



Chapter Nine

OUTDOOR ADVERTISING
CONTROL

MONTANA RIGHT-OF-WAY
OPERATIONS MANUAL

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Chapter Nine

OUTDOOR ADVERTISING CONTROL

9-1 SIGN CONTROL PROGRAM OVERVIEW

Congress passed the Federal Highway Beautification Act to control and limit signs along the interstate and primary highways which allows the traveling public to enjoy the nation's scenic beauty. The State of Montana passed the Outdoor Advertising Act for similar purposes in 1971.

Outdoor advertising signs are not prohibited, but there are specific limitations such as where they may be located, how close they can be to other permitted signs, how large they can be, and how they must be maintained.

9-1.1 Statutory Requirements, Authority for Control and Administration

To comply with the ***Federal Highway Beautification Act*** that was enacted by Congress in 1965 (Title 23, ***United States Code***), the Montana Legislature passed the ***Outdoor Advertising Act***, effective June 21, 1971 (and as amended in 1975, 1979, 1991 and 1995). The Act is contained in ***Montana Code Annotated (MCA)*** Sections 75-15-101 through 75-15-134. The Statutes are supplemented by administrative rules that are promulgated by the Transportation Commission. The administrative rules are contained in ***Administrative Rules of Montana (Mont. Admin. R.)*** Sections 18.6.201 through 18.6.270.

The Montana Department of Transportation (MDT) has the responsibility for the regulation and control of outdoor advertising along the Interstate, National Highway System (NHS) or the Primary Highway System, as those systems are defined in ***MCA*** 60-2-125. The Department assigned the Right-of-Way Bureau the overall administration of the program with regard to developing and administering policies and procedures. Within the Right-of-Way Bureau, it is the responsibility of the Outdoor Advertising Control Coordinator to perform these functions. Activities include receiving sign permit applications, permit issuance, surveillance and initiating the removal of unlawful signs.

9-1.2 Scope of Sign Control Program

The Outdoor Advertising Control Program involves the regulation and control of the location, size, spacing, lighting and maintenance of signs and devices along the State's Interstate, NHS and remaining Primary Highway System that is not included in the NHS. The Program involves:

- review, approval or denial of sign permit applications;
- inventory of all affected routes to determine sign owners' compliance with regulations of the program; and
- removal of any signs that were unlawfully erected or maintained.

In order to inventory and control signs along the highway, permits are issued to the sign owner and a permit plate must be attached to the sign. The law requires MDT to charge both an inspection fee for the initial application and an initial permit fee at the time of application. The inspection fee is non-refundable even if the permit can't be issued.

Before a permit can be issued, the department carefully considers the application and inspects the proposed location to be sure the sign will meet all requirements. If the sign is located on land owned by someone other than the sign owner, the landowner's written permission is required. Additionally, some cities, towns and counties have local sign ordinances or regulations therefore written approval from the local zoning authority is required before an application can be considered.

**General Information
Regulations Affecting Various Types of Signs**

Common Questions	On-Premise Sign 18.6.204	Off-Premise Sign 18.6.205 & 18.6.231	Official & 'Welcome to' Signs 18.6.247	Service Club Signs 18.6.241	Church Signs 18.6.241	Cultural Sign 18.6.244	Directional Signs 18.6.243	Real Estate Signs 18.6.240	Political Signs 18.6.246	Temporary Signs 18.6.240
Does this sign need to be located on the owner's land?	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Does the sign need an OAC permit?	Ilo	Yes	Yes	Yes	Yes	Yes	Yes	Ilo	Ilo	Ilo
Does the spacing criteria apply	Ilo	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Is an inspection fee required?	Ilo	Yes	Yes	Yes	Yes	Yes	Yes	Ilo	Ilo	Ilo
Is an initial permit fee required?	Ilo	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Does the permit need to be renewed every 3 years?	Ilo	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Does the sign need to be located in a zoned or unzoned commercial/ industrial area?	Ilo	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Can the sign's height exceed 30 feet above the roadway?	I/A	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	I/A	Ilo
What is the maximum height of the sign face?	I/A	30 ft.	30 ft.	30 ft.	30 ft.	20 ft.	4 ft.	I/A	I/A	I/A
What is the maximum length of the sign face?	I/A	48 ft.	I/A	I/A	I/A	20 ft.	8 ft.	I/A	I/A	I/A
What is the maximum area of the sign face?	I/A	672 sq. ft.	150 sq. ft.	8 sq. ft.	8 sq. ft.	150 sq. ft.	32 sq. ft.	32 sq. ft.	I/A	32 sq. ft.
Can this type of sign be located on state highway right-of-way?	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Can this type of sign be located within 500 ft of an interchange	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Can this type of sign be located within 500 ft of intersecting roadways in rural areas	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo
Can this type of sign be located within 140 ft of intersecting roadways in cities and towns	Yes	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo	Ilo

Disclaimer: Consult the Specific Rule for Additional Requirements

9-2 OUTDOOR ADVERTISING REGULATIONS

9-2.1 Definitions

18.6.202 DEFINITIONS (1) "Abandoned sign" means a sign that is not maintained as required by these rules or meets any of the following:

- (a) the sign remains in the absence of a valid lease;
- (b) the sign has been without a message for a period of at least six months;
- (c) the sign contains obsolete advertising matter;
- (d) the sign is significantly damaged or dilapidated;
- (e) the sign structure has not been erected;
- (f) the sign structure has been removed; or
- (g) the sign owner fails to pay the appropriate sign fees.

(2) "Advertising device" means any outdoor sign, display, device, figure painting, drawing, message, placard, poster, billboard, structure, or any other contrivance designed, intended, or used to advertise or to give information in the nature of advertising and having the capacity of being visible from any place on the main traveled way of any interstate, national highway system, or federal-aid primary highway system. This includes any device located outside or on the outside of any building which identifies or advertises any business, enterprise, organization or project, product, or service, including all parts such as frames and supporting structures located on any premises by means of painting on or attached bills, letters, numerals, pictorial matter, or electric or other devices including any airborne device tethered to any building, structure, vehicle, or other anchor and an announcement, notice, directional matter, name, declaration, demonstration, display, mural, or insignia, whether permanent, temporary, or portable installation. The term includes the sign face(s) and the sign structure. Monuments, gravestones, and dedication markers are not considered advertising devices. Advertising device is synonymous with sign.

(3) "Apron" or "base" means the area beneath the bottom molding of the front of a billboard.

(4) "Back to back" means billboard faces erected on one structure facing in opposite directions.

(5) "Blank sign" means a sign structure that has no face or has faces without 100 percent advertising cover. The term also includes signs containing notices the sign is for rent or lease.

(6) "Commercial advertising" means advertising of commercial interests which promotes merchandisers' goods and services and creates a potential financial benefit as a result of the exposure of the business name rather than advocating a social or political cause.

(7) "Commercial or industrial activity" is defined at 75-15-103, MCA, and has the additional meaning of an activity which is permitted only in a commercial or industrial zone or a less restrictive zone by the nearest zoning authority within the state, except that none of the following is a commercial or industrial activity:

- (a) any erection or maintenance of an outdoor advertising structure;
- (b) any agricultural, forestry, ranching, grazing, farming or related activity, or operation of a wayside stand for sale of fresh fruit, their products, or produce;
- (c) any activity normally and regularly in operation less than three months of the year;
- (d) any transit or temporary activity;
- (e) any activity not visible from the traffic lanes of the main traveled way;
- (f) any activity more than 660 feet from the nearest edge of the right-of-way;
- (g) any activity conducted in a building principally used as a residence;
- (h) any operation of railroad tracks, a minor siding or a passenger depot;
- (i) any activity that has been in business less than one year.

