallel between outdoor advertising devices and accidents, no matter how slight, the devices should be removed in

the interest of public safety. There appears to be strong evidence that outdoor advertising devices are causal factors in accident situations. Throughout the following paragraphs this evidence is reviewed; and after the review, reasons why the evidence leans the way it does are explored.

One of the first studies relating accidents to outdoor advertising was conducted at Iowa State University. In that study, 571 accidents were investigated for 1947, and 868 for 1948.¹⁶ The sections of the roads studied were believed to be sound in all basic aspects--curvature, superelevation, alignment, condition of the driving surface, and width of driving surface. Since outdoor advertising and roadside businesses would cause accidents mainly by distracting the drivers' attention from the road, those accidents due to inattention could be attributed to outdoor advertising and roadside businesses. Therefore, to make that assumption valid, certain accidents had to be excluded. These were accidents occurring under difficult or unusual weather or road surface conditions such as fog, rain, mud on pavement, snow, or ice. Also excluded were those accidents caused by mechanical failure, headlight glare, sun glare, and drunken driving. The conclusion of that study lends evidence of the unsafe effect outdoor advertising produces.

Where business and advertising have occupied a large portion of the private property adjoining the roadside, accidents classified as being due to inattention predominate over all other classifications used.¹⁷

¹⁶W. A. Rusch, "Highway Accident Rates as Related to Roadside Business and Advertising," Bulletin, Highway Research Board, No. 30, 1951, pp. 46-49.

¹⁷Ibid., p. 49.

In another study conducted for 1947 and 1948, outdoor advertising has a high positive correlation with accidents. This was a Michigan study on a seventy mile stretch of highway on U. S. 24, from the Ohio state line to M-58 just south of Pontiac, Michigan. One measure of analyzing the data in that study was by determining the degree of correlation between accidents and various design and roadside features. This was accomplished by computing correlation coefficients. These are measures of the amount of association between one variable and one or more other variables. The degree of association is registered on a scale running from -1 to +1. If two variables are perfectly associated, that is, if one varies directly and proportionately as the other, their correlation will be exactly +1; or if one varies inversely as the other, their correlation will be exactly -1. If there is association between two variables, it is measured by how close their coefficient approaches +1.

The study showed that outdoor advertising devices, taverns, and gas stations all produce coefficients above +0.6--coefficient for outdoor advertising is about +.71.¹⁸ Although the results of the study do not prove direct association between outdoor advertising and accidents, it does show that when outdoor advertising is combined with other roadside features, a positive correlation is evident. The conclusion is as follows:

. . . the results of the study must be of a very general nature. They indicate that intersections are themselves centers of traffic

¹⁸J. C. McMonagle, "Traffic Accidents and Roadside Features," Bulletin, Highway Research Board, No. 55, 1952, pp. 45, 47.

hazard and that the hazards increase when the complexities of traffic movement at these points are further complicated by roadside commercial developments.¹⁹

In the study just discussed, there exists a slight vagueness concerning how important a role outdoor advertising plays in contributing to accidents. However, in a Minnesota study this role became quite evident. In the 1948-1949 Minnesota accident study conducted over 420 miles of two-lane roadway containing 4,069 outdoor advertising devices, the following results were obtained. These results are for two types of intersections where traffic control devices regulate traffic flow. One is the junction type, and the other is the crossing type.²⁰

The accident rates for both types of intersections were considerably higher at intersections having four or more signs than at intersections where there were less than four signs.²¹

The evidence that led to the above conclusions is presented in the table on the following page. The accident rate referred to in the table is the number of accidents per million vehicles per year.

Though recent, evidence presented to this point is not current. Therefore, one current study is discussed. This is a study released by the New York State Thruway Authority in February, 1963 that was conducted by Madigan-Hyland, Incorporated, a New York Engineering firm. The firm based its study on accidents occurring on the Thruway during

¹⁹Ibid., p. 47.

²⁰O. L. Kipp, "Minnesota Roadside Survey Progress Report on Accident, Access Point and Advertising Sign Study in Minnesota," Bulletin, Highway Research Board, No. 38, 1951, pp. 68-72.

²¹Ibid., p. 72.

TABLE I
ACCIDENT RATES FOR INTERSECTIONS BY FREQUENCY
OF OUTDOOR ADVERTISING DEVICES

Sign Frequency	Crossing Type Accident Rate	Junction Type Accident Rate
No Signs	0.31	0.15
1, 2, or 3 Signs	0.32	0.20
4 or More Signs	0.91	0.44

the 1961-1963 period. On the Thruway, outdoor advertising devices are visible to drivers on only about one-eighth of the Thruway's 1,100 miles. The results are as follows:

. . . one-third of the accidents attributed to driver-inattention occurred on the one-eighth section of the Thruway mileage upon which motorists were exposed to advertising devices . . . there was an annual average of 1.7 accidents per mile due to driver-inattention on the portions of the Thruway Mainline where advertising devices were visible, and only 0.5 of an accident per mile for this cause on stretches where advertising devices were not visible.²²

From the evidence presented in the preceding paragraphs, there should be no doubt concerning outdoor advertising devices' role in causing accidents. But why is the quick casual glance at an advertising device the indirect or even direct cause of an accident? There are really two reasons for this. One, the casual glance is not as quick as it seems. Two, the speed of a vehicle can cause even a split second glance to be the difference between life or death.

²²Letter from Daniel W. Greenbaum of Madigan - Hyland, Inc. to R. Burdell Bixby, Chairman, New York State Thruway Authority, "Relationship Between Accidents and the Presence of Advertising Devices" (New York: Madigan - Hyland, Inc., February 19, 1963), pp. 2-3.

A driver who turns his attention from the road to an advertising device and then back to the road may require from one second to eight seconds to complete that action depending on the complexity of the situation.²³ This means that from one to eight seconds a driver is actually driving without the use of his eyes. The reason for such a time delay is explained by four words: perception, intellection, emotion, and volition. The time required for the sensations received through the eyes and subsequently transmitted to the brain and spinal column by the nervous system is termed perception. If the object perceived is not a new sensation, no increase in perception time is required. However, a new stimulus requires time for comparing, regrouping, and registering. This time is termed intellection. The emotional traits of each individual will influence the messages to and from the brain, and the time required for this process is termed emotion. Finally, each driver will act--look at the advertising device longer or shorter--in accordance with his own memories, prejudices, beliefs, ideas, habits, weaknesses, desires, and attitudes. The time differential here is termed volition.²⁴

To show the relationship among perception time, speed, and accidents, the following example is constructed. Assume a driver cruising along a two-way highway at a speed of sixty miles per hour or eighty-eight feet per second. The driver's attention is distracted by a

²³Matson, Smith, and Hurd, Traffic Engineering (New York: McGraw-Hill Book Company, Inc., 1955), p. 21.

²⁴Ibid., pp. 20-21.

billboard. Assuming he is a driver of exceptional mental and physical skills, it takes him .5 of a second to perceive the billboard (or forty-four feet forward movement of his vehicle). The driver's eyes now return to the road--an additional .5 of a second or a total of eighty-eight feet of unattended driving. At the exact instant the driver's eyes again focus on the road, another driver (eighty-eight feet away from and proceeding at sixty miles per hour toward the billboard viewer) swerves into the wrong lane. Since each driver requires at least .5 of a second before he can put his foot on the break, the crash is inevitable. But suppose the driver who swerved into the wrong lane had been swerving back and forth the preceding eighty-eight feet, while the other driver was viewing the billboard--the unattended one second could have been used to slow the car or pull off the roadway.

The unattended split second at high speeds is easily comprehended as a danger, but what about the unattended split second at slow speeds in the central business district? In the CBD, a normal speed varies from ten to twenty miles per hour (approximately fourteen to twenty-eight feet per second) during off-peak hours. Therefore, in these areas the one second wasted is not too important. But in most CBD's the advertising devices are of such great density that a driver seeking a particular establishment has to sort through so many devices to find the one he desires that a second is not enough time.

II. AESTHETICS

Although the case against outdoor advertising devices on a safety

basis is firmly established, the argument against them based on aesthetics is not so firmly established, at least not in the minds of outdoor advertising promoters. The main reason for this vagueness is the difficulty in defining good aesthetics and bad aesthetics. One may say that an advertising device, to be aesthetically pleasing, must be beautiful. And beauty is defined as good looks, charm, elegance, grace, artistry, symmetry, delicacy, refinement, style, polish, gloss, and so on. To the artist, most outdoor advertising, judged on its beauty alone, is ugly. However, the judging of whether or not something is beautiful is done by persons other than artists. Consequently, for them it becomes necessary to develop concrete standards by which they may judge outdoor advertising.

Some of these standards do not require much imagination when judging outdoor advertising--others do. But throughout this discussion an effort is made to avoid the use of vague terms as much as possible. Although terms such as "good taste" are probably understandable and usable by almost everyone, the mere fact that advertisers can use such a term to their advantage by saying, "By the way, what is 'good taste'," is reason enough to exclude them from this discussion.

Characteristics that make an outdoor advertising device attractive. By viewing some of the attractive and well-designed devices, the characteristics or design principles used which make them attractive may be ascertained. Although, as will be shown, each device may have one outstanding characteristic, the device does not have a disproportionate amount of the other characteristics. The characteristics to

be discussed are:

1. Good Maintenance
2. Simplicity and Unity
3. Contrast
4. Balance - Proportion
5. Originality - Unique
6. Integration with Surroundings

The first characteristic, good maintenance, is self-explanatory. A device that is not well-maintained is certainly not attractive.

The second characteristic, simplicity and unity, is described as efficient oneness. Therefore, simplicity and unity must work hand in hand to achieve the desired result. Simplicity is achieved when those elements that contribute nothing to the advertisement's performance are eliminated. Unity is achieved by the merging of several units into a single unified whole. Figure 19 is a good example of efficient



FIGURE 19

EXAMPLE OF SIMPLICITY AND UNITY OF DESIGN

oneness. "Sparks Realty Co." is a simple message, not a bewildering jumble of elements containing a surplus of decorative features and odd shapes. This wall sign is unified by the character of the lettering, and the white rectangular background neatly ties the elements together.

The third characteristic is contrast. Through the use of contrast, certain elements are given emphasis thereby creating interest. If all the elements are similar in size, shape, color, and weight, they all seem equally important. That means that without contrast the advertisement appears dull or monotonous to the viewer. Figure 20 below is an example of contrast. "Hale's," because of its contrast to the background, stands out pleasingly.

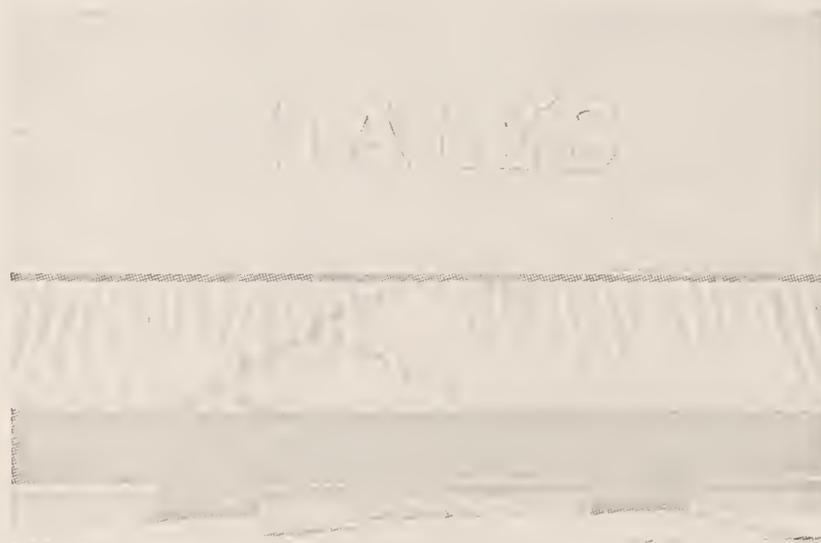


FIGURE 20

EXAMPLE OF CONTRAST IN DESIGN

The fourth characteristic is balance and proportion. An outdoor advertising device is in balance when its masses appear to be settled

in respect to each other. Advertising devices in balance are pleasing to look at because they obey a basic law of nature--that of equilibrium. Balance may be accomplished by symmetrical or asymmetrical techniques. A symmetrical design is one in which elements in one-half of the advertisement are matched by similar elements, at the same distance from the center, in the other half. An asymmetrical design is one in which the masses of unequal size, color, and shape are arranged at varying distances and directions from the center in such a way as to achieve balance. To achieve asymmetrical balance, certain principles must be used. A small unit at some distance from the center balances a larger unit nearer the center. Two units the same size but different in color or degree of blackness, to be in balance, must be placed with the lighter one further from the center than the other. The two general principles mentioned are not all of the necessary ones, but others are much too complex and argumentative for discussion. However, the two discussed are enough to give the reader a basic idea of asymmetrical balance.

As to proportion, this is the skillful division of the total area of a display into smaller areas whose widths and heights are interrelated in a pleasing manner. Normally the most satisfying proportions exist when the mathematical relationships between two lines or areas are not obvious or readily measurable with the eye. Figure 21 on page 40 is a good example of symmetrical balance. Both "Coach" and "Light" have the same number of letters and are equally spaced from the center of the sign. In addition, the coach lights placed on opposite ends of

the sign are also in balance. The proportions between the two words, between the words and the lights, and between the lights and the ends of the sign are pleasing.



FIGURE 21

EXAMPLE OF SYMMETRICAL DESIGN BALANCE

Figure 22 on page 41 is an example of asymmetrical balance. "KWIX" is asymmetrically balanced by the darker "Camp's" lettering, and both lettered areas are proportionately pleasing to the entire building facade.

The fifth characteristic is originality. To be original, an advertising device must be unique and distinctive. In obtaining this characteristic, the characteristics mentioned so far should not be violated. A blatant or vulgar device may be unique, but certainly not attractive. Violating design principles in order to be clever or different may invite waste so far as attaining the advertiser's objective



FIGURE 22

EXAMPLE OF ASYMMETRICAL DESIGN BALANCE

is concerned. The preceding two Figures are both unique, and Figure 23 below is another excellent example of a unique advertising device.

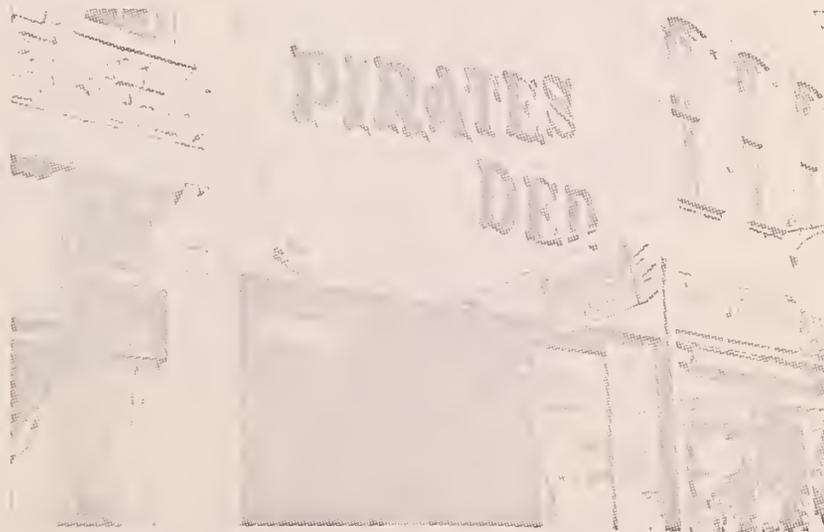


FIGURE 23

EXAMPLE OF DESIGN ORIGINALITY

"Pirate's Den" lettering is very symbolic of pirates, and the overhanging sign carries this theme even further. Every attention to detail is given on the display. Chains support the overhanging sign, and the post is cleverly symbolic of the jib boom on a sailing vessel.

The sixth characteristic is integration. Of all the characteristics, this one is the most difficult to describe, but it is probably the most important. The basic principle required for integration is that an advertising device must be a logical, aesthetic complement of the architecture surrounding the device. Although this principle may seem nebulous, discussion of the following Figures should bring it into clear focus. Figures 24 and 25 are examples of the skillful use of lettering to provide integration with the surrounding architecture.

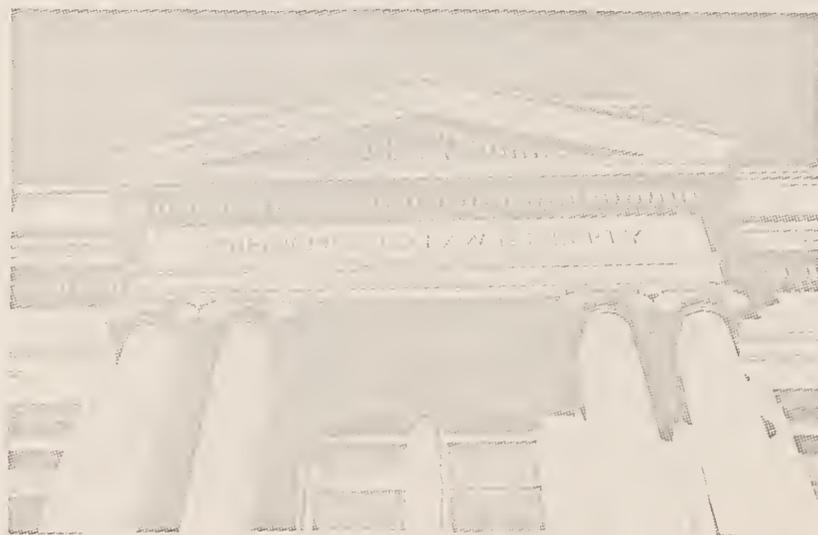


FIGURE 24

EXAMPLE OF DESIGN INTEGRATION

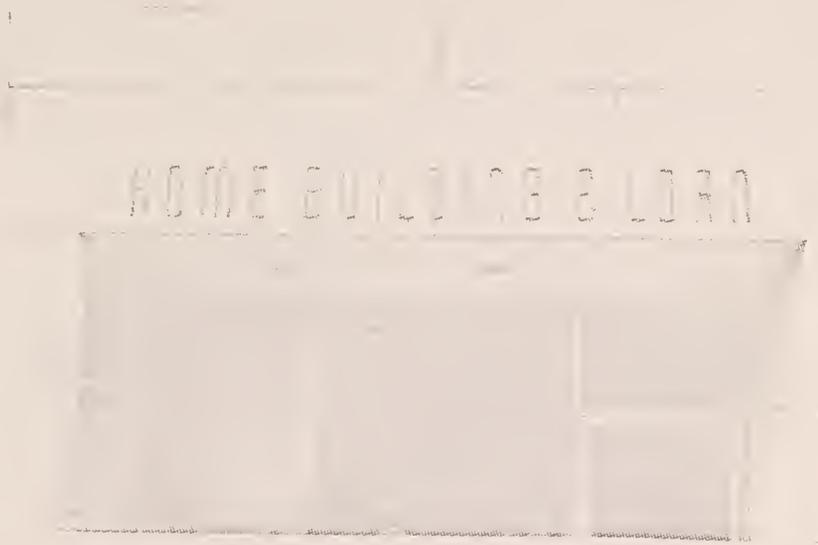


FIGURE 25

EXAMPLE OF DESIGN INTEGRATION

"Obedience to Law is Liberty" in Roman capitals on the county court house adds dignity to the building's architecture. How would the same phrase look made of neon tubing in Sans-serif lettering style? "Home Building and Loan" on the professional building adds a professional touch to the building. The lettering could have been much more ostentatious, but would that achieve the desired effect?

The following two Figures on page 44 illustrate how appropriate lettering and materials can be architectural complements to buildings. Figure 26 showing the wall advertising device lettered with bronze modified Roman letters is a good example of the fitting use of letters and materials to complement a building's architecture. In Figure 27, another wall advertising device illustrates how the appropriate use of stainless steel letters placed upon a granite facade can make an interesting advertising display.

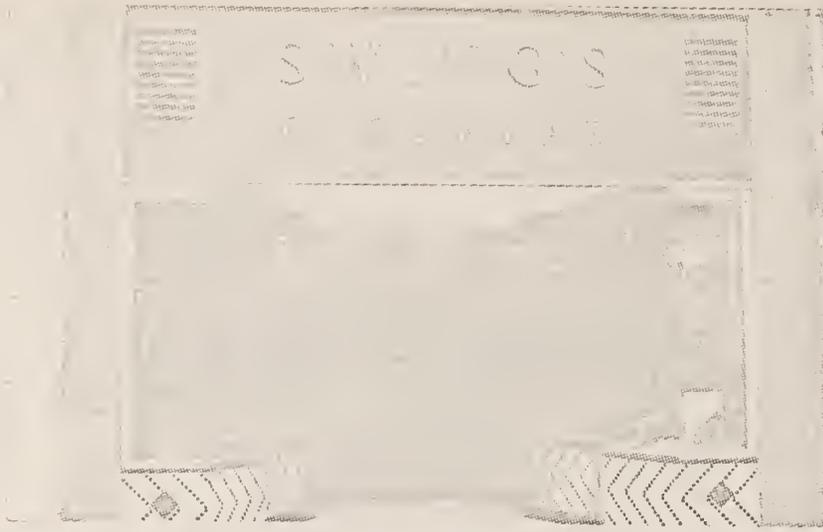


FIGURE 26

EXAMPLE OF A DEVICE COMPLEMENTING
THE ARCHITECTURAL CHARACTER

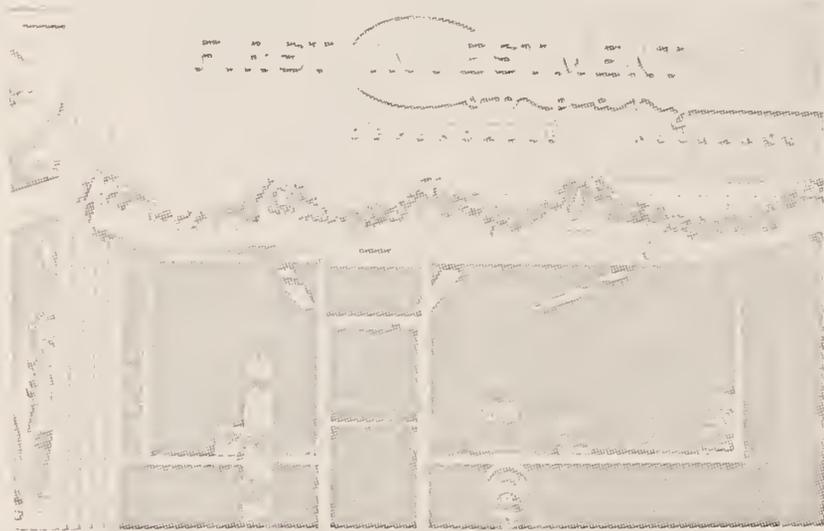


FIGURE 27

EXAMPLE OF A DEVICE COMPLEMENTING
THE ARCHITECTURAL CHARACTER

Design critique of current outdoor advertising devices. With the six design characteristics or principles known, current advertising devices may be more skillfully evaluated. One of the design characteristics most often violated is good maintenance.

