OUTDOOR ADVERTISING CONTROL

PO BOX 201001
HELENA MT 59624
(406) 444-6056

Title 23, Section 131.

Title 23, Section 131. - Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) 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, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, 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 those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, 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 for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to

> **(1)** directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section,
>
> **(2)** signs, displays, and devices advertising the sale or lease of property upon which they are located,

(3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located,

(4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and

(5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free coffee" shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) 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. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in 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.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

> **(A)** The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and
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> **(B)** The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way 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. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State transportation department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State transportation department shall be entitled to such payments unless the State maintains the control required under such agreement: Provided, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(l) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, (FOOTNOTE 1) a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment. Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.

(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices

> **(1)** provide directional information about goods and services in the interest of the traveling public, and
>
> **(2)** are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)

> **(1)** During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.
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> **(2)** Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

(r) Removal of Illegal Signs. -

> **(1)** By owners. -
>
> > Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the

owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) By states. -

If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) Scenic Byway Prohibition. -

If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section. In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.

(t) Primary System Defined. -

For purposes of this section, the terms "primary system" and "Federal-aid primary system" mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

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[1] See References in Text note below.

Title 23 Part 750
CFR

Title 23--Highways

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION

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750.503 Exemptions.
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.101 Purpose.

Authority: Sec. 12, Pub. L. 85-381, 72 Stat. 95, as amended; 23 U.S.C. 131; delegation of authority in 49 CFR 1.48(b).

(a) In section 12 of the Federal-Aid Highway Act of 1958, Pub. L. 85-381, 72 Stat. 95, hereinafter called the act, the Congress declared that:

(1) 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, hereinafter called the Interstate System, it is in the public interest to encourage and assist the States to control the use of and to improve areas adjacent to such system by controlling the erection and maintenance of outdoor advertising signs, displays, and devices adjacent to that system.

(2) It is 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 constructed upon any part of 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 of Transportation.

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(b) The standards in this part are hereby promulgated as provided in the act.

[38 FR 16044, June 20, 1973, as amended at 39 FR 28629, Aug. 9, 1974]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.102 Definitions.

The following terms when used in the standards in this part have the following meanings:

(a) Acquired for right-of-way means acquired for right-of-way for any public road by the Federal Government, a State, or a county, city, or other political subdivision of a State, by donation, dedication, purchase, condemnation, use, or otherwise. The date of acquisition shall be the date upon which title (whether fee title or a lesser interest) vested in the public for right-of-way purposes under applicable Federal or State law.

(b) Centerline of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided Interstate Highway, or the centerline of the main-traveled way of a nondivided Interstate Highway.

(c) Controlled portion of the Interstate System means any portion which:

(1) Is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way subsequent to July 1, 1956 (a portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the centerline of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956);

(2) Lies within a State, the highway department of which has entered into an agreement with the Secretary of Transportation as provided in the act; and

(3) Is not excluded under the terms of the act which provide that agreements entered into between the Secretary of Transportation and the State highway department shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land

use as of September 21, 1959, was clearly established by State law as industrial or commercial.

(d) Entrance roadway means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of an Interstate Highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Exit roadway means any public road or turning roadway including deceleration lanes, by which traffic may leave the main-traveled way of an Interstate Highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.

(g) Informational site means an area or site established and maintained within or adjacent to the right-of-way of a highway on the Interstate System by or under the supervision or control of a State highway department, wherein panels for the display of advertising and informational signs may be erected and maintained.

(h) Legible means capable of being read without visual aid by a person of normal visual acuity.

(i) Maintain means to allow to exist.

(j) Main-traveled way means the traveled way of an Interstate Highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(k) Protected areas means all areas inside the boundaries of a State which are adjacent to and within 660 feet of the edge of the right-of-way of all controlled portions of the Interstate System within that State. Where a controlled portion of the Interstate System terminates at a State boundary which is not perpendicular or normal

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to the centerline of the highway, protected areas also means all areas inside the boundary of such State which are within 660 feet of the edge of the right-of-way of the Interstate Highway in the adjoining State.

(l) Scenic area means any public park or area of particular scenic beauty or historical significance designated by or pursuant to State law as a scenic area.

(m) Sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of a controlled portion of the Interstate System.

(n) State means the District of Columbia and any State of the United States within the boundaries of which a portion of the Interstate System is located.

(o) State law means a State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to State constitution or statute.

(p) Trade name shall include brand name, trademark, distinctive symbol, or other similar device or thing used to identify particular products or services.

(q) Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

(r) Turning roadway means a connecting roadway for traffic turning between two intersection legs of an interchange.

(s) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.103 Measurements of distance.

(a) Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway.

(b) All distances under Sec. 750.107 (a)(2) and (b) shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.104 Signs that may not be permitted in protected areas.

Erection or maintenance of the following signs may not be permitted in protected areas:

(a) Signs advertising activities that are illegal under State or Federal laws or regulations in effect at the location of such signs or at the location of such activities.

(b) Obsolete signs.

(c) Signs that are not clean and in good repair.

(d) Signs that are not securely affixed to a substantial structure, and

(e) Signs that are not consistent with the standards in this part.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.105 Signs that may be permitted in protected areas.

(a) Erection or maintenance of the following signs may be permitted in protected areas:

Class 1--Official signs. Directional or other official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with direction or authorization contained in State of Federal law, for the purpose of carrying out an official duty or responsibility.

Class 2--On-premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and Sec. 750.108 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.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

Class 3--Signs within 12 miles of advertised activities. Signs not prohibited by State law which are consistent with the applicable provisions of this section and Secs. 750.106, 750.107, and 750.108 and which advertise activities being conducted within 12 air miles of such signs.

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Class 4--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 Secs. 750.106, 750.107, and 750.108 and which are designed to give information in the specific interest of the traveling public.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity, that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. 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. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.106 Class 3 and 4 signs within informational sites.

(a) Informational sites for the erection and maintenance of Class 3 and 4 advertising and informational signs may be established in accordance with Sec. 1.35 of this chapter. The location and frequency of such sites shall be as determined by agreements between the Secretary of Transportation and the State highway departments.

(b) Class 3 and 4 signs may be permitted within such informational sites in protected areas in a manner consistent with the following provisions:

(1) No sign may be permitted which is not placed upon a panel.

(2) No panel may be permitted to exceed 13 feet in height or 25 feet in length, including border and trim, but excluding supports.

(3) No sign may be permitted to exceed 12 square feet in area, and nothing on such sign may be permitted to be legible from any place on the main-traveled way or a turning roadway.

(4) Not more than one sign concerning a single activity or place may be permitted within any one informational site.

(5) Signs concerning a single activity or place may be permitted within more than one informational site, but no Class 3 sign which does not also qualify as a Class 4 sign may be permitted within any informational site more than 12 air miles from the advertised activity.

(6) No sign may be permitted which moves or has any animated or moving parts.

(7) Illumination of panels by other than white lights may not be permitted, and no sign placed on any panel may be permitted to contain, include, or be illuminated by any other lights, or any flashing, intermittent, or moving lights.

(8) No lighting may be permitted to be used in any way in connection with any panel unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low

intensity or brilliance as not to 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.

[23 FR 8793, Nov. 13, 1958, as amended at 35 FR 18719, Dec. 10, 1970; 41 FR 9321, Mar. 4, 1976]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.107 Class 3 and 4 signs outside informational sites.

(a) The erection or maintenance of the following signs may be permitted within protected areas, outside informational sites:
(1) Class 3 signs which are visible only to Interstate highway traffic not served by an informational site within 12 air miles of the advertised activity;

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(2) Class 4 signs which are more than 12 miles from the nearest panel within an informational site serving Interstate highway traffic to which such signs are visible.
(3) Signs that qualify both as Class 3 and 4 signs may be permitted in accordance with either paragraph (a)(1) or (2) of this section.
(b) The erection or maintenance of signs permitted under paragraph (a) of this section may not be permitted in any manner inconsistent with the following:
(1) In protected areas in advance of an intersection of the main-traveled way of an Interstate highway and an exit roadway, such signs visible to Interstate highway traffic approaching such intersection may not be permitted to exceed the following number:

Distance from intersection	Number of signs
0-2 miles	0.
2-5 miles	6.
More than 5 miles	Average of one sign per mile.

The specified distances shall be measured to the nearest point of the intersection of the traveled way of the exit roadway and the main-traveled way of the Interstate highway.

(2) Subject to the other provisions of this paragraph, not more than two such signs may be permitted within any mile distance measured from any point, and no such signs may be permitted to be less than 1,000 feet apart.

(3) Such signs may not be permitted in protected areas adjacent to any Interstate highway right-of-way upon any part of the width of which is constructed an entrance or exit roadway.

(4) Such signs visible to Interstate highway traffic which is approaching or has passed an entrance roadway may not be permitted in protected areas for 1,000 feet beyond the furthest point of the intersection between the traveled way of such entrance roadway and the main-traveled way of the Interstate highway.

(5) No such signs may be permitted in scenic areas.

(6) Not more than one such sign advertising activities being conducted as a single enterprise or giving information about a single place may be permitted to be erected or maintained in such manner as to be visible to traffic moving in any one direction on any one Interstate highway.

(c) No Class 3 or 4 signs other than those permitted by this section may be permitted to be erected or maintained within protected areas, outside informational sites.

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[Title 23, Volume 1]
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.108 General provisions.

No Class 3 or 4 signs may be permitted to be erected or maintained pursuant to Sec. 750.107, and no Class 2 sign may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the Interstate System, or is of such low intensity or brilliance as not to 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.

(e) No sign may be permitted which moves or has any animated or moving parts.

(f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

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Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.109 Exclusions.

The standards in this part shall not apply to markers, signs and plaques in appreciation of sites of historical significance for the erection of which provisions are made in an agreement between a State and the Secretary of Transportation, as provided in the Act, unless such agreement expressly makes all or any part of the standards applicable.

[Code of Federal Regulations]
[Title 23, Volume 1]
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart A--National Standards for Regulation by States of Outdoor Advertising Adjacent to the Interstate System Under the 1958 Bonus Program

Sec. 750.110 State regulations.

A State may elect to prohibit signs permissible under the standards in this part without forfeiting its rights to any benefits provided for in the act.

[Code of Federal Regulations]
[Title 23, Volume 1]
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

Sec. 750.151 Purpose.

Authority: 23 U.S.C. 131, 315, 49 U.S.C. 1651; 49 CFR 1.48(b).

(a) In section 131 of title 23 U.S.C., Congress has declared that:

(1) The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote safety and recreational value of public travel, and to preserve natural beauty.

(2) Directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, shall conform to national standards authorized to be promulgated by the Secretary, which standards shall contain provisions concerning the lighting, size, number and spacing of signs, and such other requirements as may be appropriate to implement the section.

(b) The standards in this part are issued as provided in section 131 of title 23 U.S.C.

[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

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[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

Sec. 750.152 Application.

The following standards apply to directional and official signs and notices located within six hundred and sixty (660) feet of the right-of-way of the Interstate and Federal-aid primary systems and to those located beyond six hundred and sixty (660) feet of the right-of-way of such systems, outside of urban areas, visible from the main traveled way of such systems and erected with the purpose of their message being read from such main traveled way. These standards do not apply to directional and official signs erected on the highway right-of-way.

[40 FR 21934, May 20, 1975]

[Code of Federal Regulations]
[Title 23, Volume 1]
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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

Sec. 750.153 Definitions.

For the purpose of this part:

(a) Sign means an outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway.

(b) Main traveled way means the through traffic lanes of the highway, exclusive of frontage roads, auxiliary lanes, and ramps.

(c) Interstate System means the National System of Interstate and Defence Highways described in section 103(d) of title 23 U.S.C.

(d) Primary system means the Federal-aid highway system described in section 103(b) of title 23 U.S.C.

(e) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(f) Maintain means to allow to exist.

(g) Scenic area means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(h) Parkland means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(i) Federal or State law means a Federal or State constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a State or Federal agency or a political subdivision of a State pursuant to a Federal or State constitution or statute.

(j) Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(k) Freeway means a divided arterial highway for through traffic with full control of access.

(l) Rest area means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

(m) Directional and official signs and notices includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(n) 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 authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

(o) Public utility signs means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(p) Service club and religious notices means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(q) Public service signs means signs located on school bus stop shelters, which signs:

(1) Identify the donor, sponsor, or contributor of said shelters;

(2) Contain public service messages, which shall occupy not less than 50 percent of the area of the sign;

(3) Contain no other message;

(4) Are located on schoolbus shelters which are authorized or approved by city, county, or State law, regulation, or ordinance, and at places approved by the city, county, or State agency controlling the highway involved; and

(5) May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(r) Directional signs means signs containing directional information about public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(s) State means any one of the 50 States, the District of Columbia, or Puerto Rico.

(t) Urban area means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized areas in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by

responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

[38 FR 16044, June 30, 1973, as amended at 40 FR 21934, May 20, 1975]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

Sec. 750.154 Standards for directional signs.

The following apply only to directional signs:

(a) General. The following signs are prohibited:

(1) Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of those activities.

(2) Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic

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sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(3) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(4) Obsolete signs.

(5) Signs which are structurally unsafe or in disrepair.

(6) Signs which move or have any animated or moving parts.

(7) Signs located in rest areas, parklands or scenic areas.

(b) Size. (1) No sign shall exceed the following limits:

(i) Maximum area--150 square feet.

(ii) Maximum height--20 feet.

(iii) Maximum length--20 feet.

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

(c) Lighting. Signs may be illuminated, subject to the following:

(1) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

(2) Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary

highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(3) No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) Spacing. (1) Each location of a directional sign must be approved by the State highway department.

(2) No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(3) No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

(4)(i) No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

(ii) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

(iii) Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

(iv) Signs located adjacent to the primary system shall be within 50 air miles of the activity.

(e) Message content. The message on directional 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.

(f) Selection method and criteria. (1) Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

(2) To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

(3) Each State shall develop specific selection methods and criteria to be used in determining whether or not an activity qualifies for this type of signing. A statement as to selection methods and criteria shall be furnished to the Secretary of Transportation before the State permits the erection of any such signs under section 131(c) of title 23 U.S.C., and this part.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart B--National Standards for Directional and Official Signs

Sec. 750.155 State standards.

This part does not prohibit a State from establishing and maintaining standards which are more restrictive with respect to directional and official signs and notices along the Federal-aid highway systems than these national standards.

[38 FR 16044, June 20, 1973, as amended at 40 FR 21934, May 20, 1975]

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Subpart C [Reserved]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.301 Purpose.

Authority: 23 U.S.C. 131 and 315; 23 CFR 1.32 and 1.48(b).

Source: 39 FR 27436, July 29, 1974, unless otherwise noted.

To prescribe the Federal Highway Administration (FHWA) policies relating to Federal participation in the costs of acquiring the property interests necessary for removal of nonconforming advertising signs, displays and devices on the Federal-aid Primary and Interstate Systems, including toll sections on such systems, regardless of whether Federal funds participated in the construction thereof. This regulation should not be construed to authorize any additional rights in eminent domain not already existing under State law or under 23 U.S.C. 131(g).

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.302 Policy.

(a) Just compensation shall be paid for the rights and interests of the sign and site owner in those outdoor advertising signs, displays, or devices which are lawfully existing under State law, in conformance with the terms of 23 U.S.C. 131.

(b)(1) Federal reimbursement will be made on the basis of 75 percent of the acquisition, removal and incidental costs legally incurred or obligated by the State.

(2) Federal funds will participate in 100 percent of the costs of removal of those signs which were removed prior to January 4, 1975, by relocation, pursuant to the provisions of 23 CFR Sec. 750.305(a)(2), and which are required to be removed as a result of the amendments made to 23 U.S.C. 131 by the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, section 109, January 4, 1975. Such signs must have been relocated to a legal site, must have been legally maintained since the relocation, and must not have been substantially changed, as defined by the State maintenance standards, issued pursuant to 23 CFR 750.707(b).

(c) Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651, et seq.) applies except where complete conformity would defeat the purposes set forth in 42 U.S.C. 4651, would impede the expeditious implementation of the sign removal program or would increase administrative costs out of proportion to the cost of the interests being acquired or extinguished.

(d) Projects for the removal of outdoor advertising signs including hardship acquisitions should be programed and authorized in accordance with normal program procedures for right-of-way projects.

[39 FR 27436, July 29, 1974; 39 FR 30349, Aug. 22, 1974, as amended at 41 FR 31198, July 27, 1976]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.303 Definitions.

(a) Sign. An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(b) Lease (license, permit, agreement, contract or easement). An agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner or other person to another person for a specified purpose.

(c) Leasehold value. The leasehold value is the present worth of the difference between the contractual rent and the current market rent at the time of the appraisal.

(d) Illegal sign. One which was erected and/or maintained in violation of State law.

(e) Nonconforming sign. One which was lawfully erected, but which does not comply with the provisions of State law or State regulations passed at a later date or which later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.

(f) 1966 inventory. The record of the survey of advertising signs and junkyards compiled by the State highway department.

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(g) Abandoned sign. One in which no one has an interest, or as defined by State law.

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.304 State policies and procedures.

The State's written policies and operating procedures for implementing its sign removal program under State law and complying with 23 U.S.C. 131 and its proposed time schedule for sign removal and procedure for reporting its accomplishments shall be submitted to the FHWA for approval within 90 days of the date of this regulation. This statement should be supported by the State's regulations implementing its program. Revisions to the State's policies and procedures shall be submitted to the FHWA for approval. The statement should contain provisions for the review of its policies and procedure to meet changing conditions, adoption of improved procedures, and for internal review to assure compliance. The statement shall include as a minimum the following:

(a) Project priorities. The following order of priorities is recommended.

(1) Illegal and abandoned signs.

(2) Hardship situations.

(3) Nominal value signs.

(4) Signs in areas which have been designated as scenic under authority of State law.

(5) Product advertising on:

(i) Rural interstate highway.

(ii) Rural primary highway.

(iii) Urban areas.

(6) Nontourist-oriented directional advertising.

(7) Tourist-oriented directional advertising.

(b) Programing. (1) A sign removal project may consist of any group of proposed sign removals. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.

(2) A project for sign removal on other than a Federal-aid primary route basis e.g., a countywide project or a project involving only signs owned by one company, should be identified as CAF-000B( ), continuing the numbering sequence which began with the sign inventory project in 1966.

(3) Where it would not interfere with the State's operations, the State should program sign removal projects to minimize disruption of business.

(c) Valuation and review methods--(1) Schedules--formulas. Schedules, formulas or other methods to simplify valuation of signs and sites are recommended for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. They do not purport to be a basis for the determination of just compensation under eminent domain.

(2) Appraisals. Where appropriate, the State may use its approved appraisal report forms including those for abbreviated or short form appraisals. Where a sign or site owner does not accept the amount computed under an approved schedule, formula, or other simplified method, an appraisal shall be utilized.

(3) Leaseholds. When outdoor advertising signs and sign sites involve a leasehold value, the State's procedures should provide for determining value in the same manner as any other real estate leasehold that has value to the lessee.

(4) Severance damages. The State has the responsibility of justifying the recognition of severance damages pursuant to 23 CFR 710.304(h), and the law of the State before Federal participation will be allowed. Generally, Federal participation will not be allowed in the payment of severance damages to remaining signs, or other property of a sign company alleged to be due to the taking of certain of the company's signs. Unity of use of the separate properties, as required by applicable principles of eminent domain law, must be shown to exist before participation in severance damages will be allowed. Moreover, the value of the remaining signs or other real property must be diminished by virtue of the taking of such signs. Payments for severance damages to economic plants or loss of business profits are not compensable. Severance damage cases must be submitted to the FHWA for prior concurrence, together with complete legal

and appraisal justification for payment of these damages. To assist the FHWA in its evaluation, the following data will accompany any submission regarding severance:

(i) One copy of each appraisal in which this was analyzed. One copy of the State's review appraiser analysis and determination of market value.

(ii) A plan or map showing the location of each sign.

(iii) An opinion by the State highway department's chief legal officer that severance is appropriate in accordance with State law together with a legal opinion that, in the instant case, the damages constitute severance as opposed to consequential damage as a matter of law. The opinion shall include a determination, and the basis therefor, that the specific taking of some of an outdoor advertiser's signs constitutes a distinct economic unit, and that unity of use of the separate properties in conformity with applicable principles of eminent domain law had been satisfactorily established. A legal memorandum must be furnished citing and discussing cases and other authorities supporting the State's position.

(5) Review of value estimates. All estimates of value shall be reviewed by a person other than the one who made the estimate. Appraisal reports shall be reviewed and approved prior to initiation of negotiations. All other estimates shall be reviewed before the agreement becomes final.

(d) Nominal value plan. (1) This plan may provide for the removal costs of eligible nominal value signs and for payments up to $250 for each nonconforming sign, and up to $100 for each nonconforming sign site.

(2) The State's procedures may provide for negotiations for sign sites and sign removals to be accomplished simultaneously without prior review.

(3) Releases or agreements executed by the sign and/or site owner should include the identification of the sign, statement of ownership, price to be paid, interest acquired, and removal rights.

(4) It is not expected that salvage value will be a consideration in most acquisitions; however, the State's procedures may provide that the sign may be turned over to the sign owner, site owner, contractor, or individual as all or a part of the consideration for its removal, without any project credits.

(5) Programing and authorizations will be in accord with Sec. 750.308 of this regulation. A detailed estimate of value of each individual sign is not necessary. The project may be programed and authorized as one project.

(e) Sign removal. The State's procedural statement should include provision for:

(1) Owner retention.

(2) Salvage value.

(3) State removal.

[39 FR 27436, July 29, 1974; 42 FR 30835, June 17, 1977, as amended at
50 FR 34093, Aug. 23, 1985]

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TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.305 Federal participation.

(a) Federal funds may participate in:

(1) Payments made to a sign owner for his right, title and interest in a sign, and where applicable, his leasehold value in a sign site, and to a site owner for his right and interest in a site, which is his right to erect and maintain the existing nonconforming sign on such site.

(2) The cost of relocating a sign to the extent of the cost to acquire the sign, less salvage value if any.

(3) A duplicate payment for the site owner's interest of $2,500 or less because of a bona fide error in ownership, provided the State has followed its title search procedures as set forth in its policy and procedure submission.

(4) The cost of removal of signs, partially completed sign structures, supporting poles, abandoned signs and those which are illegal under State law within the controlled areas, provided such costs are incurred in accordance with State law. Removal may be by State personnel on a force account basis or by contract. Documentation for Federal participation in such removal projects should be in accord with the State's normal force account and contractual reimbursement procedures. The State should maintain a record of the number of signs removed. These data should be retained in project records and reported on the periodic report required under Sec. 750.308 of this regulation.

(5) Signs materially damaged by vandals. Federal funds shall be limited to the Federal pro-rata share of the fair market value of the sign immediately before the vandalism occurred minus the estimated cost of repairing and reerecting the sign. If the State chooses, it may use its FHWA approved nominal value plan procedure to acquire these signs.

(6) The cost of acquiring and removing completed sign structures which have been blank or painted out beyond the period of time established by the State for normal maintenance and change of message, provided the sign owner can establish that his nonconforming use was not abandoned or discontinued, and provided such costs are incurred in accordance with State law, or regulation. The evidence considered by the State as acceptable for establishing or showing that the nonconforming use has not been abandoned or voluntarily discontinued shall be set forth in the State's policy and procedures.

(7) In the event a sign was omitted in the 1966 inventory, and the State supports a determination that the sign was in existence prior to October 22, 1965, the costs are eligible for Federal participation.

(b) Federal funds may not participate in:

(1) Cost of title certificates, title insurance, title opinion or similar evidence or proof of title in connection with the acquisition of a landowner's right to erect and maintain a sign or signs when the amount of payment to the landowner for his interest is $2,500 or less, unless required by State law. However, Federal funds may participate in the costs of securing some lesser evidence or proof of title such as searches and investigations by State highway department personnel to the extent necessary to determine ownership, affidavit of ownership by the owner, bill of sale, etc. The State's procedure for determining evidence of title should be set forth in the State's policy and procedure submission.

(2) Payments to a sign owner where the sign was erected without permission of the property owner unless the sign owner can establish his legal right to erect and maintain the sign. However, such signs may be removed by State personnel on a force account basis or by contract with Federal participation except where the sign owner reimburses the State for removal.

(3) Acquisition costs paid for abandoned or illegal signs, potential sign sites, or signs which were built during a period of time which makes them ineligible for compensation under 23 U.S.C. 131, or for rights in sites on which signs have been abandoned or illegally erected by a sign owner.

(4) The acquisition cost of supporting poles or partially completed sign structures in nonconforming areas which do not have advertising or informative content thereon unless the owner can show to the State's satisfaction he has not abandoned the structure. When the State has determined the sign structure has not been abandoned, Federal funds will participate in the acquisition of the structure, provided the cost are incurred in accordance with State law.

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Subpart D--Outdoor Advertising (Acquisition of Rights of Sign and Sign Site Owners)

Sec. 750.306 Documentation for Federal participation.

The following information concerning each sign must be available in the State's files to be eligible for Federal participation.

(a) Payment to sign owner. (1) A photograph of the sign in place. Exceptions may be made in cases where in one transaction the State has acquired a number of a company's nominal value signs similar in size, condition and shape. In such cases, only a sample of representative photographs need be provided to document the type and condition of the signs.

(2) Evidence showing the sign was nonconforming as of the date of taking.

(3) Value documentation and proof of obligation of funds.

(4) Satisfactory indication of ownership of the sign and compensable interest therein (e.g., lease or other agreement with the property owner, or an affidavit, certification, or other such evidence of ownership).

(5) Evidence that the sign falls within one of the three categories shown in Sec. 750.302 of this regulation. The specific category should be identified.

(6) Evidence that the right, title, or interest pertaining to the sign has

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passed to the State, or that the sign has been removed.

(b) Payment to the site owner. (1) Evidence that an agreement has been reached between the State and owner.

(2) Value documentation and proof of obligation of funds.

(3) Satisfactory indication of ownership or compensable interest.

(c) In those cases where Federal funds participate in 100 percent of the cost of removal, the State file shall contain the records of the relocation made prior to January 4, 1975.

[39 FR 27436, July 29, 1974, as amended at 41 FR 31198, July 27, 1976]

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Sec. 750.307 FHWA project approval.