(8) "Commercial variable message signs (CVMS)" means signs other than electronic billboards which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, producing the illusion of movement by means of electrical or electro-mechanical input and/or the characteristics of one or more of the following classifications:

- (a) flashing signs are animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as, more than, or less than the period of no illumination;
- (b) patterned illusionary movement signs are animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion;
- (c) environmentally activated signs are animated signs or devices motivated by wind, thermal changes or other natural environmental input, including spinners, pinwheels, pennant strings, reflective disks, rotating slats, glow cubes and/or other devices or displays that respond to naturally occurring external motivation to include light-sensitive devices;
- (d) mechanically activated signs are animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

(9) "Commercial or industrial zone or area" is defined at 75-15-103, MCA, and has the additional meaning of those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. The zones are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications.

(10) "Conforming sign" means a sign legally erected and maintained in accordance with federal, state, and local laws.

(11) "Controlled route" means any route on the national highway system, which includes the interstate system, and any route on the former federal-aid primary system in existence on June 1, 1991.

(12) "Customary maintenance" means the action necessary to keep a sign in good condition by replacement of parts damaged or worn by age, or painting of areas exposed to the weather.

(13) "Destroyed sign" means a sign that is no longer in existence due to factors other than vandalism or other criminal or tortuous acts. The term includes a sign which has been blown down by the wind and sustains damage in excess of 60 percent.

(14) "Dilapidated sign" means a sign which is neglected or in disrepair, or which fails to be in the same form as originally constructed, or which fails to perform its intended function of conveying a message. Characteristics of a dilapidated sign include, but are not limited to structural support failure, a sign not supported as originally constructed, panels or borders missing or falling off, or intended messages that cannot be interpreted by the motoring public.

(15) "Directional sign" means a sign erected for the purpose of identifying publicly or privately owned places that feature natural phenomena or ranch locations; historical, cultural, scientific, religious, or educational opportunities; areas of scenic beauty or outdoor recreation areas; or ranch activities.

(16) "Discontinued sign" means a sign no longer in existence. A discontinued sign includes a sign of which any part of a sign face is missing for more than 60 days. In some cases, a sign may be both discontinued and dilapidated.

(17) "Electronic billboard (EBB)" means electronic signs on which messages may be changed on-site or remotely through hard wire or wireless communications and which have the capability to present any amount of text or symbolic imagery. The term includes, but is not limited to, "digital" signs, and "light emitting diode (LED)" signs. The term does not include commercial variable message signs.

(18) "Facing" means the direction that a panel is exposed to display advertising copy.

(19) "Gore" means the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way on highway interchanges

(20) "Illegal sign" means those signs which are erected or maintained in violation of laws.

(21) "Illuminated" means outdoor advertising structures with electrical equipment installed for illumination of the message at night.

(22) "Interchange" means a junction of two or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams, and a system of interconnecting roadways in conjunction with one or more grade separations that provides for the movement of traffic between two or more roadways or highways on different levels.

(23) "Intersection" means a system of two or more interconnecting roadways without a grade separation providing for the exchange of traffic. Only a road, street, or highway which enters directly into the main-traveled way of an interstate or primary highway is regarded as intersecting. An alley, undeveloped right-of-way other than an

interstate or primary highway, a private road, or a driveway are not regarded as an intersecting street, road, or highway.

(24) "Main-traveled way" means the interstate, national highway system, and federal-aid primary highway system on which through traffic is carried. In case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. The term does not include such facilities as frontage roads, turning roadways, or parking areas.

(25) "Mobile advertising device" or "car wrap" or "taxi display" means devices displayed on vehicles that may independently become part of traffic flow, or may be parked at specific locations, and which are capable of being transported over public roads and streets whether or not it is so transported.

(26) "Noncommercial sign" means a sign that does not display commercial advertising. The department shall make the determination of a noncommercial sign designation on a case-by-case basis. The term does not include official signs.

(27) "Nonconforming sign" is defined in 75-15-111, MCA, and also has the meaning of an outdoor advertising structure which was lawfully erected but which does not comply with the provisions of state law or state administrative rules passed at a later date, or which fails to comply with state law or state administrative rules due to changed conditions. The term does not include illegally erected or maintained signs.

(28) "Obsolete sign" means a sign that identifies or advertises a business or other entity that has relocated or no longer exists, or products or services that are no longer available, or events or activities that occurred in the past.

(29) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers, welcome to, public utility signs authorized by state law and erected by state or local government agencies may be considered official signs.

(30) "Off-premise sign" means a sign directing attention to a specific business, product, service, entertainment event or activity, or other commercial activity that is not sold, produced, manufactured, furnished, or conducted at the property upon which the sign is located.

(31) "On-premise sign" means a sign which consists solely of the name of the establishment or which identifies the establishment's principal or accessory products or services offered on the property or advertises the sale or lease of the property on which the sign is located. The sign must be located on the same premises as the establishment, activity, or property advertised.

(32) "Panel" means a portion of a billboard face.

(33) "Permit" means a license granted by state or local government that authorizes a sign structure to be erected and maintained at a specific site.

(34) "Right-of-way" means the area along a highway or arterial street that is under the control of a city, county, or state.

(35) "Sign face" means the surface of the sign that carries the advertising message and is the portion of the sign structure visible from a single direction of travel and available for advertising. It includes border and trim, but excludes the base or apron, supports, and other structural members. The total area of all sign faces may

also be referred to as the "sign area." One sign structure may have more than one face.

(36) "Sign structure" means an advertising device including the sign face, base or apron, supports, and other structural members.

(37) "Spot-zoning" means the labeling of tracts near highway interchanges as "commercial" or "industrial" solely to permit advertising devices.

(38) "Strip-zoning" means the labeling of any stretch of land adjacent to controlled highways as "commercial" or "industrial" solely to permit advertising devices.

(39) "Trim" means the moldings surrounding the face of a sign structure.

(40) "Unzoned commercial or industrial area" is defined in 75-15-103, MCA, and also has the meaning of an area with no comprehensive zoning, or where a local municipality cannot zone.

