



MONTANA DEPARTMENT OF TRANSPORTATION

RIGHT-OF-WAY OPERATIONS MANUAL

Chapter Nine Outdoor Advertising Control

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CHAPTER NINE

OUTDOOR ADVERTISING CONTROL

9-1 SIGN CONTROL PROGRAM OVERVIEW

Statutory Requirements, Authority for Control and Administration

To comply with the Federal Highway Beautification Act enabled by Congress in 1965 (Title 23, United States Code), the Montana Legislature passed the Outdoor Advertising Act, effective June 21, 1971 (and as amended in 1975, 1979, 1991 and 1995). The act is contained in Sections 75-15-101 through 75-15-134, Montana Code Annotated (MCA). The statutes are supplemented by administrative rules promulgated by the Transportation Commission. The administrative rules are contained in Sections 18.6.201 through 18.6.272, Administrative Rules of Montana (ARM).

The Department of Transportation has the responsibility for the regulation and control of outdoor advertising along the National Highway System (NHS) and the Primary Highway System, as those systems are defined in Section 60-2-125, MCA. The Department assigned the Right-of-Way Bureau the overall administration of the program with regard to developing and administering policies and procedures. Within the Right-of-Way Bureau, it is the responsibility of the Special Programs Manager to perform these functions. Activities, including recommendation of permit issuance, surveillance and initiating the removal of unlawful signs, are the responsibility of the Special Programs Right Of Way Agents.

Scope of Sign Control Program

The Outdoor Advertising Control Program involves the regulation and control of the location, size, spacing, lighting and maintenance of signs and devices along the State's NHS and Primary Highway System. For the purpose of this chapter, these systems are referred to as controlled routes. The Program involves:

- A. The review, approval or rejections of sign permit applications.
- B. The inventory of all affected routes to determine sign owners' compliance with regulations of the program.
- C. The removal of any signs unlawfully erected or maintained.

Definitions

- A. The following statutory definitions are found in Section 75-15-103, MCA.
1. “Commercial or industrial activities” means those activities generally recognized as commercial or industrial by zoning authorities in the 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 zoning district or interim regulation 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. “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.
 6. “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”.

7. “Maintain” means to allow to exist, subject to the provisions of this part.
8. “Maintenance” means to repair, refurbish, repaint, or otherwise keep an existing sign structure in a state suitable for use.
9. “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.
10. “Primary system” means that portion of connected main highway as officially designated or as may be designated by the commission and approved by the secretary pursuant of Title 23, United States Code, “Highways”.
11. “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.
12. “Secretary” means the secretary of the United States department of transportation.
13. “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 commercial or industrial activities, other than outdoor advertising, on the lands along the highway for a distance of 600 feet from the edge of the main commercial/industrial facility.
14. “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 census.
15. “Visible” means capable of being seen and legible without visual aid by a person of normal visual acuity.

B. Additional definitions are found in ARM 18.6.202.

9-2 AUTHORIZED SIGNS

9-2.1 Signs Requiring Permits

All outdoor advertising signs located on controlled route that advertise activities, services or products located in areas other than the location of the sign must be permitted by the Department in accordance with applicable rules and regulations.

MDT Outdoor Advertising Control does not regulate signs located on recognized Native American Reservations whether the sign is located on a controlled route or not.

In rural areas, the Department's jurisdiction affects all outdoor advertising signs which are erected, with the purpose of its message being visible from the controlled route. (Ref: 75-15-111, 75-15-103(16), 75-15-112(1), MCA)

In urban areas, the Department's jurisdiction affects signs erected within 660 feet of the nearest edge of the right of way and which are visible from the controlled route. Signs which are beyond 660 feet from the nearest edge of the right of way and are visible from the controlled route shall not be permitted. Such signs shall be determined unlawful. (Ref: 75-15-111, 75-15-112(1), 75-15-103(15), MCA)

The urban areas of Montana as defined in Section 60-2-125(6), MCA, are Whitefish, Kalispell, Missoula, Anaconda, Butte, Helena, Belgrade, Bozeman, Livingston, Great Falls, Havre, Miles City, Billings, Lewistown, Hamilton, Glendive, Columbia Falls, Sidney and Laurel.

Permittable signs may be located only in areas zoned industrial or commercial by state, county or local zoning authority, or in unzoned industrial or commercial areas as determined by the Department consistent with the rules and regulations. Areas that are zoned Multi-use or PUD that have both residential and commercial uses will be reviewed on a case by case basis. If the proposed sign is in a predominate commercial area, it may be approved. If the sign is in a predominate residential area it may not be approved.