Authorization to proceed with acquisitions on a sign removal project shall not be issued until such time as the State has submitted to FHWA the following:

(a) A general description of the project.

(b) The total number of signs to be acquired.

(c) The total estimated cost of the sign removal project, including a breakdown of incidental, acquisition and removal costs.

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Sec. 750.308 Reports.

Periodic reports on site acquisitions and actual sign removals shall be submitted on FHWA Form 1424 and as prescribed. \1\

\1\ Forms are available at FHWA Division Offices located in each State.

[39 FR 27436, July 29, 1974, as amended at 41 FR 9321, Mar. 4, 1976]

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Subpart E--Signs Exempt From Removal in Defined Areas

Sec. 750.501 Purpose.

Authority: 23 U.S.C. 131 and 315, 49 CFR 1.48, 23 CFR 1.32.

Source: 41 FR 45827, Oct. 18, 1976, unless otherwise noted.

This subpart sets forth the procedures pursuant to which a State may, if it desires, seek an exemption from the acquisition requirements of 23 U.S.C. 131 for signs giving directional information about goods and services in the interest of the traveling public in defined areas which would suffer substantial economic hardship if such signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

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Subpart E--Signs Exempt From Removal in Defined Areas

Sec. 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the Interstate and primary systems which are required to be controlled under 23 U.S.C. 131.

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Subpart E--Signs Exempt From Removal in Defined Areas

Sec. 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State's request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:

(1) Have been lawfully erected prior to May 5, 1976, and must continue to be lawfully maintained.

(2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1976. Repair and maintenance of these signs shall conform with the State's approved maintenance standards as required by subpart G of this part.

(b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:

(1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.

(2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.

(c) In support of its request for exemption, the State shall submit to the FHWA:

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(1) Its requirements and method (see Sec. 750.503(b)).

(2) The limits of the defined area(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1976.

(3) The application of the requirements and method to the defined areas, demonstrating that the signs provide directional information to goods and services of interest to the

traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).

(4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.

(5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to determine if an exemption is still warranted.

(d) The FHWA, upon receipt of a State's request for exemption, shall prior to approval:

(1) Review the State's requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.

(2) Review the State's request and the proposed exempted area for compliance with State requirements and methods.

(e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.

(f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.

Subpart F [Reserved]

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Subpart G--Outdoor Advertising Control

Sec. 750.701 Purpose.

Authority: 23 U.S.C. 131 and 315; 49 CFR 1.48.

Source: 40 FR 42844, Sept. 16, 1975, unless otherwise noted.

This subpart prescribes the Federal Highway Administration (FHWA) policies and requirements relating to the effective control of outdoor advertising under 23 U.S.C. 131. The purpose of these policies and requirements is to assure that there is effective State control of outdoor advertising in areas adjacent to Interstate and Federal-aid primary highways. Nothing in this subpart shall be construed to prevent a State from establishing more stringent outdoor advertising control requirements along Interstate and Primary Systems than provided herein.

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Sec. 750.702 Applicability.

The provisions of this subpart are applicable to all areas adjacent to the Federal-aid Interstate and Primary Systems, including toll sections thereof, except that within urban areas, these provisions apply only within 660 feet of the nearest edge of the right-of-way. These provisions apply regardless of whether Federal funds participated in the costs of such highways. The provisions of this subpart do not apply to the Federal-aid Secondary or Urban Highway System.

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Subpart G--Outdoor Advertising Control

Sec. 750.703 Definitions.

The terms as used in this subpart are defined as follows:

(a) Commercial and industrial zones are those districts established by the zoning authorities as being most appropriate for commerce, industry, or trade, regardless of how labeled. They 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.

(b) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(c) Federal-aid Primary Highway means any highway on the system designated pursuant to 23 U.S.C. 103(b).

(d) Interstate Highway means any highway on the system defined in and designated, pursuant to 23 U.S.C. 103(e).

(e) Illegal sign means one which was erected or maintained in violation of State law or local law or ordinance.

(f) Lease means an agreement, license, permit, or easement, oral or in writing, by which possession or use of land or interests therein is given for a

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specified purpose, and which is a valid contract under the laws of a State.

(g) Maintain means to allow to exist.

(h) Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(i) Sign, display or device, hereinafter referred to as ``sign," means an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard,

poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the Interstate or Primary Systems, whether the same be permanent or portable installation.

(j) State law means a State constitutional provision or statute, or an ordinance, rule or regulation, enacted or adopted by a State.

(k) Unzoned area means an area where there is no zoning in effect. It does not include areas which have a rural zoning classification or land uses established by zoning variances or special exceptions.

(l) Unzoned commercial or industrial areas are unzoned areas actually used for commercial or industrial purposes as defined in the agreements made between the Secretary, U.S. Department of Transportation (Secretary), and each State pursuant to 23 U.S.C. 131(d).

(m) Urban area is as defined in 23 U.S.C. 101(a).

(n) Visible means capable of being seen, wehter or not readable, without visual aid by a person of normal visual acuity.

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Sec. 750.704 Statutory requirements.

(a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those additional signs beyond 660 feet outside of urban areas which are visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way, shall be limited to the following:

(1) Directional and official signs and notice which shall conform to national standards promulgated by the Secretary in subpart B, part 750, chapter I, 23 CFR, National Standards for Directional and Official Signs;

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

(4) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned industrial or commercial under the authority of State law;

(5) Signs within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are unzoned commercial or industrial areas, which areas are determined by agreement between the State and the Secretary; and

(6) Signs lawfully in existence on October 22, 1965, which are determined to be landmark signs.

(b) 23 U.S.C. 131(d) provides that signs in Sec. 750.704(a) (4) and (5) must comply with size, lighting, and spacing requirements, to be determined by agreement between the State and the Secretary.

(c) 23 U.S.C. 131 does not permit signs to be located within zoned or unzoned commercial or industrial areas beyond 660 feet of the right-of-way adjacent to the Interstate or Federal-aid Primary System, outside of urban areas.

(d) 23 U.S.C. 131 provides that signs not permitted under Sec. 750.704 of this regulation must be removed by the State.

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Subpart G--Outdoor Advertising Control

Sec. 750.705 Effective control.

In order to provide effective control of outdoor advertising, the State must:

(a) Prohibit the erection of new signs other than those which fall under Sec. 750.704(a)(1) through (6);

(b) Assure that signs erected under Sec. 750.704(a)(4) and (5) comply, at a minimum, with size, lighting, and spacing criteria contained in the agreement between the Secretary and the State;

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(c) Assure that signs erected under Sec. 750.704(a)(1) comply with the national standards contained in subpart B, part 750, chapter I, 23 CFR;

(d) Remove illegal signs expeditiously;

(e) Remove nonconforming signs with just compensation within the time period set by 23 U.S.C. 131 (subpart D, part 750, chapter I, 23 CFR, sets forth policies for the acquisition and compensation for such signs);

(f) Assure that signs erected under Sec. 750.704(a)(6) comply with Sec. 750.710, Landmark Signs, if landmark signs are allowed;

(g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. 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 applicable control requirements will apply;

(h) Develop laws, regulations, and procedures to accomplish the requirements of this subpart;

(i) Establish enforcement procedures sufficient to discover illegally erected or maintained signs shortly after such occurrence and cause their prompt removal; and

(j) Submit regulations and enforcement procedures to FHWA for approval.

[40 FR 42844, Sept. 16, 1975; 40 FR 49777, Oct. 24, 1975]

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Sec. 750.706 Sign control in zoned and unzoned commercial and industrial areas.

The following requirements apply to signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way adjacent to the Interstate and Federal-aid primary highways.

(a) The State by law or regulation shall, in conformity with its agreement with the Secretary, set criteria for size, lighting, and spacing of outdoor advertising signs located in commercial or industrial zoned or unzoned areas, as defined in the agreement, adjacent to Interstate and Federal-aid primary highways. If the agreement between the Secretary and the State includes a grandfather clause, the criteria for size, lighting, and spacing will govern only those signs erected subsequent to the date specified in the agreement. The States may adopt more restrictive criteria than are presently contained in agreements with the Secretary.

(b) Agreement criteria which permit multiple sign structures to be considered as one sign for spacing purposes must limit multiple sign structures to signs which are physically contiguous, or connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point in the case of back-to-back or ``V'' type signs.

(c) Where the agreement and State law permits control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:

(1) The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.

(2) The regulations established by local zoning authority may be either more restrictive or less restrictive than the criteria contained in the agreement, unless State law or regulations require equivalent or more restrictive local controls.

(3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones

within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

(4) The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies. It will not be necessary to furnish a copy of the zoning ordinance. The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.

(5) Nothing contained herein shall relieve the State of the responsibility of

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limiting signs within controlled areas to commercial and industrial zones.

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Sec. 750.707 Nonconforming signs.

(a) General. The provisions of Sec. 750.707 apply to nonconforming signs which must be removed under State laws and regulations implementing 23 U.S.C. 131. These provisions also apply to nonconforming signs located in commercial and industrial areas within 660 feet of the nearest edge of the right-of-way which come under the so-called grandfather clause contained in State-Federal agreements. These provisions do not apply to conforming signs regardless of when or where they are erected.

(b) Nonconforming signs. A nonconforming sign is a sign which was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Changed conditions include, for example, signs lawfully in existence in commercial areas which at a later date become noncommercial, or signs lawfully erected on a secondary highway later classified as a primary highway.

(c) Grandfather clause. At the option of the State, the agreement may contain a grandfather clause under which criteria relative to size, lighting, and spacing of signs in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way apply only to new signs to be erected after the date specified in the agreement. Any sign lawfully in existence in a commercial or industrial area on such date may remain even though it may not comply with the size, lighting, or spacing criteria. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. Preexisting signs covered by a grandfather clause, which do not comply with the agreement criteria have the status of nonconforming signs.

(d) Maintenance and continuance. In order to maintain and continue a nonconforming sign, the following conditions apply:

(1) The sign must have been actually in existence at the time the applicable State law or regulations became effective as distinguished from a contemplated use such as a lease

or agreement with the property owner. There are two exceptions to actual existence as follows:

(i) Where a permit or similar specific State governmental action was granted for the construction of a sign prior to the effective date of the State law or regulations and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a State control law.

(ii) Where the State outdoor advertising control law or the Federal-State agreement provides that signs in commercial and industrial areas may be erected within six (6) months after the effective date of the law or agreement provided a lease dated prior to such effective date was filed with the State and recorded within thirty (30) days following such effective date.

(2) There must be existing property rights in the sign affected by the State law or regulations. For example, paper signs nailed to trees, abandoned signs and the like are not protected.

(3) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use.

(4) The sign must have been lawful on the effective date of the State law or regulations, and must continue to be lawfully maintained.

(5) The sign must remain substantially the same as it was on the effective date of the State law or regulations. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Each State shall develop its own criteria to determine when customary maintenance ceases and a substantial change has occurred which would terminate nonconforming rights.

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(6) The sign may continue as long as it is not destroyed, abandoned, or discontinued. If permitted by State law and reerected in kind, exception may be made for signs destroyed due to vandalism and other criminal or tortious acts.

(i) Each state shall develop criteria to define destruction, abandonment and discontinuance. These criteria may provide that a sign which for a designated period of time has obsolete advertising matter or is without advertising matter or is in need of substantial repair may constitute abandonment or discontinuance. Similarly, a sign damaged in excess of a certain percentage of its replacement cost may be considered destroyed.

(ii) Where an existing nonconforming sign ceases to display advertising matter, a reasonable period of time to replace advertising content must be established by each State. Where new content is not put on a structure within the established period, the use of the structure as a nonconforming outdoor advertising sign is terminated and shall constitute an abandonment or discontinuance. Where a State establishes a period of more than one (1) year as a reasonable period for change of message, it shall justify that period as a customary enforcement practice within the State. This established period may be

waived for an involuntary discontinuance such as the closing of a highway for repair in front of the sign.

(e) Just compensation. The States are required to pay just compensation for the removal of nonconforming lawfully existing signs in accordance with the terms of 23 U.S.C. 131 and the provisions of subpart D, part 750, chapter I, 23 CFR. The conditions which establish a right to maintain a nonconforming sign and therefore the right to compensation must pertain at the time it is acquired or removed.

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Sec. 750.708 Acceptance of state zoning.

(a) 23 U.S.C. 131(d) provide that signs ``may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law." Section 131(d) further provides, ``The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act."

(b) State and local zoning actions must be taken pursuant to the State's zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

(c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State-Federal agreement will apply within that political subdivision or area.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

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Sec. 750.709 On-property or on-premise advertising.

(a) 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 is an on-property sign.

(b) 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 it brings rental income to the property owner, it shall be considered the business of outdoor advertising and not an on-property sign.

(c) A sale or lease sign which also advertises any product or service not conducted upon and unrelated to the business or selling or leasing the land on which the sign is located is not an on-property sign.

(d) Signs are exempt from control under 23 U.S.C. 131 if they solely advertise the sale or lease of property on which they are located or advertise activities conducted on the property on which they are located. These signs are subject to regulation (subpart A, part 750, chapter I, 23 CFR) in those States

[[Page 387]]

which have executed a bonus agreement, 23 U.S.C. 131(j). State laws or regulations shall contain criteria for determining exemptions. These criteria may include:

(1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and

(2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.

(3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as ``on-property'' signs, such as signs on narrow strips of land

contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.

[Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR750.710]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart G--Outdoor Advertising Control

Sec. 750.710 Landmark signs.

(a) 23 U.S.C. 131(c) permits the existence of signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance, the preservation of which is consistent with the purpose of 23 U.S.C. 131.

(b) States electing to permit landmark signs under 23 U.S.C. 131(c) shall submit a one-time list to the Federal Highway Administration for approval. The list should identify each sign as being in the original 1966 inventory. In the event a sign was omitted in the 1966 inventory, the State may submit other evidence to support a determination that the sign was in existence on October 22, 1965.

(c) Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in size, lighting, or message content will terminate its exempt status.

[Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR750.711]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart G--Outdoor Advertising Control

Sec. 750.711 Structures which have never displayed advertising material.

Structures, including poles, which have never displayed advertising or informative content are subject to control or removal when advertising content visible from the main-traveled way is added or affixed. When this is done, an ``outdoor advertising sign'' has then been erected which must comply with the State law in effect on that date.

[Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR750.712]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart G--Outdoor Advertising Control

Sec. 750.712 Reclassification of signs.

Any sign lawfully erected after the effective date of a State outdoor advertising control law which is reclassified from legal-conforming to nonconforming and subject to removal under revised State statutes or regulations and policy pursuant to this regulation is eligible for Federal participation in just compensation payments and other eligible costs.

[Code of Federal Regulations]
[Title 23, Volume 1]
[Revised as of April 1, 2003]
From the U.S. Government Printing Office via GPO Access
[CITE: 23CFR750.713]

TITLE 23--HIGHWAYS

CHAPTER I--FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 750--HIGHWAY BEAUTIFICATION--Table of Contents

Subpart G--Outdoor Advertising Control

Sec. 750.713 Bonus provisions.

23 U.S.C. 131(j) specifically provides that any State which had entered into a bonus agreement before June 30, 1965, will be entitled to remain eligible to receive bonus payments provided it continues to carry out its bonus agreement. Bonus States are not exempt from the other provisions of 23 U.S.C. 131. If a State elects to comply with both programs, it must extend controls to the Primary System, and continue to carry out its bonus agreement along the Interstate System except where 23 U.S.C. 131, as amended, imposes more stringent requirements.

STATE/FEDERAL AGREEMENT

AGREEMENT

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM

THIS AGREEMENT, made and entered into this 27th day of January, 1972, by and between the United States of America, represented by the Secretary of Transportation, hereinafter referred to as the "SECRETARY," and the State of Montana, hereinafter referred to as the "STATE" through its Department of Highways, hereinafter referred to as "DEPARTMENT," acting by and through its Director,

W I T N E S S E T H:

WHEREAS, the Highway Commission of the State of Montana was authorized by Senate Bill No. l, enacted by Extraordinary Session II of the Forty-second Montana State Legislature, to enter into an agreement with the SECRETARY on behalf of the State of Montana to comply with Title I of the Highway Beautification Act of 1965; and

WHEREAS, pursuant to the provisions of the Executive Reorganization Act of 1971, enacted by the Forty-second Montana State Legislature, the function of the Highway Commission were transferred to the newly created Department of Highways,; and

WHEREAS, by the executive order of Governor Forrest H. Anderson, the Department of Highways of the State of Montana, was officially activated on the 16th day of December, 1971; and

WHEREAS, Section 131(d) of Title 23, United States Code provides for agreement between the SECRETARY and the several states to determine the size, lighting, and spacing of signs, displays and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the interstate and primary systems which are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas, which areas are also to be determined by agreement; and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in interstate and primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEARAS, THE State of Montana elects to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the national policy in order to remain eligible to receive the full amount of all federal-aid highway funds to be apportioned under Section 104 of Title 23, United States Code.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. Definitions

A. The term "Act" means Section 131 of Title 23, United States Code (1965), commonly referred to as Title I of the Highway Beautification Act of 1965.

B. Commercial or industrial zone means those areas which are reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinance or regulation, or enabling state legislation, or state legislation itself, including Highway Service Areas lawfully zoned as Highway Service Zones, in which the primary use of the land is reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

C. Unzoned commercial or industrial area means those areas not zoned by state or local law, regulation or ordinance, which are occupied by one or more industrial or commercial activities, other than outdoor advertising signs, the lands along the highway for a distance of 600 feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions, provided those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the COMMISSION.

All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

D. Commercial or industrial activities, for purposes of the unzoned area definition above, mean those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial for industrial:

1. Activities more than 660 feet from the nearest edge of the right of-way.
2. Agricultural, forestry, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Transient or temporary activities
4. Activities not visible from the main traveled way.
5. Activities conducted in a building principally used as a residence.
6. Railroad tracks and minor sidings.
7. Outdoor advertising structures.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of nine (9) continuous months, any signs located within the former unzoned area shall become non-conforming.

E. Outdoor advertising means any outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main-traveled way of the interstate or federal-aid primary highway.

F. Center line of the highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided interstate or other limited-access highway, or the centerline of the main-traveled way of a non-divided highway.

G. Visible means capable of being seen and legible without visual aid by a person of normal visual acuity.

H. Main-traveled way means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate

roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

II. Scope of Agreement

This Agreement shall apply to:

A. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of all portions of the interstate and primary systems within the State of Montana in which outdoor advertising signs, display and devices may be visible from the main-traveled way of said system.

III. State Control

The STATE hereby agrees that, in all areas within the scope of this agreement, the STATE shall effectively control, or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this agreement, other than those advertising the sale or lease of the property on which they are located, or activities conducted hereon, in accordance with the follow criteria:

A. In zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply to signs, displays and devices erected subsequent to the effective date of this agreement.

General. THE FOLLOWING SIGNS SHALL NOT BE PERMITTED:

1. Signs which imitate or resemble any official traffic sign, signal, or device.
2. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
3. Signs which are erected or maintained in such a manner as to obscure, or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.

Size of Signs.

1. No sign shall exceed the following dimensions:

(a) Maximum area – 1200 square feet

(b) Maximum height – 40 feet, as measured from the ground or, if the sign is attached to a structure, as measured from the base of the sign itself.

(c) Maximum length – 60

2. Measurements shall include border and trim but exclude base or apron, support, and other structural members.

3. A sign structure may contain no more than two facings visible and readable from the same direction on the main-traveled way on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.

4. Back-to-back or V-type sign structures will be permitted with the maximum area being allowed for each facing; and considered as one structure and subject to spacing as herinbelow provided, but must be erected to that no more than two facings are visible to traffic in any one direction.

<u>Spacing of Signs</u>

1. Signs may not be located with 500 feet of any of the following which are adjacent to the highway; unless such signs are in an incorporated area:

(a) Public parks

(b) Public forests

(c) Public playgrounds

(d) Cemeteries

(e) Scenic areas designated as such by the Department of Highways or other state agency having and exercising such authority.

2. Interstate Highways and Controlled Access Highways on the Primary System.

(a) Spacing between sign structures along each side of the highway shall be a minimum of 500 feet except that this spacing shall not apply to signs which are separated by a building or other obstruction in such a manner that only one sign located within the minimum spacing distance set forth above is visible from the highway at any one time.

(b) No structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet to be measured along the Interstate or freeway from the beginning or ending of payment widening at the exit from or entrance to the main-traveled way.

3. Non-Limited Access Primary Highways.

The location of sign structures situated between streets, roads or highways entering into or intersecting the main-traveled way shall conform to the following minimum spacing criteria to be applied separately to each side of the primary highway:

(a) Where the distance between centerlines of intersecting streets or highways is one thousand (1,000) feet or more, minimum spacing between sign structures shall be three hundred (300).

(b) Where the distance between centerlines of intersecting streets or highways is less than one thousand (1,000) feet, a minimum spacing between structures of one hundred fifty (150) feet may be permitted between the intersecting streets or highways.

4. Explanatory Notes.

(a) Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways.

(b) Only roads, streets and highways which enter directly into the main-traveled way of the primary highway shall be regarded as intersecting.

(c) Official and “on premise” signs, as defined in Section 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with the above spacing requirements.

(d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs.

5. Lighting.

Signs may be illuminated, subject to the following restrictions:

(a) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver’s operation of a motor vehicle are prohibited.

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

IV. Interpretation

The provisions contained herein shall constitute the acceptable standards for effective control of signs, displays and devices within the scope of this agreement.

Standards and criteria contained herein shall apply to signs erected subsequent to the effective date of the State’s agreement. Signs in zoned and unzoned commercial or industrial areas lawfully in existence, as of the date this agreement becomes binding, shall be allowed to remain and continue in place, even if non-conforming.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, or the provisions of Senate Bill No. 1, Extraordinary Session II, Laws of Montana, 1971, are amended by subsequent action of the Montana State Legislature, the parties reserve the right to re-negotiate this Agreement or to modify it to conform with any amendment.

Whenever a bona fide state, county, or local zoning authority has made a determination of customary use, as to size, lighting and spacing, such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial area within the geographical jurisdiction of such authority.

V. Effective Date

This agreement shall become effective when signed and executed on behalf of both the State and the United States of America.

IN WITNESS WHEREOF, the State has caused this Agreement to be duly executed in its behalf, and the Secretary of Transportation has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

STATE OF NONTANA
DEPARTMENT OF HIGHWAYS

By _____
Director

ATTEST:

_____
Secretary

STATE HIGHWAY COMMISSION

By _____
Chairman

ATTEST:

By _____

UNITED STATES OF AMERICA
THROUGH THE SECRETARY OF
TRANSPORTATION

By _____

MCA 75.15.101

ADVERTISING ACT

Montana Code Annotated 2003

Table of Contents

TITLE 75. ENVIRONMENTAL PROTECTION
CHAPTER 15. LANDSCAPE MANAGEMENT

Part 1. Outdoor Advertising

75-15-101. Short title.
75-15-102. Policy.
75-15-103. Definitions.
75-15-104. More restrictive regulations preserved.
75-15-105. Relaxation of regulations if federal law changed.
75-15-106. through reserved.
75-15-111. Outdoor advertising prohibited in proximity to highway -- exceptions.
75-15-112. Unlawful advertising.
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75-15-123. Acquisition of outdoor advertising rights -- compensation.
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75-15-125. through reserved.
75-15-131. Entry to inspect -- notice of unlawful advertising -- remedial action.
75-15-132. False application or disrepair of structure -- remedial action.
75-15-133. Nonconforming advertising as nuisance.
75-15-134. Violation as misdemeanor

Montana Code Annotated 2003

75-15-101. Short title. This part may be cited as the "Outdoor Advertising Act".

History: En. Sec. 1, Ch. 2, 2nd Ex. L. 1971; R.C.M. 1947, 32-4715(b).

Provided by Montana Legislative Services

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Montana Code Annotated 2003

75-15-102. Policy. The legislature finds and declares that in order to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within this state and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, it shall be the policy of this state that the erection and maintenance of outdoor advertising in areas adjacent to the right-of-way of the interstate and primary systems within this state shall be regulated in accordance with the terms of this part and the rules promulgated by the commission pursuant thereto. It is the intention of the legislature in this part to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to the interstate and primary systems declared by congress in Title 23, United States Code, "Highways".

History: En. Sec. 1, Ch. 2, 2nd Ex. L. 1971; R.C.M. 1947, 32-4715(a).

Provided by Montana Legislative Services

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Montana Code Annotated 2003

75-15-103. Definitions. As used in this part, the following definitions apply:

(1) "Commercial or industrial activities" means for purposes of subsection (14) those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities are considered commercial or industrial:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence;

(e) railroad tracks and minor sidings;

(f) activities more than 660 feet from the nearest edge of the right-of-way.

(2) "Commercial or industrial zone" means an area that is used or reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinances, regulations, or enabling state legislation, including highway service areas lawfully zoned as highway service zones, where the primary use of the land is or is reserved for commercial and roadside services, other than outdoor advertising, to serve the traveling public. Areas temporarily zoned as commercial or industrial by an interim regulation or map adopted as an emergency measure pursuant to 76-2-206 are not covered by this definition.

(3) "Commission" means the transportation commission of Montana.

(4) "Department" means the department of transportation.

(5) "Information center" means an area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing other information that the commission may consider desirable.

(6) "Interchange" or "intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, including the deceleration lanes or acceleration lanes from or to another federal, state, county, city, or other route.

(7) "Interstate system" means that portion of the national system of interstate and defense highways located within this state as officially designated or as may be designated by the commission and approved by the secretary pursuant to the provisions of Title 23, United States Code, "Highways".

(8) "Maintain" means to allow to exist, subject to the provisions of this part.

(9) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure in a state suitable for use.

(10) "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other structure that is designed, intended, or used to advertise or inform and that is visible from any place on the main-traveled way of the interstate or primary systems.

(11) "Primary system" means that portion of connected main highways as officially designated or as may be designated by the commission and approved by the secretary pursuant to the provisions of Title 23, United States Code, "Highways".

(12) "Safety rest area" means an area or site established and maintained within or

adjacent to the right-of-way, by or under public supervision or control, for the convenience of the traveling public.

(13) "Secretary" means the secretary of the United States department of transportation.