(41) "V-type sign" means a sign structure that consists of multiple sign facings placed at angles to each other, oriented in different directions and not exceeding ten feet apart at the nearest point of each other. (History: 75-15-121, MCA; IMP, 75-15-103, 75-15-111, 75-15-112, 75-15-113, 75-15-121, MCA; NEW, Eff. 12/31/72; AMD, Eff. 12/8/75; AMD, 1983 MAR p. 1725, Eff. 11/26/83; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 1458, Eff. 7/17/08; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.2 Unzoned Commercial or Industrial Activities

18.6.203 UNZONED COMMERCIAL OR INDUSTRIAL ACTIVITY (1) The following criteria shall be used to determine whether an activity qualifies an area to be considered unzoned commercial or industrial:

(a) the commercial or industrial permanent buildings, improvements, or industrial activities area comprising a business used to qualify an area must be located within 660 feet of the right-of-way of an interstate or primary highway;

(b) a commercial or industrial business may not be located inside a structure which is also used as a residence, nor in a building intended for use by the resident such as a garage or other outbuilding. If a residence exists on the location, the business must be located in a separate building from the residence, and must meet all requirements in this rule for utilities, parking, etc.;

(c) commercial and industrial activities shall have been in business at least one year prior to being considered as qualifying the area as an unzoned commercial or industrial area;

(d) the permanent buildings or improvements comprising a commercial business intended to serve the traveling public must be clearly visible to the traveling public and be easily recognizable as a commercial activity;

(e) a commercial activity must be connected to one or more utilities and shall be occupied and open to the public during regularly scheduled hours in excess of 20 hours per week;

(f) signs, displays, or other devices identifying the commercial or industrial business may be considered in the determination of visibility;

(g) seasonal (but not temporary or transient) commercial or industrial activities may be considered as a qualifying activity at the discretion of the department;

(h) readily identifiable areas used for industrial activities exist in which the primary uses are the manufacturing, servicing, or storage of goods;

(i) a commercial activity shall have direct vehicular access from a public road that is normal and customary for ingress and egress by the public to the activity as well as adequate parking to accommodate public access;

(j) a commercial activity shall include two or more customary facilities such as indoor restrooms, running water, functional electrical connections, and adequate heating and shall be equipped with a permanent flooring from material other than dirt, gravel, or sand;

(k) a commercial or industrial business shall hold a current, valid business license issued by a local, county, or state government which authorizes the business to operate from that location;

(l) any commercial or industrial building shall have a permanent foundation, built or modified for its current commercial or industrial use. Where a mobile home is used as a business office, all wheels and axles and springs shall be removed. The vehicle shall be permanently secured on piers, pad, or foundation;

(m) a self-propelled vehicle shall not qualify for use as a commercial or industrial business or office for the purpose of these rules.

(2) A maximum of two signs shall be permitted from a qualifying activity. The sign(s) shall be located on the same side of the controlled highway as the qualifying activity, unless the property is separated from the controlled highway by a frontage, access, or other type of road parallel to the controlled highway. If the property is located adjacent to a parallel road, the sign(s) shall be located on the same side of the parallel road as the qualifying activity, and shall not be located between the parallel road and the controlled highway.

(3) Unzoned commercial or industrial areas are not created when:

(a) an industrial or commercial activity is located either partially or totally within an area which has been zoned by a bona fide state, county, or local zoning authority;

(b) a commercial or industrial activity is engaged in or established primarily for the purpose of qualifying an area for the displaying of outdoor advertising;

(c) activities are conducted in a building that is used to store trade equipment or that is not integral to the business operation where actual business transactions take place;

(d) spot-zoning or strip-zoning of an area for the displaying of outdoor advertising has occurred.

(4) If the qualifying commercial or industrial business at the sign location ceases for a period of nine months, the sign will be deemed nonconforming, and must adhere to all outdoor advertising statutes and rules on repair or replacement of nonconforming signs. If a qualifying commercial or industrial business again becomes operational at the sign location, the sign will revert to its former conforming status for the duration of the business operation and nine months thereafter. (History: 75-15-121, MCA; IMP, 75-15-103, 75-15-111, 75-15-113, MCA; NEW, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.3 On-Premise Signs – Qualifying Locations

18.6.204 ON-PREMISE SIGNS - QUALIFYING LOCATIONS

(1) On-premise signs which advertise activities conducted on the property upon which they are located do not require a permit from the department. The department shall be the sole determinant as to whether a sign qualifies as an on-premise sign after meeting all requirements of the Outdoor Advertising Act and these rules.

(2) The sign must be located on the same premises as the activity or property advertised; however, physical evidence rather than property lines determine whether the premises on which an activity is conducted qualifies to allow an on-premise sign.

(a) Premises include the area occupied by the buildings and appurtenances such as parking lots, storage areas, processing areas, or areas for the physical uses that are customarily incidental to the activity, including open spaces arranged and designed to be used in connection with the buildings or activities.

(b) Premises do not include vacant land, land used for unrelated activities, or land that is separated by other ownerships or roadways.

(3) The purpose of the advertising sign must be the identification of:

(a) the principal establishment;

(b) the principal activity located on the premises;

(c) the principal products or services; or

(d) the sale or lease of the property on which the sign is located.

(4) On-premise signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device are prohibited.

(5) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or if the sign brings rental or lease income to the property owner, the sign shall be considered the business of outdoor advertising and not an on-premise sign.

(6) Signs located on land in the following situations are not considered on-premise advertising:

(a) any land on which a sale or lease sign contains advertising for any product or service not conducted upon the premises;

(b) any land which is not used as an integral part of the principal activity, including but not limited to land which is separated from the activity by:

(i) a roadway;

(ii) a highway;

(iii) any other obstruction not used by the activity;

(iv) extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility whether or not it is under the same ownership;

(c) any land which is used for or devoted to a separate purpose unrelated to the advertised activity;

(d) any land which is located more than one quarter mile from the principal activity or in closer proximity to the highway than the principal activity;

(e) any land occupied solely by structures or uses which serve no reasonable or integrated purpose related to the principal activity other than to attempt to qualify the

land as a site for signs, including but not limited to playgrounds, camping areas, walking paths, fences, and maintenance sheds; or

(f) any land where the sign is located at or near the end of a narrow strip contiguous to the advertised activity, including but not limited to any configuration of land which cannot be put to any reasonable use related to the activity other than as a site for signs, such as wetlands, common or private roadways, or a strip of land held by easement or other lesser interest. (History: 75-15-121, MCA; IMP, 75-15-111, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.4 Off-Premise Signs

18.6.205 OFF-PREMISE SIGNS - LOCATIONS - COMPLIANCE WITH STATUTES, RULES, ORDINANCES (1) Off-premise signs visible from a controlled route which advertise activities not conducted on the property on which the sign is located require a permit from the department. Any outdoor advertising sign or structure which generates income for the sale or lease of the outdoor advertising sign, or the sale, lease, or rental of advertising space on the sign requires an off-premise sign permit from the department. The department shall be the sole determinant as to whether a sign qualifies as an off-premise sign after meeting all requirements of the Outdoor Advertising Act and these rules.

(2) Off-premise signs may be located in areas that are zoned industrial or commercial by a bona fide state, county, or local zoning authority.

(3) Off-premise signs may be located in unzoned commercial or industrial areas, which area contains a qualifying commercial or industrial activity, as determined by the department in accordance with the Outdoor Advertising Act and ARM 18.6.203.

(4) Off-premise signs may be located in areas in which both the future land use map and the current land development regulations designate the property for commercial or industrial development. In areas in which the future land use map and land development regulations do not specifically designate the parcel as commercial or industrial, but allow for multiple uses on the parcel including commercial or industrial, the department shall employ a use test to determine the appropriateness of the location for an off-premise sign permit as follows:

(a) the proposed sign location shall exhibit one conforming business;

(b) the businesses shall be on the same side of the controlled route as the proposed sign location; and

(c) the proposed sign location shall be within 600 feet of at least one of the businesses.

(5) Off-premise signs visible from a controlled route must be located outside the government owned right-of-way, subject to the following setback:

(a) outside an incorporated area, no further than 660 feet from the outer edge of the right-of-way;

(b) inside an incorporated area, in compliance with the setback requirements established by local ordinance or other regulation.