Although the Outdoor Advertising Association of America, Incorporated (OAAA) exclaims that its maintenance standards include keeping advertising displays well-serviced and the premises about them neat and clean, the modern traveler can disprove this statement without driving very far. Poor maintenance is usually found in two forms. One, an advertising display panel, while waiting for new material, is left in a shabby condition. Two, because of wear and tear, discontinuance of the product (but not its sign), or poor construction techniques, the present physical condition of the device is one of disrepair. Notation must be made that the OAAA cannot be held solely responsible for poor maintenance because not all of the poorly maintained devices are the property of the member firms of the national organization. Figures 28 and 29 on the following two pages are examples of poor maintenance.

Another design characteristic violated in most advertising devices is that of simplicity. An example of an advertising device lacking simplicity is presented in Figure 30 on page 48. Surely six of the visible "Katz" words could be removed from the building without destroying the intention of the device. In addition, most of the other unnecessarily displayed information should be removed.

The principle of contrast is often violated, as Figure 31 on page 48 appropriately shows. By viewing that advertising display, one



FIGURE 28

EXAMPLES OF POORLY MAINTAINED DEVICES

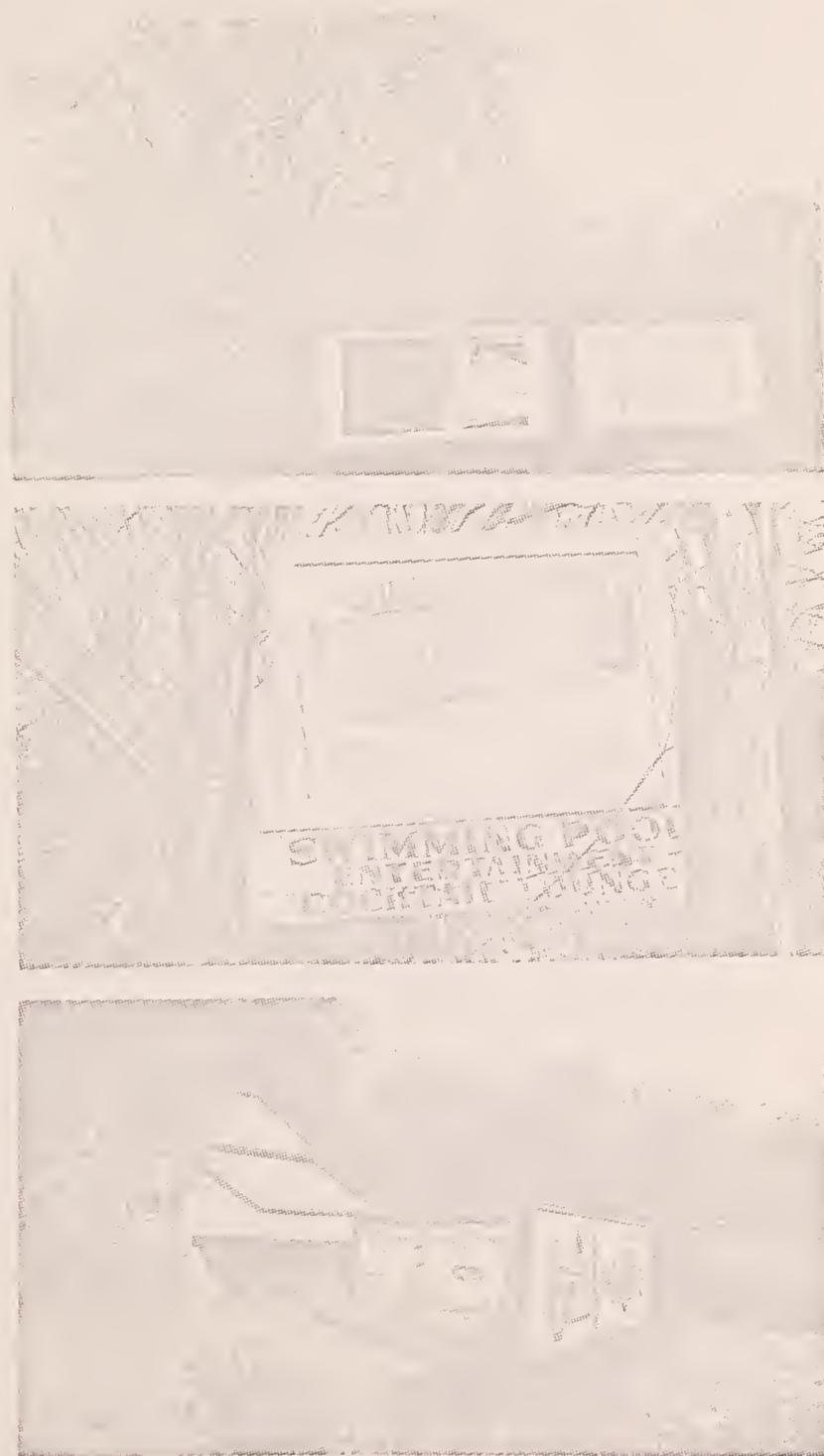


FIGURE 29

EXAMPLES OF POORLY MAINTAINED DEVICES

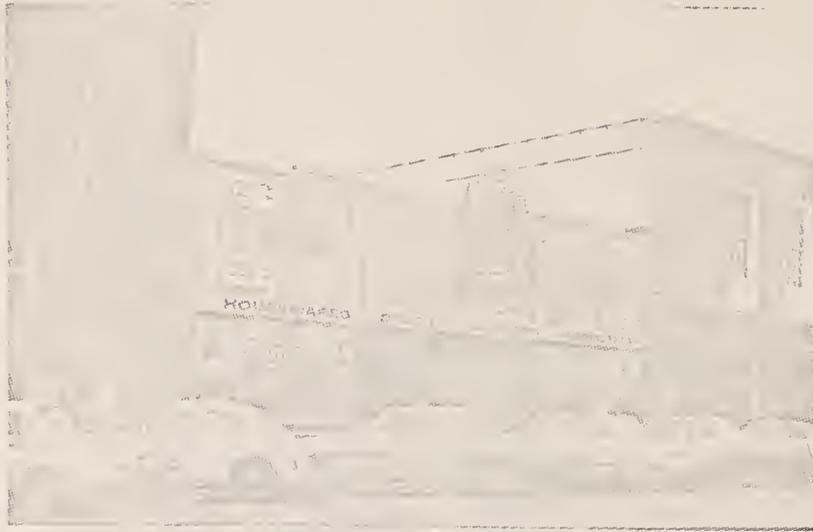


FIGURE 30

EXAMPLE OF A DEVICE LACKING SIMPLICITY OF DESIGN

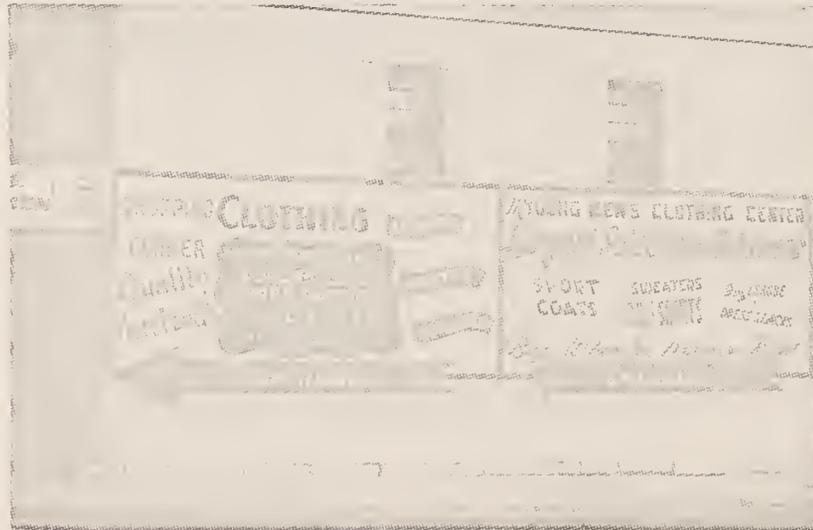


FIGURE 31

EXAMPLE OF A DEVICE LACKING CONTRAST

thing is apparent--where the "entrance" is located. Although simplicity and unity are also violated in this display, the lack of contrast is overbearing. No one element has been emphasized maybe because the entire sign is unnecessary.

Balance and proportion often are absent in advertising displays. This lack is illustrated by the roof advertising device in Figure 32. The device is so large that it dwarfs the building upon which it is placed. Also, the structure that supports the device is not attractive.

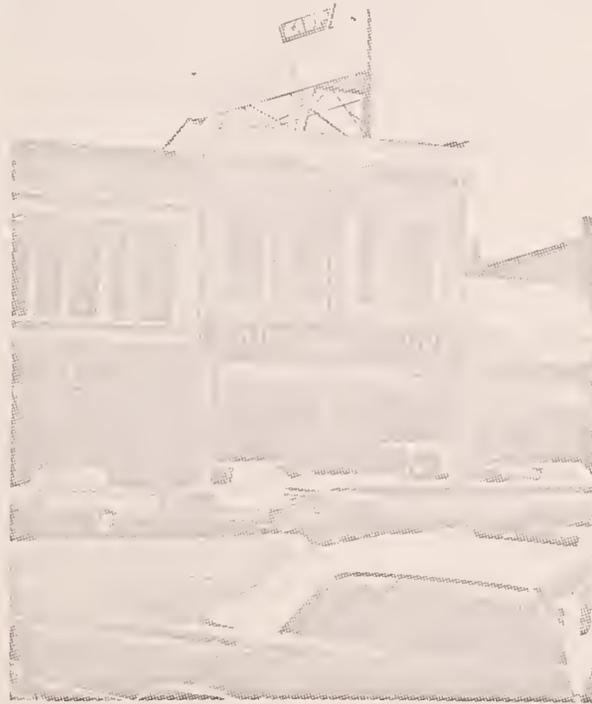


FIGURE 32

EXAMPLE OF A DEVICE LACKING BALANCE

There are several other principles this device violates, such as integration.

Originality, whenever there is any, is usually ridiculous at best. Although the billboard in Figure 33 probably was designed with good intention, the end result is sad failure. Surely this billboard does not convey the proper image of a funeral home. A funeral home's image should be one of high integrity and professional competence. Furthermore, there is no connection between "Little Leaguers" and death needing advertisement.

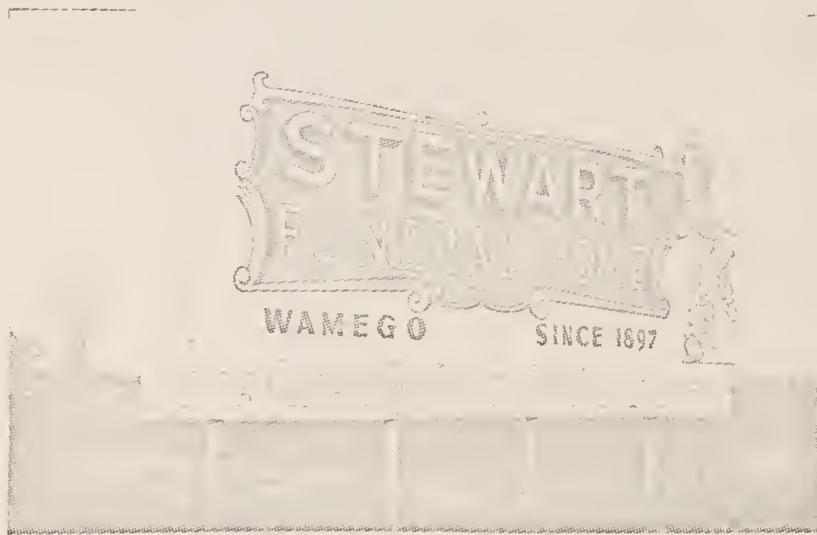


FIGURE 33

EXAMPLE OF A DEVICE FAILING TO ACHIEVE ORIGINALITY

Integration with the surrounding architecture is seldom practiced in the design of modern outdoor advertising devices. More often than not, a new sign completely out of character with the architecture of an old building is erected. The end result is a sad failure. Figure 34

through Figure 37 are examples of poor integration. By carefully viewing Figures 34, 35, and 36, the viewer may be able to identify some lettering very much in character with the buildings. The money spent on the extremely commercial signs could have been used much more effectively to emphasize existing lettering or to improve the facades of the buildings. Figure 38 on page 53 shows that the construction of the bank follows the construction of its advertising device--the device should complement the building.

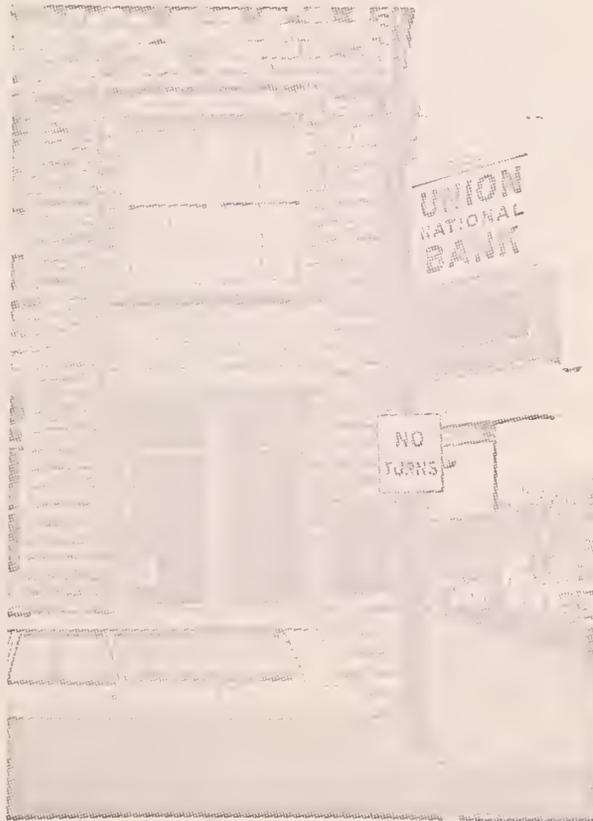


FIGURE 34

EXAMPLE OF POOR INTEGRATION WITH SURROUNDINGS

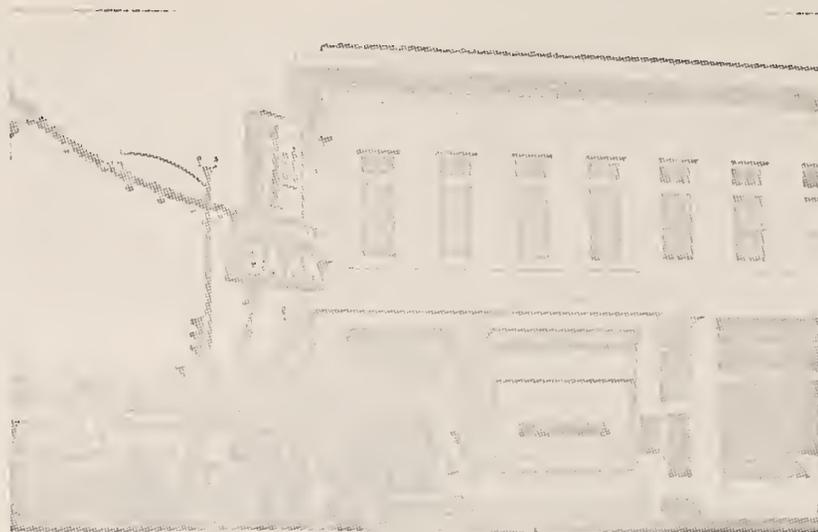


FIGURE 35

EXAMPLE OF POOR INTEGRATION WITH SURROUNDINGS

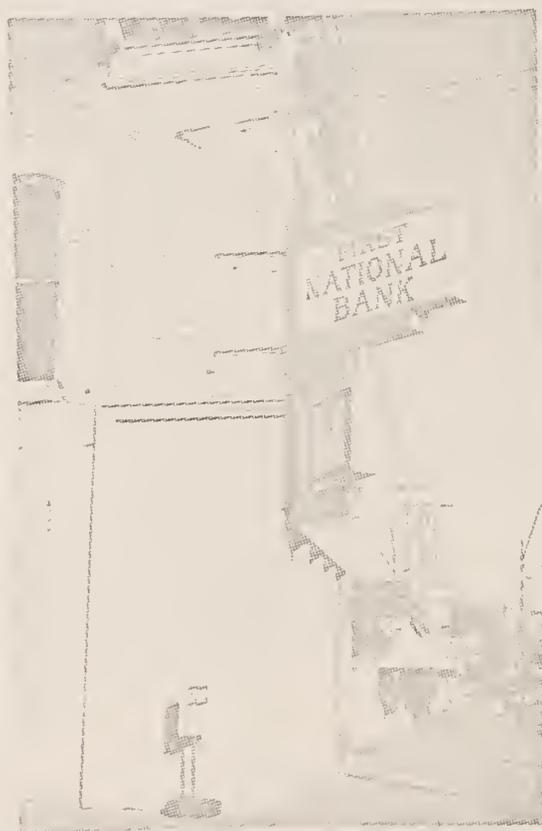


FIGURE 36

EXAMPLE OF POOR INTEGRATION WITH SURROUNDINGS

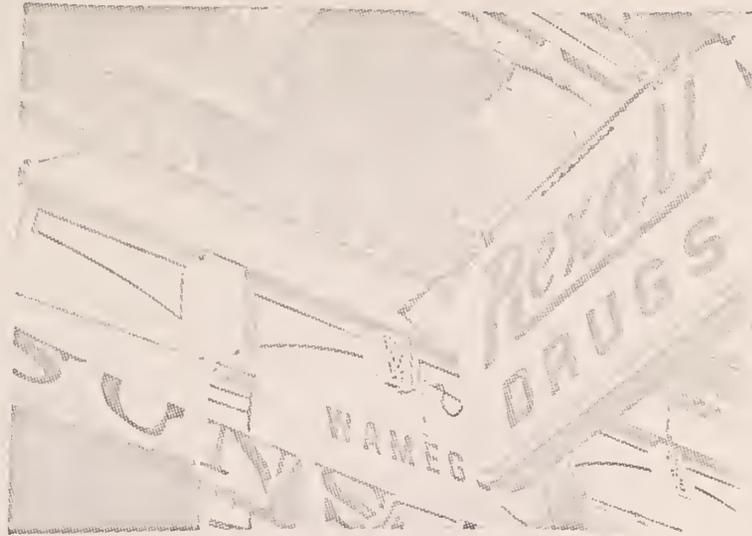


FIGURE 37

EXAMPLE OF POOR INTEGRATION WITH SURROUNDINGS



FIGURE 38

EXAMPLE OF POOR BUILDING SEQUENCE

Although the roof advertising device on the Sheraton Elms has great simplicity, the device is not a complement to rustic architecture of the resort hotel as shown in Figure 39. Because of its geographic location, portions of the building are visible from many sections of the surrounding countryside. The advertising device is really superficial.

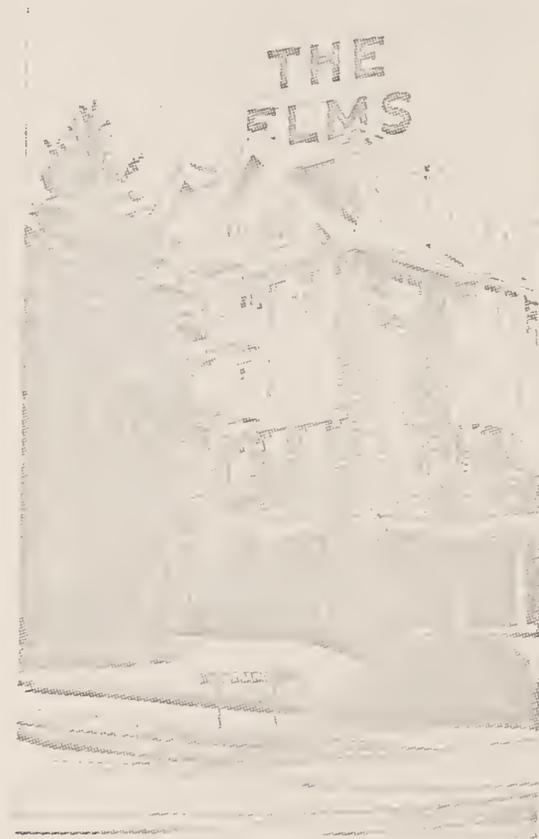


FIGURE 39

EXAMPLE OF AN UNNECESSARY DEVICE

III. LOSS OF FUNCTIONAL IDENTITY

A basic requirement for a successful outdoor advertising device is that it should be distinctive and easily recognizable from competing

devices. If a device does not perform this function, then it does not really need to be displayed. In addition to a device's basic function, certain other functions must also be accomplished. According to one author, these are maintaining attention, arousing desire, and promoting action.²⁵ And according to another author, an advertisement must be read, believed, remembered, and acted upon.²⁶ Recalling the design characteristics developed in the preceding section, it is fairly evident that if all outdoor advertising devices had those characteristics, the functions described by the two authors could be performed easily. Unfortunately, not all outdoor advertising devices have the six design characteristics. Consequently, many current advertisers are using mistaken notions to gain attention.