(14) "Unzoned commercial or industrial area" means an area not zoned by state or local law, regulation, or ordinance that is occupied by one or more industrial or commercial activities, other than outdoor advertising, on the lands along the highway for a distance of 600 feet immediately adjacent to the activities.

(15) "Urban area" means an urbanized area or place, as designated by the United States bureau of the census, that has a population of 5,000 or more and that is within boundaries fixed by the department. The boundaries must at a minimum encompass the entire urban place designated by the bureau of the census.

(16) "Visible" means capable of being seen and legible without visual aid by a person of normal visual acuity.

History: (1) thru (3), (5) thru (16)En. Sec. 2, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 1, Ch. 89, L. 1974; amd. Sec. 1, Ch. 216, L. 1975; (4)En. by Code Commissioner, 1979; R.C.M. 1947, 32-4716; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 6, Ch. 75, L. 1995; amd. Sec. 1, Ch. 510, L. 1995.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

75-15-104. More restrictive regulations preserved. Nothing in this part shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution which is more restrictive than the provisions of this part.

History: En. Sec. 11, Ch. 2, 2nd Ex. L. 1971; R.C.M. 1947, 32-4725.

Provided by Montana Legislative Services

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75-15-105. Relaxation of regulations if federal law changed. In the event the general requirements of Title 23, United States Code, "Highways", or existing rules and regulations of the United States department of transportation become amended or changed to less restrictive conditions than presently exist, then the commission shall amend or change the rules that it may have adopted to come into conformity with the federal law, rule, and regulation.

History: En. Sec. 12, Ch. 2, 2nd Ex. L. 1971; R.C.M. 1947, 32-4726; amd. Sec. 2, Ch. 510, L. 1995.

Provided by Montana Legislative Services

75-15-106 through 75-15-110 reserved.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

75-15-111. Outdoor advertising prohibited in proximity to highway -- exceptions. (1) Outdoor advertising may not be erected or maintained that is within 660 feet of the nearest edge of the right-of-way and that is visible from any place on the main-traveled way of an interstate or primary system, except:

(a) directional and other official signs and notices, which signs and notices include but are not limited to signs and notices pertaining to natural wonders and scenic and historical attractions, as authorized or required by law;

(b) signs, displays, and devices advertising the sale or lease of property upon which they are located;

(c) signs, displays, and devices advertising activities conducted on the property upon which they are located;

(d) signs, displays, and devices located in areas that are zoned industrial or commercial by a bona fide state, county, or local zoning authority;

(e) signs, displays, and devices located in unzoned commercial or industrial areas, which areas must be determined from actual land uses and by agreement between the department and the secretary and defined by rules adopted by the commission. The exception granted by this subsection is limited to two signs and may not apply to signs, displays, and devices located within an unzoned area in which the commercial or industrial activity used in defining the area has ceased for a period of 9 months.

(f) signs or displays advertising the cultural exhibits of nonprofit historical or arts organizations if the signs or displays conform with the standards provided in Title 23, Code of Federal Regulations, section 750, subpart B; or

(g) signs that are consistent with the policy of this state and with the national policy set forth in 23 U.S.C. 131 and the regulations promulgated under 23 U.S.C. 131 and that are designed to provide information in the specific interest of the traveling public as provided in 60-5-504, 60-5-505, 60-5-511 through 60-5-513, and 60-5-519 through 60-5-521.

(2) Outdoor advertising authorized under subsections (1)(a), (1)(d), and (1)(e) must conform with standards contained in and must bear permits required in rules that are adopted by the commission and this part.

(3) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of an interstate or primary highway outside of an urban area if the outdoor advertising is or was erected with the purpose of its message being read from the main-traveled way and visible from the main-traveled way unless the outdoor advertising meets the criteria of subsections (1)(a), (1)(b), or (1)(c). If the outdoor advertising meets that criteria, it must conform with standards contained in rules that are adopted by the commission and with this part.

(4) An outdoor advertising structure in an unzoned commercial or industrial area that is lawfully in existence on April 21, 1995, that meets the size requirements in 75-15-113, but that exceeds the restrictions in subsection (1)(e) of this section:

(a) must be classified as nonconforming by the department;

(b) may not be increased in size;

(c) may be maintained each year if the value of the materials used in the maintenance

does not exceed 75% of the value of all of the materials required to replace the sign new; and

(d) may be replaced, if damaged, at up to and including 100% of its replacement cost.

History: En. Sec. 3, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 160, Ch. 316, L. 1974; amd. Sec. 2, Ch. 216, L. 1975; R.C.M. 1947, 32-4717; amd. Sec. 1, Ch. 497, L. 1981; amd. Sec. 19, Ch. 537, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 510, L. 1995.

Provided by Montana Legislative Services

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75-15-112. Unlawful advertising. Outdoor advertising is unlawful:

(1) when erected after June 24, 1971, contrary to this part or erected after June 24, 1971, beyond 660 feet of the nearest edge of the right-of-way of an interstate or primary highway outside of an urban area with the purpose of its message being read from such main-traveled way and visible from such main-traveled way, unless such outdoor advertising meets the criteria of subsections (a), (b), or (c) of 75-15-111(1);

(2) when a permit is not obtained as prescribed in this part; or

(3) when a permittee fails to comply with a notice of violation as provided in 75-15-132.

History: En. Sec. 8, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 3, Ch. 89, L. 1974; amd. Sec. 165, Ch. 316, L. 1974; amd. Sec. 5, Ch. 216, L. 1975; amd. Sec. 4, Ch. 234, L. 1977; R.C.M. 1947, 32-4722(1).

Provided by Montana Legislative Services

Montana Code Annotated 2003

75-15-113. Standards for permitted advertising. Except for outdoor advertising beyond 660 feet of the nearest edge of the right-of-way of an interstate or primary highway outside of an urban area, outdoor advertising permitted under 75-15-111(1)(d) and (1)(e) must conform to the following requirements:

(1) Signs may not be erected or maintained that exceed 672 square feet in area, including border and trim but excluding base or apron, supports, and other structural members.

(2) Signs may not exceed 48 feet in length.

(3) The maximum height of the sign structure, including the sign face, is 30 feet, measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway.

(4) No more than two facings visible and readable from the same direction on the main-traveled way may be erected on any one sign structure. Whenever two facings are so positioned, neither may exceed 325 square feet.

(5) Double-faced, back-to-back, and V-type signs are considered to be a single sign or structure.

(6) When two or more faces, back to back, are supported by separate structures, each is considered to be a single sign.

(7) No two signs may be spaced less than 500 feet apart adjacent to an interstate highway or limited-access primary highway, except that signs may be erected closer than 500 feet if they are separated by buildings or other obstructions in a manner that only one sign facing located within the 500-foot spacing distance is visible from the highway at any one time.

(8) Signs may not be located within 500 feet of any of the following that are adjacent to the highway unless the signs are in an incorporated area:

(a) public parks;

(b) public forests;

(c) public playgrounds;

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

(e) cemeteries.

(9) A sign may not be located on an interstate highway or freeway within 500 feet of an interchange or intersection at a grade or rest area. The 500 feet is to be measured along the interstate or freeway from the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way.

(10) Signs may be illuminated, subject to the following restrictions:

(a) Signs that contain, include, or are illuminated by a flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.

(b) Signs that are not effectively shielded as to prevent beams or rays of light from being directed at a portion of the traveled ways of the interstate or federal-aid primary highway, that are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or that otherwise interfere with a driver's operation of a

motor vehicle are prohibited.

(c) A sign may not be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device, or signal.

(11) The location of sign structures situated on the primary highways between streets, roads, or highways entering or intersecting the main-traveled way must conform to the following minimum spacing criteria:

(a) When the distance between centerlines of intersecting streets or highways is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted between the intersecting streets or highways.

(b) When the distance between centerlines of intersecting streets or highways is 1,000 feet or more, minimum spacing between sign structures must be 300 feet.

History: En. Sec. 5, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 2, Ch. 89, L. 1974; amd. Sec. 162, Ch. 316, L. 1974; amd. Sec. 3, Ch. 216, L. 1975; R.C.M. 1947, 32-4719; amd. Sec. 1, Ch. 45, L. 1979; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 4, Ch. 510, L. 1995.

Provided by Montana Legislative Services

75-15-114 through 75-15-120 reserved.

Provided by Montana Legislative Services

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75-15-121. Commission rules authorized. The commission may adopt rules to control the erection and maintenance of outdoor advertising along the interstate and primary highway systems in conformance with the terms of this part and in conformity with 23 U.S.C. 131, as amended.

History: En. Sec. 4, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 161, Ch. 316, L. 1974; R.C.M. 1947, 32-4718.

Provided by Montana Legislative Services

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75-15-122. Permits required -- identification tags -- preexisting structures -- fees. (1) (a) A sign authorized by 75-15-111(1)(a), (1)(d), and (1)(e) may not be constructed or maintained without a permit. Applications for permits must be made to the department on forms furnished by it. The department shall require reasonable information to be furnished, including a statement that the owner or occupant of the land has consented to the erection or maintenance of the sign on the land. A permit must be obtained for each sign, and the application for the permit must be accompanied by a nonrefundable, initial fee.

(b) Permits must be issued for 3 years, assigned a permit number, and renewed every 3 years after issuance upon payment of a fee without the filing of a new application. All fees received must be paid into the highway account in the state special revenue fund.

(c) The fees described in subsections (1)(a) and (1)(b) are to be determined by the square footage of the sign face and established, by rule, by the commission to cover the costs of administering and enforcing this section.

(2) The department shall issue with each new permit a permanent identification tag not larger than 36 square inches that must be affixed to the sign in a position readily visible from the highway.

(3) Notwithstanding the foregoing provisions of this section, the department shall issue permits and identification tags upon application and payment of the requisite fee for a structure lawfully in existence on June 23, 1971, and the permits must be renewed for a period of time as is prescribed in this section unless the structure is removed for improper maintenance.

(4) Notwithstanding the foregoing provisions of this section, the department shall issue permits and identification tags upon application and payment of the requisite fee for outdoor advertising lawfully in existence on June 23, 1971, and made nonconforming by virtue of 75-15-111(3), and the permits must be renewed for a period of time as is prescribed in this section unless the structure is removed for improper maintenance.

History: En. Sec. 6, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 163, Ch. 316, L. 1974; amd. Sec. 1, Ch. 22, L. 1975; amd. Sec. 4, Ch. 216, L. 1975; R.C.M. 1947, 32-4720; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 5, Ch. 510, L. 1995.

Provided by Montana Legislative Services

Montana Code Annotated 2003

75-15-123. Acquisition of outdoor advertising rights -- compensation. (1) The department may acquire by gift, purchase, agreement, exchange, or eminent domain existing outdoor advertising and property rights pertaining to advertising that was lawfully in existence on June 24, 1971, and that by virtue of 75-15-111(1) is nonconforming. Eminent domain must be exercised in accordance with Title 70, chapter 30.

(2) Just compensation must be paid for outdoor advertising and property rights pertaining to the advertising acquired through the process of eminent domain. The department may remove outdoor advertising found to be in violation of 75-15-112 or 75-15-132 without payment of compensation.

(3) Except as provided in 75-15-131 and 75-15-132, a sign may not be required to be removed unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under 23 U.S.C. 131(g), with respect to the outdoor advertising being removed, have been apportioned and are immediately available to this state.

History: En. Sec. 9, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 166, Ch. 316, L. 1974; amd. Sec. 6, Ch. 216, L. 1975; R.C.M. 1947, 32-4723(part); amd. Sec. 14, Ch. 68, L. 1979; amd. Sec. 90, Ch. 125, L. 2001.

Provided by Montana Legislative Services

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75-15-124. Agreements with secretary establishing specifications for advertising. The department may enter into an agreement with the secretary regarding the size, lighting, and spacing of outdoor advertising, as provided in this part, which may be erected and maintained within the areas adjacent to the interstate and primary highway system which are zoned commercial, industrial, or in such other unzoned commercial or industrial areas as may be determined by agreement and as provided in this part.

History: En. Sec. 10, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 167, Ch. 316, L. 1974; R.C.M. 1947, 32-4724.

Provided by Montana Legislative Services

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75-15-125 through 75-15-130 reserved.

Provided by Montana Legislative Services

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75-15-131. Entry to inspect -- notice of unlawful advertising -- remedial action. (1) The department may enter upon lands bearing outdoor advertising and make examination of such advertising.

(2) The department shall give notice in writing, either by certified mail or by personal service, to the owner or occupant of the land on which advertising believed to be unlawful is located and to the owner of the outdoor advertising structure if the latter is known or, if unknown, by posting notice in a conspicuous place on the structure of its intention to remove the unlawful advertising. Within 45 days after the notice, the owner of the land or of the structure may make a written request for a hearing before the commission to show cause why the structure should not be removed.

(3) If a hearing before the commission is not requested or if there is no appeal taken from the commission's decision at the hearing or if the commission's decision is affirmed on appeal, the department shall immediately remove or cause to be removed the unlawful outdoor advertising. The department may, upon final determination by the commission that an item of outdoor advertising is unlawful, enter upon lands bearing such advertising and remove the unlawful advertising.

(4) The owner of the structure and the owner or occupant of the land are jointly and severally liable for the costs of the removal.

History: En. Sec. 8, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 3, Ch. 89, L. 1974; amd. Sec. 165, Ch. 316, L. 1974; amd. Sec. 5, Ch. 216, L. 1975; amd. Sec. 4, Ch. 234, L. 1977; R.C.M. 1947, 32-4722(2), (3).

Provided by Montana Legislative Services

75-15-132. False application or disrepair of structure -- remedial action. When the department determines that a willful false or misleading statement has been made in the application for a permit or that the structure for which a permit was issued is not in a reasonable state of repair or is unsafe, the department shall notify the holder of the permit in writing, either by certified mail or by personal service, of the violation and specify that remedial action shall be taken within 60 days or the permit will be revoked and action for removal of the sign commenced as provided in 75-15-131. No notice is required prior to filing a complaint after the notice period has lapsed.

History: En. Sec. 7, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 164, Ch. 316, L. 1974; R.C.M. 1947, 32-4721.

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75-15-133. Nonconforming advertising as nuisance. All outdoor advertising which does not conform to the requirements of this part is a public nuisance.

History: En. Sec. 16, Ch. 2, 2nd Ex. L. 1971; amd. Sec. 3, Ch. 140, L. 1977; R.C.M. 1947, 32-4728.

Provided by Montana Legislative Services

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75-15-134. Violation as misdemeanor. Any person violating any provision of this part is guilty of a misdemeanor.

History: En. Sec. 15, Ch. 2, 2nd Ex. L. 1971; R.C.M. 1947, 32-4727.

Provided by Montana Legislative Services

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MONTANA DEPARTMENT OF TRANSPORTATION

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Subchapter 2

Outdoor Advertising Regulations

18.6.201 REGULATIONS - SUPPLEMENTARY (REPEALED) (History: 75-15-121, MCA; IMP, 75-15-121, MCA; NEW, Eff. 12/8/75; REP, 1996 MAR p. 1855, Eff. 7/4/96.)

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. Gravestones and dedication markers erected by governmental entities or nonprofit entities as tributes or memorials are not considered advertising devices. Advertising device is synonymous with sign.

(3) "Agricultural Activity" means any activity on improved or unimproved land directly related to the production of crops, dairy products, poultry, or livestock; any activity directly related to the cultivation or harvesting of trees; or any activity directly related to fish farms.

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

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

(6) "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.

(7) "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.

(8) "Commercial activity" is defined at 75-15-103, MCA, and has the additional meaning of income-producing property such as, but not limited to, office buildings, retail buildings, hotels, banks, restaurants, service outlets, and owner-occupied properties being put to income-producing uses. The term does not include any activity that has been in business less than one year, or any property on which the only commercial activity is the erection or maintenance of an outdoor advertising structure.

(9) "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.

(10) "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.

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

(12) "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.

(13) "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.

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

(15) "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.

(16) "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.

(17) "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.

(18) "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.

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

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

(21) "Height above ground level (HAGL)" means the distance in feet from the ground level to the lowest edge of the bottom molding of the sign display face (panel).

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

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

(24) "Industrial Activity" is defined at 75-15-103, MCA, and has the additional meaning of land or improvements that an industrial business is currently using or can be adopted by the business for future industrial use; a combination of land, improvements, and machinery integrated into a functioning unit to assemble, process, and manufacture products from raw materials or fabricated parts; factories that render service, including but not limited to laundries, dry cleaners, storage warehouses, refineries; or areas on which an industrial business produces natural resources. The term does not include any activity that has been in business less than one year, or any property on which the only industrial activity is the erection or maintenance of an outdoor advertising structure.

(25) "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.

(26) "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.

(27) "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.

(28) "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.

(29) "Multi-face sign" means a sign having more than one face (e.g., doubles, v-type, back-to-back, side-by-side and stacked).

(30) "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.

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "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.

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

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

(38) "Political sign" means a sign which announces, promotes, or advertises the name, program, or political party of any candidate for public office, or an opinion regarding a political issue associated with a candidate or election.

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

(40) "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.

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

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

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

(44) "Temporary sign" means a sign intended to be displayed for a limited period of time only in conformity with ARM 18.6.240.

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

(46) "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.

(47) "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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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

(a) the commercial permanent buildings or improvements 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 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 activities shall have been in business at least one year prior to being considered as qualifying the area as an unzoned commercial 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 business may be considered in the determination of visibility;

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

(h) 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;

(i) 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;

(j) a commercial 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;

(k) any commercial building shall have a permanent foundation, built or modified for its current commercial 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;

(l) a self-propelled vehicle shall not qualify for use as a commercial 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 areas are not created when:

(a) a 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 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 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 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.

(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 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

(e) 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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 and 18.6.206.

(4) 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.

(5) 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.

(6) 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.

(7) 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

18.6.206 UNZONED INDUSTRIAL ACTIVITY (1) The following criteria shall be used to determine whether an activity qualifies an area to be considered unzoned industrial:

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

(b) an industrial business may not be located inside a structure which is used for a residence, or in a building intended for use by the resident such as a garage or other outbuilding. If a residence exists on the location, the location shall not qualify for use as an industrial activities area;

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

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

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

(f) an industrial activities area may include readily identifiable areas for which the primary uses are the manufacturing, servicing, or storage of goods;

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

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

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

(2) A maximum of two signs shall be permitted from a qualifying industrial 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 industrial areas are not created when:

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

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

(4) If the qualifying industrial activity 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 industrial activity again becomes operational at the sign location, the sign will revert to its former conforming status for the duration of the industrial activity and nine months thereafter.

(5) The department shall be the sole determinant as to whether an area qualifies as an unzoned industrial activity. (History: 75-15-121, MCA; IMP, 75-15-103, 75-15-111, 75-15-113, MCA; NEW, 2012 MAR p. 185, Eff. 1/27/12.)

Rules 18.6.207 through 18.6.210 reserved

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. Only off-premise commercial advertising sign permits may be transferred. Temporary, church and service club, directional, cultural, noncommercial, political, and official signs shall not be transferred, but may be terminated by permit holder request or department action.

(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, 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

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 immediately upon erection of the sign.

(3) 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.

(4) 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.

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

(6) 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 ARM 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

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) Fees shall be calculated based on total square footage of sign face or total square footage of sign faces combined when more than one sign face is present on a single structure.

(3) 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) aggregate of sign faces totals over 672 sq. ft.	$ 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) aggregate of sign faces totals over 672 sq. ft.	$ 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; AMD, 2012 MAR p. 185, Eff. 1/27/12, AMD, 2012 MAR p. 1525, Eff. 7/27/12.)

Rules 18.6.216 through 18.6.220 reserved

18.6.221 NEW SIGN ERECTION - CONSTRUCTION STANDARDS

(1) Within 90 days of the date of issuance of the permit, which is the date the application was approved, the sign owner will:

(a) erect the sign structure;

(b) attach the permit plate to the sign structure;

(c) attach advertising materials or copy to the sign face;

(d) attach name plaque to structure identifying the sign owner;

(e) 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. (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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

Rules 18.6.222 through 18.6.230 reserved

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 any of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic 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 signs shall be considered as a single sign or structure.

(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;

(d) signs within 500 feet of any intersection, intersecting roadway, junction, property driveways, approaching or merging traffic must be erected with the height above ground level (HAGL) of not less than 8 feet.

(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 that include directions or directional elements (e.g., an arrow indicating a turn) in locations which are so close to a turning point there is insufficient time to signal and turn safely;

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

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

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

(j) 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;

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

(l) 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;

(m) 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;

(n) 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;

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

(p) 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

Rules 18.6.233 through 18.6.238 reserved

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.)

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;

(h) be erected within 500 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic in cities or towns;

(i) be erected on interstate highways.

(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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

18.6.242 RANCH AND RURAL DIRECTIONAL SIGNS (REPEALED) (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, 2005 MAR p. 89, Eff. 1/14/05; AMD, 2006 MAR p. 1878, Eff. 7/28/06; REP, 2008 MAR p. 2476, Eff. 11/27/08.)

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.)

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, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic 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; AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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, intersecting roadway, junction, property driveway, or connecting roadway with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadway with approaching or merging traffic 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, AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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 on or allow any portion to intrude 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 placed within 500 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadways with approaching or merging traffic 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) 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) prevent the driver of a vehicle from having a clear and unobstructed view of at-grade intersections, approaches, official traffic control signs, other traffic control devices, or merging traffic;

(g) be placed within 100 feet of any entrance to the building in which a polling place is located;

(h) 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.

(3) Political signs must be removed within 14 days following the applicable election. The department shall notify the landowner of illegal signs which are not removed within 14 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) Signs that pose a traffic hazard may be removed by the department without prior notification to the sign owner.

(5) It is the responsibility of the candidate or political committee to ensure all signs are in compliance with this rule.

(6) 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, AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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 off premises.

(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, intersecting roadway, junction, property driveway, or connecting roadway with approaching or merging traffic in rural areas, or within 140 feet of an intersection, intersecting roadway, junction, property driveway, or connecting roadway with approaching or merging traffic 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, AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

Rules 18.6.249 and 18.6.250 reserved

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 90 days or the permit may be revoked. An extension of time to accomplish the work may be granted at the sole discretion of the department upon written request from the sign owner stating the reason(s) for the request.

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

(8) The department shall notify a 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 90 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. AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

Rules 18.6.253 through 18.6.260 reserved

18.6.261 POLES (REPEALED) (History: 75-15-121, MCA; IMP, 75-15-121, MCA; NEW, Eff. 12/8/75; REP, 1996 MAR p. 1855, Eff. 7/4/96.)

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, the department shall notify the sign owner of the violation and require remedial action within 90 days. 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. An extension of time to accomplish the work may be granted at the sole discretion of the department upon written request from the sign owner stating the reason(s) for the request.

(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, AMD, 2012 MAR p. 185, Eff. 1/27/12.)

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.)

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 nonpermitted 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.)

Rules 18.6.265 through 18.6.270 reserved

18.6.271 OUTDOOR ADVERTISING REGULATIONS TO APPLY TO RECENTLY DESIGNATED PRIMARY ROUTES (REPEALED) (History: 75-15-121, MCA; IMP, 75-15-121, MCA; NEW, Eff. 8/4/77; AMD, 1978 MAR p. 191, Eff. 2/25/78; AMD, 1986 MAR p. 339, Eff. 3/14/86; REP, 1996 MAR p. 1855, Eff. 7/4/96.)

18.6.272 FORM (REPEALED) (History: 75-15-121, MCA; IMP, 75-15-121, MCA; NEW, Eff. 8/4/77; AMD, 1978 MAR p. 191, Eff. 2/25/78; REP, 1986 MAR p. 339, Eff. 3/14/86.)

MCA 60.5.501

MOTORIST INFORMATION

Montana Code Annotated 2003

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TITLE 60. HIGHWAYS AND TRANSPORTATION

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60-5-527. Federal requirements -- conflict and accord.

60-5-501. Purpose. It is the purpose of this part 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 and primary highways within the state.

History: En. Sec. 1, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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60-5-502. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Business sign" means a separately attached sign mounted on a motorist information sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on a crossroad at or near an interchange or intersection.

(2) "Crossroad" means a marked route or other public road intersecting a freeway or divided highway for which access is provided at an interchange or intersection.

(3) "Department" means the department of transportation provided for in 2-15-2501.

(4) "Franchisee" means a person awarded a franchise as provided in 60-5-505.

(5) "Motorist information sign" means a rectangular sign panel located in the same manner as other official traffic signs, readable from the main traveled way, and that is a:

(a) specific information sign; or

(b) tourist-oriented directional sign.

(6) "Motorist service" means gas, food, lodging, camping, recreation, and other tourist services.

(7) "Specific information sign" means a motorist information sign that is located on the interstate highway system and that contains:

(a) the words "GAS", "FOOD", "LODGING", or "CAMPING";

(b) directional information; and

(c) one or more individual business signs.

(8) "Tourist-oriented directional sign" means a motorist information sign located on the primary highway system to provide:

(a) business identification; and

(b) directional information for businesses, services, and activities of interest to tourists.

History: En. Sec. 2, Ch. 537, L. 1989; amd. Sec. 3, Ch. 512, L. 1991.

Provided by Montana Legislative Services

60-5-503. Rulemaking authority. The department may adopt rules necessary to implement the provisions of 60-5-501, 60-5-502, 60-5-504, 60-5-505, 60-5-509 through 60-5-514, and 60-5-519 through 60-5-522.

History: En. Sec. 15, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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60-5-504. Motorist information sign program -- department. There is a motorist information sign program to be operated by a franchisee under the general supervision and control of the department.

History: En. Sec. 11, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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60-5-505. Franchises. (1) The department may grant a franchise by public negotiation or bid to qualified persons to establish and operate the motorist information sign program authorized under 60-5-504.

(2) A franchisee shall furnish, install, maintain, and replace motorist information signs for the benefit of businesses that provide motorist services for the general public and may lease space on the signs to eligible businesses.

(3) A franchisee shall comply with the provisions of 60-5-501, 60-5-502, 60-5-511 through 60-5-514, and 60-5-519 through 60-5-522 and any other applicable state and federal laws and regulations.

History: En. Sec. 12, Ch. 537, L. 1989.

Provided by Montana Legislative Services

60-5-506 through 60-5-508 reserved.