(6) Off-premise signs shall only be located on property for which the permit applicant or holder has written permission from the person lawfully in control of the

property to erect and maintain an off-premise sign.

(7) The provisions of this section shall not be deemed to supersede the rights and powers of counties and municipalities to enact outdoor advertising or sign ordinances.

(8) Off-premise signs permitted by the department shall also comply with all federal, state, county, and local statutes, rules, and ordinances on outdoor advertising. (History: 75-15-121, MCA; IMP, 75-15-111, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.5 Permits

18.6.211 PERMITS (1) A permit must be obtained for each outdoor advertising sign which meets the requirements of the Montana Outdoor Advertising Act 75-15-101, et seq, MCA, and these rules.

(2) A check payable to the Montana Department of Transportation in the amount of the nonrefundable inspection fee and the initial permit fee must accompany the sign permit application.

(3) A nonrefundable inspection fee shall be assessed for each off-premise outdoor advertising sign erected within any area subject to state control by the department.

(4) An initial permit fee shall be assessed for each off-premise outdoor advertising sign.

(5) Signs shall be assigned a permit number and given a permanent identification plate that must be attached to the structure. Permit plates remain the property of the department and shall be returned to the department upon relinquishment or revocation of the permit or upon request of the department.

(6) Permits may be renewed every three years on the appropriate January 1 renewal cycle date upon payment of a renewal fee.

(7) Permits for new signs in conforming areas may be issued only after the proposed location and sign site has been checked in regard to spacing, size and lighting criteria and approved by the department.

(8) A new sign may not be erected without first applying for and receiving a permit.

(9) Ownership of a sign permit may not be transferred without the express written consent of the permit holder(s) on a form provided by the department. The current permit holder(s) must sign the form transferring the permit.

(10) Permits may be relinquished at the written request of either the permit holder(s) or the landowner(s) subject to the department's approval. The document requesting relinquishment of a permit must be signed by the current permit holder or the landowner(s). If the permit holder(s) are unable or unwilling to sign the relinquishment document, the landowner(s) may request revocation of the permit by providing the department with a document stating the reason for revocation such as termination of the land lease between the permit holder(s) and the landowner(s) and indicating whether the landowner(s) has purchased the sign structure or if the sign structure will be removed. The landowner(s) must sign this document.

(11) Permits may be revoked upon a finding of a violation of the provisions of the Outdoor Advertising Act or the outdoor advertising administrative rules. (History: 75-15-121, 75-15-122, MCA; IMP, 75-15-122, MCA; NEW, Eff. 12/8/75; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 158, Eff. 1/12/96; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.6 Permit Applications – New Sign Sites

18.6.212 PERMIT APPLICATIONS - NEW SIGN SITES (1) Applications for outdoor advertising permits will be processed in the order that they are received by the department. Applications will be date-and-time stamped upon receipt by the department.

(2) If applications for outdoor advertising permits are received by the department for two or more signs in such proximity to each other, or to existing permitted signs, or for any other reason such that only one of them may receive a state outdoor advertising permit, they will be considered in the order in which they are received by the department.

(3) An application rejected for incompleteness, inaccuracy, or other valid cause shall not retain its place before other competing applications (if any), but, if resubmitted, will be considered a new application as of the date and time it is received.

(4) Applications for permits shall be submitted on forms provided by the department and must contain a minimum of the following:

- (a) name, address, and signature of sign owner and land owner;
- (b) location of proposed sign including highway number, nearest milepost, side of highway, county, and distance and direction to nearest sign;
- (c) acknowledgement of zoning, if any, by local authority;
- (d) signature of appropriate local government authority;
- (e) description of structure including width of sign, height of sign, height of structure, type of sign (single-faced, double-faced, v-type, multi-faced), lighted (yes/no), and estimated cost of construction to include labor and material;
- (f) landowner consent;
- (g) property description or legal description; and
- (h) a scale drawing with all details of the proposed sign structure, including accurate dimensions. All measurements must be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property lines of the activities, and must be along or parallel to the edge of the pavement of the highway.

(5) Applications for permits must be accompanied by the following:

- (a) both the nonrefundable inspection fee and the initial permit fee;
- (b) a local zoning certification for outdoor advertising on a form provided by the department; and
- (c) a business license issued by a local, county, or state government authorizing the business to operate at the qualifying location, when the application is for a site located in an unzoned commercial or industrial area.

(6) The applicant must clearly mark the physical place the sign is to be erected with the exact location of the proposed sign site to enable department personnel to perform the required site inspection.

(7) Approval of an application and issuance of a permit does not alleviate an applicant from responsibility to comply with all applicable county or local regulations. Any violation of county or local regulations may result in revocation of the permit. (History: 75-15-121, MCA; IMP, 75-15-122, MCA; NEW, Eff. 12/8/75; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.7 Permit Attachment

18.6.213 PERMIT ATTACHMENT (1) It is the responsibility of the sign owner to see that the proper permit is continuously attached to the sign or device for which it was issued.

(2) The permit plate must be attached to the sign or the supporting structure near the lower left corner of the sign (or supporting pole/beam) facing the traffic. The permit plate must be visible from the roadway.

(3) Permits which are affixed to the wrong sign or are otherwise in violation of requirements may be revoked by the department if the deficiency continues for more than 30 days.

(4) If the department revokes a permit, the sign for which the permit was issued becomes an illegal sign and must be removed.

(5) If the original permit plate has been lost or destroyed, a replacement permit plate may be obtained from the department upon application and payment of a fee listed in 18.6.215. (History: 75-15-121, MCA; IMP, 75-15-122, MCA; NEW, Eff. 12/8/75; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.8 Renewals

18.6.214 RENEWALS (1) A renewal notice may be sent by the department. The department's failure to issue such notice will not excuse the sign owner from the sign owner's duty to make proper application for renewal of a permit. Failure to submit the mandatory sign permit renewal fee within 30 days after expiration of the permit may result in revocation. (History: 75-15-121, MCA; IMP, 75-15-122, MCA; NEW, Eff. 12/8/75; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.9 Fees

18.6.215 FEES (1) Fees shall be transmitted by check payable to the Montana Department of Transportation. The department assumes no responsibility for loss in

transit of such remittances. Applicants not submitting proper fees will be notified by the department. Fees are nonrefundable.

(2) The fees shall be as follows:

(a) Inspection fee (must accompany the sign permit application)	\$100.00
(b) Initial permit fee for sign size:	
(i) 32 sq. ft. or less	\$ 10.00
(ii) 33 sq. ft. to 375 sq. ft.	\$ 50.00
(iii) 376 sq. ft. to 672 sq. ft.	\$ 100.00
(iv) multiple face signs	\$ 150.00
(c) Renewal fee (3 year cycle) for sign size:	
(i) 32 sq. ft. or less	\$ 15.00
(ii) 33 sq. ft. to 375 sq. ft.	\$ 75.00
(iii) 376 sq. ft. to 672 sq. ft.	\$ 150.00
(iv) multiple face signs	\$ 225.00
(d) Replacement permit plate	\$ 20.00

(History: 75-15-121, MCA; IMP, 75-15-122, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.10 New Sign Erection – Construction Standards

18.6.221 NEW SIGN ERECTION - CONSTRUCTION STANDARDS

(1) Within six months of the date of issuance of the permit, which is the date the application was approved, the sign owner will:

- erect the sign structure;
- attach the permit plate to the sign structure;
- attach advertising materials or copy to the sign face;
- attach name plaque to structure identifying the sign owner;
- provide written verification of the sign erection.