Cases where a sign is visible from more than one controlled route, the sign must meet permitting requirements of all routes.

If it is determined the on-premise sign also contains advertising of products or services not conducted on the premises, the entire sign structure is subject to permitting requirements and the fees shall be based on the entire sign area.

The following signs may be permitted outside of zoned or unzoned industrial and commercial areas. (See sub-chapter 4.)

- Signs pertaining to a church, service club, or youth organization provided they meet the requirements of ARM 18.6.241.
- Signs pertaining to natural wonders, scenic and historical attractions, or ranching, grazing or farming activities provided they meet the requirements of ARM 18.6.243.

A Commercial and Industrial Zone is an area reserved for business, commerce or trade by local zoning ordinances, regulations, or enabling state legislation. Local spot, strip or temporary zoning will not be recognized for permitting outdoor advertising. (Ref: 75-15-103(2), MCA)

Written approval from the appropriate governing body verifying the zoning classification shall be obtained by the applicant as part of the application and is reviewed and considered by the Department. (Ref: ARM 18.6.212(f))

An 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. The permissible commercial or industrial area shall be on lands along the highway for a distance of 600 feet in either direction immediately adjacent to the activities and measured from the edge of the main commercial/industrial facility. (Ref: 75-15-103(14), MCA)

Commercial or Industrial Activities are defined as those activities generally recognized as commercial or industrial by zoning authorities in this state. None of the following activities are considered commercial or industrial:

- Agricultural, forestry, grazing, farming and related activities, including wayside fresh produce stands;
- Transient or temporary activities;
- Activities not visible year around from the main traveled way;
- Commercial activities occupied and open to the public for less than 20 hours per week;
- Activities that have been in business less than one year at the specific location that is being considered for a qualifying business.
- Note: Industrial does not allow any residence to be on property.
- Railroad tracks and minor siding; and
- Activities more than 660 feet from the nearest edge of the right of way.

The permanent buildings or improvements comprising a business (activity) intended to serve the traveling public must be clearly visible and easily recognizable as a commercial or industrial activity. A commercial activity shall be occupied and open to the public during regularly scheduled hours in excess of 20 hours per week. Commercial and industrial activities shall have been in business at least one year prior at the specific location to being considered a qualifying activity. Signs, displays or other devices may be considered in the determination of visibility. Seasonal (but not temporary or transient) activities may be considered as qualifying activities.

The extent of the property used to qualify an activity is the active area of the business, including its buildings, parking area and incorporated landscaped area, but does not include vacant land, land used for unrelated activities, driveways or land that is separated by other ownerships or roadways.