Provided by Montana Legislative Services

60-5-509. Contract requirements. All contracts made between the department and a franchisee must provide for:

(1) a requirement that the franchisee obtain liability insurance in an amount sufficient to jointly insure the state and the franchisee against all liability for claims for damages occurring wholly or in part because of the franchisee; and

(2) the standards for the size, design, erection, and maintenance that were adopted under 60-5-503.

History: En. Sec. 13, Ch. 537, L. 1989.

Provided by Montana Legislative Services

60-5-510. Costs. The department shall authorize reasonable fees to cover all costs incurred under the motorist information sign program. Fees must be paid under agreements negotiated between a franchisee and an advertiser unless otherwise provided in the contract between the department and the franchisee.

History: En. Sec. 14, Ch. 537, L. 1989.

Provided by Montana Legislative Services

60-5-511. Specific information signs within right-of-way of interstate highway system. Specific information signs may be erected and maintained within the right-of-way of the interstate highway system to give the traveling public specific information as to motorist services available on a crossroad at or near an interchange.

History: En. Sec. 3, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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60-5-512. Specific information signs -- number of business signs -- distances. (1) The number of specific information signs permitted is limited to one for each type of motorist service along an approach to an interchange or intersection.

(2) More than six business signs may not be displayed on a "GAS", "FOOD", "LODGING", or "CAMPING" specific information sign. Except as provided in subsection (3), a business may not be allowed more than one business sign on the same specific information sign.

(3) In areas where there are not more than four qualified businesses available for each of two or more types of motorist services, business signs for two types of services may be displayed by a business on the same specific information sign. More than four business signs for each type of service may not be displayed in combination on a specific information sign.

(4) To qualify for business identification on a specific information sign, a motorist service facility shall meet the eligibility criteria established in 60-5-514 and may not be located more than 3 miles from the interstate highway. However, if eligible services are not located within the 3-mile limit, the distance limits may be increased in 3-mile increments until either an eligible service or 15 miles is reached.

History: En. Sec. 4, Ch. 537, L. 1989; amd. Sec. 1, Ch. 260, L. 1993; amd. Sec. 1, Ch. 281, L. 1997.

Provided by Montana Legislative Services

60-5-513. Sign composition -- spacing -- conformity with laws. (1) A specific information sign panel must have a blue background with a white reflectorized border. The panels may be illuminated subject to regulation by the department.

(2) A business sign must have a blue background with a white legend unless other requirements are established by the department. Nationally, regionally, or locally known commercial symbols, brands, or trademarks for service stations, restaurants, campgrounds, and motels must be used when applicable. The symbol, brand, or trademark used on the business sign must be reproduced in the colors and general shape consistent with customary use. Messages, symbols, brands, or trademarks that interfere with or resemble any official warning or regulatory traffic sign, signal, or device are prohibited.

(3) Specific information signs are permitted only at locations where there is adequate distance between interchanges in compliance with the Manual on Uniform Traffic Control Devices, as amended.

(4) The spacing between two specific information sign panels and between specific information sign panels and official traffic control signs must be in accordance with the Manual on Uniform Traffic Control Devices. If there is insufficient space for both official traffic control signs and specific information signs, the official traffic control signs must be installed.

(5) The erection and maintenance of specific information signs must conform to national standards promulgated by the secretary of the U.S. department of transportation pursuant to 23 U.S.C. 131 and 23 U.S.C. 315 and rules adopted by the department under 60-5-503.

History: En. Sec. 5, Ch. 537, L. 1989.

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60-5-514. Business eligibility -- criteria -- restrictions. (1) To be eligible for placement of a business sign on a specific information sign panel, a business establishment shall meet standards for "GAS", "FOOD", "LODGING", and "CAMPING" services in rules adopted by the department pursuant to guidelines in the Manual on Uniform Traffic Control Devices, as amended.

(2) (a) Each business identified on a specific information sign shall provide assurance of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, color, sex, culture, social origin or condition, or political or religious ideas.

(b) If such a business violates any of these laws, it loses eligibility for business identification on a specific information sign.

(3) No business that owns any outdoor advertising structure in violation of the provisions of Title 75, chapter 15, part 1, may be eligible for business identification on a specific information sign for 1 year after the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days of receiving notification under 75-15-131.

History: En. Sec. 6, Ch. 537, L. 1989.

Provided by Montana Legislative Services

60-5-515 through 60-5-518 reserved.

Provided by Montana Legislative Services

60-5-519. Tourist-oriented directional signs within right-of-way of primary highway system. (1) Tourist-oriented directional signs may be erected and maintained within the right-of-way of the primary highway system to provide information to the traveling public concerning motorist services accessible from the primary highway system by way of an intersecting highway.

(2) Except as provided by rule, a tourist-oriented directional sign may not be erected if the place of business is readily visible from the main-traveled roadway.

History: En. Sec. 7, Ch. 537, L. 1989.

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60-5-520. Tourist-oriented directional signs -- number of business signs -- distances. (1) The number of tourist-oriented directional signs is limited to three signs on an approach to an intersection.

(2) No more than four business signs may be installed on a tourist-oriented directional sign.

(3) To qualify for business identification on a tourist-oriented sign, a business shall meet the eligibility criteria established in 60-5-522 and may not be located more than 5 miles from the primary highway, except as otherwise permitted by the department if no eligible business is located within the 5-mile limit.

History: En. Sec. 8, Ch. 537, L. 1989.

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60-5-521. Sign composition -- design -- conformity with standards and rules. (1) A tourist-oriented directional sign must be rectangular in shape and must have a white legend and border on a blue background.

(2) A tourist-oriented directional sign may contain standard general service symbols to indicate a class of business, service, or activity.

(3) Business signs for specific businesses, services, and activities may be installed on a tourist-oriented directional sign. Nationally, regionally, or locally known commercial symbols, brands, or trademarks for service stations, restaurants, campgrounds, and motels must be used when applicable. Such commercial symbols, brands, and trademarks must be reduced to an appropriate size. No business sign may resemble any official warning or regulatory traffic sign, signal, or device.

(4) A tourist-oriented directional sign may contain no more than two lines of legend, including no more than one business sign, a separate directional arrow, and the distance to the specific business, service, or activity.

(5) The content of the legend must be limited to the identification of the business, service, or activity. The legend may not include promotional advertising.

(6) The legends, arrows, and business signs displayed on a tourist-oriented directional sign may be reflectorized.

(7) The erection and maintenance of tourist-oriented directional signs must conform to national standards promulgated by the U.S. secretary of transportation pursuant to 23 U.S.C. 131 and 23 U.S.C. 315 and rules adopted by the department under 60-5-503.

History: En. Sec. 9, Ch. 537, L. 1989.

Provided by Montana Legislative Services

60-5-522. Business eligibility -- criteria -- restrictions. (1) To be eligible for business identification on a tourist-oriented directional sign, a business establishment shall meet the following standards for a business, service, or activity:

(a) Gas, food, lodging, and camping services must:

(i) be licensed and approved by the state and local agencies regulating the particular type of business;

(ii) provide an acceptable level of service to the public;

(iii) be in continuous operation at least 8 hours a day, 5 days a week, including Saturday or Sunday; and

(iv) have a telephone and restroom facilities available for public use.

(b) Recreation services must:

(i) be licensed and approved by state and local agencies as required by law;

(ii) provide to families and the public activities of interest in which people participate for purposes of physical exercise, collective amusement, or enjoyment of nature. Such activities may include hiking, golfing, skiing, boating, swimming, picnicking, fishing, and horseback riding.

(c) Tourist services must:

(i) be licensed as required by law;

(ii) be open to the public at least 8 hours a day, 5 days a week, including Saturday or Sunday, during the normal tourist season; and

(iii) provide a natural, recreational, historical, cultural, educational, or entertainment activity or a unique or unusual commercial or nonprofit activity, from which the major portion of income or visitors is derived during normal business seasons from motorists not residing in the immediate area of the activity.

(2) Priority under subsection (1)(a) must be given to businesses that are in continuous operation for 12 months a year.

(3) (a) Each business identified on a tourist-oriented directional sign shall provide assurance of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, color, sex, culture, social origin or condition, or

political or religious ideas.

(b) If a business violates any of these laws, it loses eligibility for business identification on a tourist-oriented directional sign.

(4) A business that owns any outdoor advertising structure in violation of the provisions of Title 75, chapter 15, part 1, may not be eligible for business identification on a tourist-oriented directional sign for 1 year after the illegal outdoor advertising structure is removed unless the owner voluntarily removes it within 45 days of receiving notification under 75-15-131.

History: En. Sec. 10, Ch. 537, L. 1989; amd. Sec. 2, Ch. 260, L. 1993.

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60-5-523 through 60-5-525 reserved.

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60-5-526. Restrictions. The department may take no action under this part that may result in the loss to the state of any federal highway construction funds.

History: En. Sec. 16, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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60-5-527. Federal requirements -- conflict and accord. If the secretary of the U.S. department of transportation finds any part of this part to be in conflict with federal requirements that are prescribed as a condition to the allocation of federal funds to the state, the conflicting part of this part is invalid only to the extent of the conflict and such finding may not affect the operation of the remainder of this part in its valid applications.

History: En. Sec. 17, Ch. 537, L. 1989.

Provided by Montana Legislative Services

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ARM 18.7.301

MOTORIST INFORMATION

MAINTENANCE DIVISION

Sub-Chapter 3

Motorist Information Signs

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18.7.301 POLICY STATEMENT

(1) The purpose of this subchapter is to implement Title 60, chapter 5, part 5, MCA, motorist information signing. ARM 18.7.302 through 18.7.309 and 18.7.330 through 18.7.336 implement 60-5-504 through 60-5-514, MCA, specific information signing, and ARM 18.7.302 and 18.7.320 through 18.7.336 implement 60-5-519 through 60-5-522, MCA, tourist-oriented directional signing.

(2) These rules provide for the installation of motorist information signs to inform the motoring public of traveler services conveniently accessible from interstate highways and of traveler and tourist services accessible from primary highways within Montana. (History: 60-5-503, MCA; IMP, 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.302 DEFINITIONS

(1) When used in this subchapter the terms: business sign, crossroad, department, franchisee, motorist information sign, motorist service, specific information sign, and tourist-oriented directional sign shall have the same meaning as in 60-5-502, MCA.

(2) "Combination sign" means a specific information sign displaying the availability of two types of services.

(3) "Directional sign" is any structure that is visible and readable with normal visual acuity from the primary highway and provides a motorist with sufficient information to find the location of a business without the need for additional information or directions.

(4) "General service sign" means a sign which identifies a motorist service at a given location but does not identify a specific business by name or trade name.

(5) "Gore" means the area immediately beyond the divergence of two traveled ways, bounded by the edges of those traveled ways.

(6) "Intersection" means any private or public roadway which requires a right or left turn off the primary highway to access the roadway.

(7) "Interstate highway" means a highway on the federalaid national highway interstate system as defined in 60-1-103, MCA.

(8) "Interstate spur" means a short segment of interstate highway which connects another interstate highway to a state highway, county road, or city street and which is officially designated with an "I" followed by three numbers.

(9) "Lease agreement" means the written contract between the franchisee and the owner.

(10) "Owner" means a person who owns or operates a qualified business and who has authority to enter into and be bound by agreements relevant to matters included in this subchapter.

(11) "Primary highway" means a highway on the federal-aid state primary or national highway system as defined in 60-1-103, MCA.

(12) "Qualified business" means a business which meets the criteria established by Title 60, chapter 5, part 5, MCA, and this subchapter.

(13) "Rural area" means an area outside of an urban area; except that if the land within the urban area is sparsely populated or is primarily devoted to agricultural use, or if the roadside development does not appear to be urban in character, then the land may also be considered

rural. The decision of whether specific areas are rural areas under this definition shall be made by the department, whose decision shall be final.

(14) "Supplemental directional sign" means a specific information sign located adjacent to an exit ramp.

(15) "Trade name" means any brand name, trademark, distinctive symbol or other similar device or thing used to identify a particular motorist service.

(16) "Trailblazer sign" means a small sign with the type of service, name of business, direction, and distance to a qualified business.

(17) "Traveled way" means the traffic lanes of the interstate or primary highway, including all exit and entrance ramps and acceleration and deceleration lanes.

(18) "Urban area" means the developed area inside and outside the corporate limits of a municipality with a population of 15,000 or more as shown in the most recent official census. (History: 60-5-503, MCA; IMP, 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR p. 674, Eff. 4/1/94; AMD, 1997 MAR p. 1034, Eff. 6/24/97

18.7.303 BUSINESS ELIGIBILITY FOR SPECIFIC INFORMATION SIGNS

(1) In order to be a qualified business, a business must provide one or more of the following services: gas, food, lodging, or camping. Priority shall be given to businesses within the applicable 3-mile increment which are in continuous operation for 12 months per year.

(2) A business must meet the following requirements.

(a) Gas-diesel vehicle service stations shall:

(i) Provide fuel, oil, water, and air;

(ii) Provide restroom facilities and drinking water;

(iii) Provide a telephone available for public use;

(iv) Be in continuous operation at least 12 hours per day, 7 days per week;

(v) May qualify for the additional words "auto repair" on the business sign provided qualified personnel are available to perform minor auto repair and tire repair at least 8 hours per day, 5 days per week; and

(vi) May qualify for the additional words "24 hour" provided the fuel pumps are operable with major credit cards or personnel 24 hours each day, 7 days per week.

(b) Food and restaurant facilities shall:

(i) Be approved or licensed as required by the state agency or political entity having jurisdiction;

(ii) Be in continuous operation for at least 10 hours per day, 7 days per week;

(iii) Provide restroom facilities; and

(iv) Provide a telephone available for public use.

(c) Lodging, motel, and hotel facilities shall:

(i) Be approved or licensed as required by the state agency or political entity having jurisdiction;

(ii) Provide a telephone available for public use; and

(iii) Provide adequate sleeping accommodations.

(d) Camping and campground facilities shall:

(i) Be approved or licensed by the state agency or the political entity having jurisdiction;

(ii) Provide modern sanitary facilities and drinking water; and

(iii) Provide adequate camping and parking spaces.

(3) If available spaces for any of the above service categories are not fully utilized by businesses strictly meeting the corresponding criteria, the department may at its discretion,

permit other businesses in the same service category meeting the majority of the criteria to utilize the otherwise unused spaces. Such businesses' right to utilize spaces shall be reevaluated on an annual basis. Should the demand by businesses fully meeting the criteria increase, the "all service" businesses shall be given priority when considering annual renewal of contracts.
(History: 60-5-503, MCA; IMP, 60-5-514 and 60-5-522, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR p. 674, Eff. 4/1/94; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.304 LOCATION OF QUALIFIED BUSINESSES FOR SPECIFIC INFORMATION SIGNS

(1) Specific information signs may be erected only for qualified businesses located within three miles of an interchange as measured from the gore of the exit ramp along public highways to the nearest point of intersection of the driveway of the qualified business and public highway, except as provided below.

(2) If no qualified business within a service category under ARM 18.7.303(1) exists within 3 miles of the interchange, then successive 3-mile increments up to 15 miles may be considered. If considered, then all qualified businesses within the service category and within the successive increment may be included, but not to exceed the maximum capacity of the specific service sign.

(3) A qualified business located more than three miles from an interchange may not qualify for signing if a motorist could obtain similar services adjacent to the next interchange by traveling fewer miles. (History: 60-5-503, MCA; IMP, 60-5-512, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.305 SPACING AND LOCATION OF SPECIFIC INFORMATION SIGNS

(1) Specific information signs shall be erected not less than 800 feet in advance of the exit direction sign at interchanges.

(2) The exact location of specific information signs and supplemental directional signs shall be determined by the franchisee, subject to approval by the department; however, the signs shall be located so as to avoid conflict with other signs within the highway right-of-way. Lateral clearance and height shall be as specified in 2A-23 and 2A-24 of the Manual on Uniform Traffic Control Devices.

(3) Spacing between each specific information sign shall be not less than 800 feet, or more than 1,000 feet unless there are other intervening signs or other significant site considerations.

(4) Specific information signs shall be located at least 800 feet from existing highway guide signs.

(5) Specific information signs may not be erected at an interchange where an exit ramp is provided but no convenient reentry ramp exists in the same direction of travel.

(6) Specific information signs may not be erected on interchanges where interchange ramps connect directly to another interstate highway, except where the interstate highway connects to an interstate spur.

(7) Specific information signs shall be erected with a lateral offset equal to or greater than existing guide signs, and they should be at least 30 feet from the edge of the traveled way, where possible. (History: 60-5-503, MCA; IMP, 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/20/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.306 SPECIFIC INFORMATION SIGN DESIGN AND ORDER

(1) Specific information signs shall comply with the standards provided in 2G-5 of the Manual on Uniform Traffic Control Devices and the specifications in the contract between the department and the franchisee.

(2) Six business signs for gas, food, lodging, and camping will be available in each direction of travel at any interchange on an interstate highway except that at an interchange where there are more than six eligible businesses for a specific service, the excess eligible businesses may be combined on other specific service signs upon department approval. In the event other eligible businesses in other categories apply for participation, they shall be given priority over the excess businesses) upon contract expiration.

(3) Specific information signs shall be erected in the following order in the direction of traffic toward the exit: CAMPING, LODGING, FOOD, and GAS.

(4) Where there is insufficient space for all four specific service signs, or where there are business signs of two or more services competing for the unused space of another service, the following priority shall govern: GAS, FOOD, LODGING, and CAMPING. Where there is greater demand for signs in one service category than there is in a higher priority category, the franchisee may request approval from the department to set a different priority at that interchange. However, only two service categories may be displayed on a sign. (History: 60-5-503, MCA; IMP, 60-5-512 and 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR p. 674, Eff. 4/1/94; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.307 SUPPLEMENTAL DIRECTIONAL SIGNS

(1) The information displayed on specific information signs must be repeated on supplemental directional signs when the qualified businesses identified on the specific information signs are not visible to traffic at the exit ramp terminus.

(2) Where the qualified business is located more than one mile from the interchange, mileage must also be given on the supplemental directional sign.

(3) The franchisee shall determine if a qualified business is visible from the traveled way, subject to review by the department.

(4) Supplemental directional signs shall be located on the highway right-of-way along the interchange ramp or at the ramp terminal.

(5) The exact location of the supplemental directional signs shall be determined by the franchisee, subject to review by the department.

(6) A minimum of 100 feet is required between successive supplemental directional signs.

(7) Supplemental directional signs shall conform to the specifications stated in the contract between the department and the franchisee. (History: 60-5-503, MCA; IMP, 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.308 TRAILBLAZER SIGNS

(1) Trailblazer signs must be installed along a highway for a qualified business if the business cannot be seen from the highway.

(2) Trailblazer signs may be located on the right-of-way of the public highway near all intersections where the direction of the route changes or where it might be questionable as to which roadway to follow.

(3) If conflicts with existing signs arise, the exact location of trailblazer signs shall be determined by the department.

(4) If a trailblazer sign must be erected along a public highway which is not under the maintenance jurisdiction of the department, the franchisee shall obtain written permission from the applicable authority before the sign may be erected.

(5) Trailblazer signs shall be erected in the same order as specific information signs.

(6) Trailblazer signs shall indicate, by arrow, the direction to the qualified business and shall indicate mileage where the business is located more than 1 mile from the sign.

(7) All necessary trailblazer signs must be erected before a business sign may be installed.

(8) The department may review the franchisee's determination of number and location of trailblazer signs. (History: 60-5-503, MCA; IMP, 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.309 BUSINESS SIGNS

(1) Only a business name or trade name shall be used on business signs. If a nationally, regionally, or locally recognized trade name is available, it shall be used in preference to any other form of business identification.

(2) Any message which advertises rather than identifies a business is prohibited. On "GAS" business signs, the word "diesel," "propane," or a department approved symbol for diesel or propane may be included on the business sign.

(3) Messages or trade names which interfere with, imitate, or resemble any official warning or regulatory signs, signals, or traffic control devices, or attempt or appear to attempt to direct the movement of traffic are prohibited.

(4) A business sign shall normally have a white message on a blue background; however, colors consistent with customary use may be used with nationally, regionally, or locally known trade names. The principal legend on the business sign shall be a minimum of 4 inches in height. Where a trade name is used alone for a business sign, any legend on the trade name shall be in proportion to the size. A business sign shall have a white border. When trade names are used alone, the border may be omitted.

(5) Business signs shall initially be placed on a specific information sign, having two rows of such signs in order of increasing distance as follows: Closest, upper left; second, lower left; third, upper center; fourth, lower center; fifth, upper right; sixth, lower right. On specific information signs with a single row of business signs, individual business signs shall be placed in order of increasing distance from left to right. Relative distance of each qualified business to the interchange shall be determined at the time of lease application. Later additions may be made without rearranging the remaining business signs.

(6) The order of arrangement for business signs on supplemental directional signs and trailblazer signs will be determined by the direction of the arrow. Businesses located on the left shall be designated at the top of the sign. (History: 60-5-503, MCA; IMP, 60-5-512 and 60-5-513, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR P. 674, Eff. 4/1/94.)

Rules 18.7.310 through 18.7.319 reserved

18.7.320 TOURIST-ORIENTED DIRECTIONAL SIGNS - GENERAL

(1) Tourist-oriented directional signs may be erected within a rural area.

(2) Tourist-oriented directional signs may be erected within the corporate limits of a town or city with a population of less than 15,000 persons. If the consent of the local government is required, it shall be provided in writing to the franchisee.

(3) Tourist-oriented directional signs may be erected for an activity not visible and identifiable from the primary highway during the period the activity is operating and open to the public. For the purposes of this rule, "visible" means the activity or an on-premise sign can be clearly seen and readable from points established for stopping sight distance. "Identifiable" means that the activity's structure(s), general developed area or on-premise sign(s) clearly conveys specific identification of the activity from points established for stopping sight distance. On-premise signs of 40 square feet or less are not considered in the determination of visible or identifiable as defined in this rule. General guidance for the points used to establish "visible" and "identifiable" shall be measured from the business approach intersection using as a minimum the following chart for stopping sight distance.

Posted speed limit (in miles per hour)	Estimated stopping sight distance (in feet)
25	150
30	200
35	250
40	325
45	400
50	475
55	550

In areas without a posted speed limit, the maximum distance used for the purposes of determining visibility shall be 600 feet.

(4) An activity which is located more than 5 and less than 15 miles from a primary highway may request a waiver from the department for a tourist-oriented directional sign panel. The waiver shall be given when the activity provides a service different from services located within 5 miles of the intersection and where the activity is not located within 5 miles of another

primary highway or interstate where specific service or tourist-oriented signing is available to it. (History: 60-5-503, MCA; IMP, 60-5-519 and 60-5-521 MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR p. 674, Eff. 4/1/94; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.321 TOURIST-ORIENTED DIRECTIONAL TRAILBLAZER SIGNS

(1) Where the location of a business requires additional signing, trailblazer signs shall be erected.

(2) Where trailblazer signs must be erected along public highways not under the maintenance jurisdiction of the department, the franchises shall obtain written permission from the applicable authority before the signs may be erected.

(3) No tourist-oriented directional sign may be erected until all necessary trailblazer signs are in place. (History: 60-5-503, MCA; IMP, 60-5-521, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.322 DESIGN OF TOURIST-ORIENTED DIRECTIONAL SIGNS AND PANELS

(1) Tourist-oriented directional signs shall have reflective blue background with reflective white legend and where there are intervening intersecting roadways, may display additional information such as "second right," "second left," "junction-Highway 2," etc., at the top. The signs shall be six feet wide and as high as necessary to accommodate a maximum of four individual panels. They shall meet the specifications provided in the contract between the department and the franchisee.

(2) The tourist-oriented directional sign panels shall contain space for two lines of legend in 6-inch letters, a directional arrow and distance to the activity. The legend shall be the activity name only; however, appropriate service or recreational symbols and logos may be used if reduced to appropriate size. Promotional advertising and symbols or logos resembling official traffic control devices are prohibited.

(3) When approved symbols or logos are used, they may not exceed the height of two lines of word legend. If used with a word legend, the symbol of logo shall be placed to the left of the word legend. Times of operation may be displaced on the tourist-oriented directional sign panel if necessary for the convenience of the motorist. When times of operation are displayed, they must be incorporated into the two lines of legend. (History: 60-5-503, MCA; IMP, 60-5-521, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.323 TOURIST-ORIENTED DIRECTIONAL SIGN INSTALLATION

(1) Tourist-oriented directional signs shall be installed, at a minimum, in accordance with the chart for stopping sight distance pursuant to ARM 18.7.320(3) and may be installed farther from the intersection when necessary for motorist safety and convenience. Tourist-oriented directional signs should not be installed less than 200 feet in advance of the intersection and should maintain a minimum of 200 feet between touristoriented directional signs and any other highway signs, with the exception of no parking, loading zone and similar signs. However, spacing of less than 200 feet between signs may be allowed with department approval.

(2) In areas where speeds of 45 miles per hour and less are posted, sign spacing may be reduced, if necessary, with a minimum spacing of 100 feet between tourist-oriented directional signs and other highway signs. No parking, loading zone or similar signs shall not be considered for minimum spacing requirements.

(3) The right turn sign shall be the closest to the intersection with the left turn sign being the farthest in advance of the intersection.

(4) The advance tourist-oriented directional sign "1/2 Mile" or "Next Right (or Left)" may not be used unless the department determines that it is needed for highway operational safety.

(5) Signs may be erected for facilities in the ahead direction. The legend AHEAD in appropriate letter size may be used in lieu of directional arrows.

(6) Signing for right, left or ahead directions may be allowed for visible and identifiable activities to address safety problems upon department approval.

(7) The maximum number of tourist-oriented directional panels shall be 12 in each direction of travel at each intersection, and the maximum number of advance tourist-oriented directional panels shall be 9 in each direction of travel at each intersection.

(8) Where the number of activities to be signed is four or less at any one intersection, the tourist-oriented directional panels for right and left may be combined on one tourist-oriented directional sign. On a combination sign, the tourist-oriented directional panels will be arranged with the left arrows at the top and the right arrows below.

(9) Lateral clearance for tourist-oriented directional signs shall be equal to or greater than the other guide signs at the intersection. If adequate lateral clearance cannot be maintained due to terrain or other obstruction, tourist-oriented directional signs may not be installed.