Methods used to obtain attention. The modern advertisers use six mechanical means to promote viewer attention. These are size, intensity, motion, contrast, isolation, and position. The first one of these methods, size, refers to the feeble method of making one advertising display larger than its competitor. This is an endless process when carried to extremes--keeping up with one's neighbors tends to approach diminishing returns for the investment. Although the greater the size of an advertising device, the greater its attention-getting value, this

²⁵I. Settel, Effective Retail Advertising (New York: Fairchild Publications, Inc., 1950), p. 5.

²⁶B. D. Copland, The Study of Attention Value (London: Business Publications Limited, 1955), p. 14.

increase in attention value is seldom directly proportionate to an increase in size of the advertisement.²⁷

The second method, intensity, refers to the procedure of making one advertisement brighter than its competitors'. However, the same law of diminishing returns is applicable in this case, also--doubling the intensity of an advertisement in no sense means doubling the attention value. The reason for this nondirect relationship is summarized as follows:

The attention given to either auditory or visual stimuli depends in part on the competition which exists for attention. You can remember the first lighted sign you saw in your home town But today there are so many lighted signs that few stand out.²⁸

Also, there is a fundamental psychophysical law regarding the perception of differences. If one of the sense organs is already being stimulated, a certain minimum increase of stimulation is required before that increase will be noticed.

. . . the increase in stimulation necessary to be discriminable bears a constant ratio to existing stimulation. In vision it is 1 per cent.²⁹

This means that if one storekeeper has a device at approximately the same intensity as a nearby competitor, to gain in noticed difference he would have to raise the intensity of his device by at least 1 per cent.

²⁷ M. S. Hattwick, How to Use Psychology for Better Advertising (New York: Prentice-Hall, Inc., 1950), p. 155.

²⁸ Ibid., p. 140.

²⁹ Ibid.

The third method, motion, refers to making the advertisement move. Although this particular technique is fairly successful because movement can be perceived in the periphery of the visual field, the advisability of using this method is questionable because of the safety reason. A driver driving down a completely animated "main street" would be unable to focus on it due to his conditioned reflex to investigate peripheral movements.

The fourth method is contrast, and is also one of the design characteristics previously discussed. As indicated before, this is a very effective technique when applied with skill and discrimination.

The fifth method, isolation, refers to setting the advertisement off from the crowd. A lone billboard in an open field gets attention it would not get if it were one of several in the field. Isolation adds to the attention value because adjacent distracting subject matter is eliminated. Although the example of a lone billboard in an open field is an appropriate example, the practice of placing billboards in the open country is certainly not recommended. However, isolation could be effectively used in the CBD. At present, there is such an abundance of advertising devices and in such extreme densities that it is difficult to gain the attention of the consumer from an advertising device. But, by regulating the size and density of devices allowed for each property owner's establishment, confusion could be avoided, i.e., proper application of the isolation principle.

The sixth method, position, refers to placing an outdoor advertising device where more persons will see it sooner. This method is

tied somewhat to the isolation method. For example, the billboard in the field would be placed on a curve forcing drivers to view the advertisement. However, this is frowned upon with regard to safety.

Present outdoor advertising practices do not fulfill their intended function. Now that the current methods of attracting attention have been discussed and the fallacies noted, the discussion can proceed to showing why the current practice of outdoor advertising cannot fulfill its intended function. The real innate problem in current practice is summarized by the following quote from Poffenberger.

It is difference which contributes the physical stimulus for attention. To be different is to attract the attention. The direction of the difference is of minor significance. If a clock has been ticking regularly in a room in which you are working and suddenly stops, it is the absence of sound that attracts the attention. If one is sitting in a bright light and it suddenly grows dim, it is the weakening of the stimulus that attracts the attention. If in any given advertising section of a magazine all the advertisements are in black and white except one which is in color, that one by its great difference will attract the attention. But if all are colored, the color then no longer constitutes a difference and will not attract attention to one advertisement rather than another. If in a certain magazine all advertisements but one are half-page or smaller, a full-page will, by its difference, attract the attention, but as soon as many others become full-page advertisements, the factor of size loses its force as a cause of attention.³⁰

Therefore, all advertisements seek to achieve difference. But they seek this difference by larger displays, more intense displays, increased density, hideous colors, and so on. Figures 40 and 41 on the following page are examples of a density so great that not one of the

³⁰ A. T. Poffenberger, Psychology in Advertising (New York: McGraw-Hill Book Co., Inc., 1932), pp. 168-169.



FIGURE 40

EXAMPLE OF AN EXCESSIVE DENSITY OF DEVICES

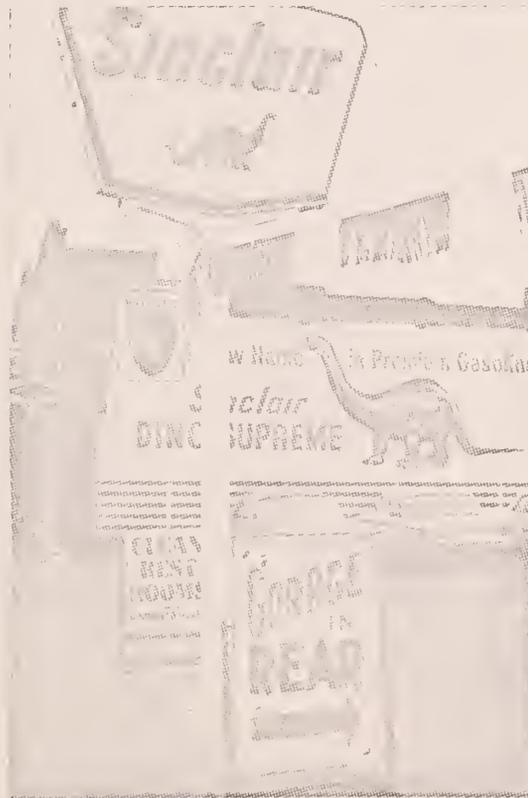


FIGURE 41

EXAMPLE OF AN EXCESSIVE DENSITY OF DEVICES

individual devices can be distinguished. Even if they could, there are so many words on each device that they could not be read by motorists in the time available.

This point is further emphasized by the concept of perceptual selectivity. Perceptual selectivity is really another term for attention, and is the ability to select from a wide variety of possible inputs. This concept is important because it determines what a person is aware of at any given moment. The actual awareness resulting from a stimulation is subject to various transformations, alterations, and corrections. During this process, the wants, needs, fears, and expectations of the observer have ample opportunity to modify and even distort what is finally perceived.³¹

A person's needs have a great deal to do with what he perceives. As a person travels through the streets of a city, he is more apt to notice the restaurant signs if he is hungry, barber shop or beauty salon signs if his hair needs attention, mail boxes if he wants to mail a letter, and so on. However, the present high density of advertising devices makes it almost impossible to perceive the desired sign.

Another aspect of perception that outdoor advertising designers should be aware of is how much can be perceived. If a person is told the street number of a house he is interested in is 246, he will have little difficulty in perceiving and remembering those three digits.

³¹H. W. Leibowitz, Visual Perception (New York: The Macmillan Co., 1965), pp. 28-35.

The number of items that can be perceived in a short time period is limited to about seven.³² Therefore, multi-worded signs are wasted because not all the words can be perceived by a person.

Because of perceptual limitations, the intense jungle of advertising devices in most cities' CBD's makes perceiving any one device impossible. This ridiculous over-intensity of outdoor advertising devices only clutters and confuses the visual field. Therefore, from the discussion of perception and current methods practiced by outdoor advertising designers, only one conclusion can be drawn. Outdoor advertising, presently, does not accomplish its most important function. The viewers' attention is not gained.

IV. ORDERLY LAND USE DEVELOPMENT

Accessory and nonaccessory outdoor advertising devices are both a form of commercial land use. However, nonaccessory devices are really a commercial enterprise in themselves since they are not directly associated with the products they advertise, whereas accessory devices are commercial because they usually are associated with a commercial establishment.

Although accessory devices are considered logical extensions of business concerns because they provide the public a direct service, nonaccessory devices do not enjoy the same consideration. All nonaccessory devices are directly dependent upon the passing public, but the passing

³²Ibid., pp. 29-30.

public receives no direct benefit from the devices. In fact, the non-accessory advertising industry (commonly called "billboard") is developed along this line.

The outdoor advertising industry, by the use of a certain selected number of panels, strategically located, is able to cover the entire market area of a product. To develop coverage for a particular market area, counts are made of circulation on main thoroughfares, and locations of shopping centers, theaters, churches, and recreation centers are ascertained. From these factors, the routes of travel are divided into coverage zones, and each zone is allotted one panel. All the zones together equal what the industry calls a "100 showing." If more or less frequency of repetition and representation is desired, a "150 showing" or a "50 showing" can be purchased in most markets.³³

Throughout the process of zone selection, the public is considered, but only regarding its highest densities of travel and how much the industry can take from the public. No thought is given to how the industry can best benefit the public. Because a parasite is defined as something that lives on something else without making any useful and fitting return for that nutrition, the nonaccessory outdoor advertising industry is surely a parasite. This definition is legally supported by the Packer Corporation v. Utah court case, which will be reviewed in the next chapter.

³³Roger Barton, Media in Advertising (New York: McGraw-Hill Book Co., 1964), p. 294.

However, one might argue that any form of advertising does not necessarily offer its audience any immediate benefit. Although this is true, other forms of advertising such as newspapers, magazines, radio, and television allow the consumer a choice. He may view the advertisement if he desires--and buy or not buy the publication or turn the machine off or on. In addition, there is a monetary value involved. Television commercials pay for the entertainment presented to the viewer, and magazine advertisements lower the retail price of the magazine. But when driving down a public thoroughfare, a motorist cannot "turn off" the various atrocities flashing at his eyes.

As the discussion has implied, nonaccessory advertising needs to have its current role completely readjusted because of safety, aesthetics, and its parasitic function. This does not imply the abolition of the nonaccessory devices, but it does imply their use must be strictly regulated. The information site first proposed by the federal billboard legislation seems to provide a key to the answer. This concept will be discussed at length in Chapter Four where the federal billboard legislation is briefly discussed and evaluated.

Residential and agricultural. There should be no doubt that outdoor advertising is strictly out of bounds in residential and agricultural districts because outdoor advertising is a commercial land use. However, this does not mean a property owner should be prohibited from displaying a small identification sign on his home, nor does it mean that a farmer selling his products on the premises should be prohibited

from advertising his products. But the identification and product advertising devices should be created with the six characteristics of good design previously mentioned. All nonaccessory advertising devices should be banned from these districts. Figures 42 and 43 on pages 65 and 66 are examples of inappropriate sign usage regarding land use.

Commercial. Since outdoor advertising is commercial in character, it should be permitted in commercial districts. However, nonaccessory outdoor advertising does not offer any direct benefit to the commercial district and should not be permitted in this district. Figure 44 on page 67 is an example of this poor usage.

Although each storekeeper has an inherent right, developed through time, to display a device outside his shop advertising his wares, the merchant should by no means be allowed to construct some form of a device that is outlandish, ridiculous, and an outright insult to the public aesthetic feelings. When designing his device, the storekeeper should bear in mind the public's safety and the six characteristics of design. Ironically, Figure 45 on page 67 is an example of an ineffective accessory advertising device displayed on a sign company's building.

Public and semi-public. The same general considerations apply in this district as the ones applying in the agricultural and residential districts. In public districts, no outdoor advertising should be permitted; but the display of historical or interesting information should be permitted, subject to the six design characteristics. The same



FIGURE 42

EXAMPLES OF DISORDERLY DEVELOPMENT

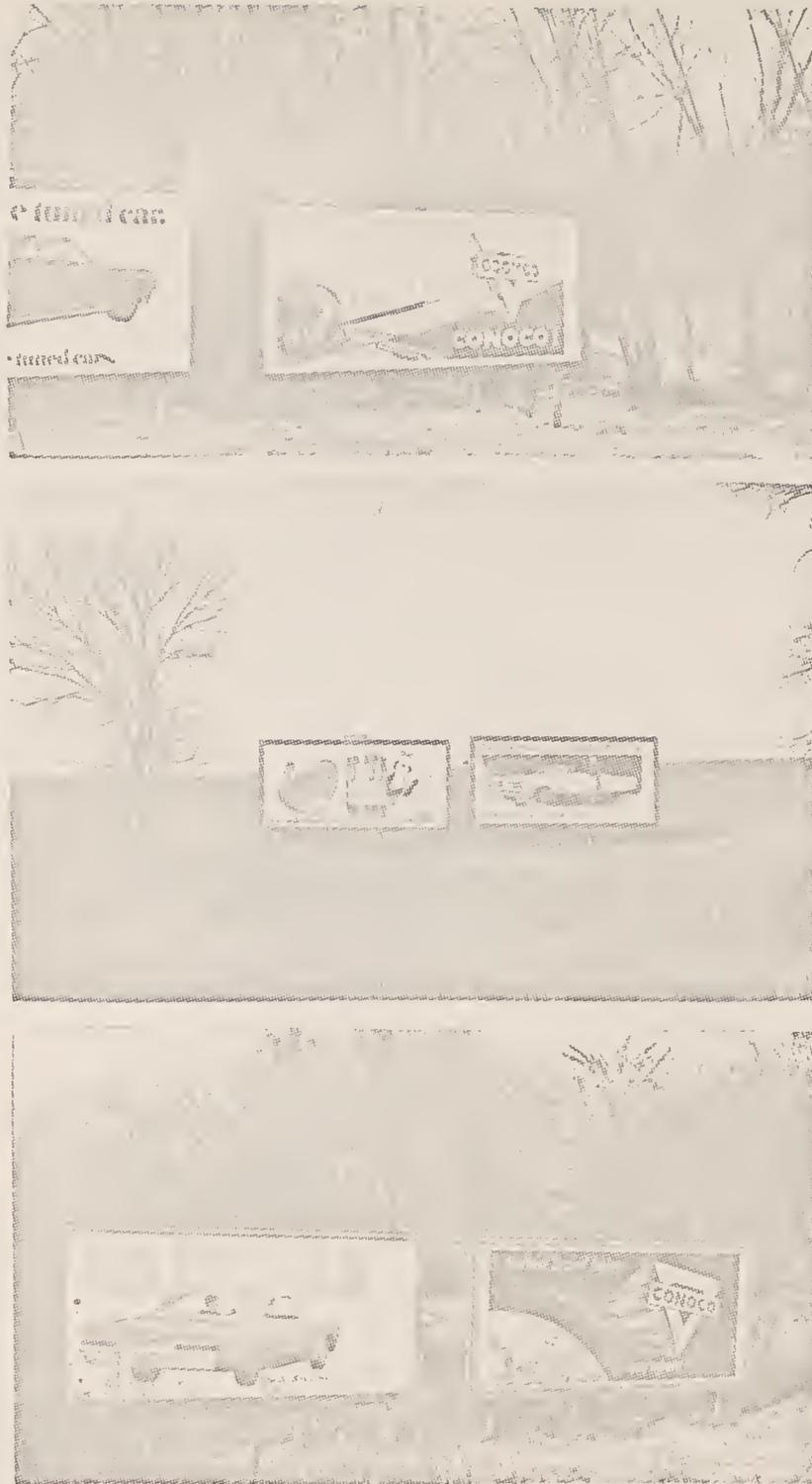


FIGURE 43

EXAMPLES OF DISORDERLY DEVELOPMENT

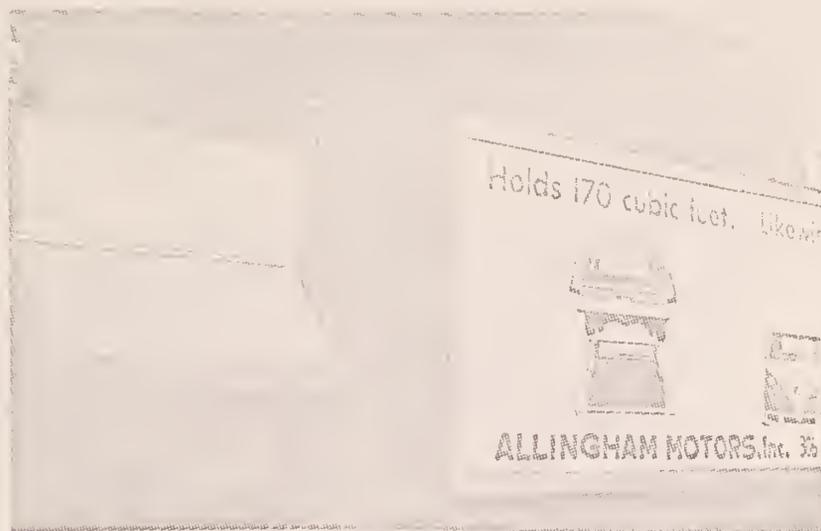


FIGURE 44

EXAMPLE OF DISORDERLY DEVELOPMENT

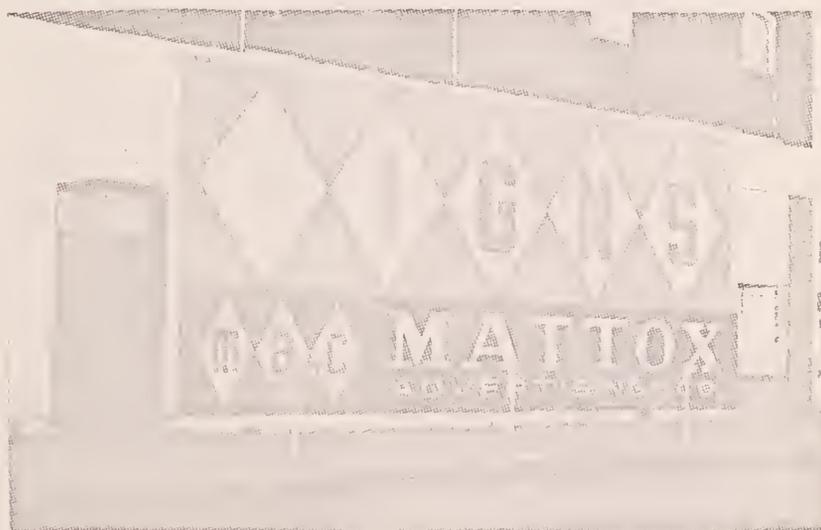


FIGURE 45

EXAMPLE OF DISORDERLY DEVELOPMENT

applies in semi-public districts. When the identification device takes on a great deal of prominence, the device is in reality an outdoor advertising device.

Industrial. Nonaccessory devices do not have any place in this district any more than they had in the residential, agricultural, public, and semi-public districts. However, identification devices should be permitted provided they are designed with the six characteristics of design in mind.

CHAPTER III

BASIS FOR REGULATION

In the preceding chapter, the reason for regulation of outdoor advertising was established. This chapter investigates the legal concepts of outdoor advertising control. The legal basis for municipal regulation is derived from state enabling statutes. And the state's authority to delegate regulatory powers through enabling acts is based on the police power, under which a state may regulate the activities of people and affect the use of their property in the interest of the public. In general, under valid police power regulation the restriction of an individual's activities or property must be suffered for the good of the public; he is not entitled to any special consideration in terms of compensation for the effect of the law on his private interests.

Whether a law or regulation is designed to promote the public health, safety, morals, comfort, convenience, good order, or general welfare is the criterion for determining the validity of statutes which regulate. Although only one of the public interests mentioned is required for regulation, the evidence presented in the preceding chapter showed conclusively that several of the public interests are involved in outdoor advertising regulation. Regulation is necessary to promote safety; to promote aesthetic comfort; to promote convenience (the reduction of advertising density so the public can locate the desired establishment); and to promote good order (by insuring orderly land use development). In addition to these, there is the concept of ruinous

competition. Ruinous competition occurs when competition gets out of hand and an excess of facilities evolve. An example of this form of competition is the railroads. If they had not been regulated, excessive duplication of facilities could have developed such as many sets of tracks running side by side across the countryside, and many railroad stations in each community.

Analogous to the initial railroad development is outdoor advertising's development to date. The proof of this form of development can be found upon entering almost any American city--the usual high density of billboards, none of which can be read. Apparently, the users and promoters of outdoor advertising are unable to develop a level of advertising beneficial to themselves, much less the viewing public, without the strength of government regulation.

Now that the public interest has been demonstrated for regulation of outdoor advertising, the regulation is subject only to the qualifications of equality, freedom from arbitrariness or discrimination, and avoidance of confiscation. But along with these considerations, any regulation should attempt to remain within the power approved by the courts as much as possible. Therefore, it is apropos to investigate possible judicial issues and judicial review regarding outdoor advertising control.

However, if the powers approved by the courts are not comprehensive enough to use as guidelines in developing effective regulations of outdoor advertising, the modern concept of police power regarding property rights should be exercised.

Modern regulation concepts indicate, first, the extent to which a landowner's "rights" over his own property are really privileges based upon public acquiescence; and, second, the actual reserve power of the community to protect itself against infringement of community welfare when and as necessity arises. In other words, the state always had the power, but found it unnecessary to exercise the power. Therefore, detailed modern controls of private property are seen as reflections of changing social conditions rather than extensions of legislative power, i.e., new powers.