(2) When construction has been delayed through no fault of the applicant, an extension of time to erect the structure may be granted upon written request from the sign owner which explains the reason for the request. Extensions may be granted at the discretion of the department.

(3) Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of application control requirements will apply.

(4) Signs shall be rigidly suspended by means of fastening or supports so as not to be free-swinging, nor a danger to persons or property.

(5) Sign structures shall be designed and constructed to withstand wind loads of 80 miles per hour or greater. (History: 75-15-121, MCA; IMP, 75-15-113, 75-15-122, MCA; NEW, Eff. 12/8/75; AMD, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.11 Off-Premise Sign Standards

18.6.231 OFF-PREMISE SIGN STANDARDS (1) Standards for off-premise permitted signs are found at 75-15-113, MCA, and include the additional standards in this rule, unless otherwise controlled by standards for the specific type of sign (church and service clubs, directional, cultural, noncommercial, or official) as found in these rules

(2) Off-premise permitted signs on controlled routes must comply with the following spacing requirements:

(a) signs adjacent to an interstate highway or limited-access primary highway must be a minimum of 500 feet apart on the same side of the roadway;

(b) signs adjacent to primary highways must be a minimum of 300 feet apart on the same side of the roadway;

(c) signs, whether or not visible to the main traveled way of the interstate system or other controlled route, must not be located within the limits of a grade separated interchange, including its entrance or exit roadways. The limits of an interchange shall include 500 feet beyond the beginning or ending of the gore, or pavement widening, for each entrance or exit roadway, along the controlled route and all interconnecting roadways;

(d) signs, whether or not visible to the main traveled way of a controlled route, must not be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns;

(e) signs must not be located within 500 feet of any of the following that are adjacent to the controlled route unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds; or

(iv) scenic areas designated as such by the department or other state agency having and exercising this authority;

(f) official and on-premise signs shall not be counted nor shall measurements be made from them for purposes of determining compliance with off-premise sign spacing requirements;

(g) the minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs;

(h) multi-faced, back-to-back, and v-type signs shall be considered as a single sign or structure. Multi-faced signs may be positioned side-by-side on a single structure or stacked vertically on a single structure, and are to be considered as one sign for spacing and permitting purposes;

(i) side-by-side signs on individual structures are considered as two signs for both spacing and permit requirements.

(3) Off-premise permitted signs on controlled routes must comply with the following size requirements:

(a) signs, including the total number of sign faces facing the same direction, must not exceed 672 square feet in area, including border and trim, but excluding base or apron, supports, or other structural members;

(b) signs must not exceed 48 feet in length;

(c) signs must not exceed 30 feet in height, as measured from a right angle from the surface of the roadway at the centerline of the controlled route, or from a point on the sign structure which is at the same elevation as the crown of the roadway to the top of the highest sign face.

(4) Off-premise permitted signs on controlled routes which have any of the following characteristics shall not be erected:

(a) signs advertising activities that are illegal under state or federal laws, rules, or regulations in effect at the location of such signs or at the location of such activities;

(b) illegal, destroyed, abandoned, or discontinued signs;

(c) signs that are not clean and in good repair;

(d) signs that are not securely affixed to a substantial structure;

(e) signs which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device;

(f) signs which prevent the driver of a vehicle from having a clear and unobstructed view of at-grade intersections, approaching or merging traffic, official traffic control signs, or other traffic control devices;

(g) signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights;

(h) signs which have lights that change intensity or color, lasers, strobe lights, or other lights with stroboscopic effect;

(i) signs which use lighting in any way unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the highway, or is of such low intensity or brilliance as to not cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle;

(j) signs which move or have any animated or moving parts;

(k) signs which are erected or maintained upon fences, power poles, traffic signal poles or boxes, street lights, trees, or painted or drawn upon rocks or other natural features;

(l) signs located within ten feet of a property line of a residential zoning district or an existing residential use which do not aim the light fixture away from the property line, residential use area, or right-of-way line and shield the side closest to the property line, residential use area, or right-of-way line so that the light fixture illuminates only the face of the sign;

(m) roof signs, inflatable signs, snipe signs, banners, pennants, wind-operated devices, sandwich signs, moving signs, freestanding signs, flashing signs, beacon light signs with moving or alternating or traveling lights;

(n) signs located in a scenic area or parkland area;

(o) signs located within government owned right-of-way limits, except for specific information signs and tourist oriented directional signs under 60-5-501, MCA. (History: 75-15-121, MCA; IMP, 75-15-113, 75-15-121, MCA; NEW, Eff. 12/8/75; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.12 Prohibited Signs

18.6.232 PROHIBITED SIGNS (1) The following types of off-premise commercial signs, regardless of the message, are prohibited in controlled areas:

- (a) commercial variable message signs (CVMS); and
- (b) electronic billboards (EBB). (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2008 MAR p. 1458, Eff. 7/18/08.)

9-2.13 Mobile Advertising Devices – Signs on Vehicles

18.6.239 MOBILE ADVERTISING DEVICES - SIGNS ON VEHICLES

(1) Off-premise mobile advertising devices on vehicles which are traveling on controlled routes are not subject to the provisions of the Outdoor Advertising Act or administrative rules while traveling.

(2) Vehicles displaying off-premise mobile advertising devices being used for outdoor advertising purposes must not be parked on public or private land visible to the traveling public from any place on a controlled route, whether the display is permanent or portable, regardless of the length of time the vehicle is parked in any one or more locations.

(3) Signs on registered or unregistered motor vehicles, including but not limited to: semi-truck trailers, buses, trucks, RVs, mobile homes, or similar wheeled conveyances, which are determined by the department to be permanently or semi-permanently parked and clearly advertising to a controlled route shall be prohibited unless properly permitted under the provisions of the Outdoor Advertising Act and these administrative rules. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.14 Temporary Signs

18.6.240 TEMPORARY SIGNS (1) Temporary signs are considered on-premise signs and may be erected in all zoning districts along controlled routes without permits for the purposes described in this rule only. Temporary signs must not:

- (a) exceed 32 square feet in size;
- (b) be placed on any location other than private property and may only be placed with the permission of the property owner;
- (c) be placed in the public right-of-way or on public property;
- (d) be attached on fences, power poles, traffic signal poles or boxes, street lights, trees, rocks, or other natural features;
- (e) obstruct the view of motor vehicle operators or create a traffic hazard;
- (f) be located within 500 feet of an intersection at grade along a primary highway, or within 500 feet of an interchange or rest area on the interstate highway system as measured from the beginning of the pavement widening for the interchange;
- (g) be erected or maintained outside the time limits set forth in this rule for each category of temporary signs.

(2) Temporary signs must be removed within the time limits set forth for the sign category in this rule. The department shall notify the landowner, and where appropriate, the real estate agent listed on the sign, of illegal signs which are not removed within ten

days of the time limit expiration. The signs shall be removed by the department 24 hours after notification to the landowner and agent.

(3) Temporary signs which meet criteria for the following categories may be erected:

(a) Temporary construction site identification signs erected during the construction period of a structure for the purpose of identifying the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and related information including but not limited to sale or leasing information. Construction site identification signs must not be erected prior to the issuance of a building permit, and must be removed from the subject site before the issuance of a certificate of occupancy.