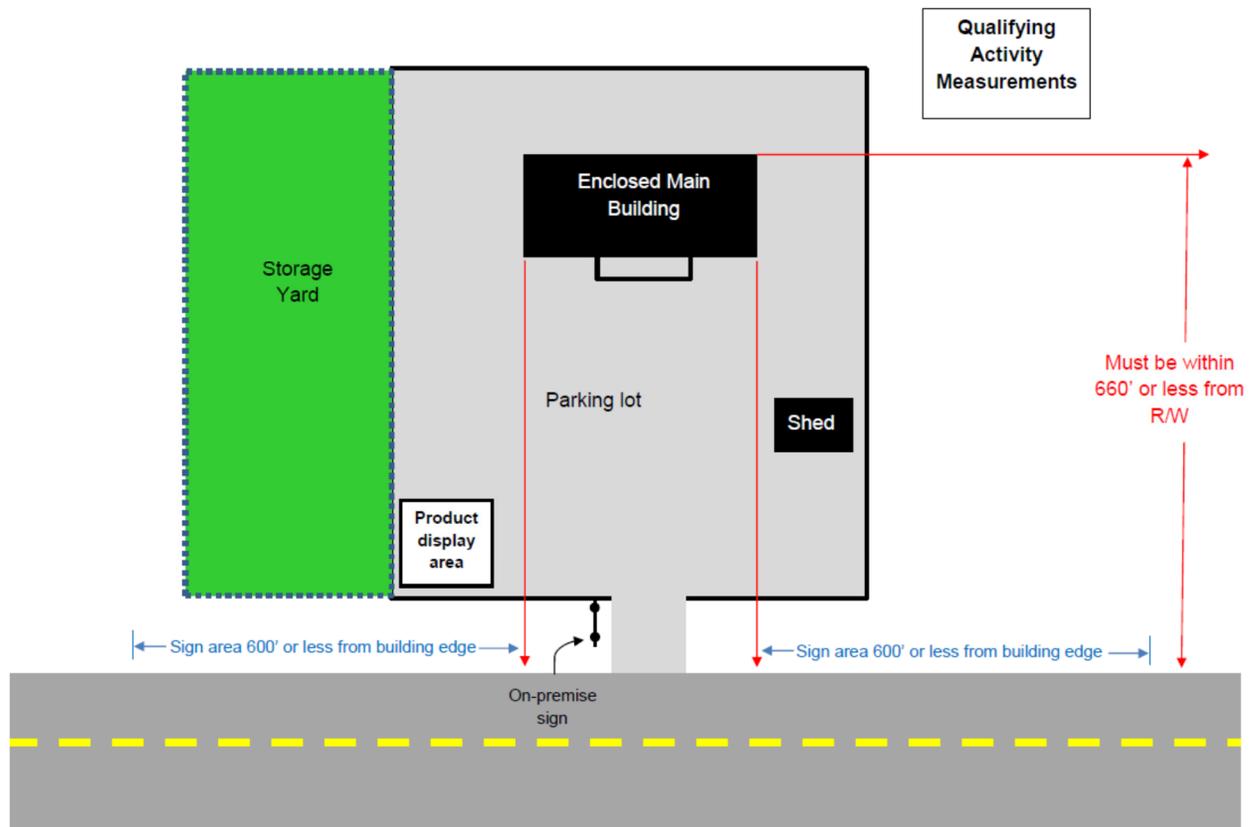
If the activity is over 660 feet from the nearest edge of the highway right of way and is accessed by an approach and road from the highway, any sign, landscaped area or appurtenance associated with the activity adjacent to the highway approach and access road shall not qualify the activity.

Industrial or commercial activities which are located either partially or totally within a zoned area may not be used to qualify an adjacent unzoned commercial or industrial area.

A commercial or industrial activity established for the purpose of qualifying an area for the displaying of outdoor advertising will not create an unzoned commercial or industrial area. It is presumed the activity is primarily for the purpose of qualifying the area for outdoor advertising if the activity is not reasonably accessible to the public, is not connected to two or more utilities, if no business is actually conducted on the premises, or if the activity has been in business less than one year.

In the event the determination of a qualifying activity is unclear, the Outdoor Advertising Control Work Group shall be contacted to provide advice and/or determination. The Work Group, at their discretion, will determine qualifying activities on a case-by-case basis. Photographic or other evidence may be required by the applicant.

If it is determined an activity qualifies to create an unzoned commercial or industrial area, a maximum of two signs shall be permitted from the activity, and they must be located on the same side of the highway as the qualifying activity.



Spacing measurements

Restricted Areas for Outdoor Advertising

Interstate Interchange Control Zone – The issuance of outdoor advertising permits is prohibited within 500 feet from the acceleration or deceleration lanes to or from the main traveled way of the interstate highway and within 500 feet of any intersecting roadway within the interchange area. The area is determined to be a “safety zone”. (Ref 75-15-103(6), 75-15-113 (9), MCA; ARM 18.6.202(23))

Interstate Intersection at Grade Control Zone – The issuance of outdoor advertising permits is prohibited within 500 feet of an interstate intersection at grade area. The 500 feet is measured along the interstate from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. Areas include, but are not limited to, rest areas, parking areas, weigh stations, chain-up areas and scenic/historic areas. (Ref: 75-15-113(9), MCA; ARM 18.6.202(24))

Restricted Areas Outside of Incorporated Cities or Towns – The issuance of outdoor advertising is prohibited within 500 feet of public parks, public forests, public playgrounds, scenic areas or cemeteries. Distances shall be measured from the point where said lands are adjacent to the highway. This restriction does not apply within the incorporated boundaries of cities or towns. (Ref: 75-15-113(8), MCA)

9-2.2 Nonconforming Signs

A “nonconforming sign” means a sign which lawfully erected but which does not comply with the provisions of state law or state regulations passed at a later date, or which fails to comply with state law or state regulations due to changed conditions. **Illegally erected or maintained signs are not nonconforming signs.**

There are two categories of nonconforming signs as follows:

- **Class I** are signs which were lawfully conforming on April 21, 1995, but became nonconforming after that date because they no longer complied with the requirements in Section 75-15-113, MCA. Class I also includes signs that were classified nonconforming by the Department prior to April 21, 1995.
- **Class II** are signs in unzoned commercial or industrial areas that were lawfully conforming after April 21, 1995, and still meet the requirements of Section 75-15-113, MCA, but that exceed the restrictions of Section 75-15-111(1)(e), MCA.