I. POSSIBLE JUDICIAL ISSUES

In surveying law as it deals with the regulation of outdoor advertising, four points might be suggested for judicial review. First, there is the contention that regulation of outdoor advertising constitutes taking of private property without just compensation and not for public purpose. However, this point is easily disproved by the evidence presented in Chapter II and by the court cases in the second part of this chapter.

Second, argument is advanced that regulation of outdoor advertising violates constitutional guarantees of procedural due process of law applicable to the taking of private property. This point is concerned primarily with the procedures for handling nonconforming uses in existence before implementation of the regulations. Although this particular point is always open for judicial review, proper design of methods to handle the elimination of nonconforming uses can prevent conflict.

In developing these methods, care must be exercised so that fair and suitable procedures are established for the elimination of nonconforming uses. As a Michigan court case will show, the declaration of certain outdoor advertising structures as public nuisances was held as a valid exercise of the police power. Another facet to the due process argument is that control of advertising in certain areas is the taking of a property owner's inherent right. To prove that the due process clause has been violated, it must be shown that private property rights are involved, and that the regulatory action constitutes a "taking" in the constitutional sense.

The concept of "taking" has been defined two general ways by the courts: (1) where regulations restrict the use of property rights so drastically that they are not only destroyed for all practical purposes but destroyed beyond the point justified by the needs of public health, safety, morals, and so on; and (2) where an unreasonable or unfounded classification of the objects of regulation results in a denial of the equal protection of the law to property owners.

However, whatever values are derived from outdoor advertising come mostly from the construction of a public highway and the exposition of the property along the highway to the view of persons traveling thereon. Consequently, outdoor advertising is merely an intrusion upon the public highway--not an inherent right.

Third, there is the theory that regulation of outdoor advertising is unconstitutional because it impairs the liberties guaranteed by the First Amendment of the federal Constitution, which states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

If outdoor advertisers claim their constitutional rights, as stated in the First Amendment, are violated by regulation, this claim would be a novel one because the majority of court cases decided by the United States Supreme Court in construing the First Amendment and relating the due process clause of the Fourteenth Amendment to the freedom of speech and the press have involved the rights of the federal and state governments to limit these freedoms in order to protect themselves against seditious utterances. The "clear and present danger test" has been the touchstone for these cases, and the very security of the Nation has been the interest at stake.³⁴

Although media such as the newspaper, radio, and television may claim special consideration because they are a form of communication and public dissemination of information necessary to formulation of public opinions, outdoor advertising has never functioned as a communicator of public information other than advertising a particular brand of product. Therefore, outdoor advertising has no right to a claim of special consideration. Furthermore, since outdoor advertising does not stand any higher under the law than does any other form of commerce or business enterprise, outdoor advertising is properly subject to the same degree

³⁴W. Willoughby, Constitutional Law of the United States (Vol. II, 2nd ed.; New York: Baker, Voorhis and Company, 1929), pp. 1188, 1194-1195.

of control that applies to other enterprises when it is carried on in a manner that adversely affects the public interest.

Fourth, there is the contention that aesthetics are not valid legal considerations for the use of the police power. However, public interest in the appearance of private property is a real interest which deserves legal recognition, and the law is rapidly developing in that direction.

With the possible judicial issues discussed, the judicial interpretations of laws regulating outdoor advertising are reviewed. The review of the court cases is presented in chronological order. This is done so that the changing feeling of the courts will stand out.

II. JUDICIAL INTERPRETATIONS

The landmark case of St. Louis Gunning Advertising Company v. St. Louis provided doctrine for regulation of outdoor advertising under the police power. In order to justify regulations as protecting the health, safety, and morals of the community, the court found that billboards:

. . . endanger the public health, promote immorality, constitute hiding places and retreats for criminals and all classes of miscreants. They are also inartistic and unsightly. In cases of fire, they often cause their spread and constitute barriers against their extinction; and in cases of high wind, their temporary character, frail structure and broad surface render them liable to be blown down and to fall upon and injure those who may happen to be in their vicinity. The evidence shows and common observation teaches us that the ground in the rear thereof is being constantly used as privies and dumping ground for all kinds of waste and deleterious matters, and thereby creating public nuisances and jeopardizing public health; the evidence also shows that behind these obstructions the lowest form of prostitution and other acts of immorality are frequently carried on, almost under public gaze; they offer

shelter and concealment for the criminal while lying in wait for his victim; and last, but not least, they obstruct the light, sunshine, and air, which are so conducive to health and comfort.³⁵

In St. Louis Poster Advertising Corporation v. St. Louis, a city ordinance limiting the size, height, and placement of billboards and requiring a permit for their construction was upheld when the court simply stated:

. . . we think further argument unnecessary to show that the ordinance must be upheld.³⁶

The General Outdoor Advertising Company v. Indianapolis, in 1930, upheld a city ordinance for the protection of public health, safety, moral and general welfare. But the court further conceded that aesthetic considerations may enter in as auxiliary ones. The opinion of the court was:

Municipal corporations, under the police power, may reasonably control and regulate the construction and maintenance of advertising billboards. They may prescribe a secure manner of construction, compel the use of safe materials, limit the size, length, height, and location with reference to streets, require clean and sanitary maintenance thereof, and prohibit indecent or immoral advertisements thereon, provided such regulations have some reasonable tendency to protect the public safety, health, morals, or general welfare and do not unnecessarily invade private property rights.

. . . there is a trend in the modern decisions (which we approve) to foster, under the police power, an aesthetic and cultural side of municipal development--to prevent a thing that offends the sense of sight in the same manner as a thing that offends the senses of hearing and smelling . . . aesthetic considerations enter in to a great extent, as an auxiliary consideration, where the regulation

³⁵St. Louis Gunning Advertising Company v. St. Louis, 235 Mo. 99, 137 S.W. 929 (1911).

³⁶St. Louis Poster Advertising Corporation v. St. Louis, 249 U.S. 269, 1.c. 273 (1919).

has a real or reasonable relation to the safety, health, morals, or general welfare.³⁷

In 1932, the United States Supreme Court upheld a state court's decision relating to "equal protection" and a purported violation of the interstate commerce clause. As was noted in Chapter II, this case is significant because it brings out the parasitic function of outdoor advertising. The court's findings in Packer Corporation v. Utah were:

. . . as the state court has shown, there is a difference which justifies the classification between display advertising and that in periodicals or newspapers: "Billboards, street car signs, and placards and such are in a class by themselves. They are wholly intrastate, and the restrictions apply without discrimination to all in the same class. Advertisements of this sort are constantly before the eyes of observers on the streets and in the street cars to be seen without the exercise of choice or volition on their part. Other forms of advertising are ordinarily seen as a matter of choice on the part of the observer. In the case of newspapers and magazines, there must be some seeking by the one who is to see and read the advertisement. The radio can be turned off, but not so the billboard or street car placard. These distinctions clearly place this kind of advertisement in a position to be classified so that regulations or prohibitions may be imposed upon all within the class."³⁸

And in 1935, the General Outdoor Advertising Company v. Department of Public Works Massachusetts case disposed of some fifteen cases which had been in litigation for ten years.³⁹ The decision was based upon a broad conception of the police power of the state, a recognition

³⁷General Outdoor Advertising Company v. Indianapolis, 202 Ind. 85, 172 N. E. 309, 1.c. 311 and 312 (1930).

³⁸Packer Corporation v. Utah, 78 Utah 177, 2 P. 2d. 114 (1931), 285 U.S. 105, 1.c. 110 (1932).

³⁹General Outdoor Advertising Company v. Department of Public Works, 289 Mass. 149, 193 N.E. 799 (1935).

of the right of travelers upon the highway to escape from the annoyance of commercial propaganda, and the legality of the protection of public amenity. The court supported restrictions as to billboard sizes, location, setbacks, fees, and their banishment from locations of scenic and historic interest. Furthermore, the court's insistence upon a traveler's personal right to an "unannoyed journey" free from the unwelcome intrusion of billboards is very significant.

The Lexington v. Governor case upheld the exclusion of an attorney's sign from a residential district in Massachusetts, the court stating:

A sign of this type erected by the defendant on his premises [in a residential district] although no real office exists thereon manifestly defeats this intention. It was a use of the premises in a business manner contrary to the uses intended to be permitted in the R-1 district. It follows that the maintenance of the sign for advertising purposes was a violation of the zoning law.⁴⁰

The Supreme Court of Errors of Connecticut reversed a lower court's decision in Murphy, Incorporated v. Town of Westport. The lower court had held that an ordinance prohibiting billboards from a business district was invalid. However, the state court expressed a different opinion when it stated:

In line with these authorities, we hold that the trial court could not properly conclude that the defendant town might not justifiably treat signs referring to business conducted on the property upon which they stand as a class apart from signs not so related to such a business. It is hardly necessary to add that,

⁴⁰Lexington v. Governor, 295 Mass. 31, 3 N.E. 2d. 19, 1.c. 21 (1936).

this being so, the difference in treatment does not constitute a violation of the provision Statute 424 of the General Statutes that zoning regulations "shall be uniform for each class or kind of buildings or structures throughout each district."⁴¹

In 1945, the Supreme Court of Michigan in Woodward Avenue v. Wolff upheld the removal of nonconforming overhanging signs by stating:

It is a proper inference that a profusion of lights on such a street as Woodward Avenue in Detroit may tend to a confusion of both pedestrians and drivers of motor vehicles in the nighttime. Furthermore, signs projecting over sidewalks may under some circumstances be considered a public nuisance and a menace to public safety.⁴²

United Advertising Corporation v. Borough of Raritan upheld a ban on nonaccessory advertising devices because accessory advertising devices were also regulated. In the opinion of the court:

The business sign is in actuality a part of the business itself, just as the structure housing the business is a part of it, and the authority to conduct the business in a district carries with it the right to maintain a business sign on the premises subject to reasonable regulations in that regard as in the case of this ordinance. Plaintiff's placements of its advertising signs, on the other hand, are made pursuant to the conduct of the business of outdoor advertising itself, and in effect what the ordinance provides is that this business shall not to that extent be allowed in the borough. It has long been settled that the unique nature of outdoor advertising and the nuisances fostered by billboards and similar outdoor structures located by persons in the business, justify the separate classification of such structures for the purposes of governmental regulation and restriction. . . . the scheme of the ordinance makes it very evident that the municipality has strictly regulated all signs to confine their use to the reasonable requirements of signs incident to and part of businesses authorized on the premises. It forbids any sign whatever with an area in excess of three square feet except as a zoning permit is obtained for its use. No sign of any sort may be placed, inscribed or supported upon the roof or upon any structure which extends above the roof of any building.

⁴¹Murphy, Incorporated v. Town of Westport, 131 Conn. 292, 40 A. 2d. 177, 1.c. 182 (1944).

⁴²Woodward Avenue v. Wolff, 20 N.W. 2d. 217, 1.c. 222 (Mich., 1945).

In the residence districts, except for temporary "for rent" and "for sale" signs on property, only a professional person may have a business sign and it must be nonilluminated and not exceed three square feet in area. In the two business districts and in the Industrial M-1 District a business may have a sign only if it is either non-illuminated and not more than 20 square feet in area and in no case exceeding the aggregate of 10 per cent of the wall surface, including window and door area on which it is displayed, or is a non-flashing sign not exceeding ten square feet in area and not exceeding in the aggregate 5 per cent of the wall surface. Flashing signs are prohibited in the Industrial M-2 Districts, and business signs may not exceed more than 40 square feet in area and cannot be erected less than 200 feet from a street or highway or residence district. Plainly, the municipal purpose is directed toward minimizing the abuses and hazards incident to the use of signs and to confine their use within the reasonable requirements of businesses permitted to be conducted at the places of their location.⁴³

This case, in addition to approving separate regulation of accessory and nonaccessory advertising devices, declared that freedom of the press and freedom of speech were not hindered by the regulation. Stated as follows:

Plaintiff urges further than there is an unconstitutional abridgement of the guaranties of freedom of speech and freedom of the press in a distinction which permits a business man to use a sign to advertise his business upon the premises, although "he may not use that same sign to urge the public to purchase an automobile or a particular brand of ice cream or any other lawful article of commerce, at a store he owns across the street." The short answer to this is that these guaranties impose no such restraint upon governmental regulation of purely commercial advertising.⁴⁴

The landmark case for the use of the police power based solely on aesthetic grounds is Berman v. Parker. Moreover, the case declares that the Fifth Amendment does not stand in the way of aesthetic

⁴³United Advertising Corporation v. Borough of Raritan, 93 A. 2d. 362, 1.c. 365 and 366 (N.J., 1952).

⁴⁴Ibid.

considerations. In this Supreme Court case, Justice Douglas stated:

The concept of the public welfare is broad and inclusive The values it represents are spiritual as well as physical, esthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy If those who govern the District of Columbia decide that the Nation's Capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way.⁴⁵

And in State v. Wieland, the opinion expressed by Justice Douglas in the earlier court decision played an important part in the decision of the Wisconsin court when it stated:

. . . that while the general rule is that zoning power may not be exercised for purely aesthetic considerations, such rule was undergoing development. In view of the latest word spoken on the subject by the United States Supreme Court in Berman v. Parker, this development of the law has proceeded to the point that renders it extremely doubtful that such prior rule is any longer the law.⁴⁶

In Reid v. Architectural Board of Review, the court upheld a decision by an architectural review committee and further stated:

An ordinance designed to protect values and to maintain a high character of community development is in the public interest and contributes to the general welfare. Moreover, the employment of highly trained personages such as architects for the purpose of applying their knowledge and experience in helping to maintain the high standards of the community is laudable and salutary and serves the public good We determine and hold that ordinance is a constitutional exercise of the police power by the City Council and is, therefore, valid.⁴⁷

⁴⁵Berman v. Parker, 348 U.S. 26, 1.c. 33 (1954).

⁴⁶State v. Wieland, 269 Wis. 262, 69 N.W. 2d. 217, 1.c. 222 (1955).

⁴⁷Reid v. Architectural Board of Review, 192 N.E. 2d. 74, (1963) 1.c. 76.

The last case to be reviewed was decided in Kentucky in 1964. This case, More v. Ward, laid the safety argument to rest by refusing to permit evidence admitted in court showing outdoor advertising devices did not effect traffic safety. The court stated:

Even assuming appellants could produce substantial evidence that billboard signs do not adversely affect traffic safety, this record indicates, and our common knowledge suggests, that the question involves so many intangible factors as to make debatable the issue of what the facts establish Finally, appellants' position on this point is unavailing because the traffic safety problem was only one of many significant public welfare considerations⁴⁸

Furthermore, the court stated that regulation of outdoor advertising does not violate Section 1 of the Fourteenth Amendment when it stated:

The argument that this law results in the taking of property "without due process of law" is of no independent significance. Almost inevitably the exercise of the police power involves the destruction or limitation of property rights without a hearing. It is not a violation of that constitutional mandate if the police power is properly exercised.⁴⁹

In summation, the judicial review revealed that outdoor advertising devices may be regulated as to size, height, and placement. Distinctions may be drawn between nonaccessory and accessory advertising devices. However, if one is regulated, the other one should also be regulated. A more recent trend allows aesthetic considerations and the use of architectural review committees to fall within the realm of the police power.

⁴⁸More v. Ward, 377 S.W. 2d. 881, l.c. 884 (Kentucky, 1964).

⁴⁹Ibid., l.c. 885.

Although judicial precedents are significant, one point must be emphasized. When a regulation is subjected to judicial review, the burden of proof is upon the person, firm, or corporation contesting the regulation. This is a common point of law, assuming that a governmental unit would not develop any regulation outside the scope of its regulatory powers.

CHAPTER IV

CURRENT REGULATORY MEASURES

This chapter is concerned with the current measures used to regulate outdoor advertising. To discuss current measures, the chapter is divided into two sections. The first section is devoted to the federal legislation pertaining to outdoor advertising, which has come about entirely in the last decade. The second section of this chapter is devoted to reviewing current local measures. The discussion of local regulatory measures relies heavily upon a questionnaire sent to the mayors of 255 incorporated municipalities.

I. FEDERAL REGULATIONS

In 1958, the Congress of the United States passed legislation for the control of outdoor advertising adjacent to the Interstate System. This statute has been codified as 23 U.S.C. Section 131. Paragraph (a) of Section 131 reads as follows:

To promote the safety, convenience, and enjoyment of public travel and the free flow of interstate commerce and to protect the public investment in the National System of Interstate and Defense Highways, it is declared to be in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to the Interstate System by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

Paragraph (a) of Section 131 further states:

It is declared to be a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System

upon any part of the right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary

Although only a portion of the first paragraph of the statute has been quoted, the weakness of the legislation is apparent. By regulating only those devices that fall within 660 feet of the edge of the right-of-way, any kind of device may be placed outside of the 660-foot controlled area. This will mean that devices outside the controlled portions will have to be large in size so they can be read easily. A more realistic and comprehensive limit of control for areas adjacent to the Interstate is: . . . the erection and maintenance of outdoor advertising signs, displays, or devices visible and legible from the main-traveled way of all portions of the Interstate System constructed upon any part A statement with that wording is much better than the 660-foot limit statement because that wording would prohibit the ridiculous enlargement in size and the extension in height of advertising devices lying outside the 660-foot limit.

Continuing with paragraph (a) of Section 131, the following is expressed regarding the standards to be prepared by the Secretary:

. . . which shall include only the following four types of signs, within the 660 foot controlled area and no signs advertising illegal activities:

1. Directional or other official signs that are required or authorized by law.
2. Signs advertising the sale or lease of the property upon which they are located.
3. Signs erected or maintained pursuant to authorization or permitted under state law, and not inconsistent with the

National policy and standards of this section, advertising activities being conducted at a location within twelve miles of the point at which such signs are located.

4. Signs erected or maintained pursuant to authorization in state law and not inconsistent with the National policy and standards of this section, and designed to give information in the specific interest of the traveling public.

Although the above four classifications leave much to be desired in the way of effective regulation, the discrepancies will not be discussed until the standards developed by the United States Department of Commerce, Bureau of Public Roads are reviewed.

The last point to be mentioned about the first outdoor advertising act pertains to compensation to the states for developing outdoor advertising control. Paragraph (c) of Section 131 states:

. . . if an agreement pursuant to this section has been entered into with any state prior to July 1, 1961, the Federal share payable on account of any project on the Interstate System within that state . . . to which the National policy and the agreement apply, shall be increased by one-half of one per centum of the total cost thereof, not including any additional cost that may be incurred in the carrying out of the agreement.

Even though one-half of one per cent could amount to a large sum of money, the emphasis is on encouragement to the states. They do not lose any money if outdoor advertising is not controlled. However, if the outdoor advertising is controlled, a bonus is provided. This is a form of psychology that can never be too successful.

In the 1958 Act, the Secretary of Commerce was authorized within his discretion to provide for excluding from application of the National Standards segments of the Interstate System traversing certain areas. However, the Federal-Aid Highway Act of 1959 deleted this discretionary

authority and provided for certain automatic exclusions. In the amended law, agreements entered into by the Secretary of Commerce and the state highway departments shall not apply to those segments of the Interstate System that traverse commercial or industrial zones within the presently existing boundaries of incorporated municipalities, or other areas where land use, as of September 21, 1959, was clearly established by state law as industrial or commercial.

This amendment certainly is not a benefit to those desiring to control outdoor advertising. Allowing certain areas to be free from control mitigates the overall effectiveness of the legislation.

Before discussion of the 1965 Act, the standards promulgated by the Secretary of Commerce will be discussed. These standards were filed in the Federal Register November 10, 1958, and amended January 12, 1960, and March 26, 1960. Although the 1965 Act requires new standards to be developed, these will not be promulgated until after January 1, 1967. Therefore, only existing standards are reviewed in this section.

The discussion of the current standards is limited to specific weak and strong points requiring emphasis. The standards divide signs into four regulatory classes which may be permitted within the 660-foot controlled area. Class One is "official signs" erected by public officers or agencies to carry out state or federal law, which is a perfectly logical use within the 660-foot controlled area.

However, Class Two leaves much to be desired. This class is described in the following manner in paragraph (a) Section 20.5 of the standards:

Class Two - On premise signs. Signs not prohibited by state law which are consistent with the applicable provisions of this section and Section 20.8 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate highway.

Section 20.8 (g) makes an exception for Class Two signs by stating:

No sign may be permitted to exceed twenty feet in length, width, or height, or 150 square feet in area . . . except Class Two signs not more than fifty feet from, and advertising activities being conducted upon, the real property where the sign is located.

That particular section of the standards should be deleted. The reason is quite simple. As was noted in the previously cited case of United Advertising Corporation v. Borough of Raritan, control of non-accessory advertising devices was upheld because accessory devices were also subjected to some form of adequate control. Without control of the size and number, accessory advertising devices can become traffic hazards and extremely unsightly.

Another class of signs under paragraph (a) Section 20.5 is Class Three signs, described as:

Class Three - Signs within twelve miles of advertised activities. Signs not prohibited by state law which are consistent with the applicable provisions of the section . . . and which advertise activities being conducted within twelve air miles of such signs.

Although there is no inherent property right for a landowner to advertise his services along the public way within a radius of twelve miles from his property, the standards seem to recognize such a right, and so did the Act of 1958. Moreover, Class Three signs should not be

permitted in the controlled area of the Interstate System (controlled area as defined by the researcher). They are surely an intrusion upon the Interstate System, as the previously cited case of Packer Corporation v. Utah indicated.

Finally, the last class of signs defined is Class Four, and is probably the worst part of the standards. This class is described as:

Class Four - Signs in the specific interest of the traveling public. Signs authorized to be erected or maintained by state law which are consistent with the applicable provisions of this section . . . and which are designed to give information in the specific interest of the traveling public.

Paragraph (c) under Section 20.5 further states that Class Four signs may display:

Only information about public places operated by Federal, State or local governments, natural phenomena, historical sites, areas of natural beauty or naturally suited for outdoor recreation, and places for camping, lodging, eating, and vehicle service and repair. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils or lubricants being offered for sale at such a place.