(b) Temporary real estate sale or lease directional signs erected for the purpose of directing interested persons to the location of a property actively listed for sale or lease. Real estate directional signs may only be erected during the period of a real estate agent's listing agreement for sale or lease of real property, or for 120 days of active sale activities without a listing agreement. The signs must be removed from the subject site no later than 15 days after the sale of the listed property or expiration of the listing agreement.

(c) Other temporary signs at the department's discretion, including but not limited to charity events or causes and public service announcements. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-121, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.15 Church and Service Club Signs

18.6.241 CHURCH AND SERVICE CLUB SIGNS (1) A church, service club, or youth organization which conducts regular meetings may erect and maintain signs which give the name of the organization and the time and place at which regular meetings are held subject to the following criteria:

(a) Not more than a total of four signs may be erected by any one group, of which no more than three can face in the same direction of travel;

(b) Signs may not be more than five miles from where the meetings or functions are regularly held;

(c) The size of each new sign shall not exceed eight square feet;

(d) Signs must not exceed 30 feet in height, as measured from a right angle from the surface of the roadway at the centerline of the controlled route, or from a point on the sign structure which is at the same elevation as the crown of the roadway to the top of the highest sign face;

(e) Signs visible from controlled routes must not be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns;

(f) Signs visible from interstate highways must not be located within 500 feet of the gore of an interchange;

(g) Public forests, public playgrounds, and designated scenic areas shall be considered to be a conforming area with respect to the erection of these signs;

(h) Church and service club signs shall meet all general restrictions on

characteristics for off-premise signs found in ARM 18.6.231;

(i) The activity advertised must be a regularly scheduled daily, weekly, monthly, or quarterly meeting, function, or gathering which members of the traveling public using the highway will be likely to want to find and attend;

(j) This rule is not intended to cover advertising of annual events, such as county fairs, or activities which are continuously in existence such as a college or hospital. Further, it is not intended to cover advertising of sports events or other activities for which an admission fee is customarily charged.

(2) A permit must be obtained for each church or service club sign accompanied by a nonrefundable inspection fee. There is no initial permit fee or renewal fee for church or service club signs. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, 75-15-121, MCA; NEW, Eff. 12/8/75; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.16 Directional Signs

18.6.243 DIRECTIONAL SIGNS (1) Directional signs pertaining to natural wonders, scenic and historical attractions, or ranching, grazing, or farming activities may be erected and maintained providing the signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its surrounding areas are prohibited. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of interest to the traveling public.

(2) Directional signs shall not exceed the following size limits:

(a) maximum area – 32 square feet;

(b) maximum height – 4 feet;

(c) maximum length – 8 feet.

(3) Directional signs shall meet the following spacing requirements:

(a) directional signs visible from controlled routes must not be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns;

(b) directional signs visible from interstate highways must not be located within 500 feet of the gore of an interchange;

(c) directional signs must not be located within 500 feet of any of the following that are adjacent to the controlled route unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds; or

(iv) scenic areas designated as such by the department or other state agency having and exercising this authority;

(d) directional signs facing the same direction of travel shall be limited to signs spaced at least one mile apart;

(e) directional signs pertaining to the same activity, facing the same direction of travel, which are erected along a single route approaching the activity are limited to one

sign;

(f) directional signs located adjacent to the interstate system shall be within 75 air miles of the activity;

(g) directional signs located adjacent to the primary system shall be within 50 air miles of the activity.

(4) Directional signs shall meet all general restrictions on characteristics for off-premise signs found in ARM 18.6.231.

(5) A permit must be obtained for each directional sign accompanied by a nonrefundable inspection fee. There is no initial permit fee or renewal fee for directional signs. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, Eff. 12/8/75; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.17 Cultural Signs

18.6.244 CULTURAL SIGNS (1) Signs or displays advertising cultural exhibits of nonprofit historical or arts organizations may be erected and maintained adjacent to controlled routes.

(2) Cultural signs shall not exceed the following size limits:

(a) Maximum area - 150 square feet.

(b) Maximum height - 20 feet.

(c) Maximum length - 20 feet.

(d) All size dimensions include border and trim, but exclude supports.

(3) Cultural signs must meet the following spacing requirements:

(a) Each location of a cultural sign must be approved by the Montana Department of Transportation;

(b) cultural signs visible from controlled routes must not be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns;

(c) cultural signs visible from interstate highways must not be located within 500 feet of the gore of an interchange;

(d) cultural signs must not be located within 500 feet of any of the following that are adjacent to the controlled route unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds; or

(iv) scenic areas designated as such by the department or other state agency having and exercising this authority;

(e) cultural signs facing the same direction of travel shall be spaced more than one mile apart;

(f) cultural signs pertaining to the same activity, facing the same direction of travel, and erected along a single route approaching the activity are limited to three signs;

(g) cultural signs located adjacent to the interstate system shall be within 75 air

miles of the activity;

(h) cultural signs located adjacent to the primary system shall be within 50 air miles of the activity.

(4) The message on cultural signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

(5) Privately owned activities or attractions eligible for cultural signing are limited to nonprofit historical and arts organizations. To be eligible, privately owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public.

(a) The Montana Department of Transportation will make a determination of eligibility for each attraction or activity. In making this determination, the department will, when it is deemed necessary, avail itself of the experience and knowledge of selected groups in the specific type of attraction or activity being considered. These groups shall include, but not be limited to, commissions, boards, other agencies and/or other state departments.

(b) The department's determination of eligibility is subject to review by the State Transportation Commission upon written request of any interested person. Such request must be made within 30 days of the notification of the determination by the department to the privately owned activity or attraction. The commission shall provide the interested person or persons at least 30 days notice of the time and place where the determination of eligibility will be reviewed and shall permit oral or written comments to be submitted.

(6) Cultural signs shall meet all general restrictions on characteristics for off-premise signs found in ARM 18.6.231.

(7) A permit must be obtained for each cultural sign accompanied by a nonrefundable inspection fee. There is no initial permit fee or renewal fee for cultural signs. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 1982 MAR p. 698, Eff. 4/16/82; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.18 Noncommercial Signs

18.6.245 NONCOMMERCIAL SIGNS (1) Signs displaying noncommercial messages may be erected and maintained adjacent to controlled routes.

(2) If a noncommercial sign is located on property owned by the owner of the sign, it shall be subject only to the size, height, and length provisions of this rule.

(3) A noncommercial sign of a local government may be erected anywhere adjacent to an interstate and primary highway within the government's territorial or zoning jurisdiction, except in a scenic area or parkland, so long as the sign does not create a safety hazard to the traveling public.

(4) A noncommercial sign will not be considered in determining the spacing required between conforming, permitted off-premise outdoor advertising signs.

(5) Noncommercial signs shall not:

(a) be erected or maintained that exceed 32 square feet in area, including border and trim, but excluding base or apron, supports and other structural members;

(b) exceed ten feet in length;

(c) exceed 15 feet in height when measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway;

(d) be placed outside of zoned or unzoned commercial or industrial areas;

(e) be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns;

(f) be located within 500 feet of the gore of an interchange;

(g) be located within 500 feet of any of the following that are adjacent to the controlled route unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds; or

(iv) scenic areas designated as such by the department or other state agency having and exercising this authority;

(6) Noncommercial signs shall meet all general restrictions on characteristics for off-premise signs found in ARM 18.6.231.