(10) Where the right-of-way includes a sidewalk, tourist-oriented directional signs shall be erected beyond the outside edge of the sidewalk and are prohibited where there is insufficient right-of-way to erect the signs, except where prior approval from the department is obtained. (History: 60-5-503, MCA; IMP, 60-5-521, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

Rules 18.7.324 through 18.7.329 reserved

18.7.330 APPLICATION PROCEDURE AND NOTICE

(1) The franchisee shall give at least one public notice of desire to erect specific information sign panels at an interchange or tourist-oriented directional signs at an intersection or shall contact each qualified business in the area, or both, at least 30 days prior to the deadline set for receiving applications to place business signs on a specific information sign or tourist-oriented directional sign. The notice shall be published in a newspaper published in the county or counties where the signs will be erected. The notice shall specify from whom applications may be requested, and where and to whom the applications must be submitted for consideration.

(2) The franchisee shall retain complete records showing the notice and all contacts with local businesses for at least one year after the notice and contacts were made. These records are subject to review by the department.

(3) The franchisee shall require that requests for space on specific information signs or tourist-oriented directional signs be submitted to him.

(4) The franchisee shall require that all requests be made by the owner of a qualified business or his designee.

(5) In the event that the requests to place business signs on information sign panels exceed the available space, the franchisee shall use the following criteria to determine the allocation of spaces on information sign panels.

(a) In all instances, those businesses nearest to the interchange shall be given priority. Distances shall be measured from the gore of the exit along public highways to the nearest driveway of the business.

(b) The applicants must meet the minimum criteria of these rules.

(c) Where two qualified businesses are the same distance from the interchange and there is only space for one, the earliest application shall be given priority.

(6) The franchisee shall use the same criteria as provided in (5) to determine allocation of space on tourist-oriented directional signs. The business nearest the intersection shall be given priority. (History: 60-5-503, MCA; IMP, 60-5-505, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.330 APPLICATION PROCEDURE AND NOTICE

(1) The franchisee shall give at least one public notice of desire to erect specific information sign panels at an interchange or tourist-oriented directional signs at an intersection or shall contact each qualified business in the area, or both, at least 30 days prior to the deadline set for receiving applications to place business signs on a specific information sign or tourist-oriented directional sign. The notice shall be published in a newspaper published in the county or counties where the signs will be erected. The notice shall specify from whom applications may be requested, and where and to whom the applications must be submitted for consideration.

(2) The franchisee shall retain complete records showing the notice and all contacts with local businesses for at least one year after the notice and contacts were made. These records are subject to review by the department.

(3) The franchisee shall require that requests for space on specific information signs or tourist-oriented directional signs be submitted to him.

(4) The franchisee shall require that all requests be made by the owner of a qualified business or his designee.

(5) In the event that the requests to place business signs on information sign panels exceed the available space, the franchisee shall use the following criteria to determine the allocation of spaces on information sign panels.

(a) In all instances, those businesses nearest to the interchange shall be given priority. Distances shall be measured from the gore of the exit along public highways to the nearest driveway of the business.

(b) The applicants must meet the minimum criteria of these rules.

(c) Where two qualified businesses are the same distance from the interchange and there is only space for one, the earliest application shall be given priority.

(6) The franchisee shall use the same criteria as provided in (5) to determine allocation of space on tourist-oriented directional signs. The business nearest the intersection shall be given priority. (History: 60-5-503, MCA; IMP, 60-5-505, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.331 LEASE AGREEMENTS

(1) The franchisee shall require the owner to sign a lease agreement with the franchisee on a form approved by the department and shall obtain the written assurance required from the owner under 60-5-514(2) or 60-5-522(2), MCA.

(2) Before approving the lease agreement the franchisee shall review the owner's qualifications for compliance with the applicable criteria and may not approve the lease agreement if the criteria are not met.

(3) Upon approval of the lease agreement, the franchisee shall transmit a copy of the signed lease agreement to the owner.

(4) Lease agreements shall be valid for a period not to exceed five full years.

(5) When an owner meets the applicable requirements and the required fees have been paid, the franchisee shall install the business sign within 30 calendar days if the specific service sign has already been installed or within 120 calendar days if the specific service sign has yet to be installed. The franchisee shall install the tourist-oriented directional sign within 120 days of the payment of fees.

(6) The franchisee shall allow the owner or his legal successor during the term of the agreement to change the business sign or tourist-oriented directional sign copy so long as the copy conforms to the statutes and these rules. The cost of changes in the copy may be charged to the owner. The owner may also be charged an additional fee for each sign removed and remounted by the franchisee at the request of the owner.

(7) Before a lease agreement may be renewed, the franchisee must determine whether or not there are any qualified businesses closer to the interchange or intersection which wish to participate in the program. The lease agreement may not be renewed unless there are no other applicants and there is space on the specific information sign or tourist-oriented directional sign.

(8) Non "all-service" agreements shall be evaluated on an annual basis as provided for in ARM 18.7.303(3). (History: 605-503, MCA; IMP, 60-5-505 and 60-5-514, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1994 MAR p. 674, Eff. 4/1/94.)

18.7.332 MAINTENANCE

(1) The franchisee shall repair or replace within a reasonable period of time after notification of damage, any sign panels that are destroyed or damaged.

(2) The franchisee shall wash all signs at any time the reflectorized facing becomes dull.

(3) The franchisee shall conduct an inspection periodically on the breakaway mechanism for any dirt or other obstruction that may interfere with the breakaway mechanism. All bolts shall be loosened and retorqued to proper specification as required.

(4) The franchisee shall be responsible for the cost of the relocation of any of his signs for highway improvements and shall complete the relocation within 60 days after notification that the sign must be removed. (History: 60-5-503, MCA; IMP, 60-5-505, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90; AMD, 1997 MAR p. 1034, Eff. 6/24/97.)

18.7.333 REMOVAL OF SIGNS AND COVERING SEASONAL SIGNS

(1) The franchisee must notify the owner by certified mail a minimum of thirty days in advance of the removal of his or her business sign or tourist-oriented directional sign for any cause.

(2) Business signs or tourist-oriented directional signs may be removed for any of the following:

(a) Failure to pay fees.

(b) Violation of the provisions of 60-5-514 or 60-5-522, MCA.

(c) Failure to meet the minimum criteria to qualify for the specific service sign program or the tourist-oriented directional sign program.

(3) If a business is closed due to fire, accident, remodeling, or other emergencies for more than 7, but not more than 90 days, then the franchisee shall have the business sign or the tourist-oriented directional sign covered to prevent inconvenience to the traveling public. The business shall not lose its priority or be required to reapply prior to the normal expiration of its contract. Extensions of time beyond 90 days may be granted by the franchisee in such case where insurance claims or financial arrangements require additional time. However, an owner who, due to his or her own negligence, fails to open within the 90-day period may lose his or her right to occupy the specific information sign panel or tourist-oriented directional sign panel.

4) Within 5 working days of closure of the business, the franchisee shall cover or remove the signs for businesses which are operated on a seasonal basis or shall prominently display the word "closed" across the business sign. Where all of the businesses on a specific information sign are closed, the entire sign shall be removed. (History: 60-5-503, MCA; IMP, 60-5-505, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.334 GENERAL SERVICE SIGNS

(1) At interchanges on the interstate system where none of the qualified businesses wish to participate in the program, the department will maintain the existing general service sign.

(2) The general service signs at any interchange will be removed by the department when the first specific information sign panel is installed.

(3) When a tourist-oriented directional sign is erected for a business identified by a general service sign, the department will remove the general service sign.

(4) No new general service signs may be erected along primary highways for businesses which qualify for tourist-oriented directional signing. (History: 60-5-503, MCA; IMP, 60-5-501, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.335 FEES FOR POSTING ON SPECIFIC INFORMATION SIGN PANELS AND TOURIST-ORIENTED DIRECTIONAL SIGNS

(1) The fee for placing business signs on specific information sign panels may include the prorated cost for fabrication, erection, maintenance, or servicing of specific information and business signs; removal or covering business signs; other costs associated with the program, including the department's cost in administering the program, and reasonable profit for the franchisee operating the program. The fee may include the supplemental directional sign if needed and trailblazer signs if needed. The fee for each space on specific information sign panels shall be the same for all businesses.

(2) Similar criteria to set fees for tourist-oriented directional signs shall be used.

(3) The department shall review the fees charged and any subsequent increases for reasonableness and shall authorize them if they are in compliance with 60-5-510, MCA.

(History: 60-5-503, MCA; IMP, 60-5-510, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

18.7.336 OVERSIGHT OF THE FRANCHISEE BY THE DEPARTMENT

(1) The department may review all proposed locations for signs to determine if they comply with the rules or if there is a conflict with existing signs or future sign installations. The department may review an agreement with an owner, check businesses for compliance with Title 60, chapter 5, part 5, MCA, and this subchapter.

(2) Complaints about the motorist information sign program or the actions of the franchisee in relation to the program may be submitted in writing to the department. Complaints shall be investigated by the department which will provide a written response to the complainant. A copy of the complaint and the response shall be provided to the franchisee. (History: 60-5-503, MCA; IMP, 60-5-505, MCA; NEW, 1990 MAR p. 111, Eff. 1/12/90.)

MCA 60.6.101

ENCROACHMENTS

Montana Code Annotated 2003

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TITLE 60. HIGHWAYS AND TRANSPORTATION

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60-6-105. Removal at owner's expense when not denied.

Montana Code Annotated 2003

60-6-101. Highway encroachments -- immediate removal. (1) If any highway under the jurisdiction of the transportation commission is encroached upon by a fence, building, structure, sign, marker, mailbox, newspaper delivery box, or other obstruction, the department of transportation may give notice in writing to the person erecting or maintaining such encroachment requiring the same to be removed.

(2) The department shall adopt rules pertaining to the accommodation of mailboxes and newspaper delivery boxes on public highway rights-of-way. The rules must ensure that the location and construction of mailboxes and newspaper delivery boxes conform to the rules and regulations of the U.S. postal service.

(3) If the encroachment obstructs and prevents the use of the highway for vehicles, the department may immediately remove the same without the notice required by 60-6-102.

History: En. 32-4411 by Sec. 1, Ch. 231, L. 1975; R.C.M. 1947, 32-4411; amd. Sec. 1, Ch. 287, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 6, Ch. 75, L. 1995.

Provided by Montana Legislative Services

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60-6-102. Notice of encroachment. (1) Notice to remove the encroachment, specifying the width of the highway right-of-way and the place and extent of the encroachment, must be given to the person erecting or maintaining such encroachment.

(2) Notice must be given in the following manner:

(a) in writing by certified mail sent to the person's business or personal address or by personal service;

(b) if such address cannot be found, by posting it on the encroachment.

History: En. 32-4412 by Sec. 2, Ch. 231, L. 1975; R.C.M. 1947, 32-4412.

Provided by Montana Legislative Services

Montana Code Annotated 2003

60-6-103. Time limit for removal -- penalty. If the encroachment is not permanently affixed to the land, such encroachment shall be removed from the right-of-way within 2 days after receipt of the notice. If such an encroachment remains on the right-of-way after this period of time, the person who causes, owns, or controls the encroachment shall be liable for the cost of such removal.

History: En. 32-4413 by Sec. 3, Ch. 231, L. 1975; R.C.M. 1947, 32-4413.

Provided by Montana Legislative Services

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60-6-104. Denial of encroachment -- department action. If the encroachment is denied, the department shall commence appropriate legal action to have said encroachment removed. If the department recovers a judgment, it shall have its costs. If the encroachment is not removed within 5 days after entry of judgment, the department may remove it at the expense of the person who causes, owns, or controls it.

History: En. 32-4414 by Sec. 4, Ch. 231, L. 1975; R.C.M. 1947, 32-4414(1).

Provided by Montana Legislative Services

60-6-105. Removal at owner's expense when not denied. If an encroachment affixed to the land is not denied and is not removed within 5 days after receipt of the notice, the department may remove it at the expense of the person who causes, owns, or controls it. The department may recover the expense of removal and costs in an action brought for that purpose.

History: En. 32-4414 by Sec. 4, Ch. 231, L. 1975; R.C.M. 1947, 32-4414(2).

Provided by Montana Legislative Services

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MCA 60.30.101

FEDERAL AID FUNDS

Montana Code Annotated 2003

Federal Aid Funds:

60-3-101. Assent to federal law. (1) The legislature, for and on behalf of the state, assents to the provisions of Title 23, U.S.C.

(2) The department may, for and on behalf of the state, enter into all contracts and agreements with the United States or any officer, department, or bureau thereof relating to the construction, reconstruction, repair, and maintenance of highways in the state.

(3) The department may make all rules necessary to comply with the provisions of the laws assented to and all other laws granting aid for public highways and to obtain for the state the full benefits of such laws.

(4) The department may do all other things necessary or required to carry out fully the cooperation contemplated by the acts of congress assented to.

History: En. Sec. 4-101, Ch. 197, L. 1965; amd. Sec. 71, Ch. 316, L. 1974; R.C.M. 1947, 32-2401; amd. Sec. 7, Ch. 23, L. 1979.

Provided by Montana Legislative Services

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MCA 61.8.208

AUTHORIZED SIGNALS

Montana Code Annotated 2003

61-8-208. Pedestrian control signals. Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" or symbols of a walking person or an upraised palm are in place, the signals indicate as follows:

(1) A pedestrian facing a "Walk" signal or a walking person symbol may proceed across the roadway in the direction of the signal and the operators of all vehicles shall yield the right-of-way to the pedestrian.

(2) A pedestrian may not start to cross the roadway in the direction of a signal exhibiting a flashing or steady "Don't Walk" signal or upraised palm symbol, but a pedestrian who has partially completed crossing on the "Walk" signal or walking person symbol shall proceed to a sidewalk or safety island while the "Don't Walk" signal or upraised palm symbol is showing. An operator of a vehicle shall yield the right-of-way to a pedestrian who has partially completed crossing and is proceeding to the sidewalk or safety island.

(3) A pedestrian may not start to cross a roadway in the direction of a steady "Don't Walk" signal or upraised palm symbol.

History: En. Sec. 35, Ch. 263, L. 1955; R.C.M. 1947, 32-2138; amd. Sec. 5, Ch. 53, L. 2003.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-209. Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic control device, it requires obedience by vehicular traffic as follows:

(a) When a red lens is illuminated with rapid intermittent flashes, an operator of a vehicle shall stop at a marked stop line. If there is no marked stop line, an operator shall stop before entering the nearest crosswalk at an intersection. If there is no crosswalk, an operator shall stop at the point nearest the intersecting roadway where the operator has a view of approaching traffic. The right to proceed is subject to the rules applicable after making a stop at a stop sign, as provided in 61-8-344.

(b) When a yellow lens is illuminated with rapid intermittent flashes, the operator of a vehicle may proceed through the intersection or past the flashing yellow signal only with caution.

(2) This section does not apply at railroad grade crossings. Conduct of an operator of a vehicle approaching a railroad grade crossing is governed by the provisions of 61-8-347.

History: En. Sec. 36, Ch. 263, L. 1955; amd. Sec. 2, Ch. 169, L. 1957; R.C.M. 1947, 32-2139; amd. Sec. 6, Ch. 53, L. 2003.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-210. Display of unauthorized signs, signals, or markings. (1) A person may not place, maintain, or display upon or in view of a highway any unauthorized sign, signal, marking, or device that purports to be or is an imitation of or resembles an official traffic control device, that attempts to direct the movement of traffic, or that hides from view or interferes with the effectiveness of any official traffic control device.

(2) A person may not place or maintain and a public authority may not permit commercial advertising on an official traffic control device on a highway, except for business signs included as a part of official motorist service panels or roadside area information panels approved by the department of transportation.

(3) This section does not prohibit the erection of signs upon private property adjacent to highways that give useful directional information and that are of a type that cannot be mistaken for official signs.

History: En. Sec. 37, Ch. 263, L. 1955; R.C.M. 1947, 32-2140(a) thru (d); amd. Sec. 8, Ch. 53, L. 2003.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-211. Lane use control signals. When lane use control signals are placed over individual lanes, the signals indicate and apply to operators of vehicles as follows:

(1) An operator of a vehicle may drive in the lane over which a steady downward green arrow signal is located.

(2) An operator of a vehicle must be prepared to vacate, in a safe manner, the lane over which a steady yellow X signal is located because a lane control change is being made to a steady red X signal.

(3) An operator of a vehicle may not use the lane over which the steady red X signal is located.

(4) An operator of a vehicle may use a lane over which a steady white two-way left-turn arrow signal is located for a left turn but not for through travel. The operator must be aware that common use of the lane by oncoming vehicular traffic is also permitted.

(5) An operator of a vehicle may use a lane over which a steady white one-way left-turn arrow signal is located for a left turn but not for through travel.

History: En. Sec. 7, Ch. 53, L. 2003.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-705. Officers or highway patrol officers authorized to remove illegally stopped vehicles. (1) Whenever any police officer or highway patrol officer finds a vehicle standing upon a highway in violation of any of the provisions of 61-8-353 through 61-8-355, such officer or highway patrol officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway.

(2) Whenever any police officer or highway patrol officer finds a vehicle unattended upon any bridge or roadway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer or highway patrol officer is hereby authorized to provide for the removal of such vehicle pursuant to Title 61, chapter 12, part 4, except that the time limits imposed in 61-12-401 do not apply to removal under this subsection.

History: En. Sec. 97, Ch. 263, L. 1955; R.C.M. 1947, ; amd. Sec. 1, Ch. 71, L. 1981; amd. Sec. 1, Ch. 217, L. 1989.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-706. Removal of unauthorized sign. (1) An unauthorized sign, emblem, marker, or traffic control device or portion thereof encroaching into, over, or upon a right-of-way of a state highway or controlled-access highway is a public nuisance, and the department may remove it or cause it to be removed without notice and without liability for the removal.

(2) Every sign, signal, or marking prohibited by 61-8-210 is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

History: (1)En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 316, L. 1974; Sec. 32-2134, R.C.M. 1947; (2)En. Sec. 37, Ch. 263, L. 1955; Sec. 32-2140, R.C.M. 1947; R.C.M. 1947, 32-2134(f), 32-2140(e).

Provided by Montana Legislative Services

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61-8-707 through 61-8-710 reserved.

Provided by Montana Legislative Services

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Montana Code Annotated 2003

61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for a person to violate any of the provisions of this chapter unless the violation is declared to be a felony.

(2) Each person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than $10 or more than $100. For a second conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than $25 or more than $200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than $50 or more than $500.

(3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or

(b) if the court finds that the person is unable to pay, order the person to perform community service.

(4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine is divisible by the dollar amount of the incarceration credit contained in 46-18-403.

(5) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court.

History: En. Sec. 154, Ch. 263, L. 1955; R.C.M. 1947, ; amd. Sec. 70, Ch. 421, L. 1979; amd. Sec. 1, Ch. 128, L. 1987; amd. Sec. 1, Ch. 109, L. 1991; amd. Sec. 1, Ch. 134, L. 1995.

Provided by Montana Legislative Services

MCA 60.2.601
SCENIC BYWAYS

60-2-601. Scenic-historic byways program -- advisory council -- expenditure of funds. (1) There is a scenic-historic byways program. The commission may designate roads to be included as part of the program and may add or delete roads from the program. The commission may not designate a road as a scenic-historic byway without the concurrence of the affected local governments and the agencies responsible for maintenance and operation of the road. A road or right-of-way across federal land that was granted by 43 U.S.C. 932 and recognized by 43 U.S.C. 1701 may be considered for inclusion in the program.

(2) Notwithstanding the provision of 2-15-122, the commission shall appoint an advisory council for the scenic-historic byways program.

(3) The advisory council is a technical oversight council composed of no more than 11 members who must have expertise in one or more of the subjects of tourism, visual assessment, Montana history, resource protection, economic development, transportation, or planning. One member of the advisory council must be a representative of the Montana chamber of commerce.

(4) The advisory council shall:

(a) assist the department and the commission in designing the program;

(b) review applications for nominating roads to the scenic-historic byways program; and

(c) recommend to the commission roads that should be included in or deleted from the scenic-historic byways program.

(5) The department, upon the direction of the commission, may expend any funds appropriated for or otherwise available to the scenic-historic byways program.

History: En. Sec. 2, Ch. 546, L. 1999.

Provided by Montana Legislative Services

60-2-602. Scenic-historic byways program -- rules. (1) The department shall adopt rules to effectively administer the scenic-historic byways program. The rules must include the criteria that will be considered for designating a road for inclusion in the scenic-historic byways program.

(2) In developing the criteria, to be included in the rules, for designating a road for inclusion in the scenic-historic byways program, the advisory council, commission, and department shall specifically address:

(a) factors that allow each locality choosing to participate in or seeking participation in the scenic-historic byways program the opportunity to:

(i) enhance the experience of the traveling public;

(ii) stimulate or allow for economic development and new marketing strategies; or

(iii) preserve intrinsic resources for the benefit of future generations;

(b) a methodology by which a locality choosing to participate in or seeking participation in the scenic-historic byways program may participate in the national scenic byways program, described in section 1047 of Public Law 102-240;

(c) means by which a road may be excluded from designation as a scenic-historic byway by:

(i) an incorporated municipality for a road or segment of a road within its jurisdiction; or

(ii) a landowner for a road or segment of a road adjacent to the landowner's private property;

(d) factors to be considered in assessing the intrinsic, scenic, historic, recreational, cultural, archaeological, educational, or natural qualities of the road nominated for inclusion in the scenic-historic byways program;

(e) factors to be considered in a locality's corridor management plan, including that the plan:

(i) serves as a visioning tool to provide direction for enhancing and marketing the corridor, but not as a land management document, zoning tool or mandate, highway improvement scoping or prioritization document, or highway management document;

(ii) accommodates commerce and commercial vehicles and maintains a safe and efficient level of highway services;

(iii) protects private property rights, including assurances that the private property rights of a person who owns land adjacent to or visible from the road are not in any way diminished by the road being designated a scenic-historic byway or are accommodated through mutually agreeable compensation;

(iv) precludes the locality having adopted the corridor management plan from establishing goals or commitments outside the locality's jurisdiction; and

(v) has accommodated all jurisdictions affected or to be affected by the designation of a road as a scenic-historic byway; and

(f) procedures to ensure that localities choosing to participate in the scenic-historic byways program:

(i) may exclude from designation any segment of a highway that is inconsistent with the state's criteria for designating scenic-historic byways. Within an excluded segment, a

locality may allow off-premises advertising in the form of billboards or painted signs, subject to applicable federal, state, or local laws.

(ii) may use signage recognized as exceptions or as information signs in all areas along a designated route, provided that the signage complies with 23 U.S.C. 131, Title 60, chapter 5, part 5, Title 75, chapter 15, part 1, and all applicable state or locally adopted rules, requirements, and restrictions.

History: En. Sec. 3, Ch. 546, L. 1999.

Provided by Montana Legislative Services

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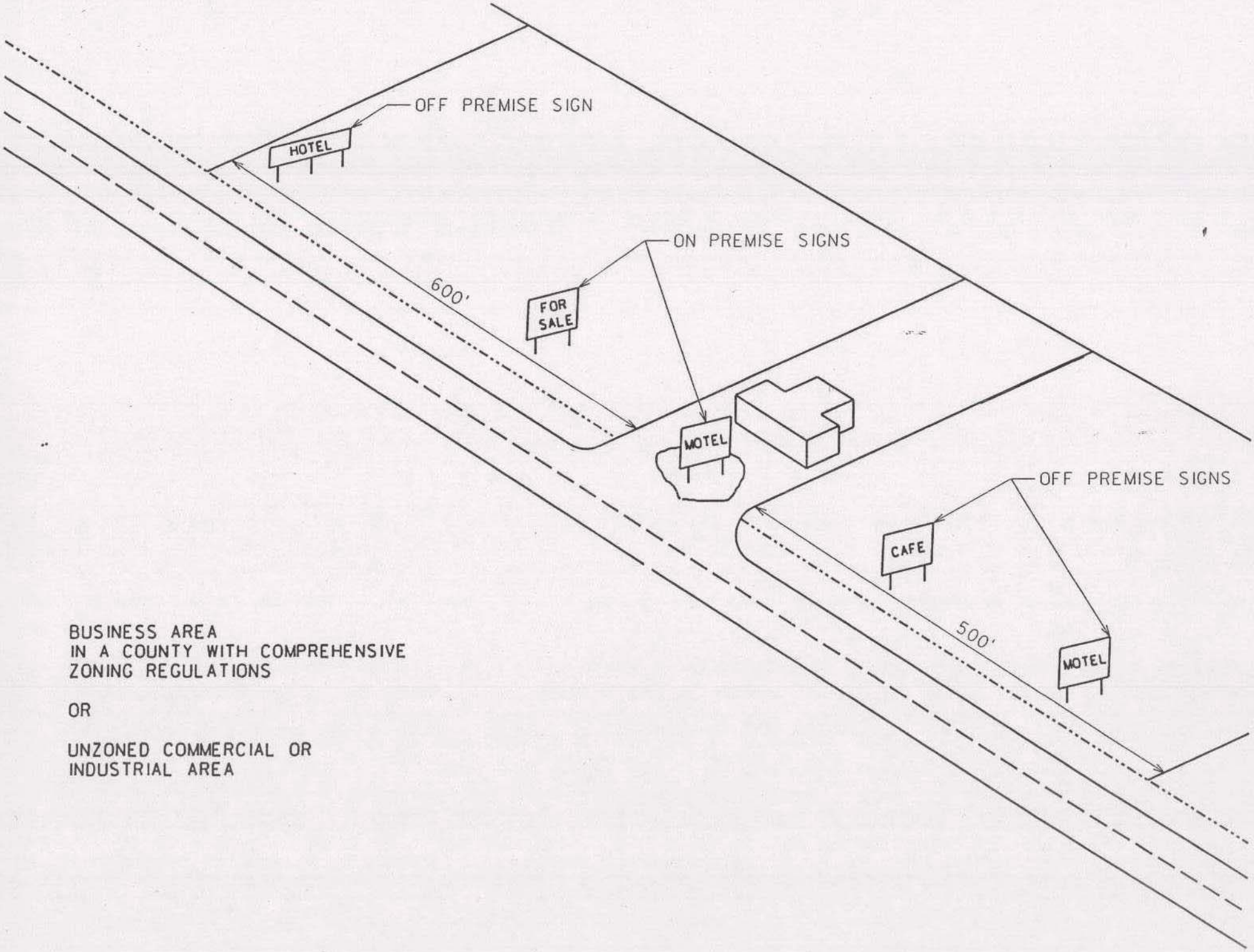
OAC DIAGRAMS

General Information
Regulations Affecting Various Types of Signs

Common Questions	On–Premise Sign	Off–Premise Commercial Sign	"Welcome To" Sign	Public Service Sign	Church & Service Club Signs	Cultural Sign	Rural Ranch & Directional Signs (Adj. to Private roads)	Rural Ranch & Directional Signs (Adj. to Public roads)	Political Signs
Does this sign need to be located on the owner's land	Yes	No	No	No	No	No	No	No	No
Does the sign need an OAC permit?	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Does the spacing criteria apply?	No	Yes	No	No	No	No	No	No	No
Is an application fee required?	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Is a permit fee required?	No	Yes	No	No	No	No	No	No	No
Does the permit need to be renewed every 3 years?	No	Yes	No	No	No	No	No	No	No
Does the sign need to be located in a zoned or unzoned commercial/industrial area?	No	Yes	No	No	No	No	No	No	No
Can the sign's height exceed 30 feet above the roadway?	Yes	No	No	No	No	No	No	No	N/A
What is the maximum height of the sign face?	N/A	30 ft	30 ft	15 ft	30 ft	20 ft	30 ft	8 in	N/A
What is the maximum length of the sign face?	N/A	48 ft	12 ft	10 ft	N/A	20 ft	12 ft	36 in	N/A
What is the maximum area of the sign face?	N/A	672 sq in	100 sq ft	32 sq ft	8 sq ft	150 sq ft	32 sq ft	2 sq ft	N/A
Can this type of sign be located on state highway right–of–way?	No	No	*	No	No	No	No	No	No

* "Welcome to" signs are discouraged within the right–of–way; however, they may be placed within the right–of–way at the discretion of the District Administrator.