Unfortunately, permitting Class Four signs within the controlled area seriously hampers effective outdoor advertising control. The "specific interest of the traveling public" is so broadly defined that only the size of the signs within the controlled area are effectively regulated. Each Class Three and Class Four sign is limited to 150 square feet in area, which is approximately 50 per cent smaller than the standard twenty-four sheet poster billboard.

For all practical purposes, except for some safety qualifications, permitting both Class Three and Four signs in the controlled area does

not provide adequate control of outdoor advertising. The business of outdoor advertising is allowed subject only to size and spacing requirements when it should be prohibited altogether. This statement perhaps sounds somewhat harsh and unfair. However, there is an equitable solution for the pursuance of outdoor advertising along the Interstate System. This solution will be discussed after review of the Highway Beautification Act of 1965.

Title I of the 1965 Act revises Section 131 of title 23, United States Code. Probably the most important revision is paragraph (b) Section 131, which states:

Federal-aid highway funds apportioned on or after January 1, 1968, to any state which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such state under Section 104 of this title, until such time as such state shall provide effective control.

Although the 660-foot provision has not been changed, the 10 per cent financing loss to any state failing to provide adequate controls by January 1, 1968, should provide substantial impetus for states to initiate effective controls.

Another good facet of the Act concerns the Class Three signs. There is no provision in the new Act allowing them in the controlled area. In paragraph (c) Section 131 of title 23, only two classes of signs are not prohibited from the controlled area. These are Class One and Two; but, once again, there appears to be no regulation of the size and number of Class Two signs.

Unfortunately, Class Four signs of the Secretary's standards are once again allowed in the controlled area. Paragraph (f) of Section 131, title 23 states:

The Secretary shall, in consultation with the states, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to National standards to be promulgated by the Secretary.

Once again the broad phrase "in the interest of the traveling public" appears to destroy comprehensive outdoor advertising control. And certainly, if the Secretary interprets that phrase loosely again, the revised Act is not much better than the original Act.

There is a solution to developing proper levels of outdoor advertising and at the same time, give the traveling public information of interest. The solution lies in the proper utilization of the information site suggested in the first Act, developed in the standards, and repeated in the revised Act. Paragraph (i) of Section 131 of title 23, United States Code provides for information sites by stating:

. . . a State may also establish information centers at safety areas for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable.

In the standards promulgated by the Secretary, advertising would be allowed in the information sites; but the advertisements cannot be visible from the main road of the Interstate System. This means a motorist, to enjoy the site, would have to pull off the main road and into the information site. Further, advertisements in the information site would be subject to size, number, and various safety regulations.

By prohibiting outdoor advertising in the controlled areas of the Interstate System but allowing it in information sites, an equitable compromise is reached between outdoor advertising concerns and state and federal regulators.

Furthermore, the information site provides an excellent opportunity for creating a highly enjoyable rest stop for motorists. For example, advertisers could hold competitions among themselves to develop interesting and attractive displays for the information sites. Also, state and municipal agencies could set up displays portraying their significant accomplishments or acknowledgments of prominent citizens of the state or city. There seems to be no end to the ideas that could ensue if the information site is adequately promoted.

One rather obvious way that the information site could be fostered is in the application of paragraph (g) Section 131 of title 23, United States Code, which states:

Just compensation shall be paid upon removal of the following outdoor advertising, signs, displays, and devices. . . . The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following

If the statute were revised so that the compensation would be paid only in terms of space in an information site, extra incentive would be placed on information site development. Further, the money that is intended for compensation could be allocated to development of interesting and pleasing information sites--some five million dollars for fiscal 1966 has been granted for compensation purposes by the Bureau of Public Roads.

In this section, only a brief review and evaluation of federal regulation was presented. Several of the good and bad points of the legislation were not discussed mainly to save space; and if the suggested revisions are made, the other inadequacies are automatically removed. However, with the information presented, the current federal legislation for regulation of outdoor advertising falls way short of legislation necessary for effective control of outdoor advertising.

II. LOCAL REGULATIONS

In this section, the current status of local outdoor advertising control is discussed as indicated by the results of a sample survey of local authorities. For this study, a questionnaire was developed and sent to a representative sample of incorporated municipalities with populations of ten thousand persons and over.

The lower limit of the universe of cities was drawn at ten thousand population for the following reasons. First, it seemed likely that incorporated cities with populations of at least ten thousand would have administrative structures capable of developing and carrying out outdoor advertising controls, whereas many of less than ten thousand would not have such structures. Additionally, if all incorporated cities of two thousand five hundred or more population had been used as the universe, the sheer magnitude and cost of the study would have exceeded present resources for the task.

Once the limits of the universe had been determined, the size of the sample to be taken from this universe could be established.

To achieve this, a stratified technique was utilized. The universe was first broken down into significant categories based on city size. The categories developed in the United States Census of Population 1960: Characteristics of the Population were deemed appropriate. The number of cities in each size classification and the percentage distribution of the categories was then determined. Table II on page 94 illustrates the results of stratifying the universe in this manner.

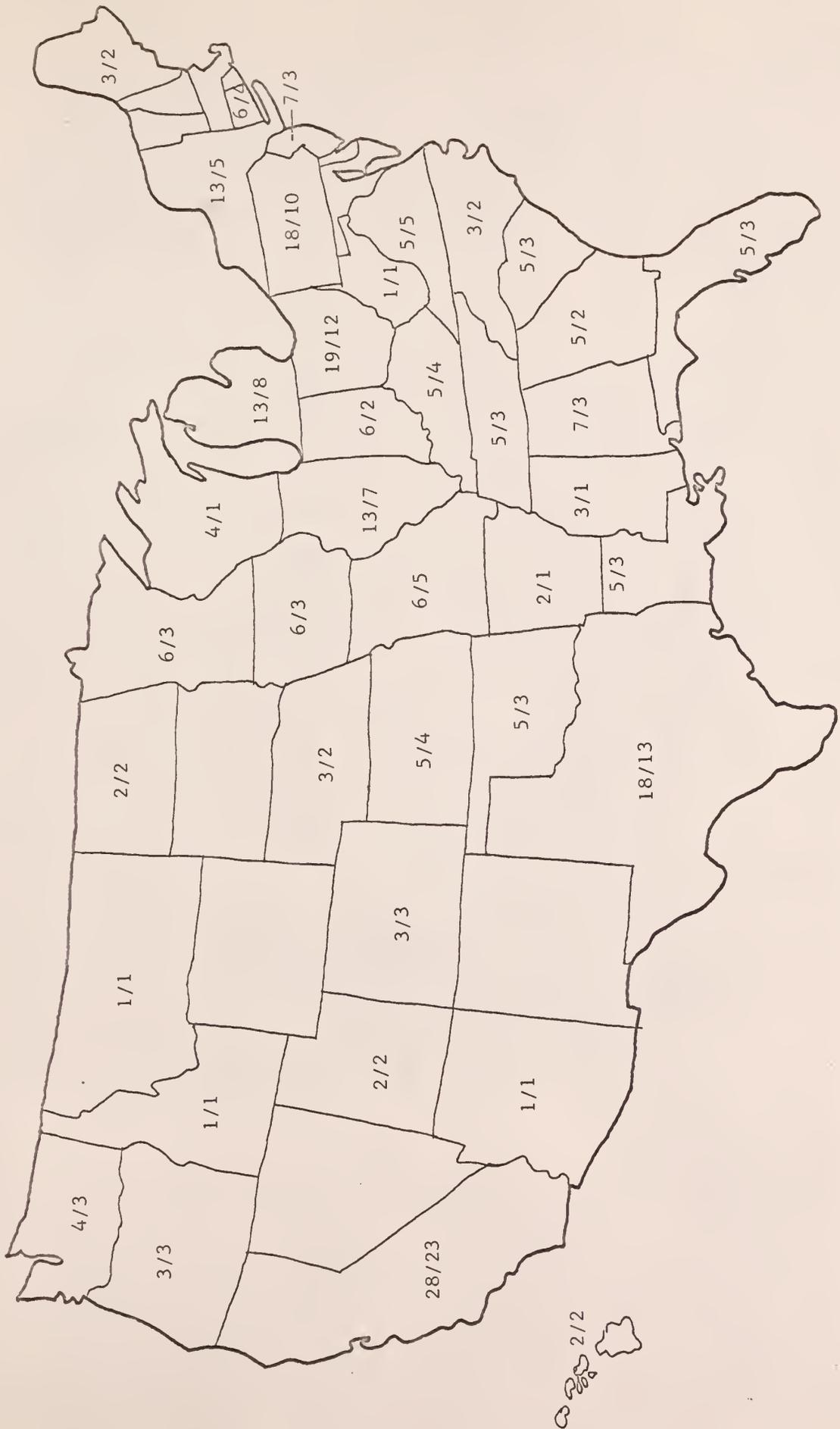
If a stratified random sample on a proportion to size basis had been used, 684 questionnaires would have been required; of the 684 questionnaires, 577 would have been sent to the seventh city size classification. This was not deemed desirable because the seventh classification more than likely would have the fewest controls, and such a large sample of the seventh classification would not be necessary.

Consequently, it was decided to utilize the technique of sampling the various strata at differing levels of representation in a way that would assure random representation within each strata at adequate levels for analytic purposes. Table II shows the sample design that was arrived at after consultation with Dr. Ralph Dakin, Professor of Sociology, who has had extensive experience in research technique.

Having reached this decision on sample design, the actual cities were randomly selected by identifying each city with a number and then drawing the sample by using a table of random numbers. Figure 43 on page 95 illustrates the distribution of the mailed questionnaires by states. Because some cities desired that their replies remain confidential, names of cities cannot be revealed.

TABLE II
 REPRESENTATION BY SIZE OF INCORPORATED CITIES WITH
 A POPULATION OF 10,000 AND OVER IN 1960

Classi- fication Symbol	City Size Range	No. in U.S.A.	Stratified		Modified	
			% of Total	Sample No.	%	No.
I	1,000,000 plus	5	.3	1	100	5
II	500,000-999,999	16	1.0	1	100	16
III	250,000-499,999	30	1.8	1	66	20
IV	100,000-249,999	79	4.8	3	33	26
V	50,000- 99,999	180	10.9	20	20	36
VI	25,000- 49,999	366	22.1	81	15	54
VII	10,000- 24,999	978	59.1	577	10	98
Total	10,000 plus	1,654	100.0	684	--	255



Questionnaires Sent/Questionnaires Returned

FIGURE 46

QUESTIONNAIRE DISTRIBUTION

A mail questionnaire was developed from which adequate information on local outdoor advertising control could be collected. This process is discussed in the following paragraphs, and the information gained from the questionnaire is analyzed in the final portion of this chapter.

Questionnaire design. After reviewing the current literature on outdoor advertising control, a number of questions were formulated. These questions were organized as to subject matter and were focused, as much as possible, narrowly and sharply on the subject matter. The questions were arranged in a logical sequence on a questionnaire designed for distribution through the mail. A cover letter and an instruction sheet were also developed.

The questionnaire package (the cover letter, instruction sheet, and questionnaire) was submitted to the researcher's colleagues and selected professors for their review and recommendations. A revised questionnaire was then sent to a small portion of the intended sample. When returned, the questionnaire was once again submitted to scrutiny by colleagues and selected professors. Using their suggestions, a final questionnaire was prepared and mailed (a copy is in the Appendix).

To insure a good response, certain standard principles were followed. First, to obtain a significant endorsement to the research, Mrs. Lyndon B. Johnson was contacted by mail. Although she did not respond personally to the letter, the response was such that her interest in the research could be mentioned in the cover letter (copies of this correspondence are included in the Appendix).

Second, each cover letter was typed on College of Architecture letterhead stationery and personally signed by the researcher. This letter, of course, contained an altruistic appeal, stressed the utility of the study, and guaranteed anonymity. Furthermore, each letter was addressed to the mayor of the city contacted. Although this procedure required a considerable amount of typing, the envisioned influence on returns justified the effort.

Third, several small tasks were accomplished to facilitate returns, such as (1) enclosing a self-addressed, stamped, envelope; (2) affixing stamps to the envelopes without the use of a machine (a one-cent stamp and a four-cent stamp were used to draw attention to the cost of the questionnaire); and (3) the questionnaire and instruction sheet were mimeographed by a special process so that clear, neat copies would be produced.

By using such techniques to facilitate returns, an adequate return was anticipated of something over 40 per cent.

Questionnaire analysis. The actual return on this mail survey was 63.5 per cent, with all but one of the seven categories above 60 per cent. The lowest return was 55.2 per cent and was from the largest represented category--city Class VII. The table on page 98 illustrates the returns for each city size classification.

Since some classes of cities in the sample were over- or under-represented, the actual tabulation of the results in the following tables is indicated as numbers and percentages within each class.

TABLE III
QUESTIONNAIRE RETURN
BY CITY SIZE

Class	Questionnaires Sent	Questionnaires Returned	Per Cent Return
I	5	4	80.0
II	16	11	68.8
III	20	12	60.0
IV	26	19	73.1
V	36	27	75.0
VI	54	35	64.8
VII	98	54	55.2
Total	255	162	63.5

The total number of cities in each classification for a table is listed in the totals column. Only the Roman numeral symbolizing the particular city size classification has been given in the tables.

Throughout this analysis an effort was made to ascertain if any association exists between city size and the variables considered. Chi square is used as the association check. To use chi square, an assumption was made that there is no association between city size and the variables--called a null hypothesis. Then the null hypothesis was proved or disproved by comparing the observed data, expressed as frequencies in various categories or groups, with the theoretical or expected results in the same categories or groups. The value of chi square was computed, based on the differences between the observed and theoretical frequencies, with the following formula:

$$\text{chi square} = \sum \left[\frac{(f_o - f_e)^2}{f_e} \right]$$

Where: f_o = observed frequencies
 f_e = theoretical or expected frequencies

With a value for chi square, a chi square table was consulted to determine the probability that any differences found are accidental or arise through sampling variation. For example, if the following notation for chi square were located under a table:

$$\text{chi square} = 16.55 \quad P < 0.001$$

This may be interpreted as an indication that there is less than one

chance in one thousand that the differences between the observed frequencies and the theoretical frequencies found could have arisen solely due to chance. Therefore, the differences are significant and the null hypothesis is false. In applying and determining chi square, the first five classes of cities are aggregated into one class. This class is entitled metropolitan, which conforms to United States Census criteria for metropolitan cities, i.e., a central city of at least fifty thousand population. The remaining two classes of cities are combined to form the nonmetropolitan class of cities, i.e., those cities with less than fifty thousand population. The two classes, metropolitan and nonmetropolitan, will form the basis for statistical analyses and discussion of differences found due to city size.

Turning now to the results of the questionnaire, the sequence of questions on the questionnaire provides suitable basis to discuss the results. Question One was simply to determine whether or not each city queried had outdoor advertising control. Table IV on page 101 illustrates the results.

From the table and chi square value, some inferences can be made. Metropolitan cities (cities in Classes I through V) control outdoor advertising in some manner, significantly more frequently than do nonmetropolitan communities. These results substantiate the assumption that small cities are less apt to have controls than large cities.

The next question relates to the document or documents in which the controls are stated. Table V on page 102 illustrates the results. The data in Table V clearly indicate differences between metropolitan

TABLE IV
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 WITH OR WITHOUT OUTDOOR ADVERTISING CONTROL

Class	With Control		Without Control		Total	
	No.	%	No.	%	No.	%
Metro.	72	98.8	1	1.2	73	100.0
I	4	100.0	0	0.0	4	100.0
II	11	100.0	0	0.0	11	100.0
III	12	100.0	0	0.0	12	100.0
IV	18	94.7	1	5.3	19	100.0
V	27	100.0	0	0.0	27	100.0
Nonmetro.	70	78.7	19	21.3	89	100.0
VI	30	85.7	5	14.3	35	100.0
VII	40	74.1	14	25.9	54	100.0
Total	142	87.7	20	12.3	162	100.0

chi square = 14.83 $P < 0.001$

TABLE V
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 STATING THE CONTROL PROVISIONS IN ZONING
 ORDINANCE, SPECIAL ORDINANCE, BUILDING
 CODE, OR COMBINATION OF THE THREE

Class	Zoning Ord. (Only)		Special Ord. (Only)		Building Code (Only)		Zoning Ord. and Special Ord.		Zoning Ord. and Building Code		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Metro.	27	37.5	7	9.7	3	4.2	17	24.6	18	25.0	72	100.0
I	-	-	-	-	-	-	2	50.0	2	50.0	4	100.0
II	5	45.4	1	9.1	1	9.1	2	18.2	2	18.2	11	100.0
III	3	25.0	1	8.4	-	-	4	33.3	4	33.3	12	100.0
IV	8	44.4	1	5.6	1	5.6	4	22.2	4	22.2	18	100.0
V	11	40.8	4	14.8	1	3.7	5	18.5	6	22.2	27	100.0
Nonmetro.	26	37.1	15	21.4	2	2.9	24	34.3	3	4.3	70	100.0
VI	11	36.7	7	23.3	1	3.3	10	33.4	1	3.3	30	100.0
VII	15	37.5	8	20.0	1	2.5	14	35.0	2	5.0	40	100.0
Total	53	37.3	22	15.5	5	3.5	41	28.9	21	14.8	142	100.0

chi square = 14.63 $P < 0.01$

and nonmetropolitan cities. The nonmetropolitan communities favor using a zoning ordinance, special ordinance, or combination of special ordinance and zoning ordinance, whereas the metropolitan cities favor using the zoning ordinance and its combination with the special ordinance and the building code. Few large cities rely on the special ordinance; few small cities use the building code. Almost all of the cities tend to rely on the zoning ordinance as the primary means of stating outdoor advertising control. This is an efficient means of announcing controls compared to a two-document announcement. With two documents stating controls, conflicts in meaning could ensue; and some of the cities queried indicated that their documents did conflict.

Moving to the next question, a discussion of the scaling technique used is necessary before describing the results. The respondents were asked to circle the numbers corresponding to the devices permitted in each land use district to which their control was applied. The response portion of this question was structured as follows:

District	Devices Permitted								
Agricultural	1	2	3	4	5	6	7	8	9
Residential	1	2	3	4	5	6	7	8	9
Commercial	1	2	3	4	5	6	7	8	9
Industrial	1	2	3	4	5	6	7	8	9

Bearing in mind the definitions presented in the first chapter, the numbers above correspond to the following outdoor advertising devices: (1) accessory, (2) nonaccessory, (3) controlled, (4) wall, (5) overhanging, (6) roof, (7) pole, (8) flashing, and (9) ground.

To ascertain the varying degrees of outdoor advertising control, the devices circled by the respondents (indicating those circled are permitted in the appropriate district) were given appropriate weights; and each of the four districts was also weighted.

The weight for each district was determined by logical reasoning. Starting with the industrial district, since it is usually the least attractive and highest intensity land use district, a weight of one was allocated. This indicates that failure to control outdoor advertising devices in the industrial district is not as serious as failure to control devices in the remaining districts. By this same reasoning, the other three districts were weighted. The commercial district's weight is two, agricultural is three, and residential is four. These weights were then multiplied by the weight allocated for each device permitted within the districts.

Each device's weight was ascertained by certain value judgments based on relevant considerations pertaining to location, construction, and illumination of the device. The location consideration involves accessory and nonaccessory devices. By comparison, nonaccessory devices due to their parasitic and generally confusing nature, are less desirable than accessory devices. Furthermore, nonaccessory devices are deemed the most undesirable type of outdoor advertising device. Consequently, their weight is four. The accessory device, on the other hand, is the most desirable form of device. Therefore, its weight is one.

As to construction, the wall, overhanging, pole, and ground devices all carry equal weights because none of them have inherent

qualities that would differentiate them from each other. Since they are the most desirable type of outdoor advertising device with regard to construction form, the weight of each is one. The roof device was given a weight of two because it has certain inherent qualities that make it somewhat less desirable than wall, overhanging, pole, and ground devices. Some of these qualities are: this type of device generally needs to be extremely large to be seen; because of its size and mounting locations, this device presents a safety hazard if not designed structurally adequate for windloads; and this device is extremely difficult to integrate into the architectural character of the building.⁵⁰

Regarding illumination, only one type of illumination was considered--flashing. Because of safety and aesthetic reasons, a flashing device was given a weight equivalent to a nonaccessory device, which is four.

With the districts' and devices' weights known, a matrix was developed. Table VI on page 106 illustrates the matrix. The numbers within each cell (weights) were obtained by multiplying the device's weight in that cell times the district's weight. Therefore, each city could be scored by summing up the numbers in the matrix corresponding to the devices that they had circled, which indicates those devices are

⁵⁰ Another device rating the construction consideration, the controlled device, had to be deleted due to ambiguity of response. Ambiguity could occur because a city controlling few devices might reason, "sure controlled devices are allowed"; whereas a city controlling many devices would also circle the controlled device's number, meaning that only controlled devices are permitted.

TABLE VI
 MATRIX USED TO SCORE THE DEGREE OF OUTDOOR
 ADVERTISING CONTROL IN EACH SIZE CITY

Districts	Number of Device and Cell Weights									Total Wt.
	1 Wt-1	2 Wt-4	3 Wt-0	4 Wt-1	5 Wt-1	6 Wt-2	7 Wt-1	8 Wt-4	9 Wt-1	
Agri. Wt-3	3	12	0	3	3	6	3	12	3	45
Resi. Wt-4	4	16	0	4	4	8	4	16	4	60
Comm. Wt-2	2	8	0	2	2	4	2	8	2	30
Ind. Wt-1	1	4	0	1	1	2	1	4	1	15
Total	10	40	0	10	10	20	10	40	10	150

permitted in the appropriate district. A city's score falls along a range from zero to one hundred fifty. Zero would indicate no devices were permitted in any district, and one hundred fifty would indicate all devices were permitted in all the districts, i.e., no control. A score of fifteen or below was considered ideal, and a score over thirty was deemed poor.