The Department shall use the following method to determine originally lawfully conforming signs in unzoned commercial and industrial areas that have changed to nonconforming:

- Do not meet the size requirements of Section 75-15-113, MCA.--
- Are not on the same side of the highway as the qualifying activity.
- Are not the first two (2) signs by date of permit issuance.
- If the date of permit issuance cannot be determined, or if more than two signs were permitted on the same date, the two (2) signs closest to the principal place of business of the qualifying activity, when measured at right angles along the centerline of the highway will be classified lawfully conforming signs.

All other signs in unzoned commercial and industrial areas that were lawfully conforming on April 21, 1995, shall be classified as **Class II** nonconforming signs.

Although nonconforming signs are lawfully permitted, certain restrictions apply. In the event the permit is not renewed in a timely manner, or if the permit is canceled, the sign structure is required to be removed without compensation by the Department.

New permits cannot be issued for nonconforming signs and signs in conforming areas which do not meet required size, lighting, height and spacing requirements under current state law and state regulations.

Additionally, restrictions on the repair and maintenance of nonconforming signs and signs in conforming areas which do not meet required size, lighting, height and spacing requirements apply as follows:

Class I signs may be repaired and maintained but only in conformity with the following limitations:

Such repair and maintenance as is reasonably necessary to maintain the sign's appearance and structural integrity may be performed. The value of new materials used in the maintenance of a sign during one calendar year may not exceed 30 percent of the value of all of the materials which would be required to replace the sign new.

Class II signs may be repaired and maintained in conformity with the following limitations:

Such repair and maintenance as is reasonably necessary to maintain the sign's appearance and structural integrity may be performed. The value of new materials used in the maintenance of a sign during one calendar year may not exceed 75 percent of the value of all of the materials which would be required to replace the sign new.

Signs which are damaged by vandalism, criminal acts or tortious acts may be repaired or replaced. Documentation, including photographs of the damage, must be submitted to the Department prior to commencing any work on the sign.

The sign owner shall be advised to check with local government authority to ensure the repairs, maintenance or illumination of sign meets any lawful ordinance, regulation or resolution.

In no case may the repair, maintenance, or re-erection of nonconforming signs (or signs in conforming areas which do not meet required size, lighting and spacing criteria) result in an increase in the area used to display advertising copy or an increase of height, width or areas over height, width or area of the sign when last permitted. 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. For example, a change from wood to steel structure or a change from unilluminated to illuminated would constitute a substantial upgrading.

The addition of "cut outs" or "pop ups" to the sign face is considered an increase in the area used to display advertising copy and is prohibited.

The Department shall notify the sign owner of a violation and may allow a permittee who has upgraded a nonconforming sign a reasonable time to restore the sign as originally

permitted. If the sign is not restored within the permitted time, or the sign is upgraded a second time, the permit will be immediately canceled. (Ref: ARM 18.6.251(12))

9-2.3 Signs Not Requiring Permits

Signs adjacent to the right of way of a controlled route and are visible from the highway, that do not require permits and are not subject to the provisions of the Outdoor Advertising Act include:

- Signs advertising the sale or lease of property upon which they are located.
- Official traffic signs located within the highway right of way.
- “On-premise” signs.
- LOGO and TODS signs located within the highway right of way and authorized by the Montana Motorist Information Act. (Ref: 60-5-501 et seq., MCA)
- Freedom of speech sign such as religious messages.

On-Premise Signs

See ARM 18.6.204

PURPOSE: The purpose of an on-premise sign is to identify the activity, products, services, or the sale or lease of the property on which the sign is located. The following signs would not be considered on-premise:

- If the sign produces rental income.
- If a sign exclusively contains brand or trade names incidental to the activity.

An example is a large billboard located on the corner of the property along the highway advertising candy or tobacco products available from a vending machine at the business location.

- A sign which advertises activities conducted on the premises, but which also advertises activities not conducted on premise. An example is “Carol’s Café” (the on-premise business) and also “Carol’s Motel – 3 Blocks Ahead”.
- A sale or lease sign that also advertises a product or service not located on and unrelated to the business or premises for sale or lease. An example is

“This Property for Sale – More information at Carol’s Motel – 20 Air-conditioned Rooms – 3 Blocks Ahead”.