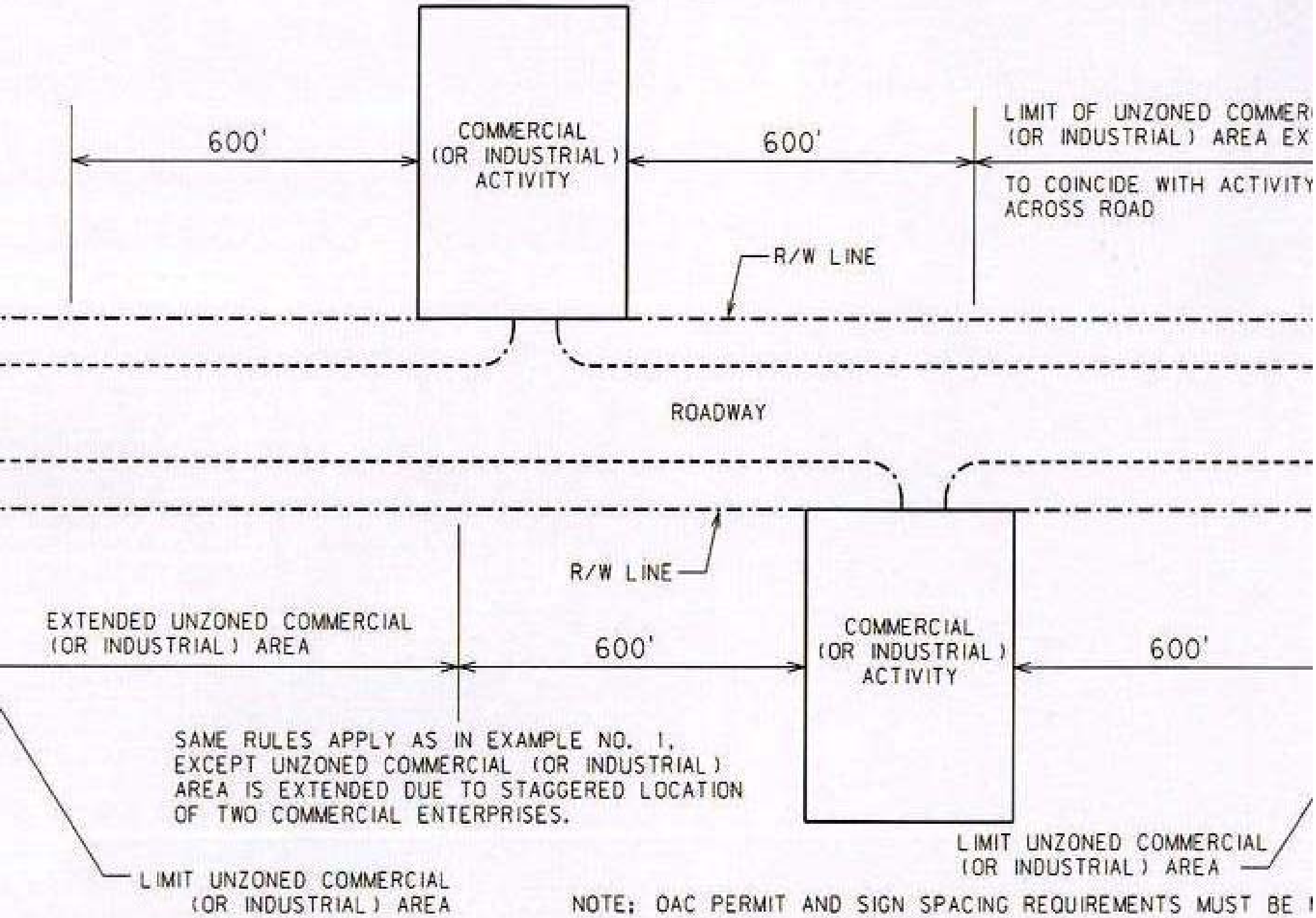


BUSINESS AREA
IN A COUNTY WITH COMPREHENSIVE
ZONING REGULATIONS

OR

UNZONED COMMERCIAL OR
INDUSTRIAL AREA

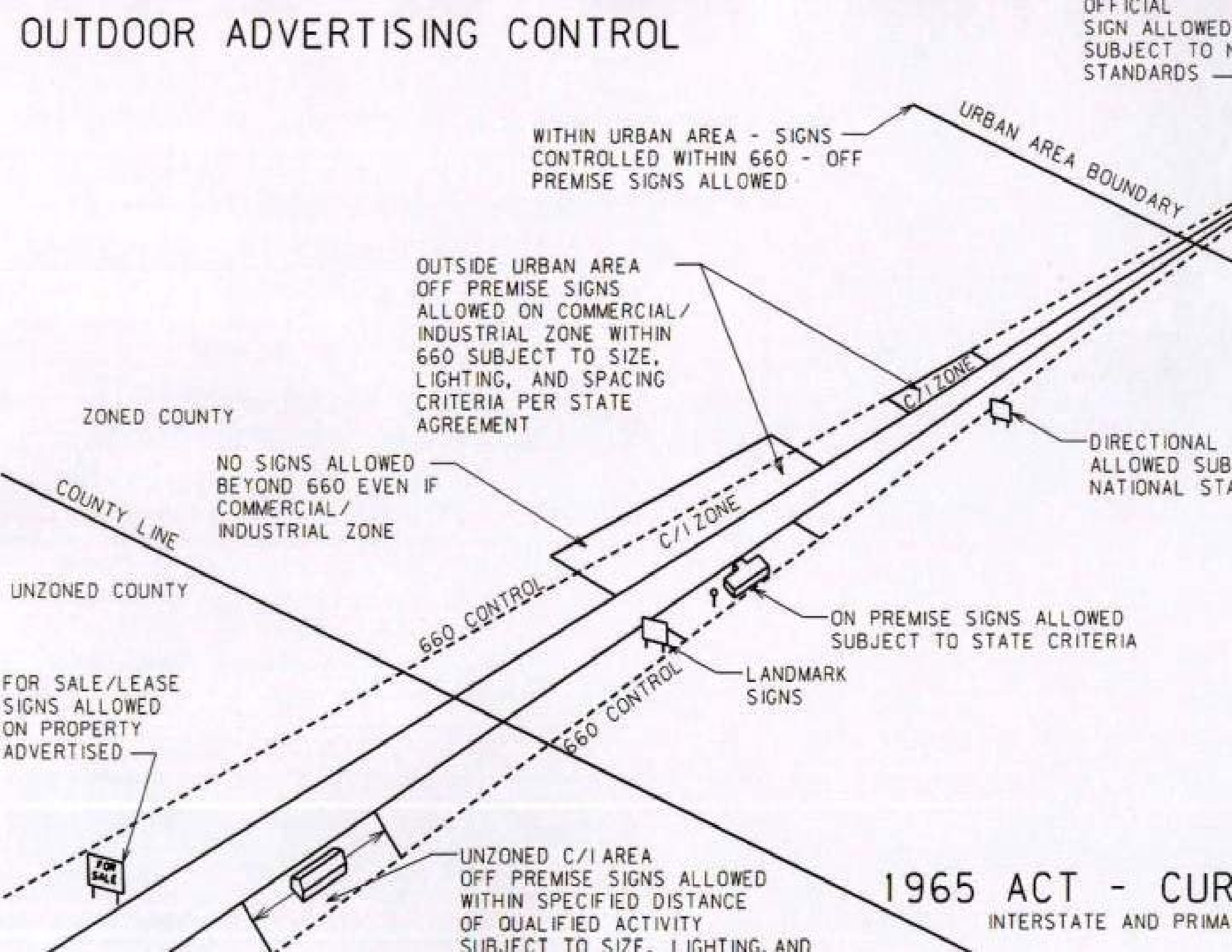
UNZONED COMMERCIAL, BUSINESS OR INDUSTRIAL AREA
EXAMPLE NO. 2

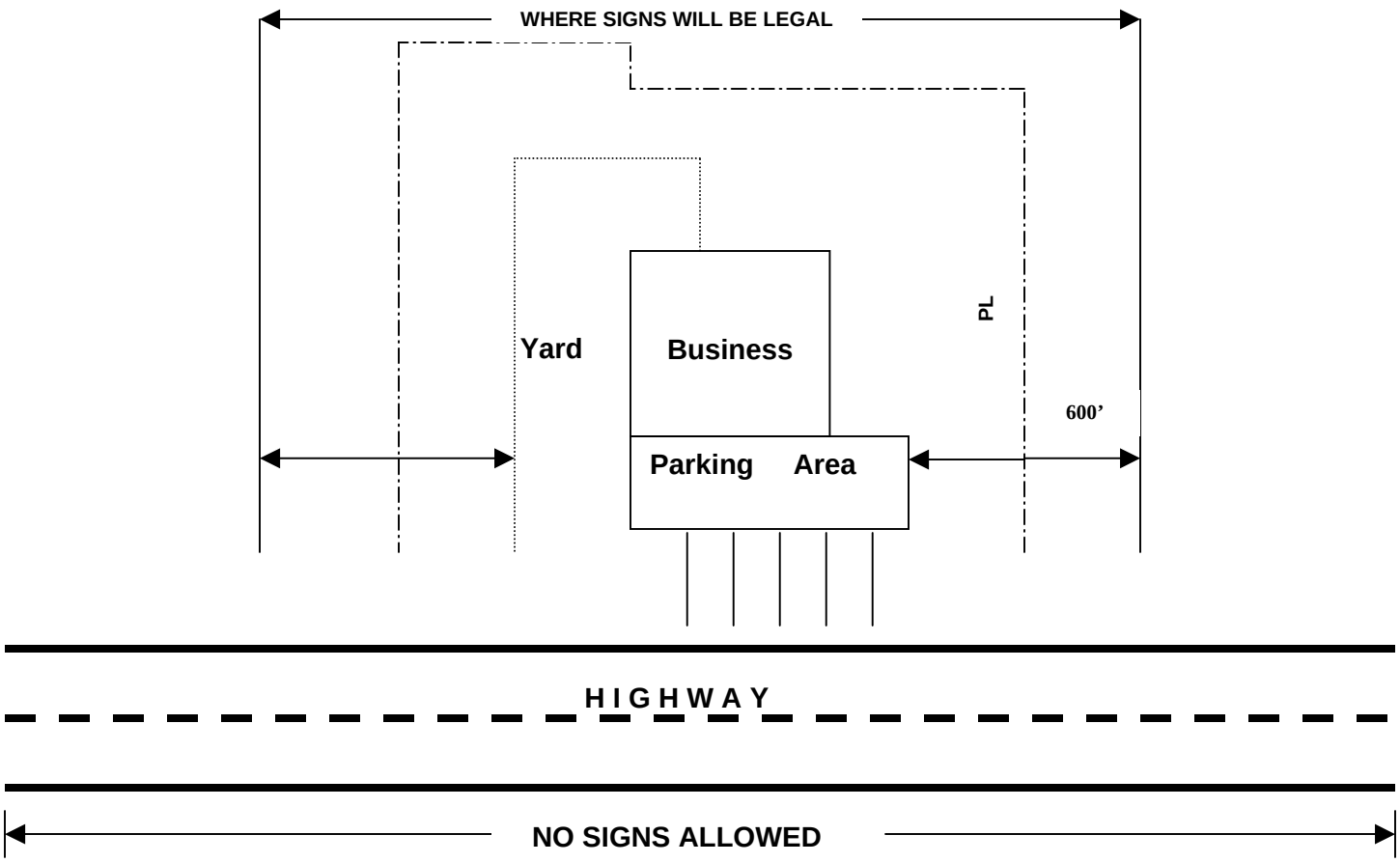


NOTE: OAC PERMIT AND SIGN SPACING REQUIREMENTS MUST BE

ALL MEASUREMENTS ARE TO BE MADE FROM THE EDGE OF THE REGULARLY USED BUILDINGS, PARKING LOTS, LAND

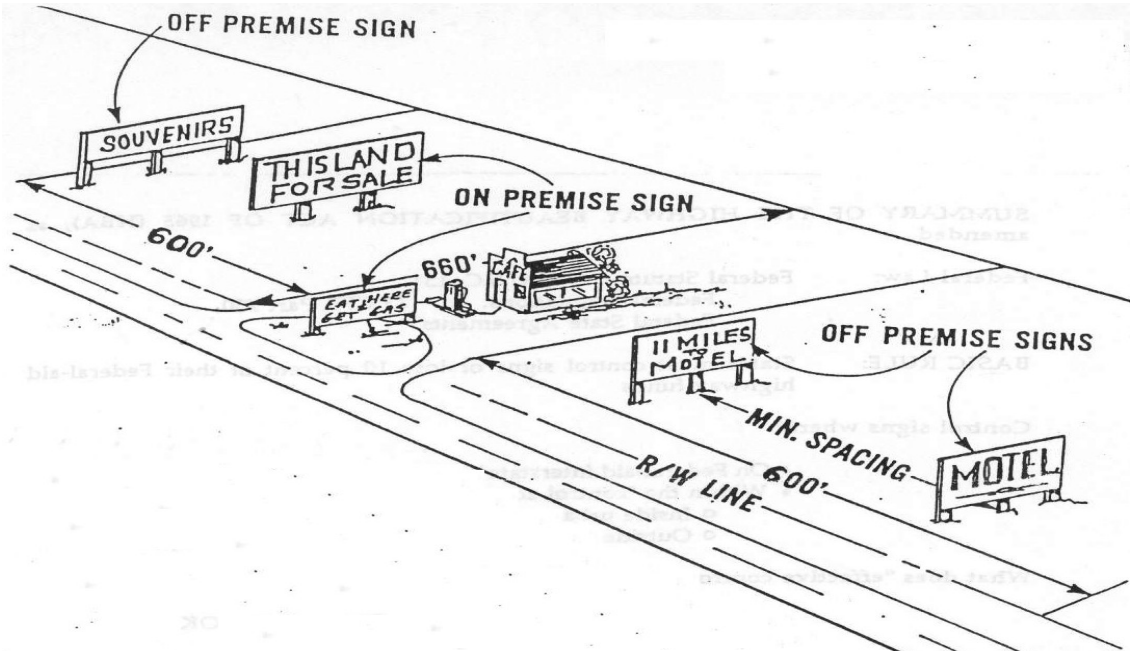
OUTDOOR ADVERTISING CONTROL

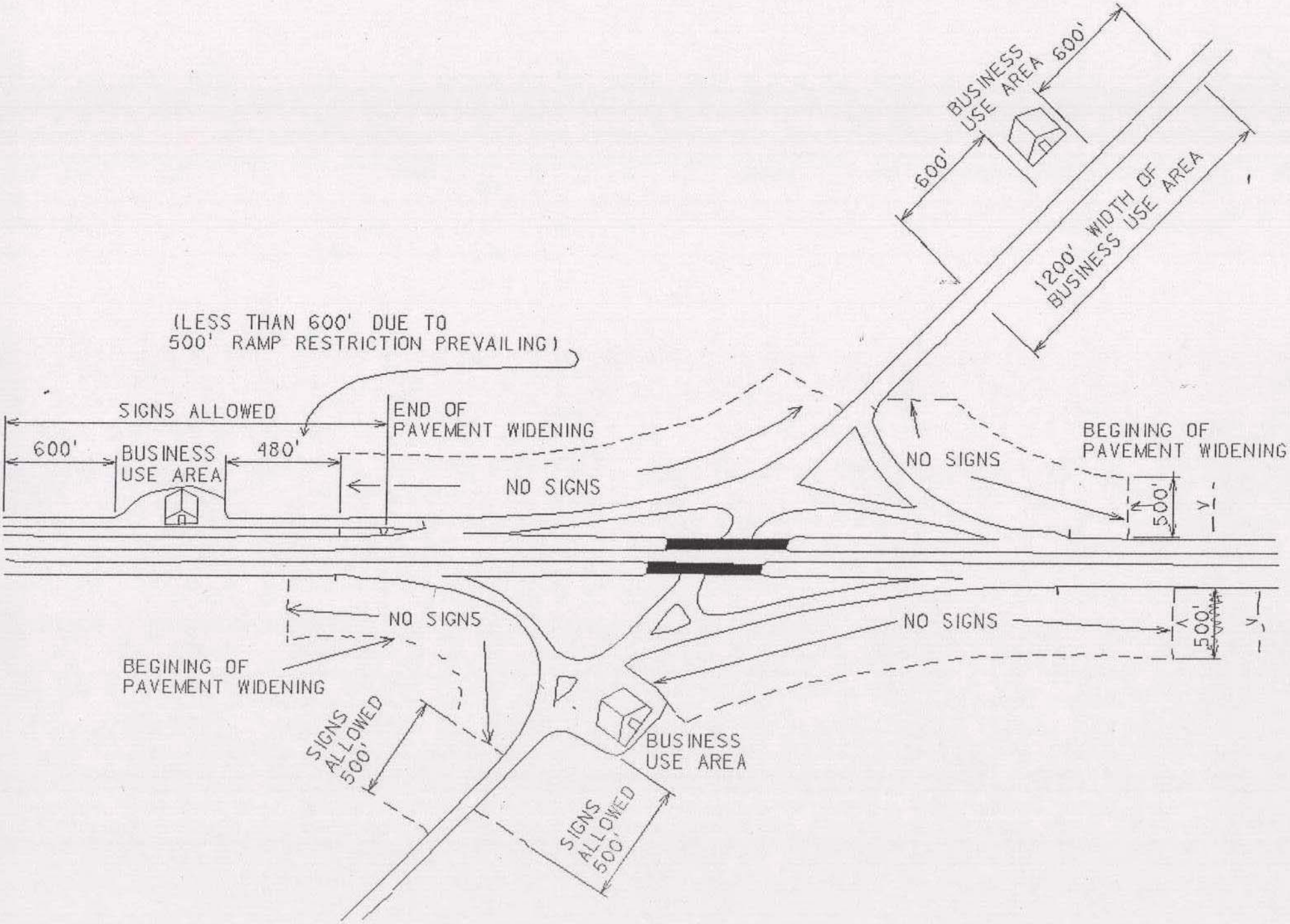


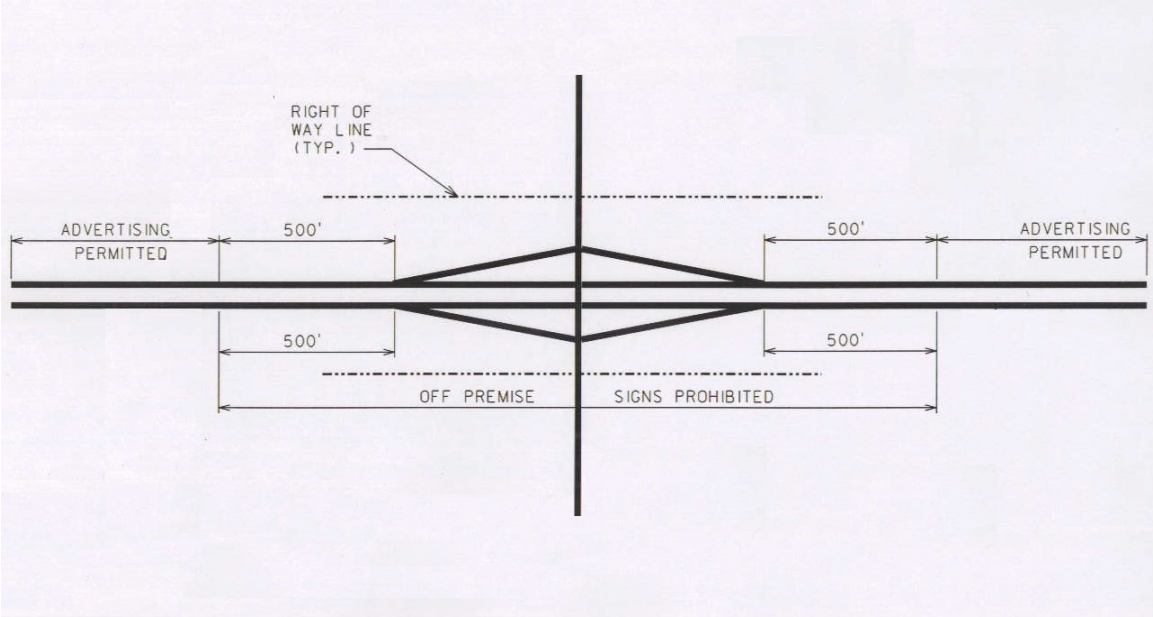


"Unzoned Commercial or Industrial Area" means an area not zoned by state or local law, regulation, or ordinance that is occupied by one or more industrial or commercial activities, other than outdoor advertising, on the lands along the highway for a distance of 600 feet immediately adjacent to the activities,

75-15-103 (14) MCA

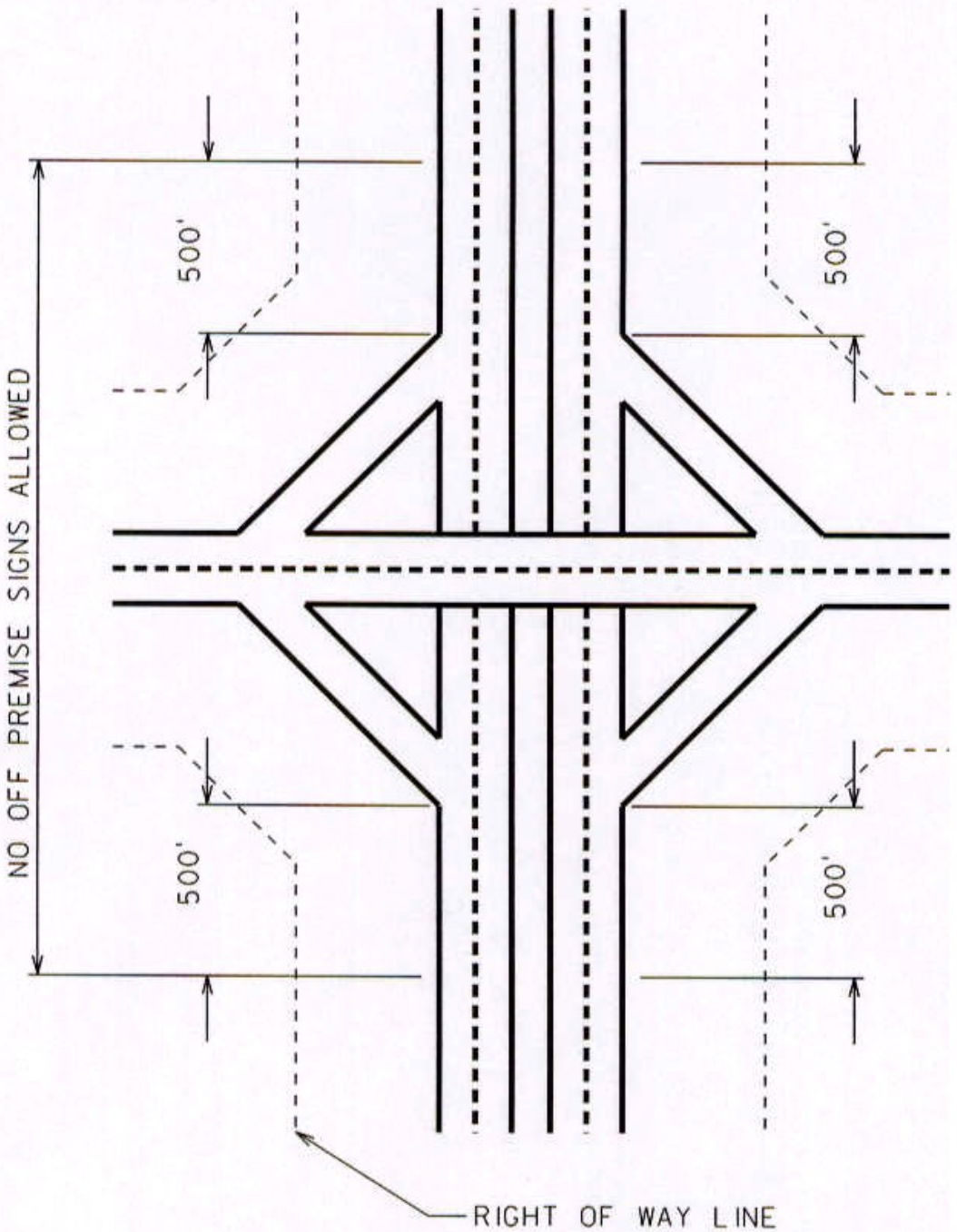



BUSINESS USE AREA
600'
600'
1200' WIDTH OF BUSINESS USE AREA
(LESS THAN 600' DUE TO 500' RAMP RESTRICTION PREVAILING)
SIGNS ALLOWED
END OF PAVEMENT WIDENING
600'
BUSINESS USE AREA
480'
NO SIGNS
NO SIGNS
BEGINING OF PAVEMENT WIDENING
500'
NO SIGNS
NO SIGNS
500'
BEGINING OF PAVEMENT WIDENING
SIGNS ALLOWED 500'
BUSINESS USE AREA
SIGNS ALLOWED 500'