The results of the question may now be analyzed. To facilitate analysis, the scores were aggregated into ten degrees. Degree Number One contains those cities having a score of fifteen or below, and Degree Number Two contains those cities having a score above fifteen but below thirty-one, and Degree Number Three contains those cities having a score above thirty but below forty-six. This fifteen point interval was continued for the remaining degrees. The results of this aggregation are presented in Table VII on page 108.

The data in Table VII conclusively show that the ideal degree of control encompasses few cities (only 5.9 per cent of those sampled). This is an unfortunate occurrence, and it takes on added misfortune when the degree containing the greatest number of cities is noted. With one exception, the third degree contains the most cities. Within this degree, cities either do not control devices in the industrial and commercial districts; or they control some in the commercial or industrial districts but have lenient controls in the residential and agricultural districts. Considering all classes of cities with the exception of those one million or more (which include too few cases for analysis) approximately three-fourths in each class had less than

TABLE VII

PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
HAVING A CERTAIN DEGREE OF CONTROL

Class	Measures of Degree										Total No.	Total %						
	1	2	3	4	5	6	7	8	10	10								
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%				
Metro.	2	3.0	4	6.0	4	44.8	15	22.4	3	4.5	1	1.5	1	1.5	8	11.8	67	100.0
I	-	-	1	33.3	2	66.7	-	-	-	-	-	-	-	-	-	-	3	100.0
II	-	-	-	-	6	54.6	5	45.4	-	-	-	-	-	-	-	-	11	100.0
III	-	-	1	8.3	6	50.0	2	16.8	1	8.3	-	-	-	-	1	8.3	12	100.0
IV	-	-	1	5.5	5	27.9	4	22.3	1	5.5	-	-	-	-	6	33.3	18	100.0
V	2	8.7	1	4.3	11	47.9	4	17.6	1	4.3	1	4.3	1	4.3	1	4.3	23	100.0
Nonmetro.	7	8.2	10	11.8	27	31.8	12	14.1	4	4.7	1	1.2	-	-	24	28.2	85	100.0
VI	1	3.1	3	9.4	14	43.8	6	18.7	2	6.3	-	-	-	-	6	18.7	32	100.0
VII	6	11.3	7	13.3	13	24.5	6	11.3	2	3.8	1	1.9	-	-	18	33.9	53	100.0
Total	9	5.9	14	9.1	57	37.5	27	17.8	7	4.6	4	2.6	1	0.7	32	21.1	152	100.0
Class	Statistical Measures of Degree										Standard Deviation							
	Mean										Median		Standard Deviation					
Metro.	4.11										2.92		2.68					
I	2.68										2.25		.51					
II	3.45										2.92		.39					
III	4.08										2.83		2.06					
IV	5.73										3.75		3.10					
V	3.87										2.77		1.75					
Nonmetro.	4.96										2.94		3.15					
VI	4.46										2.86		2.52					
VII	2.21										3.17		3.54					

chi square = 13.11 $P < 0.20$

adequate controls. That is, in each class, approximately three-fourths had less than Degree One or Two controls.

As to inferences regarding city size, a chi square of desirable versus nondesirable and no control comparing metropolitan with nonmetropolitan communities yields the following result:

$$\text{chi square} = 3.64; 0.10 > P > 0.05$$

This level approaches significance and indicates that nonmetropolitan communities tend to achieve desirable degrees of control more frequently than do metropolitan communities.

By noting the means and medians for metropolitan and nonmetropolitan size cities, the metropolitan size cities appear, generally, to exercise a higher degree of control than the nonmetropolitan size communities. However, this does not represent desirable degrees of control for either class of community because both means are in the fourth degree, and the medians approach the third degree.

One of the most interesting results is the direct relationship between size of city and the standard deviation which increases as size of place decreases. This indicates that there is decreasing latitude for control as size of place is increased. In short, apparently anything goes in the small community.

Turning now to Question Five on the questionnaire, the methods of enforcement used by cities are determined. Table VIII on page 110 indicates the findings.

Examining Table VIII, it is apparent that no association exists

TABLE VIII
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 ENFORCING THEIR CONTROLS BY FINE, WITHHOLDING
 BUILDING PERMIT, IMPRISONMENT,
 OR COMBINATIONS OF THE THREE

Class	Fine (Only)		Withhold. Building Permit (Only)		Fine and Withhold. Building Permit		Fine and Imprison.		Fine, Withhold. Building Permit & Imprison.		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Metro.	20	29.0	14	20.3	14	20.3	12	17.4	9	13.0	69	100.0
I	1	25.0	1	25.0	-	-	1	25.0	1	25.0	4	100.0
II	2	20.0	3	30.0	4	40.0	-	-	1	10.0	10	100.0
III	4	33.3	1	8.4	1	8.4	2	16.6	4	33.3	12	100.0
IV	5	29.4	3	17.7	5	29.4	3	17.7	1	5.8	17	100.0
V	8	30.7	6	23.1	4	15.4	6	23.1	2	7.1	26	100.0
Nonmetro.	19	28.8	17	25.8	14	21.2	9	13.6	7	10.6	66	100.0
VI	7	25.0	5	17.8	6	21.4	4	14.3	6	21.4	28	100.0
VII	12	31.6	12	31.6	8	21.0	5	13.2	1	2.8	38	100.0
Total	39	28.9	31	23.0	28	20.7	21	15.6	16	11.8	135	100.0

chi square = 0.94 $P < 0.95$

between metropolitan and nonmetropolitan city size and the enforcement method used. The probability is ninety-five in one hundred that such slight differences are due to sampling fluctuations. There is one trend that is fairly common to all the cities. The trend is that as penalties become stiffer, their usage decreases.

The next item to be analyzed is the type of control agency used by the different classes of cities. Table IX on page 112 shows the results of this investigation. In Table IX, the data present overwhelming evidence that the building inspector is usually the person (or his department) responsible for insuring compliance with the regulations. This seems logical, since withholding building permits is a common measure of enforcing the regulations, and the building inspector is normally the one responsible for rejecting building permits. However, the control might be better effected through a joint effort of the building inspector and the planning department. In many cases, the building inspector lacks the education and foresight necessary to implement effective controls. But, by working with the planning department, this knowledge can be either obtained from the planning department or the planning department can issue instructions to the building inspector.

Unfortunately, this combined effort or solely using the planning department occurs only in the metropolitan size cities, with the nonmetropolitan communities relying heavily on the building inspector. This apparently is due to the small economic base of the nonmetropolitan communities, which makes the services of a professional planning staff economically unfeasible.

TABLE IX
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 USING THE BUILDING INSPECTOR, PLANNING
 DEPARTMENT, CITY COUNCIL, ZONING
 ADMINISTRATOR, OR A COMBINATION
 OF THE FOUR AS THE CONTROL
 AGENCY FOR THE REGULATION

Class	Building Inspector (Only)		Planning Dept. (Only)		Building Inspector & Planning Dept.		City Council (Only)		Zoning Admin. (Only)		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Metro.	51	74.0	7	10.1	5	7.2	1	1.5	5	7.2	69	100.0
I	4	100.0	-	-	-	-	-	-	-	-	4	100.0
II	8	80.0	2	20.0	-	-	-	-	-	-	10	100.0
III	10	83.2	1	8.4	1	8.4	-	-	-	-	12	100.0
IV	10	58.8	3	17.6	1	5.9	1	5.9	2	11.8	17	100.0
V	19	73.1	1	3.9	3	11.5	-	-	3	11.5	26	100.0
Nonmetro.	60	91.0	-	-	2	3.0	1	1.5	3	4.5	66	100.0
VI	26	92.9	-	-	-	-	-	-	2	7.1	28	100.0
VII	34	89.5	-	-	2	5.3	1	2.6	1	2.6	38	100.0
Total	111	82.3	7	5.2	7	5.2	2	1.5	8	5.9	135	100.0

chi square = 9.15 $P < 0.01$

In addition to information gathered on control agencies, information as to appeal agencies used by cities was accumulated. This is tabulated in Table X on page 114. According to the information in Table X, metropolitan size cities probably use the zoning appeals board more for appeals than the nonmetropolitan size communities. However, the nonmetropolitan size communities seem to make more extensive use of the city council for an appeal agency. This observation leads to the conclusion that not all nonmetropolitan size communities have become sophisticated enough to develop zoning appeals boards. Therefore, they rely strongly on the "city fathers."

As to using the courts for an appeal agency, this is generally the least used agency. Some of the ordinances reviewed were so complex and widely applicable that they would require a quasi-judicial appeal agency. The adoption of effective and equitable regulations would preclude the necessity for such an appeal agency, and the matter would rest where it properly belongs--in the courts.

Another facet of control enforcement was investigated. This facet concerns the number of cities within each size class that have had their outdoor advertising ordinance upheld by the courts. The inquiry was such that the city could indicate whether or not their regulations had been upheld by the courts or whether or not the regulations had ever been tested by the courts. Table XI on page 115 contains the results of this inquiry.

As Table XI implies by the omission of a column for regulations invalidated by the courts, none of the cities contacted had had their

TABLE X
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 USING ZONING APPEALS BOARD, CITY COUNCIL
 OR COURTS FOR AN APPEAL AGENCY

Class	Zoning Appeals Board		City Council		Courts		Total	
	No.	%	No.	%	No.	%	No.	%
Metro.	40	58.0	11	15.9	18	26.1	69	100.0
I	4	100.0	-	-	-	-	4	100.0
II	8	80.0	-	-	2	20.0	10	100.0
III	7	58.3	3	25.0	2	16.7	12	100.0
IV	8	47.1	3	17.6	6	35.3	17	100.0
V	13	50.0	5	19.3	8	30.7	26	100.0
Nonmetro.	30	45.5	22	33.3	14	21.2	66	100.0
VI	12	42.8	10	35.7	6	21.5	28	100.0
VII	18	47.4	12	31.6	8	21.0	38	100.0
Total	70	51.8	33	24.5	32	23.7	135	100.0

chi square = 5.47 $P < 0.10$

TABLE XI
 PER CENT AND NUMBER OF THE CITIES WITHIN EACH CLASS
 HAVING THEIR CONTROL MEASURES EITHER UPHELD BY
 THE COURTS OR NOT TESTED BY THE COURTS

Class	Reviewed and Upheld		Not Contested		Total	
	No.	%	No.	%	No.	%
Metro.	30	43.5	39	56.5	69	100.0
I	3	75.0	1	25.0	4	100.0
II	4	40.0	6	60.0	10	100.0
III	8	66.7	4	33.3	12	100.0
IV	6	35.2	11	64.8	17	100.0
V	9	34.6	17	65.4	26	100.0
Nonmetro.	16	24.2	50	75.8	66	100.0
VI	7	24.1	22	75.9	29	100.0
VII	9	24.3	28	75.7	37	100.0
Total	46	34.1	89	65.9	135	100.0

chi square = 5.48 $P < 0.05$

outdoor advertising controls invalidated by the courts. Further study of the table reveals that metropolitan size cities have had their controls substantiated by the courts significantly more frequently than nonmetropolitan size communities. This probably means that nonmetropolitan size communities rely on informal means to either change the controls or comply with them. Also, the outdoor advertising firms in the metropolitan size cities, more than likely, have the economic means to test local regulations in court.

Finally, the last question to be discussed, using the sample survey data, concerns the time limits allowed for nonconforming uses by each class of city. Before discussing these findings, the scale used for determining the degree of time allowed before nonconforming uses must cease is reviewed. The scale developed contains five degrees. Degree Number One contains only those cities that make the outdoor advertising regulations retroactive, thereby making any nonconforming uses cease immediately. Degree Number Two contains only those cities allowing nonconforming uses anywhere from one-half year through two years before they must cease. Degree Number Three contains only those cities allowing nonconforming uses anywhere from three years through five years before they must cease. Degree Number Four contains only those cities allowing nonconforming uses anywhere from six years through ten years before they must conform. Degree Number Five contains only those cities allowing nonconforming uses to continue indefinitely subject to certain safety and maintenance requirements. Table XII on page 117 illustrates the findings related to nonconforming uses.

TABLE XII
 PER CENT AND NUMBER OF CITIES WITHIN EACH CLASS
 ALLOWING A CERTAIN DEGREE OF TIME BEFORE
 NONCONFORMING USES MUST CEASE

Class	Degrees of Continuance										Total	
	1		2		3		4		5		No.	%
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Metro.	5	10.6	5	10.6	6	12.8	2	4.3	29	61.7	47	100.0
I	-	-	-	-	-	-	1	50.0	1	50.0	2	100.0
II	1	10.0	2	20.0	2	20.0	-	-	5	50.0	10	100.0
III	1	10.0	-	-	1	10.0	-	-	8	80.0	10	100.0
IV	2	22.2	-	-	2	22.2	-	-	5	55.6	9	100.0
V	1	6.3	3	18.6	1	6.3	1	6.3	10	62.5	16	100.0
Nonmetro.	12	30.0	8	20.0	7	17.5	1	2.5	12	30.0	40	100.0
VI	4	20.0	3	15.0	4	20.0	1	5.0	8	40.0	20	100.0
VII	8	40.0	5	25.0	3	15.0	-	-	4	20.0	20	100.0
Total	17	19.5	13	15.0	13	15.0	3	3.4	41	47.1	87	100.0

chi square = 11.13 $P < 0.05$

Some definite inferences can be made from the data in Table XII relative to metropolitan and nonmetropolitan size cities. Nonmetropolitan size communities tend to make their outdoor advertising controls retroactive more frequently than metropolitan size cities, and metropolitan size cities allow nonconforming uses to continue indefinitely more so than the nonmetropolitan size communities. The reason for these differences is probably because outdoor advertising agencies have stronger political power in the metropolitan areas than in the nonmetropolitan areas. Therefore, in the nonmetropolitan size communities outdoor advertising agencies are not strong enough to influence the decisions of policy makers.

Since very few communities have been far sighted enough in their planning to second-guess the outdoor advertising industry, the elimination of nonconforming uses is a vital part of effective outdoor advertising regulation. Therefore, the continuance permitted by so many cities in Classes I through V is unfortunate, especially when the removal of nonconforming uses is legally justified as was indicated in Chapter III in the case of Woodward Avenue v. Wolff. But the removal of nonconforming uses should be approached logically and sensibly with some allowance for amortization of investments.

Overall the significant findings of the mail questionnaire survey are summarized as follows: (1) metropolitan size cities (cities with populations of fifty thousand and above) control outdoor advertising in some manner, favor using a combination of zoning ordinance and building code for announcing controls, use a combination of building inspector

and planning department to insure compliance with pertinent regulations, use the zoning appeals board for appeals, and rely on the courts to validate their controls more frequently than nonmetropolitan size communities; (2) nonmetropolitan size communities favor using a special ordinance or a combination of special ordinance and zoning ordinance for announcing controls, use the city council for appeals, and make their controls retroactive more frequently than metropolitan size cities; and (3) both size cities do not control outdoor advertising devices to a desirable degree and rely more frequently on the building inspector (or his department) for insuring compliance with the controls.

In addition to answering the questions that have been reviewed, each mayor contacted was asked to enclose a copy of the regulations controlling outdoor advertising in his city. Unfortunately, not every questionnaire that was returned contained a copy of the regulations; but enough were received to permit a meaningful review of the provisions.

The general content of the ordinances is briefly stated here. Most of the ordinances reviewed contained provisions for permits, licenses, and structural requirements. In fact, some of the ordinances contained minute detail on construction requirements for outdoor advertising devices. Of course, most of the ordinances contained provisions relating to penalties for violators, maintenance requirements, and insurance bonds. Several ordinances have elaborate formulas for calculating the area of the outdoor advertising devices based on linear street frontage and height restrictions. Finally, the ordinances reviewed contained a number of different names for similar devices.

Noting the lack of a standard language and many other discrepancies discovered in current local control of outdoor advertising, the following chapter is devoted entirely to the written display of a model outdoor advertising ordinance, which is based on the information obtained from the questionnaires and ordinances received from selected municipalities. The provisions of this model ordinance represent a synthesis of the best provisions of the ordinances reviewed, constrained by the objectives and the legal mandate for regulation.

CHAPTER V

OUTDOOR ADVERTISING ORDINANCE

I. PURPOSE

1. The purpose of this regulation is to provide minimum standards to safeguard life, health, property, and public welfare by regulating outdoor advertising devices. This purpose is accomplished by encouraging the erection of devices that are attractive and compatible with adjacent land uses; providing incentive and latitude for proper spacing, variety, and design; preserving and enhancing property values within the community and the various portions thereof by regulating the type, size, location, and illumination of devices in order to prevent both overhead and roadside clutter and detrimental effect to adjacent land uses; providing for the public convenience by attracting and directing the public to various activities, services, and enterprises; and providing for the safety of the public by prohibiting those devices that would cause traffic and other safety hazards.

II. SCOPE

2. The regulations herein set forth shall apply and govern in all districts. No outdoor advertising device shall be erected or maintained unless it is in compliance with the regulations for the district in which it is located. Further, no device shall be erected or continued in operation in any manner constituting a nuisance because of glare, focus, animation, or flashing.

III. DEFINITIONS

3. General. For the purpose of this regulation, the following terms shall be construed as having the meanings herein ascribed to them:

3.1. District. A division of land within the city based on the individual uses of the land, and "use" is the specified purpose for which land or a building is designed, arranged, intended, or for which it may be occupied or maintained.

3.1(1). Agricultural District. A category of land use within the city devoted to agricultural activities having a density of less than one dwelling unit per two acres of land--hereafter codified as A-1.

3.1(2). Single and Two-family Residential District. A category of land use within the city that is restricted to varying densities of one- and two-family dwelling units--hereafter codified as R-1.

3.1(3). Planned Single and Two-family Residential District. A category of land use within the city that, in addition to being restricted to varying densities of one- and two-family dwelling units, must be originally planned for an area containing at least one hundred dwelling units--hereafter codified as R-2.

3.1(4). Medium Multi-family District. A category of residential land use within the city in which more than two dwelling units may be combined in the same structure, but the total amount of dwelling units per net acre is limited to forty--hereafter codified as M-1.

3.1(5). High Multi-family District. A category of residential land use within the city in which more than two dwelling units may be combined in the same structure, and the number of dwelling units per net acre exceeds forty--hereafter codified as M-2.

3.1(6). Commercial District. A category of land use within the city containing retail and service activities--hereafter codified as C-1.

3.1(7). Planned Commercial District. A category of land use within the city containing a group of not less than fifteen contiguous retail and service establishments, originally planned and developed as a single unit, having a total ground floor building area of not less than sixty thousand square feet, and having immediate adjoining off-street parking facilities for not less than three hundred fifty automobiles--hereafter codified as C-2.

3.1(8). Industrial District. A category land use within the city containing industrial and warehousing activities--hereafter codified as I-1.

3.1(9). Planned Industrial District. A category of land use within the city specifically planned for a pleasant and attractive industrial development having an employee density from ten to twenty workers per acre of land--hereafter codified as I-2.

3.2. Outdoor Advertising Device. Any structure, whether fixed or portable, or natural object, such as a tree, rock, or the ground itself, or part thereof or device attached thereto or painted or

represented thereon, which shall be used to attract attention to an object, product, place, activity, person, institution, organization, or business, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of an announcement, direction, or advertisement. However, for the purposes of this regulation, it does not include the flag, pennant, or insignia of any nation, state, city, or other political unit. In some sections of this ordinance, the term "device" is substituted for outdoor advertising device.

3.2(1). Wall Outdoor Advertising Device. An advertising device affixed to the front, rear, or side wall of any building, but not projecting more than eight inches from the building wall.

3.2(2). Ground Outdoor Advertising Device. An advertising device supported by uprights or braces, placed upon the ground and not attached to any part of any building.

3.2(3). Overhanging Outdoor Advertising Device. An advertising device extending over the public sidewalk or beyond the street line.

3.3. Area of Outdoor Advertising Device. The area of any outdoor advertising device shall be the exposed face area, including any background or backing constructed, painted or installed as an integral part of such device. Where separate or cut-out figures or letters are used without backing as an integral part of such device, the area shall be measured as the area of the smallest polygon, not to exceed six

straight sides, which will completely enclose all figures, letters, designs, and tubing that are a part of said devices.

IV. ADMINISTRATION

4. General. The Building Inspector and the Planning Department shall be responsible for approving and inspecting all advertising devices within the city. The Building Inspector is authorized to make an annual inspection of all outdoor advertising devices to determine whether any such devices are erected, constructed, or maintained in violation of the terms of this regulation.

4.1. Permit Required. No person, firm, or corporation shall erect or maintain any outdoor advertising device in, over, or upon any public land or right-of-way, or upon any private property in such a manner that the device is visible from any public land or right-of-way without having first obtained a permit therefor as herein provided. However, no permit shall be required for Class 1, 3, and 4 devices, which are defined in Section VI.

4.2. Applications for Permit. Applications for permits shall be made on such form as may be prescribed by the Building Inspector and the Planning Department for such purpose. Such application shall set forth the location where the proposed outdoor advertising device will be located, describing the same by lot and block or other description by which the same may be readily located and identified, and such application shall be accompanied by plans and specifications, in

duplicate of the proposed device, showing the number of square feet contained in the surface of such device, together with such other information as the Building Inspector and Planning Department may require.

4.3. Granting of Permit. Before a permit is granted, the applicant shall pay to the City Assessor and Collector a fee of ten cents for each square foot of said device. A minimum fee of one dollar shall be paid. Upon verification of payment of the permit fee and if the proposed advertising device is in accordance with the provisions of this regulation, the Building Commissioner shall thereupon issue a permit for the erection of such device.