(7) A permit must be obtained for each noncommercial sign not located on property owned by the sign owner. The application must be accompanied by a nonrefundable inspection fee. There is no initial permit fee or renewal fee for noncommercial signs.

(8) A nonconforming noncommercial sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming noncommercial sign removed as a result of an eminent domain acquisition may be relocated along a controlled route, but cannot be reestablished at a new location as a nonconforming use.

(9) Noncommercial signs, regardless of the message, are prohibited along controlled routes unless meeting the requirements of this rule. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 1986 MAR p. 339, Eff. 3/14/86; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.19 Political Signs

18.6.246 POLITICAL SIGNS (1) Signs promoting political candidates or issues shall be placed on private property only and cannot be placed without the permission of the property owner.

(2) Political signs shall not:

(a) be placed in the public right-of-way or on public property;

(b) be attached on public right-of-way fences;

(c) obstruct the view of motor vehicle operators or create a traffic hazard;

(d) be located within 500 feet of an intersection at grade along a primary highway, or within 500 feet of an interchange or rest area on the interstate highway system as measured from the beginning of the pavement widening for the interchange;

(e) be erected or maintained prior to 90 days before the applicable election.

(3) Political signs must be removed within 30 days following the applicable election. The department shall notify the landowner of illegal signs which are not removed within 30 days. The signs shall be removed by the department 24 hours after notification to the landowner. The department shall retain removed political signs for five working days after notification of removal before their destruction. The sign owner may retrieve the signs during this period.

(4) Political signs do not require permits and are not subject to permit fees. (History: 75-15-121, MCA; IMP, 75-15-111, MCA; NEW, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.20 Official Signs

18.6.247 OFFICIAL SIGNS (1) Official signs must be erected outside the right-of-way and maintained by a public office or agency.

(2) Official signs must be erected within the territorial jurisdiction or zoning jurisdiction of the public office or agency, such that the office or agency must exercise some form of governmental authority over the area upon which the sign is located.

(3) Official signs must be erected pursuant to direction or authorization contained in federal, state, or local law, such that the office must be directed by statute or must have the specific authority by statute to erect and maintain signs and notices.

(4) Local governments may erect, within the limits of their jurisdiction, official signs welcoming travelers and describing the services and attractions available, but official signs shall not contain any commercial advertising, nor advertise private business or brand names.

(5) Not more than one official sign welcoming visitors or providing information about a community is allowed on each highway entering the community, from each direction of travel, subject to federal and state outdoor advertising control rules.

(6) On interstate highways, official "welcome to" signs may be erected within five miles of a community. Not more than one "welcome to" sign in each direction is allowed.

(7) An official sign of a local government will not be considered in determining the spacing required between conforming outdoor advertising signs located offpremises.

(8) The maximum area of an official sign shall not exceed 150 square feet.

(9) Signs must not exceed 30 feet in height as measured from a right angle from the surface of the roadway at the centerline of the controlled route, or from a point on the sign structure which is at the same elevation as the crown of the roadway to the top of the highest sign face.

(10) Official signs visible from controlled routes must not be located within 500 feet of an intersection in rural areas, or within 140 feet of an intersection in cities or towns.

(11) Official signs visible from interstate highways must not be located within 500 feet of the gore of an interchange.

(12) Official signs must not be located within 500 feet of any of the following that are adjacent to the controlled route unless the signs are in an incorporated area:

- (a) public parks;
- (b) public forests;
- (c) public playgrounds; or
- (d) scenic areas designated as such by the department or other state agency having and exercising this authority.

(13) Official signs shall meet all general restrictions on characteristics for off-premise signs found in ARM 18.6.231.

(14) A permit must be obtained for each official sign accompanied by a nonrefundable inspection fee. There is no initial permit fee or renewal fee for official signs. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.21 Recognition Of Sponsors, Benefactors, and Support Groups

18.6.248 RECOGNITION OF SPONSORS, BENEFACTORS, AND SUPPORT GROUPS (1) An on-premise nonprofit sign owner may recognize the name of a sponsor, benefactor, or support group if:

(a) the "thank you" identifies the name of the sponsor, benefactor, or support group, is of a noncommercial nature and does not include promotional information such as address, phone number, hours of operation, or product logos. Any advertising is prohibited;

(b) a permanent "thank you" display is limited to three recognition plaques whose size shall not exceed the size(s) applied for on the permit application and approved by the department;

(c) a changeable reader board display has a maximum display time of 20 minutes during a 14 day period;

(d) not more than three recognition plaques are erected on a sign structure which is visible to traffic proceeding in any one direction on any interstate or primary highway; and

(e) the sign owner obtains a permit from the department to display "thank you" recognition and the permit application includes the type of display and purpose for the recognition.

(2) A nonprofit owner includes, but is not limited to schools, churches, or local governments. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, MCA; NEW, 2006 MAR p. 1878, Eff. 7/28/06; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.22 Repair of Nonconforming Signs

18.6.251 REPAIR OF NONCONFORMING SIGNS (1) As per 75-15-111, MCA, nonconforming signs lawfully in existence prior to April 21, 1995, may be maintained or replaced each year under the following requirements:

(a) a sign may be maintained each year if the value of the materials used in the maintenance does not exceed 75 percent of the value of the materials required to replace the sign new;

(b) the sign may be replaced, if damaged by vandalism, criminal acts, or tortious acts, at up to and including 100 percent of its replacement cost;

(c) the sign replacement must not result in an increase in the area used to display advertising copy nor an increase of height, width, or area over the current dimensions;

(d) the sign may not be illuminated, unless already illuminated before the repair or maintenance;

(e) the sign to be repaired or replaced may not replace wood poles with steel poles.

(2) Nonconforming signs lawfully in existence after April 21, 1995, may be maintained or replaced each year under the following requirements:

(a) a sign may be maintained and repaired if the value of new materials used in the maintenance of a sign during one calendar year does not exceed 30 percent of the value of all the materials which would be required to replace the sign new;

(b) the sign may be replaced if damaged by vandalism, criminal acts, or tortious acts, at up to and including 100 percent of its replacement cost;

(c) the sign replacement may not result in an increase in the area used to display advertising copy nor an increase of height, width, or area over the current dimensions;

(d) the sign may not be illuminated, unless already illuminated before the repair or maintenance;

(e) the sign to be repaired or replaced may not replace wood poles with steel poles.

(3) All changes to nonconforming signs must meet the standards of lawful ordinance, regulation, or resolution of local government and must be approved by the landowner.

(4) Nonconforming signs shall not be maintained or repaired from across the right-of-way control access fences or boundaries.

(5) Nonconforming signs may be repaired only if such repair and maintenance is reasonably necessary to maintain the sign's appearance and structural integrity. In no case may the repair, maintenance, or re-erection of a sign result in a substantial upgrading of the type or value of the sign.

(6) Nonconforming signs which are destroyed, abandoned, or discontinued may not be re-erected except in instances of vandalism or other criminal or tortious acts. The work must be accomplished within six months or the permit may be revoked

(7) Nonconforming signs shall not be relocated from their original permitted location.

(8) The department shall notify the sign owner of a violation of this rule. The department may allow a permittee who has increased the dimensions or has lighted a previously unlighted nonconforming sign 60 days to restore the sign as originally permitted. If the dimensions are increased or the sign is lighted a second time, the permit will be revoked by the department.