It is important to note that a sign located along the highway which advertises a business that is located over 660 feet from the highway may be considered “on-premise,” but may not be considered to qualify the business activity for off-premise signs in unzoned commercial or industrial areas. (Ref: ARM 18.6.203(a))

9-2.4 Standards For Permitted Advertising Signs

Signs may not be permitted, erected or maintained which (see MCA 75-15-113):

- Exceed 672 square feet in area, including border and trim but excluding base or apron, supports, and other structural members;
- Exceed two facings visible and readable from the same direction on the main-traveled way. Whenever two facings are so positioned, neither may exceed 325 square feet.
- Exceed 48 feet in length (width);
- Exceed 30 feet in height, when measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway (if the Department is unsure of the height of a sign structure, it is the responsibility of the applicant or sign owner to prove the structure does not exceed the height restriction); or

Double-faced, back-to-back, and V-type signs are considered to be a single sign or structure. When two or more faces, back to back, are supported by separate structures exceeding ten feet apart at the nearest point, each is considered to be a single sign.

9-2.5 Spacing

No two signs may be spaced less than 500 feet apart adjacent to an interstate highway or limited-access primary highway.

Directional or other official traffic signs, signs advertising the sale or lease of property upon which they are located, on-premise signs, political signs, or LOGO signs shall not be considered for the purpose of determining spacing requirements. (Ref: 75-15-111, MCA; 60-5-501, et seq., MCA)

Outside of an incorporated area, signs may not be located within 500 feet of public parks, public forests, public playgrounds, scenic areas designated by the Department or other state agency having and exercising this authority, or cemeteries.

Signs may not be permitted within an Interstate Interchange or Interstate Intersection. (Ref: 75-15-113(9), MCA)

Adjacent to Primary Highways, the location of signs between streets, roads, or highways entering or intersecting the main traveled way shall conform to the following minimum spacing criteria:

- Where the distance between centerlines of intersecting streets or highways is less than 1000 feet, a minimum spacing between signs of 150 feet may be permitted between the intersecting streets or highways.
- Where the distance between centerlines of intersecting streets or highways is 1000 feet or more, minimum spacing between signs must be 300 feet.

9-2.6 Illumination

See MCA 75-15-113 (10)

- Signs may not imitate or resemble any official traffic control device or railroad sign or signal, as provided in Section 61-8-210, MCA.

9-2.7 Issuing New Sign Permits

Outdoor Advertising Permit Application must be completed in full by the applicant. The application must be accompanied with documents such as an Applicant Landowner Affidavit, an Encroachment Permit, a local zoning certification, a business license, and the nonrefundable inspection fee and initial permit fee. Specific information required prior to doing a site inspection is:

- Name, address and signature of both the landowner and sign owner;
- Description of the sign structure, including type of sign, width of sign, height of sign from centerline of the roadway, illuminated and estimated cost to construct including labor and materials;
- Location of proposed sign including county, highway number, nearest milepost, side of highway and distance and direction to the nearest off-premise sign;

- Property description or legal description of the proposed site;
- A scaled drawing with all details of the proposed site location;
- Photographs of the staked location of the proposed sign and the qualifying activity (including interior).
- A local zoning certification identifying the zoning of the proposed location;
- A business license for the qualifying activity issued by a local, county or state government authorizing the activity to operate at the qualifying location and demonstrating the activity has been in business for at least a year; a government-issued authorization for the business operation, which establishes the length of time for the business operation at that location, may be substituted with department approval; and
- An Applicant Landowner Affidavit form (Encroachment Permit when applicable).

The initial permit fee is based on the proposed total square footage of the sign face. If the proposed sign has multiple faces, the initial permit fee will be determined by the square footage of the combined sign faces.

The fees are as follows:

A.	Nonrefundable inspection fee	\$ 150.00
B.	Initial permit fee	
	1. 32 square feet or less	\$ 10.00
	2. 33 to 375 square feet	\$ 50.00
	3. 376 to 672 square feet	\$ 100.00
	4. 673 square feet or more	\$ 150.00

The initial permit fee is calculated by totaling the square footage of the sign face or sign faces if the sign has more than one face.