4.4. License to Display. In addition to the permit, no owner or occupant of premises within the city shall display an outdoor advertising device in, over, or upon any public land or right-of-way, or upon any private property in such manner that the device is visible from any public land or right-of-way without obtaining a license therefor. The same information filed for a permit shall also be filed for a license. However, no license shall be required for Class 1, 3, and 4 devices, which are defined in Section VI.

4.5. License Fee. There shall be an annual license fee of ten cents per square foot to display an outdoor advertising device. A minimum fee of one dollar shall be paid. The fee paid with the application for a permit shall be in lieu of the license fee for the first year.

4.6. Licenses for Outdoor Advertising Device Erectors. Every person, firm, or corporation engaged in the business of erecting, altering, removing, or installing outdoor advertising devices for which permits are required by this regulation shall be licensed to conduct such operations. This license shall be known as Outdoor Advertising Device Erector's License and shall only be issued to those persons, firms, or corporations that show sufficient knowledge and experience to satisfy the Building Inspector as to their ability to erect devices in a safe and substantial manner in accordance with the provisions of this regulation. The fee for such license shall be one hundred dollars.

4.7. Revocation of License. Any license granted under the provisions of this regulation may be revoked by the Building Inspector if the holder of such license violates any provision of the regulation. No additional licenses shall be granted to anyone responsible for the continuance of the violation, until such violation is either corrected or satisfactory arrangements, in the opinion of the Building Inspector and Planning Department, have been made towards the correction of said violation.

4.8. Outdoor Advertising Device Erector's Bond. Before a license to engage in the business of erecting, altering, repairing, or removing outdoor advertising devices is granted, the applicant therefor shall file with the city a bond in the sum of ten thousand dollars, protecting the city against loss and damage, claims, liens, proceedings and actions by reason of devices being erected, repaired, altered,

maintained, or removed within the city by the applicant. In lieu of such bond, the applicant may file with the city a policy of liability insurance, or evidence thereof, covering the license period and naming the city as an insured, protecting the city against loss or damage by reason of devices being erected, repaired, altered, maintained or removed by the applicant, and indemnifying the city against loss from property damage claims in the sum of five thousand dollars for each accident, and against loss from claims for personal injuries to the sum of ten thousand dollars for injury to one person and twenty-five thousand dollars for injuries to more than one person for each accident. Said bond or policy shall be approved as to form by the City Attorney and as to sufficiency by the City Clerk.

V. GENERAL LIMITATIONS

5. General. No outdoor advertising device shall be erected or maintained in districts unless the device complies with all of the following conditions:

5.1. Is erected and maintained for a permitted use for the district in which the device is located.

5.2. Is limited in location to the premises on which the use is located.

5.3. Is limited in subject matter to the name, design, picture, or trademark of the owner, operator, builder, sales agent, managing

agent, lessor or lessee of the premises or of the activities on the premises on which such sign is located and does not include any general commercial advertising unrelated to or extending in substantial degree beyond the enumerated permitted subjects.

5.4. Is compatible in design with the building and space allotted.

5.5. Does not project or extend above the eave or parapet line of the structure to which the device is attached.

5.6. Does not imitate, resemble, or hide from view any official traffic sign, signal, or other traffic control device, or emit such brilliance as to blind or dazzle the vision of drivers, or prevent drivers from readily recognizing any official traffic sign, signal, or other traffic control device.

5.7. Does not use the words "Stop," "Danger," or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic.

5.8. Is not erected, constructed, or maintained so as to obstruct any fire escape, window, door, or other opening; or so as to obstruct the ingress or egress of a building.

5.9. Is not attached to any fire escape or stand pipe, or so placed so as to interfere with an opening which is required for legal ventilation.

5.10. If an illuminated device, does maintain artificial light stationary and constant in intensity and color at all times when in use.

5.11. Is maintained at all times in a state of good repair, with all braces, bolts, clips, supporting frame and fastenings free from deterioration, termite infestation, rot, rust, or loosening.

VI. CLASSIFICATION OF OUTDOOR ADVERTISING DEVICES

6. General. The following classifications of outdoor advertising devices, meeting the following specifications, shall be applicable to the districts and uses designated for each class set forth in Section 7.0. If for any reason the classification of any device is not readily determinable, the classifications shall be fixed by the Planning Department. No other devices may be erected in the indicated districts.

6.1. Class 1. Wall device; single face only. Such device shall only state the name or the name of the profession of the occupant. Maximum size of single device is one hundred forty-four square inches. One such device is permitted for each street front of the district lot on which the use is located. The device shall be neither illuminated nor animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.2. Class 2. Wall or ground device; single or double face. Such device shall only state the farm products for sale upon the real property where said device is located. Maximum size of device is six square feet. One device for each street front of the district lot on

which the use is located. May be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.3. Class 3. Wall or ground device; single face only. Such device shall state only "For Sale" or "For Rent" and information such as phone number or the phrase, "Inquire Within." Maximum size of single device is one hundred forty-four square inches. One such device is permitted for each street front of the district lot on which the use is located. The device shall not be illuminated, animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.4. Class 4. Wall or ground device; single face only. Such device shall state only "Rooms for Rent," "Guest Rooms," or "Overnight Guests." Maximum size of single device is one hundred forty-four square inches. One such device is permitted for each street front of the district lot on which the use is located. The device shall not be illuminated, animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.5. Class 5. Wall or ground device; single face only. Such device shall state only name(s) of the architect, builder, contractor, or developer and the title of the proposed construction project. Maximum size of single device is six square feet. One such device is permitted for each street front of the district lot on which the use is located. However, no such device may be displayed unless a building

permit has been issued for the construction, alteration, or repair of a structure, and the work is in progress on the district lot site pursuant to such permit. The device shall not be illuminated, animated, luminescent, fluorescent, nor have any characteristic that will make it shine.

6.6. Class 6. Wall device; single face only. Such device shall be memorial in character and shall only indicate the name of the building and the date of erection; and the lettering shall be cut into the masonry surface or constructed of bronze or other noncombustible material. Maximum size of single device is six square feet. The device shall not be illuminated, animated, luminescent, fluorescent, nor have any characteristic that will make it shine.

6.7. Class 7. Wall or ground device; single face only. Such device shall be located only on property where public, charitable, or religious institutions are located; and it shall indicate only the name, nature of occupancy, and information as to the conditions of use of occupancy. Maximum size of single device is eight square feet. One such device is permitted for each street front of the district lot on which the use is located. The device may be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.8. Class 8. Wall or ground device; single face only. Such

device shall state only the name of the apartment complex and the name or address of the management thereof. Maximum size of single device is eight square feet. One such device is permitted for each entrance to the district use. The device may be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.9. Class 9. Wall or ground device; single face only. Such device shall state only the name of the subdivision. Maximum size of single device is eight square feet. One such device is permitted for each entrance to the district use. The device may be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.10. Class 10. Wall or ground device; single or double face. Such device shall indicate only the name of the shopping center. The device may be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine. Maximum size of single device is determined in the following manner:

6.10(1). For a shopping center with a total ground floor area of sixty thousand square feet, the device's size shall not exceed

thirty-six square feet. One such device is permitted for each street front of the district use.

6.10(2). For a shopping center with a total ground floor area of one hundred thousand square feet, the device's size shall not exceed fifty square feet. One such device is permitted for each street front of the district use.

6.10(3). For a shopping center with a total ground floor area of four hundred thousand square feet, the device's size shall not exceed one hundred square feet. One such device is permitted for each street front of the district use.

6.11. Class 11. Wall or ground device; single or double face. Such device shall be limited in subject matter to off-street parking directions or instructions; no merchandise or service advertising. Maximum size of single device is six square feet. One device is permitted for each curb cut plus any number inside of parking areas. The device may be illuminated, but only from a concealed light source, until eleven p.m., or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

6.12. Class 12. Accessory wall device; single face only. Such device shall be limited in subject matter to advertising activities being conducted where the device is located. The device may be illuminated, but only from a concealed light source, until eleven p.m.,

or any later hour required by law. Furthermore, no such device shall be animated, luminescent, fluorescent, nor have a characteristic that will make it shine. Maximum size of single device shall be determined in the following manner:

6.12(1). For each linear foot of lot frontage on the street, the device's size shall not exceed one square foot.

6.12(2). However, no device need be less than sixteen square feet, but shall not exceed thirty-six square feet. One such device is permitted for each street front of the district lot on which the use is located.

6.13. Class 13. Accessory overhanging device; single or double face. Such device shall indicate only the goods sold, services rendered on the premises, or the name of the firm or business. Maximum size of the device is three square feet. No such device shall project more than thirty inches over, nor nearer than nine feet to any sidewalk, street, lane, alley, or other public place or way. One such device is permitted for each district lot on which use is located or for each entrance to said use, whichever is less. The device shall not be illuminated, animated, luminescent, fluorescent, nor have a characteristic that will make it shine.

VII. PERMITTED USE AND LOCATION OF OUTDOOR ADVERTISING DEVICES.

7. General. The following classes of devices may be erected and maintained in the following districts:

Districts	Uses	Permitted Device Classes
7.1 A-1	Any Use	1,2,3,5,6
7.2 R-1	Any Use	1,3,4,5,6
	Church, pre-school, or school	7
	Hospital	7
	Parking area required to furnish more than four off-street parking spaces	11
7.3 R-2	Any Use	1,3,4,5,6
	Subdivision	9
	Church, pre-school, or school	7
	Hospital	7
	Parking area required to furnish more than four off-street parking spaces	11
7.4 M-1 & M-2	Any Use	1,3,4,5,6
	Separate Complex	8
	Church, pre-school, or school	7
	Hospital	7
	Parking area	11
7.5 C-1	Any Use	1,3,5,6,12,13
	Parking area	11
7.6 C-2	Any Use	1,3,5,6,12,13
	Shopping center	10
	Parking area	11
7.7 I-1 & I-2	Any Use	1,3,5,6,12
	Parking area	11

VIII. CONSTRUCTION REQUIREMENTS

8. General. Outdoor advertising devices shall conform to the

following construction standards:

8.1. Structure. All devices shall be properly secured, supported, and braced; and they shall be constructed in a safe and workmanlike manner, and shall comply with National Building Code (current edition) and any building codes adopted by the city.

8.2. Material. All devices attached to or constructed on any building shall have the surface, facing, and upright supports or braces constructed of a noncombustible material. However, structural trim may be of an approved combustible material.

8.2(1). "Approved combustible material" shall mean wood, or materials not more combustible than wood, and approved combustible plastics.

8.2(2). "Approved combustible plastics" shall mean only those plastics which, when tested in accordance with American Society for Testing Materials standard method for test for flammability of plastics over 0.050 inch in thickness, burn no faster than 2.5 inches per minute in sheets of 0.060 inch thickness.

8.3. Electrical. All devices shall be subject to the electrical requirements of the City Code.

IX. NONCONFORMING USES

9. General. All existing outdoor advertising devices erected in accordance with provisions of any previous ordinance of the city or

under a permit issued by the Building Department prior to the adoption of this ordinance and which are not in conformity with its requirements may be continued for a period of two years if properly repaired as provided in this ordinance; provided, however:

9.1. Safety. Any device erected or maintained in violation of Sections 5.6, 5.7, 5.8, 5.9, 5.10, or any part of Section VIII, which by reason of its condition presents an immediate and serious danger to the public, will be declared a public nuisance and ordered removed.

9.2. Restoration and Maintenance. Any nonconforming device that is structurally altered, relocated, or replaced shall immediately comply with all provisions of this ordinance, except that:

9.2(1). Such devices may be repaired and maintained and may have the advertising copy thereon changed.

9.2(2). Such devices may be structurally altered where such alteration is necessary for structural safety.

9.2(3). Such devices may be reconstructed if they are moved for construction or repair of public works or public utilities and such reconstruction is completed within one year.

9.2(4). Such devices may be reconstructed if they are damaged by an Act of God or an accident, provided that such damage does not exceed 50 per cent of the cost of reconstruction of the device, and such device is reconstructed within six months of the date of damage.

9.3. No nonconforming device shall be exempt from the provisions of Sections IV and X.

9.4. District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

X. ENFORCEMENT

10. General. It shall be unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, use or maintain any device in the city, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance.

10.1. Penalties. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than three hundred dollars, or by imprisonment for not more than ninety days, or both such fine and imprisonment.

10.2. Removal of Unlawful Device. Any device which is erected, altered, or maintained in violation of this ordinance shall forthwith be removed. The person to whom the permit for such device was issued and the owner of the real estate to which the device is attached shall

be jointly and severally liable for removal of such device. If such device is not removed, the city may remove the device and charge the expense of such removal to the person or persons liable therefor.

CHAPTER VI

CONCLUSIONS

Throughout this thesis, a definite point of view has been expressed. This point is that regulation of outdoor advertising devices is in the public interest. To implement this policy requires almost complete exclusion of nonaccessory advertising devices. Therefore, as a farewell tribute to nonaccessory advertising devices, two national advertising firms were contacted and were requested to produce statistics that would prove nonaccessory advertising devices have a positive economic effect on the products advertised.

Both firms were courteous enough to reply to the inquiry. One of the firms, National Outdoor Advertising Bureau, Incorporated, sent a report entitled, Highlights of Outdoor Advertising Research, which is a brief, factual review of major studies relating to the nonaccessory outdoor advertising medium. As was expected, the report was almost entirely devoted to showing that many automobiles or persons passed by the particular advertising structures in a specified amount of time. However, there are few studies showing the effectiveness of the medium; and the report confirms this point when it states:

Effectiveness studies attempt to measure the impact of a medium in terms of product sales, or "the change in awareness and attitude that may be attributed to the use of posters as an advertising medium for a given product." Such studies are few in outdoor, but this is often true of other mediums as well.⁵¹

⁵¹ National Outdoor Advertising Bureau, Highlights of Outdoor Advertising Research (Background Report. New York), p. 12.

Although there appears to be an absence of effectiveness studies, one such study is reviewed by the report mentioned on the preceding page. The Florist Telegraph Delivery Association had a survey conducted in four test markets, each market using either radio, television, newspapers, or outdoor for its advertising campaign. The amount of advertising used in each medium was based on comparable costs. The results of this survey indicated outdoor advertising produced more sales in its test area than the other mediums did in their test areas. Even though the results are extremely favorable, the agency, which made the survey, commented that the creative campaigns used in each area were responsible for part of the differences found. Could statistical variations account for the remainder of the differences?

The other advertising firm, National Advertising Company, sent three reports pertinent to the question of effectiveness. One of these reports, The Gates Rubber Company Highway Sign Program, showed that Gates' share of the reported tire purchases increased 13 per cent during the twelve months after the signs were erected.⁵² Not much can be said to refute these results, except to ask what significant product changes did Gates make other than its advertising program?

The next report is entitled, Study of Long Distance Advertising on Highway Signs. Results of this report are best described as humorous. Based on the data, which follow, the conclusion was reached that persons driving down a highway sprinkled with billboards stating "Keep in

⁵²Schrader Research and Rating Service, The Gates Rubber Company Highway Sign Program (A Survey for National Advertising Company, Cranbury, New Jersey, December, 1964), p. 5.

Touch by Telephone," were reminded to do so. The so called significant data are:

Nearly one-third (32 per cent) of the people who saw the sign expected to make calls while on the trip. Less than one-fourth (24 per cent) of those not exposed to the sign planned to make calls.⁵³

Although the 8 per cent difference appears significant, the findings are extremely questionable mainly because the following questions did not appear to be answered. How many persons were only out for a pleasure drive? How many persons were traveling salesmen? What does the economic and educational status of the persons considered do to the findings?

The third report is entitled, The Hartford Insurance Highway Sign Program. In this report, the following conclusion is reached:

While the indication is positive, the changes are not statistically different. The time span of this test was probably not long enough for increased awareness to be reflected in sales.⁵⁴

Although the reports reviewed generally indicate product awareness increases through the use of nonaccessory advertising devices and some economic effects, the medium does not produce such an outstanding effect on the economic conditions of a business or service establishment to warrant the medium's continuation due to public interests. Therefore, the banishment of nonaccessory advertising devices to information sites is in the public interest.

⁵³ American Telephone and Telegraph Company, Study of Long Distance Advertising on Highway Signs (February, 1957), p. 3.

⁵⁴ Schrader Research and Rating Service, The Hartford Insurance Highway Sign Program (A Survey for National Advertising Company. Cranbury, New Jersey, January, 1964), pp. 12-13.

Since regulation of outdoor advertising is in the public interest and a model regulation has been developed, the problem to be considered is how to implement the model ordinance. No definite implementation policy has been recommended by this thesis because no fool-proof method has been determined. However, one fact is evident--the community "climate" must be conducive to outdoor advertising control.

There are various means to attempt to achieve the desirable "climate" for regulation. First, various community groups should be contacted; and by using the contents of Chapter I through IV of this thesis, these groups should be educated as to the need and benefit of outdoor advertising regulation. This phase may require considerable time and effort, but the effect on the regulation "climate" should prove invaluable.

The next step could be the appointment of a citizen committee representing the different community interests. With this thesis as a guide, an outdoor advertising ordinance can be developed by the citizen committee. The ordinance provided by this thesis represents an optimum ordinance, but some minor changes may be desired by the committee. These changes might take shape as the use of a Design Review Board to approve proposed devices; certain administrative changes such as license fees, bond amounts, and permit fees; certain construction requirements more elaborately stated; and the time limits for nonconforming uses to conform adjusted. However, no nonconforming use should be allowed more than five years to conform.

Recommendations regarding outdoor advertising control should be

made to the city's governing body by the citizen committee. With these recommendations and the model ordinance, a regulation should be adopted by the city. The adopted regulation may take shape as a section in the zoning ordinance or as a separate ordinance, depending on which form best fits the particular city.

At this point, an example of how one city was able to implement an outdoor advertising regulation might prove useful. Monterey, California is such an example. In 1947, as part of the city's preparations for the California Centennial in which the object was to restore the appearance of 1850, all overhanging outdoor advertising devices were removed. Although this removal was originally intended to be temporary, it was so well-received that it was made permanent. Today the City of Monterey has little difficulty in enforcing its rigid outdoor advertising regulations. In this outstanding case, the "climate" was surely favorable.

This brief example shows what can be done; and judging from the results of the questionnaire, many cities are in need of effective outdoor advertising controls. Consequently, a visual example of a city with controls much stricter than the ones recommended by this thesis should provide cities across the country with a lasting impression of the benefits available through regulation. Such a city is Carmel, California. The following photographs show street scenes of that city.

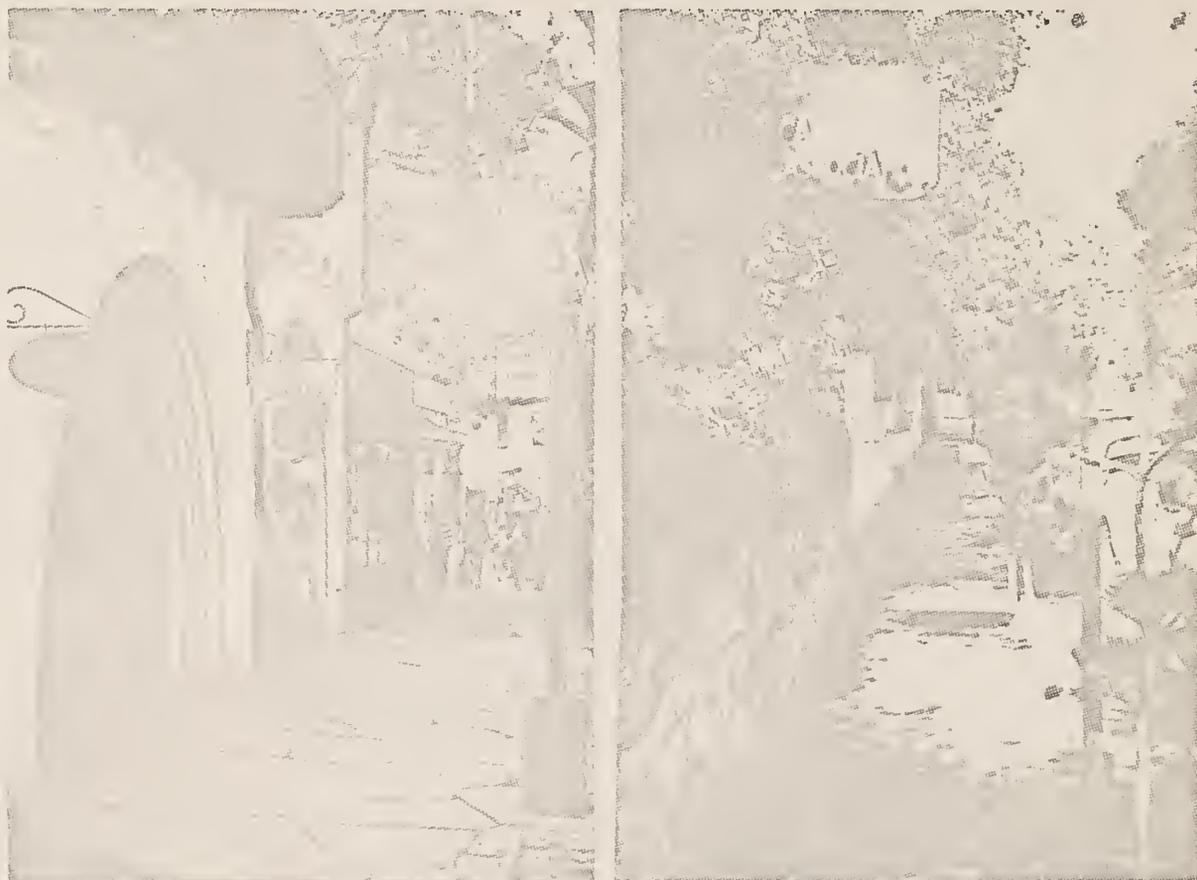


FIGURE 47

STREET SCENES, CARMEL, CALIFORNIA

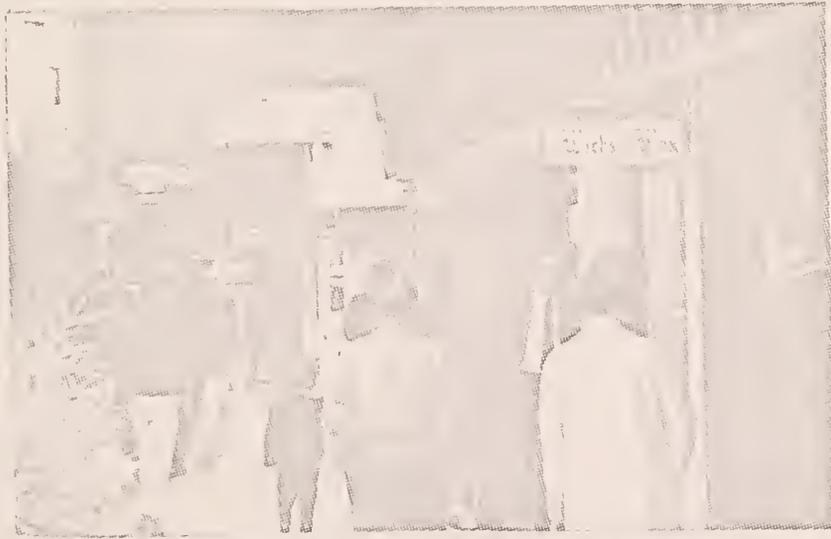
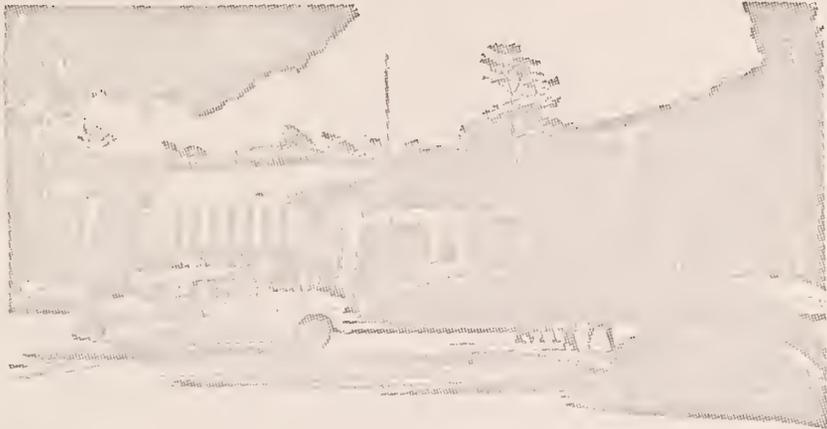