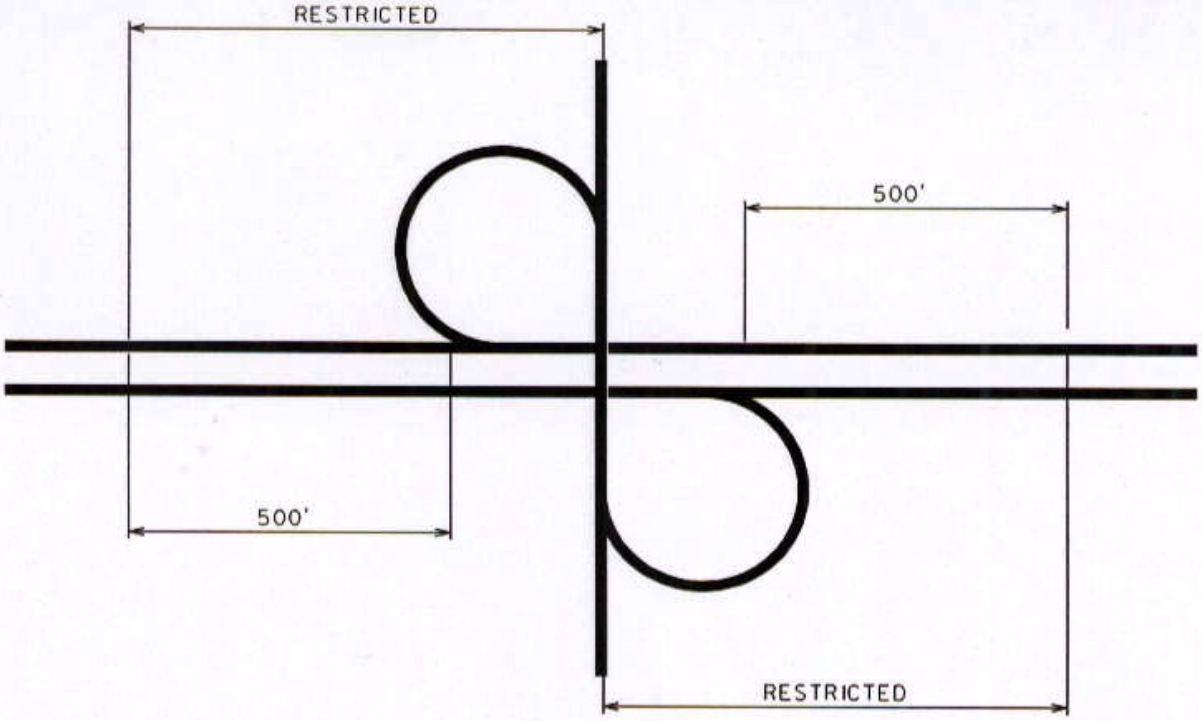

RIGHT OF
WAY LINE
(TYP.)
ADVERTISING
PERMITTED
500'
500'
ADVERTISING
PERMITTED
500'
500'
OFF PREMISE
SIGNS PROHIBITED

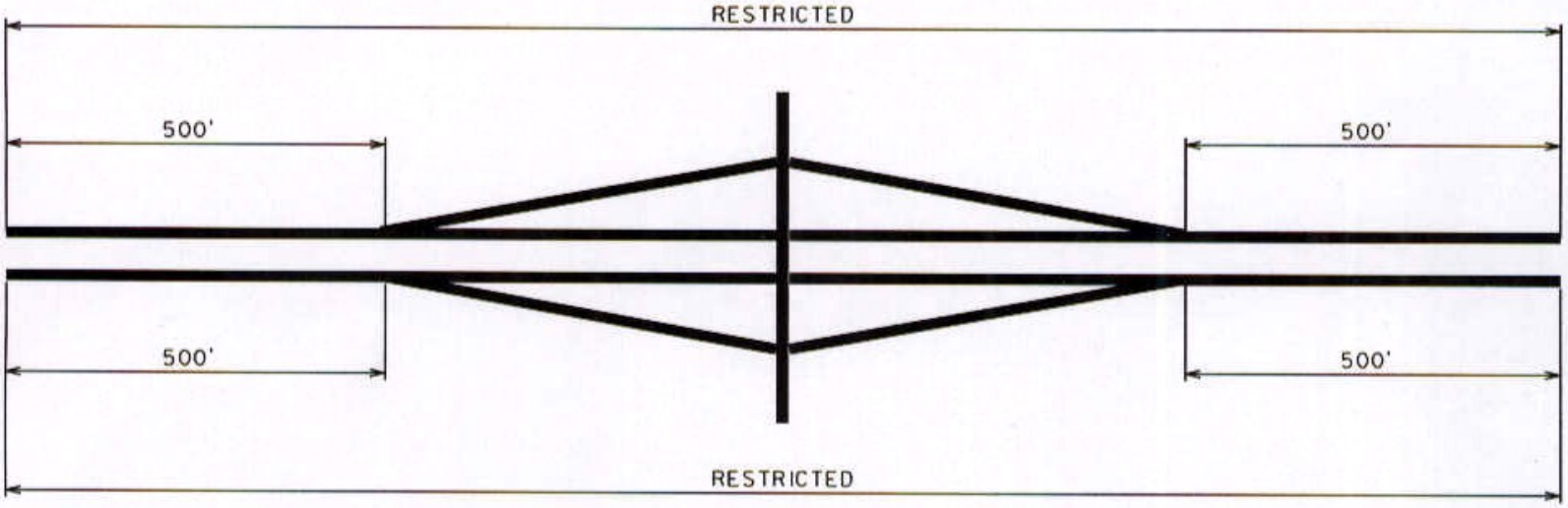
Off-premise signs cannot be located within an interchange area. The first eligible locations are 500 feet beyond the nearest widening used for acceleration or deceleration of traffic to and from the main traveled way.

OFF-PREMISE SIGNS
WITHIN AN INTERCHANGE AREA

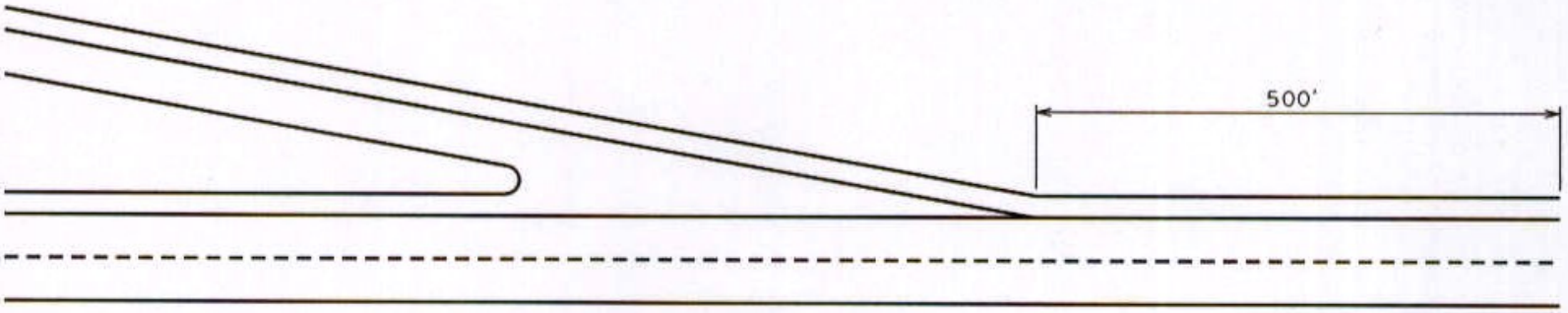


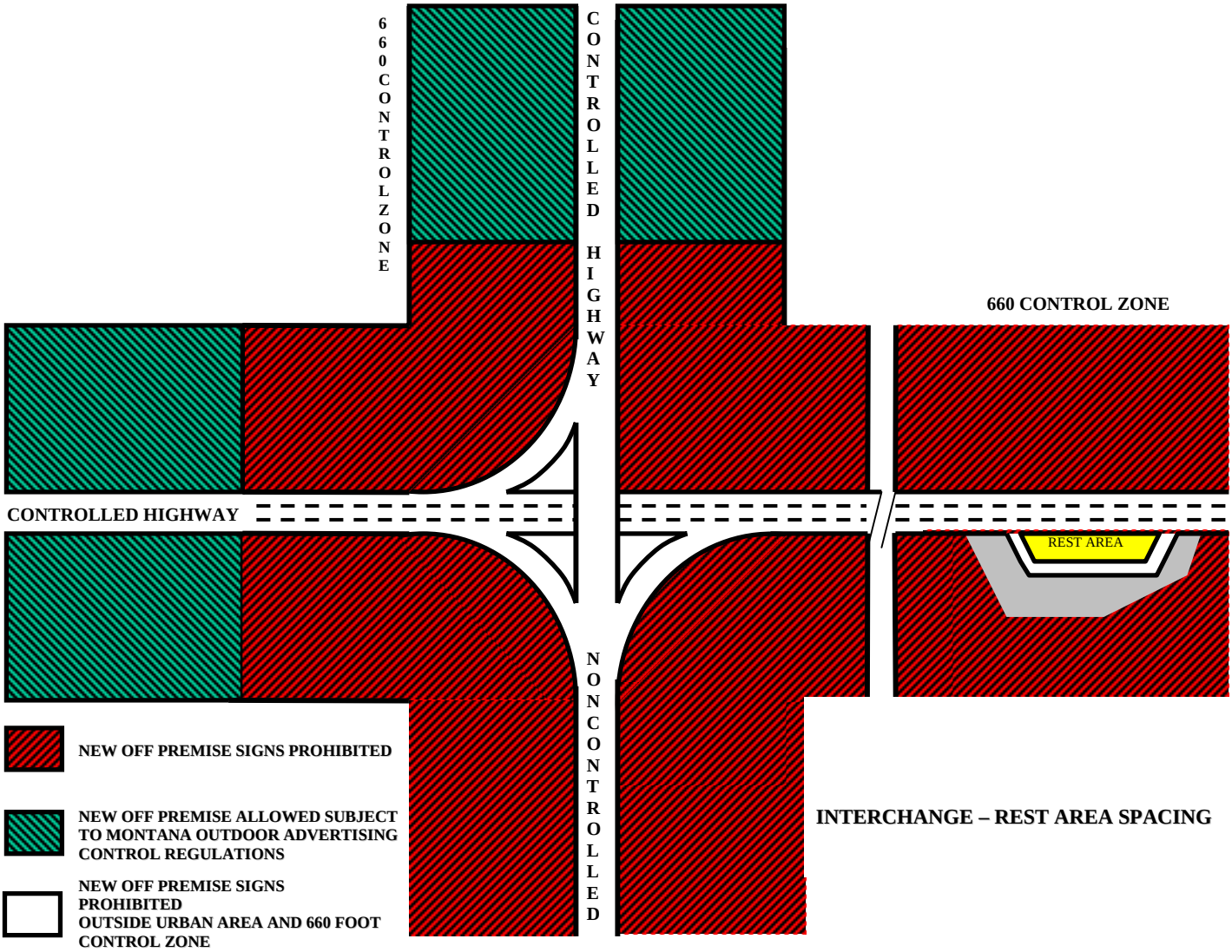
If two interchanges are close in proximity to one another in such a way that a continuous on\off ramp does not allow traffic to join the main traveled way between them, the entire area between the interchanges is exempt from off premise signs.



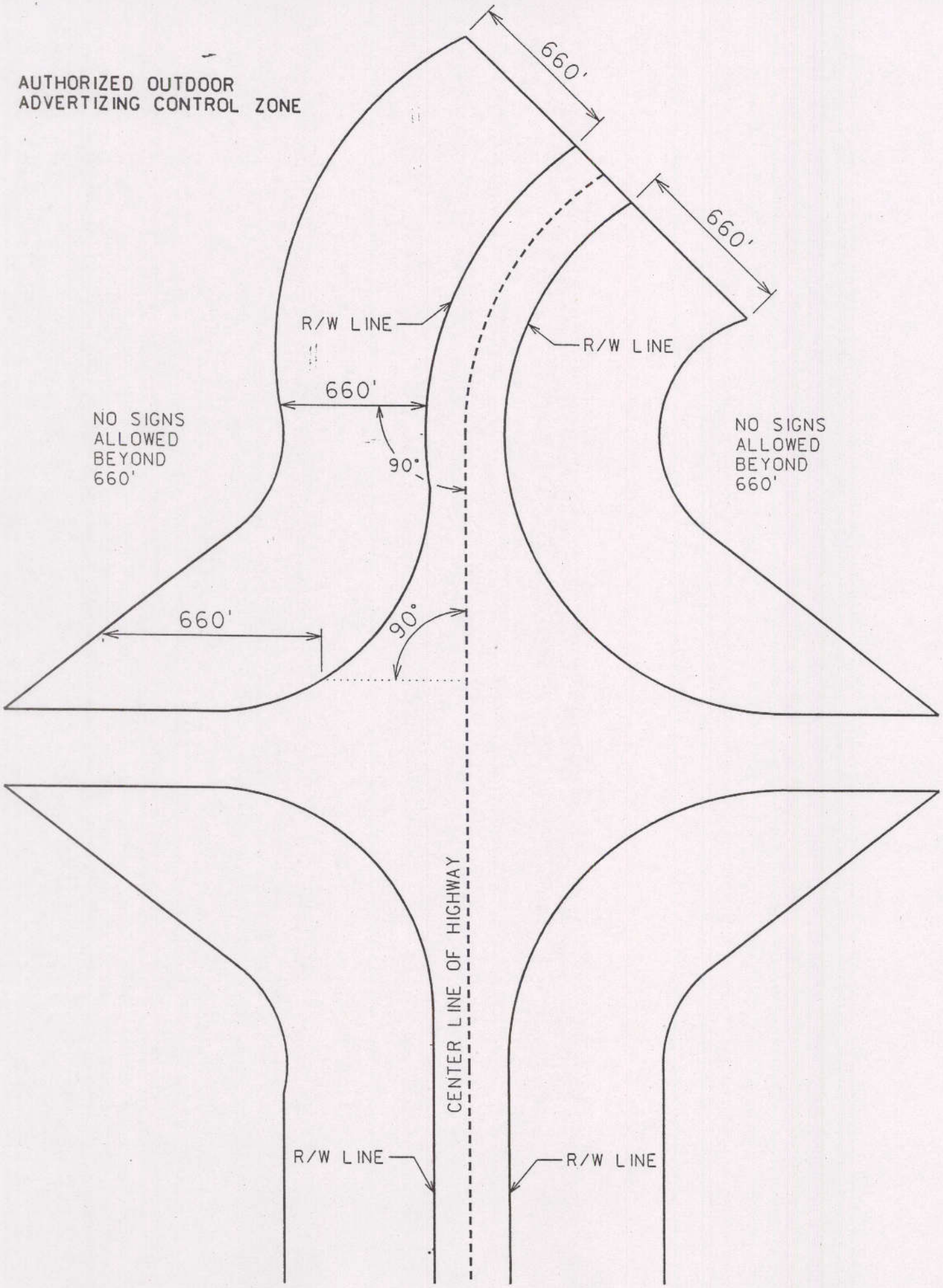


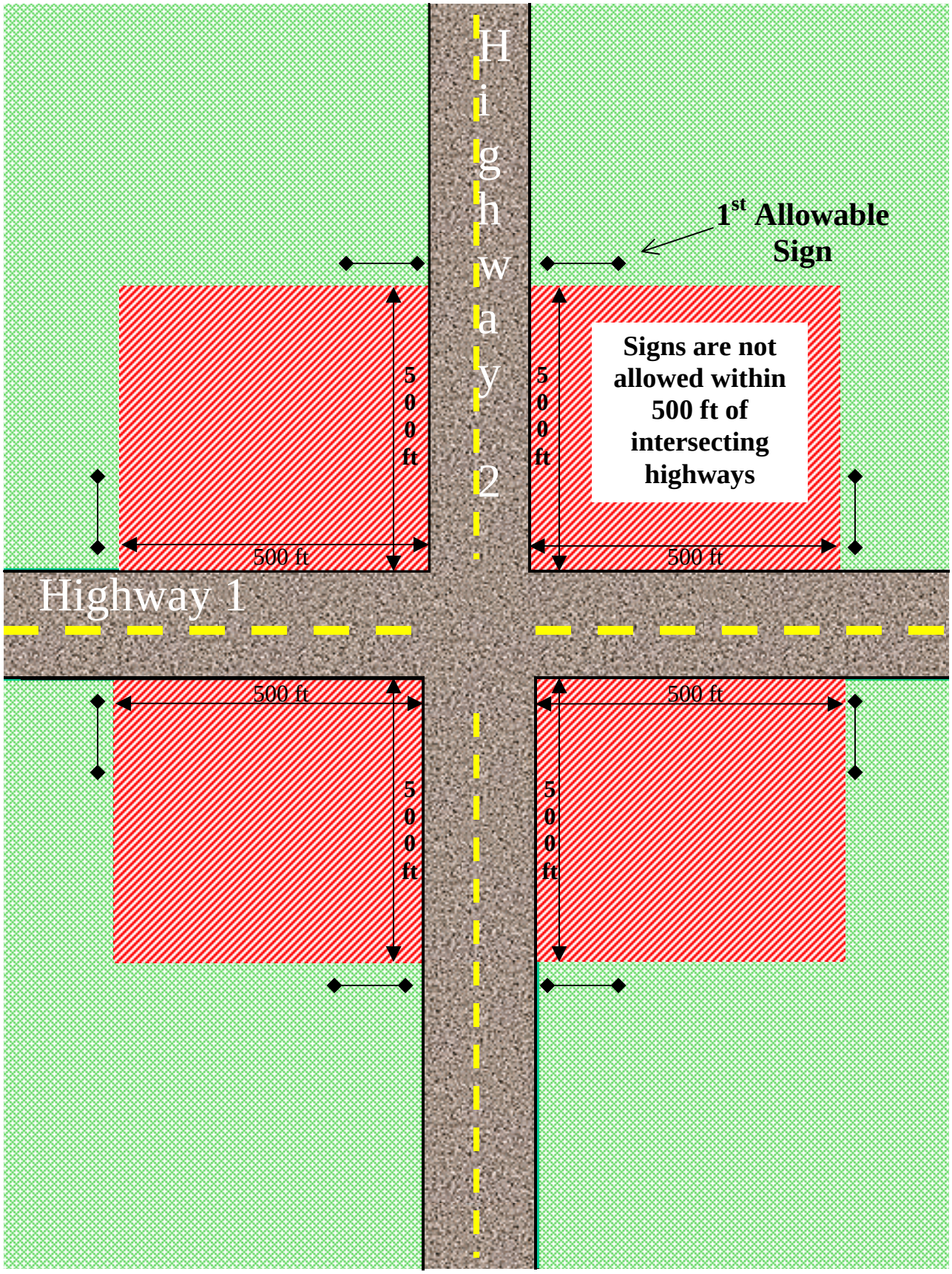
A POINT 500 FEET BEYOND THE POINT OF WIDENING AT THE EXIT FROM THE ENTRANCE TO THE MAIN-TRAVELED WAY TO A FREEWAY.



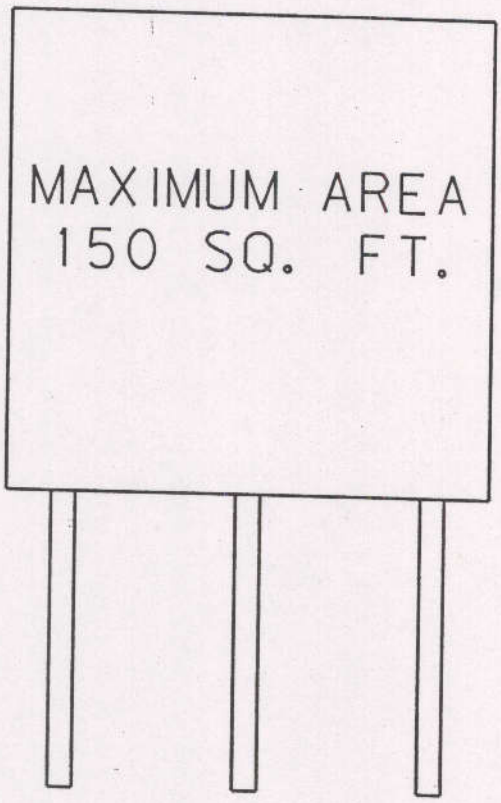

660 CONTROL ZONE
CONTROLLED HIGHWAY
660 CONTROL ZONE
CONTROLLED HIGHWAY
REST AREA
NONCONTROLLED
NEW OFF PREMISE SIGNS PROHIBITED
NEW OFF PREMISE ALLOWED SUBJECT TO MONTANA OUTDOOR ADVERTISING CONTROL REGULATIONS
NEW OFF PREMISE SIGNS PROHIBITED OUTSIDE URBAN AREA AND 660 FOOT CONTROL ZONE
INTERCHANGE – REST AREA SPACING

AUTHORIZED OUTDOOR
ADVERTIZING CONTROL ZONE

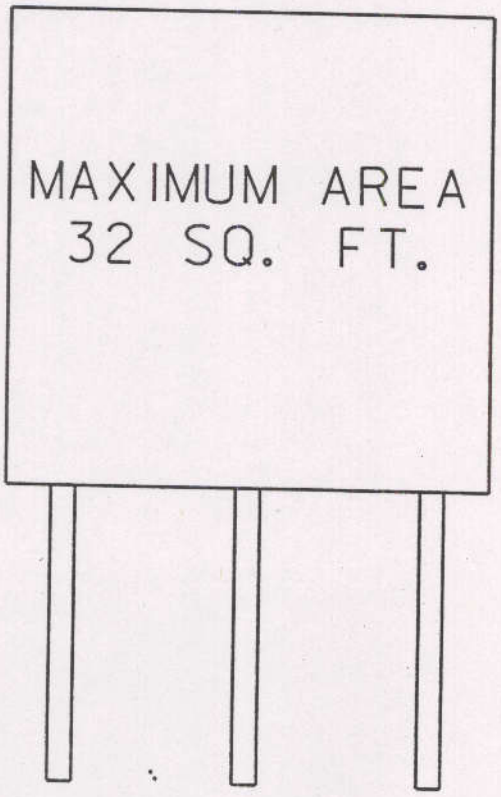



Highway 2
1st Allowable Sign
Signs are not allowed within 500 ft of intersecting highways
500 ft
500 ft
500 ft
500 ft
500 ft
500 ft
Highway 1