(9) A nonconforming sign which has displayed obsolete or damaged advertising matter, or has not displayed advertising matter for a period of 90 days subsequent to receipt of written notice from the department, shall be considered as a discontinued sign and shall be removed by the owner without compensation.

(10) Nonconforming signs which are in need of substantial repair either to the face or support structure, and are not repaired within a period of 90 days after receipt of written notice from the department, shall be considered an abandoned sign and shall be required to be removed by the owner without compensation. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-121, MCA; NEW, Eff. 12/8/75; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.23 Upgrade Or Relocation Of Conforming Signs

18.6.252 UPGRADE OR RELOCATION OF CONFORMING SIGNS

(1) Upgrade or relocation of a conforming sign which results in a change from that shown on the last approved permit application will require a new application for upgrade of the existing permit but will not be charged additional fees. Failure to obtain a permit upgrade prior to performing the upgrade or relocation may result in revocation of the permit. Changes requiring a permit upgrade include changes in:

- (a) location;
- (b) height;
- (c) width;
- (d) area on which copy appears;
- (e) number or position of the facings;
- (f) types of materials used (e.g., wood to steel); or
- (g) additions to the sign structure (e.g., adding lights).

(2) Any application for relocation or upgrade must meet the standard of lawful ordinance, regulation, or resolution of county or local government and the upgrade application must be approved by the county or local government, and approved by the landowner, before consideration by the department.

(3) The sign owner must obtain written permission from the land owner or other person in lawful possession or control of the new proposed site to relocate a conforming permitted sign. The proposed relocation site must meet all zoning requirements or qualify as an unzoned commercial or industrial area.

(4) No outdoor advertising structure may be maintained from across right-of-way control access fences or boundaries. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-121, MCA; NEW, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.24 Sign Structures That Are Blank, Abandoned, Dilapidated, Discontinued Or In Disrepair

18.6.262 SIGN STRUCTURES THAT ARE BLANK, ABANDONED, DILAPIDATED, DISCONTINUED, OR IN DISREPAIR (1) When the department determines a sign structure has been blank, abandoned, dilapidated, discontinued, or in disrepair for a period of 60 days, the department shall notify the sign owner of the

violation and require remedial action within six months. If such action is not taken, the permit will be revoked and action for the removal of the sign will be taken as provided in 75-15-131, MCA.

(2) A sign is in disrepair if the structure is unsafe or if the sign face is not visible to the traveling public. (History: 75-15-121, MCA; IMP, 75-15-111, 75-15-113, 75-15-121, 75-15-131, MCA; NEW, Eff. 12/8/75; AMD, 1996 MAR p. 1855, Eff. 7/4/96; AMD, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.25 Violation Of Property Rights

18.6.263 VIOLATION OF PROPERTY RIGHTS (1) A permit for any sign which is erected or maintained in violation of the access control fence or line or in violation of any other restrictive easement or property right belonging to the state of Montana or any other subdivision thereof may be revoked by the department. (History: 75-15-121, MCA; IMP, 75-15-121, 75-15-131, MCA; NEW, Eff. 12/8/75; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.26 Determination Of Illegal Outdoor Advertising

18.6.264 DETERMINATION OF ILLEGAL OUTDOOR ADVERTISING--NOTICES--CORRECTIVE ACTION--ILLEGAL OUTDOOR ADVERTISING REMOVAL

(1) The department may determine outdoor advertising is unlawful or illegal under 75-15-112, MCA, and also when a sign or sign structure is unsafe, insecure, a danger to the public, or has been constructed or is being maintained in violation of the provisions of the Outdoor Advertising Act or this chapter.

(2) If the department determines a permitted or unpermitted sign is in violation of statute or rule, it shall give written notice to the owner or occupant of the land on which the sign is located, and to the owner of the sign, if known. If the sign owner is not known, or has failed to respond to department notices, the department may post notice of the statute or rule violation determination in a conspicuous place on the structure.

(3) The notice shall state the following:

(a) the location and description of the sign, sufficient for identification of the sign;

(b) a statement the department has found the sign to be in violation of statutes or rules on outdoor advertising, along with a general description of the conditions which cause the sign to be in violation;

(c) a determination by the department whether corrective action is possible and required to be taken;

(d) a requirement the corrective action shall be completed within 45 days from the date the notice was posted or received;

(e) notice the sign owner may request a hearing within 45 days to dispute the department's determination of statute or rule violation;

(f) notice the department will issue a default, revoke the permit (on permitted signs), and promptly remove the unlawful sign after 45 days if the corrective action is not completed (if appropriate), or a hearing requested.

(4) The department shall undertake permit revocation action under the Montana

Administrative Procedure Act for permitted signs on which unlawful conditions cannot be remedied by corrective action, and shall issue a notice in compliance with (3).

(5) If the condition of a non-permitted sign cannot be remedied so as to come into compliance with the Outdoor Advertising Act and this chapter, the department shall issue a notice in compliance with (3), and promptly remove the unlawful sign after 45 days if a hearing is not requested.

(6) When the department removes a sign, the sign owner, landowner or other person responsible for erecting the sign shall pay the cost of removal to the department. The department will store the sign for 30 days immediately following removal, during which time the sign may be claimed upon payment of the cost of removal and any costs associated with the removal and storage of the sign and collection of the cost of removal.

(7) A sign that is not claimed within 30 days after removal shall be deemed the property of the department, and may be disposed of by the department. Any money received from the disposal will be credited first towards the costs of removal and storage of the sign. Money in excess of such costs will be deposited with the state treasurer for credit to the state highway fund to offset the cost of issuing permits for signs. If the income generated from disposal of the sign does not meet or exceed the costs of removal and storage of the sign and the cost of collecting the cost of removal, the owner of the sign, landowner or other person responsible for erecting the sign shall pay the remaining costs. (History: 75-15-121, MCA; IMP, 75-15-131, 75-15-132, MCA; NEW, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2008 MAR p. 2476, Eff. 11/27/08.)

9-2.27 Motorist Information Signs

The Motorist Information Sign Program is to provide for the installation of motorist information signs giving specific information of interest to the traveling public regarding motorist services that are conveniently accessible from the Interstate (NHS) and Primary highways within the State. Specific motorist information (LOGO) signs inform the motoring public of traveler services conveniently accessible from Interstate highways (NHS). Tourist-Oriented Directional Signs (TODS) give travelers and tourists notice of services accessible from primary highways within Montana. The signs are intended to be directional and not an advertising medium for businesses.

These signs are typically know as LOGO or TODS signs and are recognizable as blue signs with white borders under category headings such as "GAS", "FOOD", "LODGING", etc.. These signs are allowed to be erected and maintained within the right-of-way.

The governing statutes and administrative rules are found in **MCA** 60-5-501 to 60-5-527, inclusive, and **Mont. Admin. R.** 18.7.301 to 18.7.336, inclusive. LOGO and TODS specifications are found in the Federal Highway Administration **Manual on Uniform Traffic Control Devices** (MUTCD), and in Part III, Chapter 18 of the **MDT Traffic Engineering Manual**.

Pursuant to **MCA** 60-5-504 and 505, the Department granted a Franchise Contract, dated July 19, 1991 to:

Montana Motorist Information Sign Group
(a Division of LOGO Signs of America)
P. O. Box 1622
St. Cloud, MN 56302-1622

The Franchise Contract is in the possession of the LOGO Sign Coordinator within the MDT Right of Way Bureau.