FIGURE 48

STREET SCENES, CARMEL, CALIFORNIA

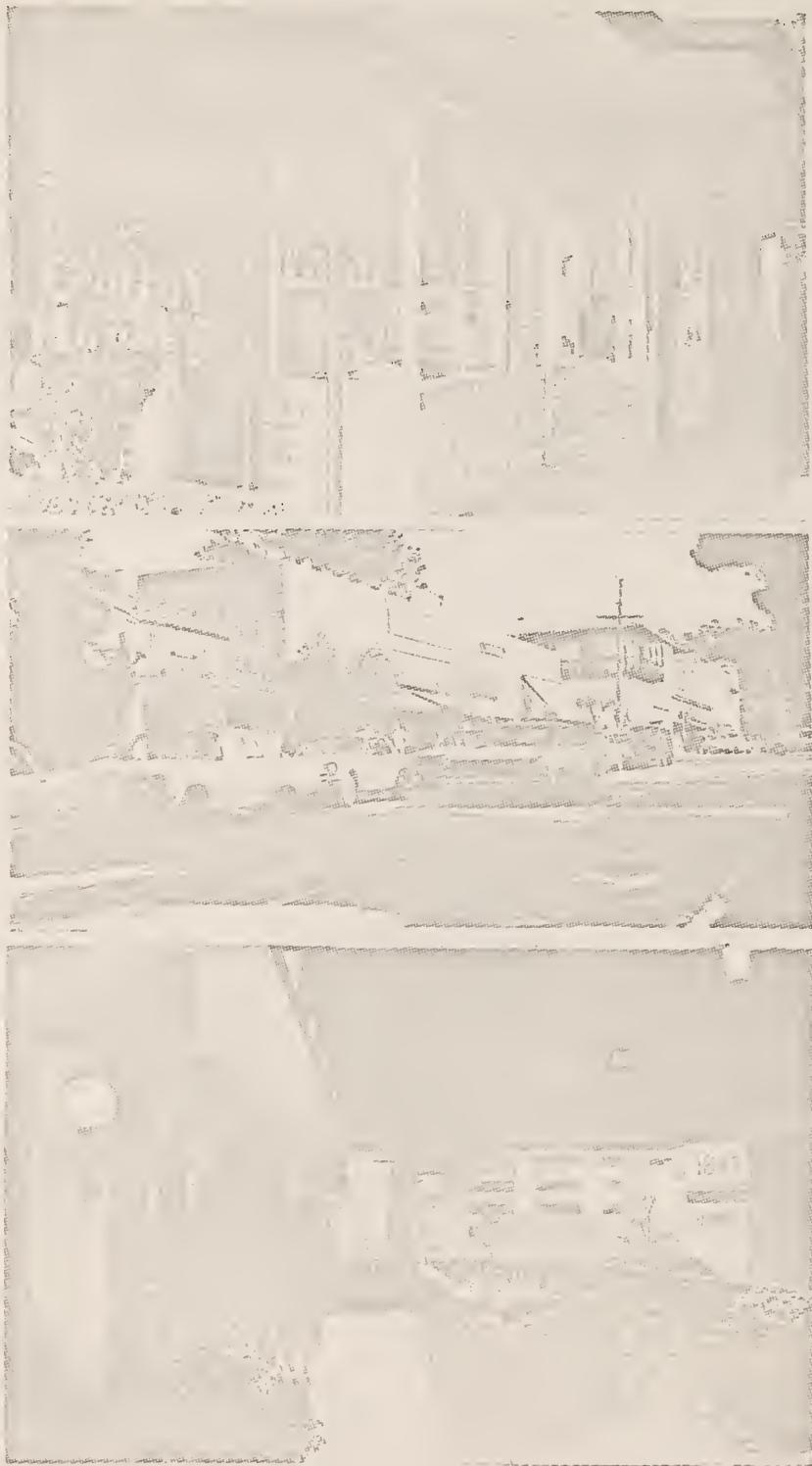


FIGURE 49

STREET SCENES, CARMEL, CALIFORNIA

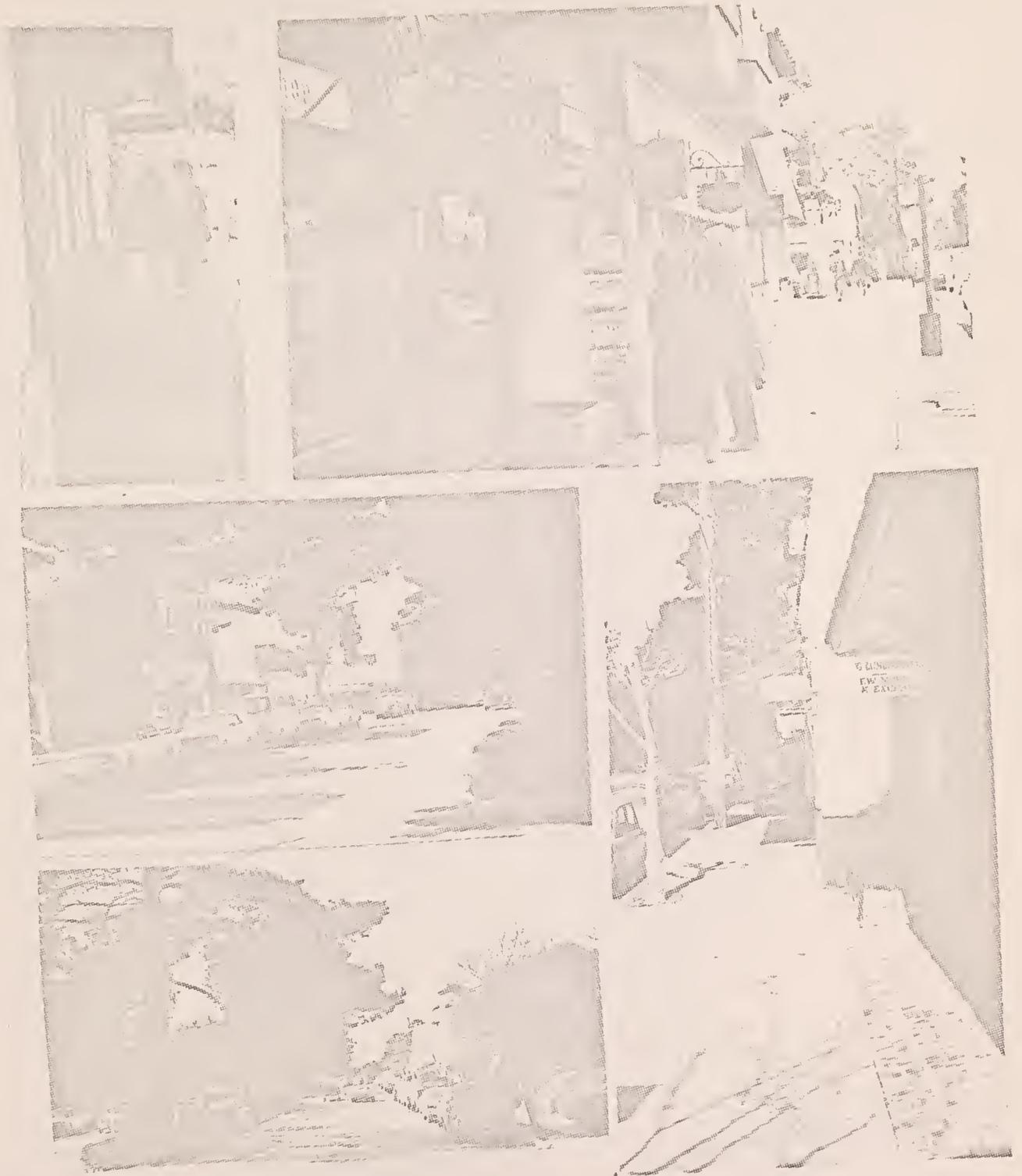


FIGURE 50

STREET SCENES, CARMEL, CALIFORNIA



FIGURE 51

STREET SCENES, CARMEL, CALIFORNIA

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BIBLIOGRAPHY

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APPENDIX

APPENDIX A

CORRESPONDENCE WITH THE WHITE HOUSE

December 6, 1965

Mr. Richard S. Frisbie
2437 Hobbs Drive
Manhattan, Kansas 66502

Mrs. Lyndon B. Johnson
The White House
Washington, D. C.

Dear Mrs. Johnson:

As a graduate student in Regional Planning, I am currently researching a Master's Thesis entitled "Analysis and Development of Effective Local Outdoor Advertising Control." Due to your interest in the beauty of our Nation, I feel the successful accomplishment of my research is of vital concern to you.

This research could benefit both large and small communities by providing standards upon which controls can be based and by developing effective and equitable measures of control commensurate with local situations. In addition to improving the aesthetic qualities of cities, these controls will greatly enhance the effectiveness of local outdoor advertising.

During one phase of the study, questionnaires will be sent to the mayors of approximately three hundred American cities, representative of all cities with a population of ten thousand and above. Through these questionnaires, the current status, feeling, use, and methods of outdoor advertising control will be ascertained. Although the questionnaire is not the only item in the study, it is by far the most significant item. Consequently, with your endorsement of this research, the questionnaire will be much more comprehensively completed by the respondents.

If you deem this study worthy of your endorsement, a letter from you to me indicating your endorsement of my study would be of vast assistance. Then, with your approval, I will indicate in my cover letter for the questionnaire that the study has your full support.

Your assistance in this research will be vastly beneficial to me and to cities throughout the United States. At your request, a copy of the completed Master's Thesis will be given to you.

Sincerely,



Richard S. Frisbie

RSF/cf

THE WHITE HOUSE
WASHINGTON

December 13, 1965

Dear Mr. Frisbie:

Mrs. Johnson asked me to thank you for your letter.

She was pleased to learn that you are preparing a thesis on local outdoor advertising control, for certainly this subject is important to the appearance of our Nation.

Enclosed is some information we hope will be helpful to you. The complete proceedings of the White House Conference have just been published and are available through the Government Printing Office.

With best wishes for success of your project.

Sincerely,

A handwritten signature in cursive script that reads "Bess Abell". The signature is written in dark ink and is positioned above the typed name and title.

Bess Abell
Social Secretary

Mr. Richard S. Frisbie
2437 Hobbs Drive
Manhattan, Kansas 66502

THE WHITE HOUSE
WASHINGTON

January 13, 1966

Dear Mr. Frisbie:

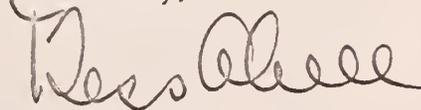
Mrs. Johnson asked me to thank you for your letter and enclosure.

She appreciates knowing of your study concerning local control of outdoor advertising, and certainly this topic is of great interest to all citizens desirous of enhancing their environment.

As you can understand, it is not possible for Mrs. Johnson to endorse the many projects brought to her attention, but please know that she welcomes your interest in the beautification of America.

With best wishes,

Sincerely,

A handwritten signature in cursive script that reads "Bess Abell". The signature is written in dark ink and is positioned to the right of the typed name.

Bess Abell
Social Secretary

Mr. Richard S. Frisbie
2437 Hobbs Drive
Manhattan, Kansas

APPENDIX B

QUESTIONNAIRE PACKAGE

Kansas State University

Manhattan, Kansas 66504

College of Architecture and Design
S. 100 Hall

January 3, 1966

The Honorable Mayor of Monterey
Monterey,
California

Dear Sir:

As a graduate student in Regional Planning, I am currently researching a Master's Thesis entitled, "Analysis and Development of Effective Local Outdoor Advertising Control." This thesis will benefit communities by providing standards to develop effective and equitable controls commensurate with local situations. These controls will greatly enhance the aesthetic qualities of cities and the effectiveness of their outdoor advertising.

The importance of this thesis is further emphasized by Mrs. Lyndon Johnson's comment, when informed of the research. She was pleased to learn that a thesis on outdoor advertising control is being prepared, "for certainly this subject is important to the appearance of our Nation."

In developing this thesis, a representative sample must be taken from professionals regarding the current use and methods of outdoor advertising control. Consequently, a reply from every Mayor contacted is important to the successful accomplishment of the project. The few minutes required of your time or one of your assistants' time to complete the attached questionnaire will be greatly appreciated.

Should you desire anonymity, your desire will be respected in accordance with your specifications listed on the questionnaire. A self-addressed, stamped envelope is enclosed for your convenience.

Sincerely,



Richard S. Frisbie
Graduate Student
Regional Planning

RSF/cf

Enclosure

INSTRUCTION SHEET

Most of the questions on the attached questionnaire may be answered by a check mark or a short written answer. However, Question Three requires the use of the definitions listed below.

1. Accessory Advertising Device - A device advertising activities being conducted upon the real property where the advertising device is located.
2. Nonaccessory Advertising Device - A device advertising activities not being conducted upon the real property where the advertising device is located.
3. Controlled Advertising Device - Any advertising device that is permitted, but is subject to certain specified requirements such as size, shape, color, display, and so on.
4. Wall Advertising Device - An advertising device affixed to the front, rear, or side wall of any building.
5. Overhanging Advertising Device - An advertising device extending over the public sidewalk or beyond the street line.
6. Roof Advertising Device - An advertising device erected, constructed, or maintained upon the roof of any building.
7. Pole Advertising Device - An advertising device erected on a pole or poles wholly or partially independent of any building for support.
8. Flashing Advertising Device - A directly or indirectly illuminated advertising device on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
9. Billboard/Ground Advertising Device - An advertising device supported by uprights or braces, placed upon the ground and not attached to any part of any building.

OUTDOOR ADVERTISING CONTROL QUESTIONNAIRE

1. Does your city control outdoor advertising in any fashion? ()Yes, ()No. If "No," please fold the questionnaire and return it to me.
2. How is outdoor advertising in your community regulated? ()by Zoning Ordinance; ()by Subdivision Regulations; ()by Special Ordinance; or Other (Please Specify) _____

PLEASE ENCLOSE A COPY OF THE REGULATION OR WRITE THE PROVISIONS ON THE REVERSE SIDE OF THIS QUESTIONNAIRE.

3. Listed below are the different land use districts normally under your jurisdiction. Please circle the type of devices permitted in each district, and check the degree to which an enforcement problem is encountered. The numbers below correspond to the definitions listed on the instruction sheet.

District	Devices Permitted	Enforcement Problems		
		None	Moderate	Excessive
Agricultural	1 2 3 4 5 6 7 8 9	()	()	()
Residential	1 2 3 4 5 6 7 8 9	()	()	()
Semi-Public	1 2 3 4 5 6 7 8 9	()	()	()
Public	1 2 3 4 5 6 7 8 9	()	()	()
Commercial	1 2 3 4 5 6 7 8 9	()	()	()
Industrial	1 2 3 4 5 6 7 8 9	()	()	()
	1 2 3 4 5 6 7 8 9	()	()	()
	1 2 3 4 5 6 7 8 9	()	()	()

4. Are the control regulations enforced? ()Yes, ()No. If "No," please elaborate relating your answer to Question Three. _____
5. Control is enforced by ()Fine of _____; ()Imprisonment term _____; ()Withholding building permit; ()Bad publicity; ()Excessive taxation; Other (Please Specify) _____. Please elaborate on the method used. _____
6. Control agency is _____
Appeal agency is _____
7. Has your outdoor advertising ordinance or regulation been upheld by the courts? ()Yes, ()No. If so, by which court(s)? ()Local, ()State, ()United States Supreme Court.
8. Are control measures retroactive? ()Yes, ()No. Please cite method used to eliminate nonconforming uses, time allowed before nonconforming uses are eliminated, and the difficulties in eliminating them: _____
9. If you do not want your name and the name of your city disclosed in the results of this study, please check here ().

ANALYSIS AND DEVELOPMENT OF EFFECTIVE
LOCAL OUTDOOR ADVERTISING CONTROL

by

RICHARD S. FRISBIE

B. Arch., Oklahoma State University, 1962

AN ABSTRACT OF A MASTER'S THESIS

submitted in partial fulfillment of the

requirements for the degree

MASTER OF REGIONAL PLANNING

Department of Regional Planning

KANSAS STATE UNIVERSITY
Manhattan, Kansas

1966

ANALYSIS AND DEVELOPMENT OF EFFECTIVE
LOCAL OUTDOOR ADVERTISING CONTROL

The purpose of this study is (1) to indicate that the control of outdoor advertising devices is necessary to achieve optimum public benefit--regulation will achieve this end by improving public safety, enhancing the aesthetic beauty of America, improving the effectiveness of outdoor advertising, and insuring orderly land use development; and (2) to develop effective and equitable measures for local outdoor advertising control.

Before regulation of outdoor advertising is explored, the legal framework, which will serve as the basis for regulation, is ascertained. This framework is established by judicial review; and the review reveals that outdoor advertising devices may be regulated as to size, height, and placement. A more recent trend allows aesthetic considerations and the use of architectural review committees to fall within the realm of the police power.

In addition to knowledge of the legal framework, the current status of regulatory measures pertaining to outdoor advertising is pertinent. This consideration has two aspects--federal and local control measures. Federal regulation of outdoor advertising devices has developed recently and is concerned only with devices along the federal interstate system. The first federal act was passed in 1958; and in 1965 this act was strengthened by establishing a 10 per cent financial penalty for states not regulating outdoor advertising devices along the interstate system in accordance with standards to be promulgated by the

Secretary of Commerce, January 1, 1967. The two most serious errors in the present act are the failure to control on-premise advertising and to extend control any further than 660 feet from the edge of the highway right-of-way.

Present local measures were investigated through the use of a mail questionnaire sent to a stratified random sample of incorporated municipalities with populations of ten thousand persons and over--255 questionnaires were distributed. Significant findings of the analysis of the returned questionnaire are: (1) metropolitan size cities (cities with populations of fifty thousand and above) control outdoor advertising in some manner, favor using a combination of zoning ordinance and building code for announcing controls, use a combination of building inspector and planning department to insure compliance with pertinent regulations, use the zoning appeals board for appeals, and rely on the courts to validate their controls more frequently than nonmetropolitan size communities; (2) nonmetropolitan size communities favor using a special ordinance or a combination of special ordinance and zoning ordinance for announcing controls, use the city council for appeals, and make their controls retroactive more frequently than metropolitan size cities; and (3) both size cities do not control outdoor advertising devices to a desirable degree and rely more frequently on the building inspector (or his department) for insuring compliance with the controls.

Each municipality contacted was requested to return a copy of the document or documents containing the provisions relating to outdoor advertising control. By reviewing these documents, the optimum

provisions were selected. These provisions were synthesized with objectives of effective and equitable regulations to formulate a model outdoor advertising ordinance, which could be used as a separate ordinance or as a section in a zoning ordinance. The contents represent a desirable degree of control, but may be altered to fit certain local conditions. A significant characteristic of the model regulation is its limited size, which facilitates easy reading and subsequent comprehension by the general public.

In summation, this thesis represents a guide document for cities desiring either to improve the level of outdoor advertising regulations or to inaugurate outdoor advertising regulation within their political boundaries. The thesis provides the city with all the information necessary for developing or improving such controls. Questions such as why regulate, how do other cities regulate, what are the legal precedents, what are the guidelines for a model ordinance are answered.