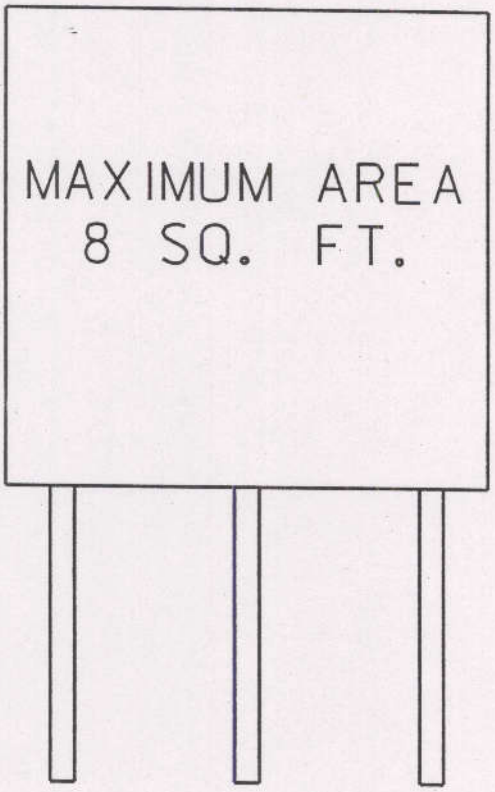
CULTURAL



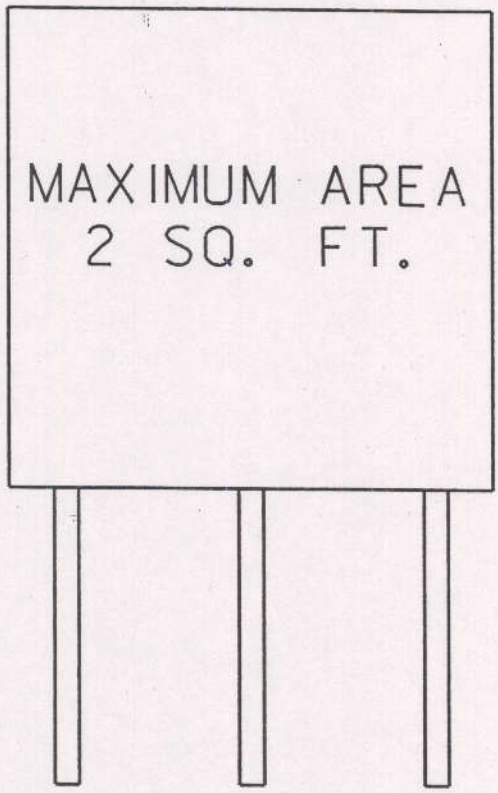
PUBLIC SERVICE SIGNS



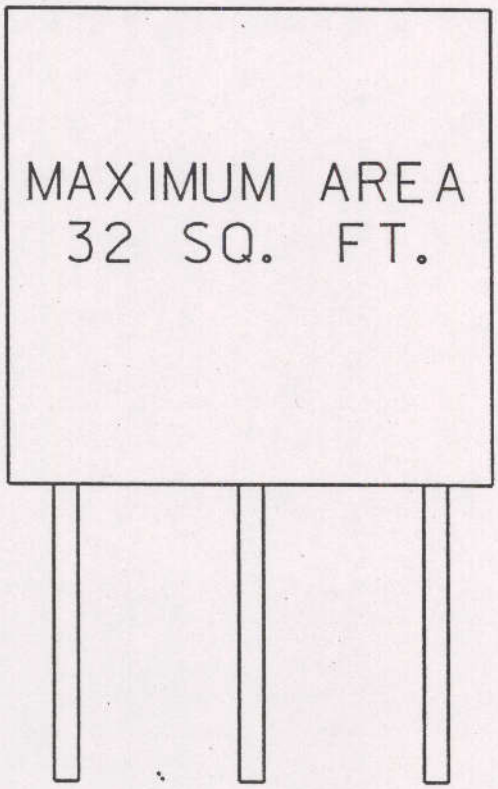
CHURCH AND SERVICE CLUB SIGNS



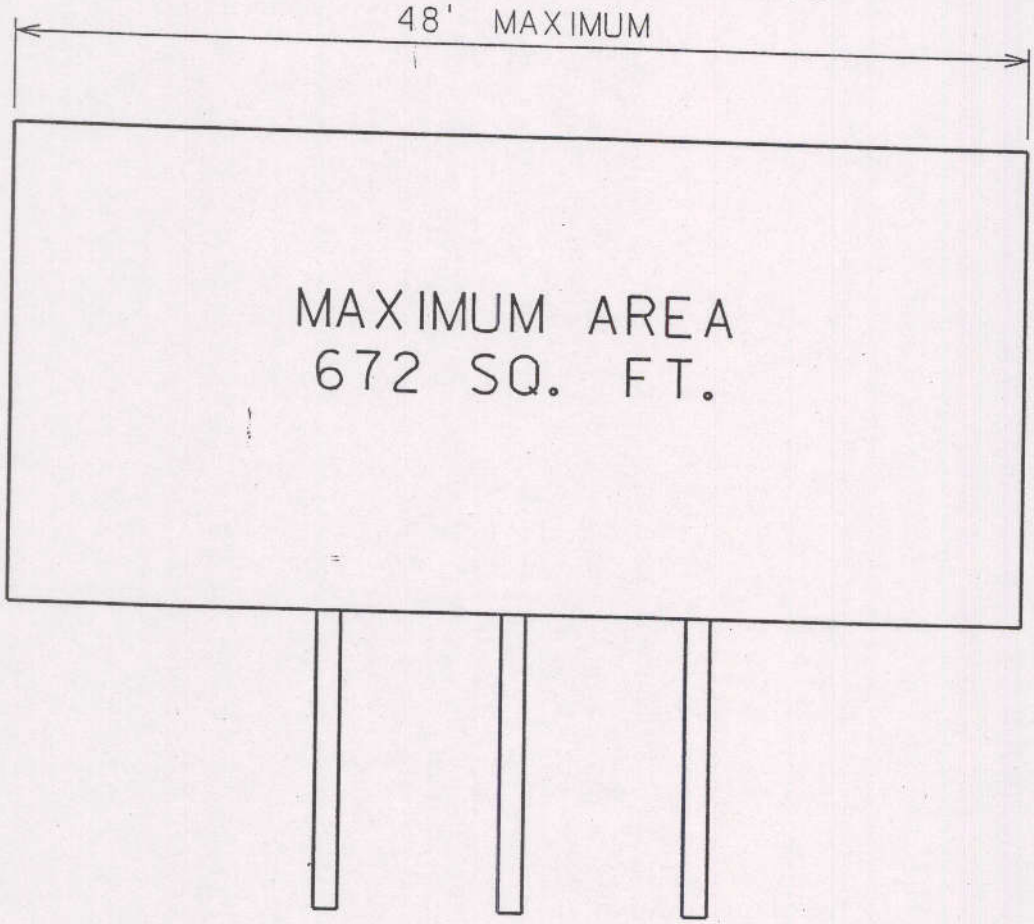
RURAL RANCH AND DIRECTIONAL SIGNS
(ADJACENT TO PUBLIC ROADS)

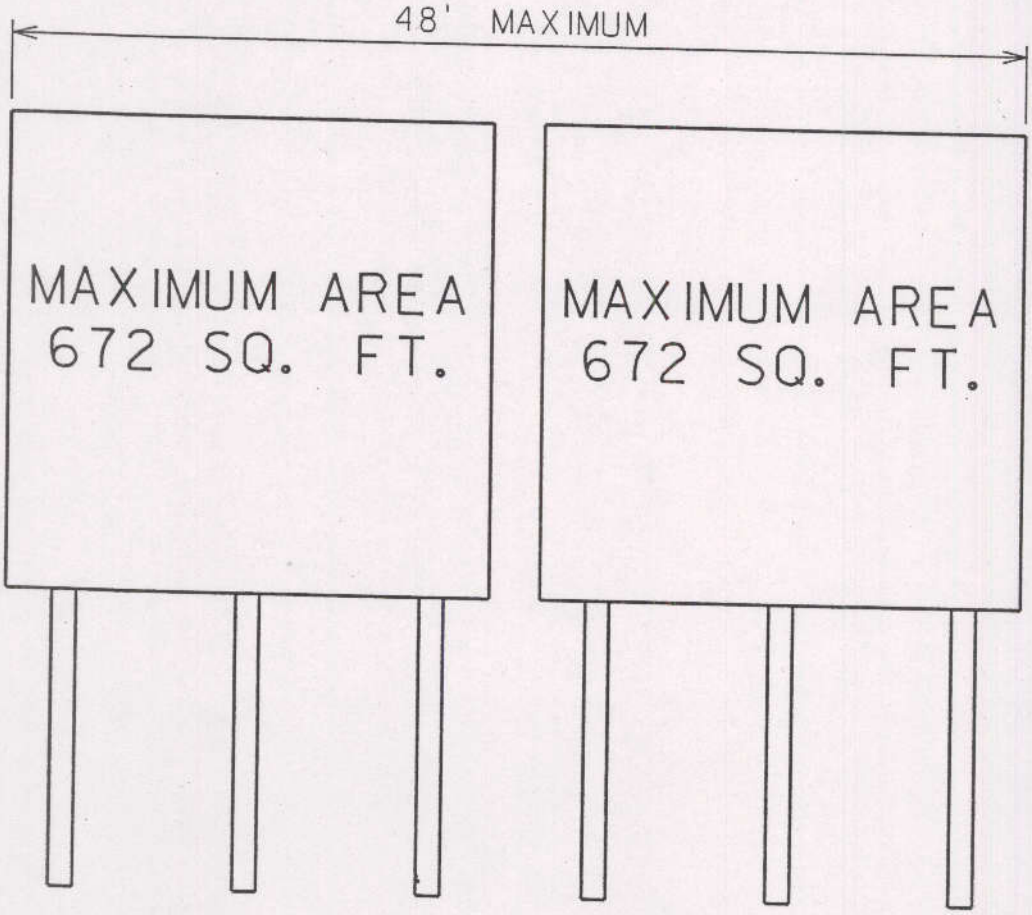


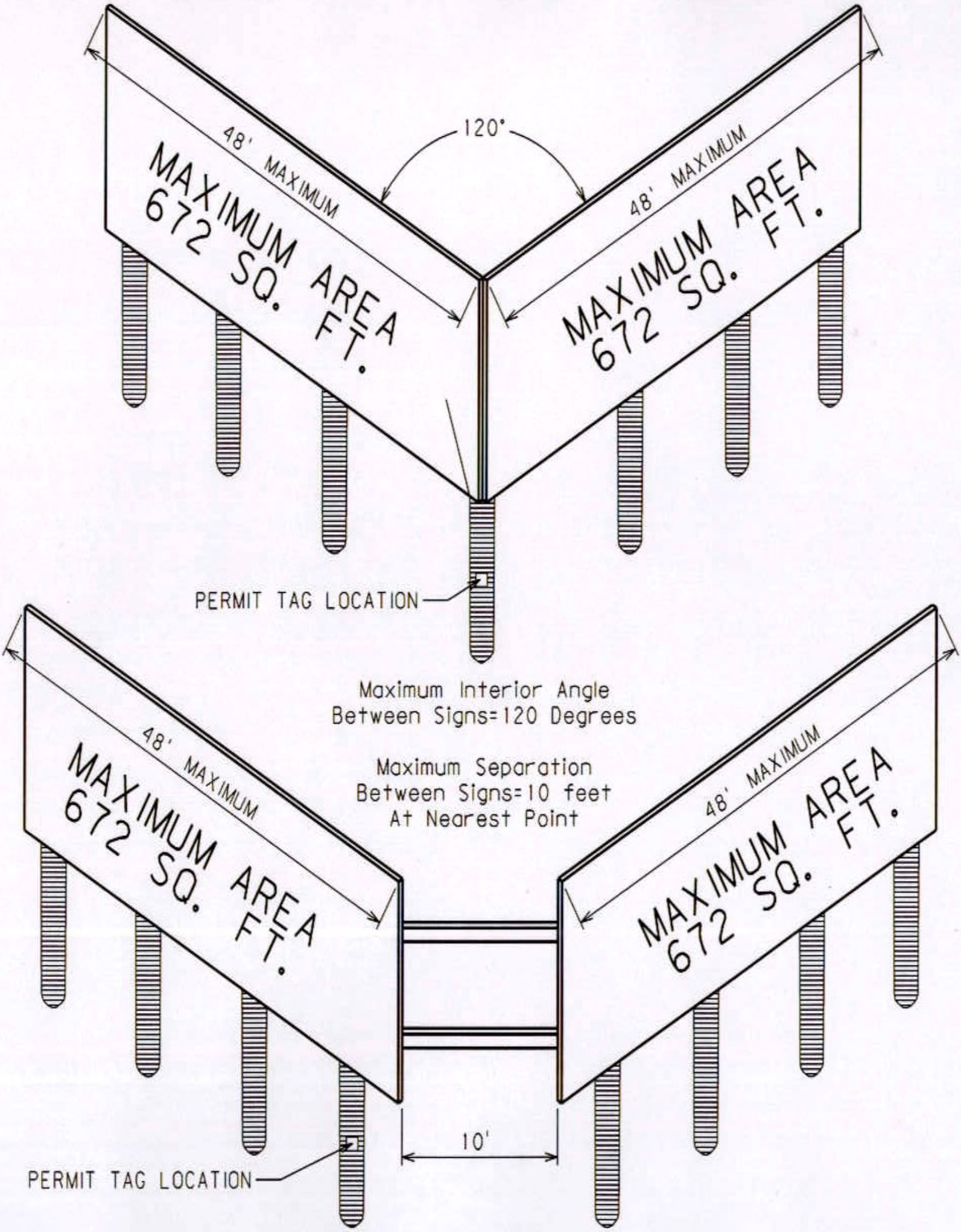
RURAL RANCH AND DIRECTIONAL SIGNS
(ADJACENT TO PRIVATE ROADS)

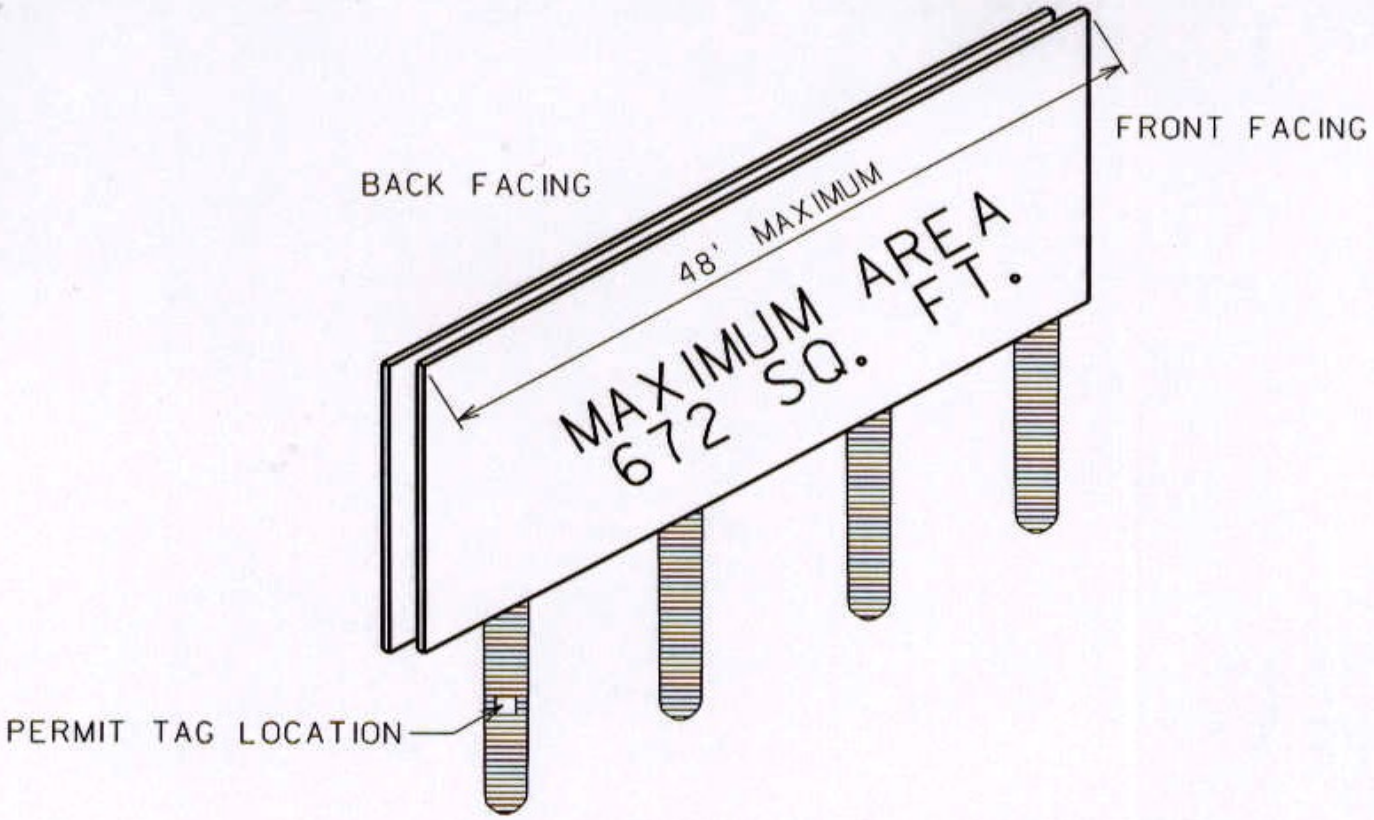


OFF PREMISE COMMERCIAL AND OFFICIAL SIGNS

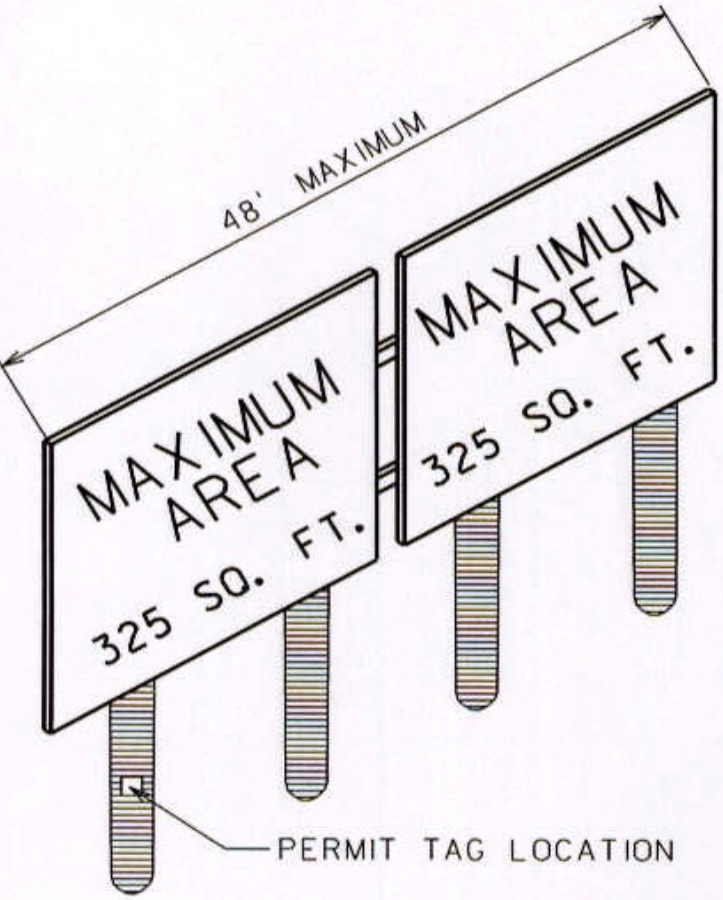


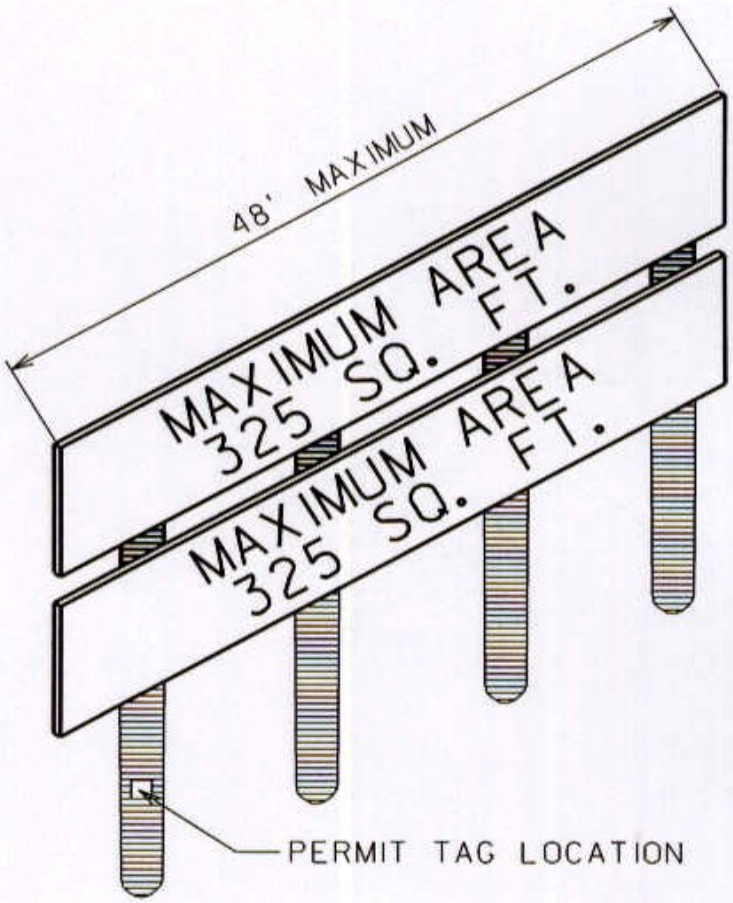



48' MAXIMUM
120°
48' MAXIMUM
MAXIMUM AREA
672 SQ. FT.
MAXIMUM AREA
672 SQ. FT.
PERMIT TAG LOCATION
Maximum Interior Angle
Between Signs=120 Degrees
Maximum Separation
Between Signs=10 feet
At Nearest Point
48' MAXIMUM
48' MAXIMUM
MAXIMUM AREA
672 SQ. FT.
MAXIMUM AREA
672 SQ. FT.
10'
PERMIT TAG LOCATION

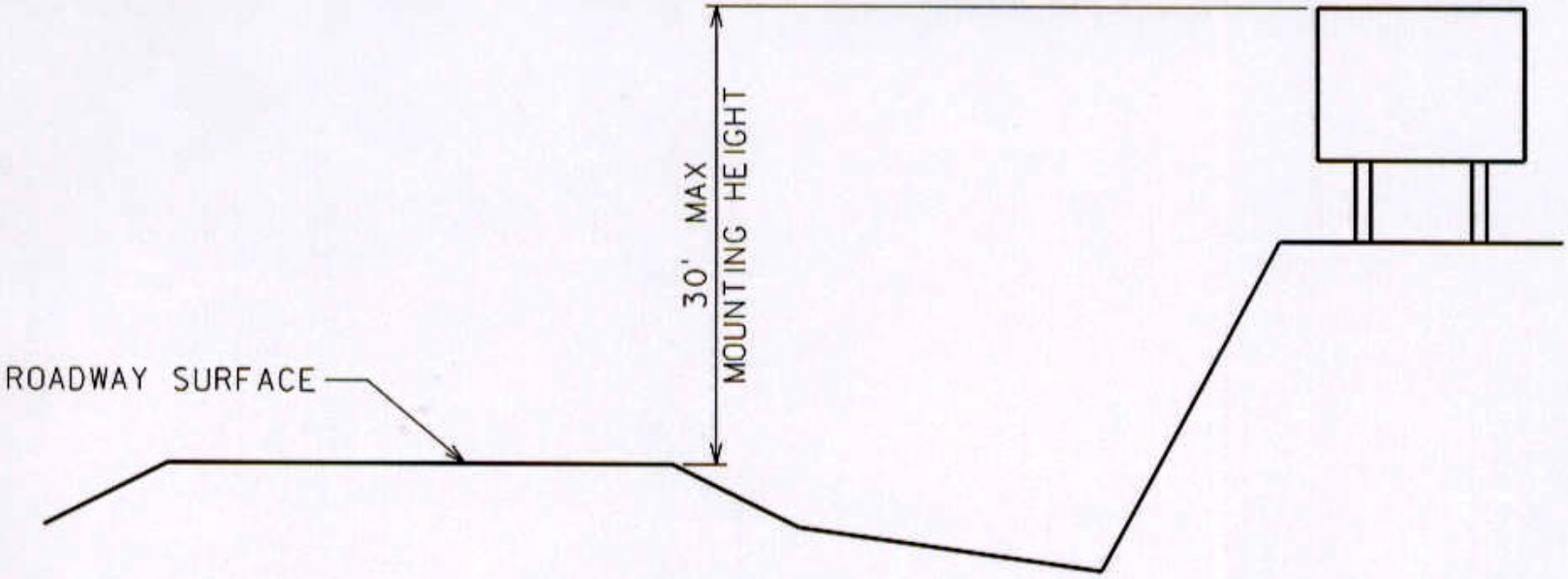


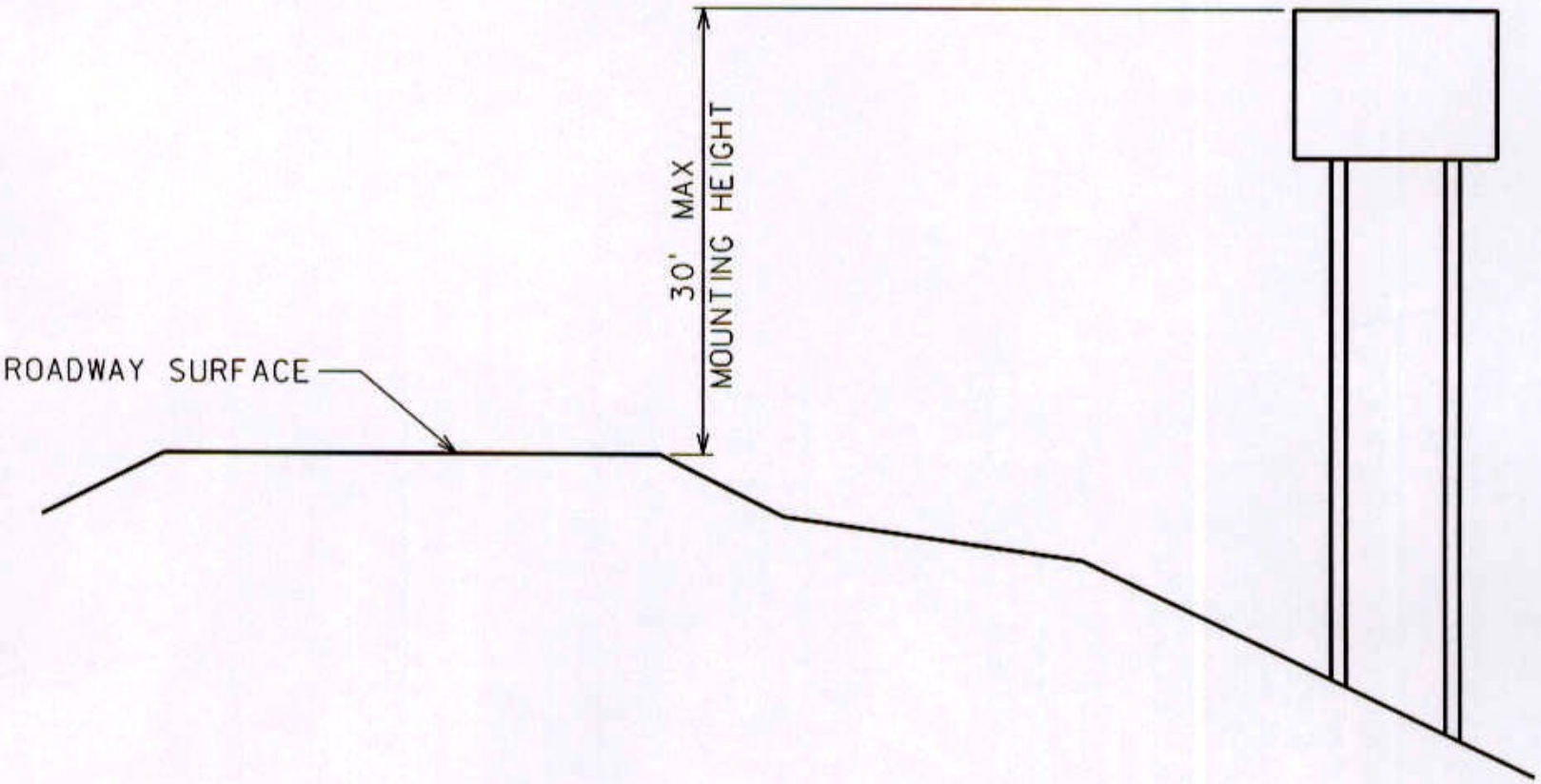
BACK TO BACK SIGN
(One Permit Required)





DOUBLE-FACED SIGN
(One Permit Required)





MOUNTING HEIGHT ILLUSTRATION