Application Analysis

Upon receipt of the application and nonrefundable application fee, the funds should be deposited and a receipt (OAC-9) completed. One copy must be placed with the application and a copy sent to the applicant along with a cover letter acknowledging receipt of the application.

Do not proceed with analysis of an application that is not completed in full.:

It is advisable to request a copy of any written land lease agreement between the sign owner and landowner. The parties shall be advised that the monetary terms of the agreement are not a Department requirement.

Description of the sign structure, including the width and height of the sign face(s), and the height of the sign structure. No single sign face may exceed 672 square feet, and the height of the entire structure cannot exceed 30 feet measured at a right angle from the surface of the centerline of the roadway.

It is also important the design of the proposed sign is identified. If the proposed sign has multiple faces, each face may not exceed 672 square feet. If two faces are visible from the same direction of travel, each face may not exceed 325 square feet. The applicant must also state if the sign will be illuminated.

An accurate and detailed location of the proposed sign site, including the county, highway number of the adjacent highway, which side of the highway the proposed sign is located, the nearest milepost, estimated longitude/latitude and the direction of the closest off-premise sign, including distance to the closest off-premise sign.

A description of the property where the proposed sign site will be located. A legal description of the property is recommended.

A detailed sketch or scale drawing of the proposed sign location must be included.

Photographs showing the proposed sign site, with an easily identifiable marker at the proposed sign location, and the qualifying activity.

A local zoning certification identifying the zoning of the proposed sign site. It is the responsibility of the applicant to secure zoning verification for the sign site from the appropriate local authority. It is imperative that the proposed sign meets local government zoning or land use control. (It is important the applicant understand that issuance of a permit is subject to more restrictive local government zoning, ordinances or regulations, and they must get the approval of the appropriate government authority prior to Department analysis of the application.) (Ref: 75-15-104, MCA)

If the proposed sign site is unzoned, it is the Department's responsibility to determine if the area qualifies for the placement of a sign and the issuance of a permit. It is the responsibility of the applicant to identify the activity presumed to qualify the area for the placement of a sign.

A business license for the qualifying activity issued by a local, county or state government. The license must authorize the activity to operate at the qualifying location. Proof that the qualifying activity has been in business for at least one year is also required; a government-issued authorization for the business operation, which establishes the length of time for the business operation at that location, may be substituted with department approval.

An Applicant Landowner Affidavit form, provided by the Department, signed and dated by both the sign owner and landowner.

If the application is incomplete, it shall be returned to the applicant with any deficiencies explained.

Field Inspection

Following analysis of the application, the Department will complete a field inspection of the proposed sign site. It may be advisable to contact the applicant, who may want to be present during the field inspection. Completion of an inspection checklist — along with the information in the application, will allow the Department adequate information to recommend approval or denial of the application.

Upon completion of the application analysis and field inspection, the Special Programs Right of Way Agent shall make a recommendation to approve or deny the application and forward the recommendation, along with the original application and copies of all relevant documents, to the Outdoor Advertising Control workgroup.

Determination of Approval/Denial of Permit Application

The Outdoor Advertising Control workgroup shall make the final determination of approval or denial of an application for a sign permit.

If the application is denied, the permit fee is refunded, but not the inspection fee. In order to process the refund, The Special Programs Right of Way Agent will email the refund request with appropriate coding information to the Engineering Division Accountant.

In the event the applicant does not agree with the Department's determination to deny the application, they may petition the Department and request an administrative hearing, pursuant to the provisions of the Montana Administrative Procedures Act (MAPA).

The letter to the applicant denying a permit application shall advise them that a declaratory ruling may be requested pursuant to the provisions of MAPA.

9-2.8 Renewal of Sign Permits

The Department will send renewal notices on December 1st of each year. Payment is due within 30 days. Renewals should be paid by check made payable to the Montana Department of Transportation or credit card.

Although the Department sends renewal notices to remind sign owners to pay their renewal fees, failure to issue such notice will not serve to excuse the sign owner from their duty to renew a permit. Failure to submit the mandatory sign renewal fee within 30 days after expiration of the permit (or 30 days after receipt of the notice to renew the permit) may result in revocation of the permit. (Ref: ARM 18.6.214)

The sign permit shall be renewed for a three year period upon payment of the renewal fee as follows:

A. Renewal fees:

1.	32 square feet or less	\$ 15.00
2.	33 to 375 square feet	\$ 75.00
3.	376 to 672 square feet	\$ 150.00
4.	673 square feet or more	\$ 225.00

The renewal fee is calculated by totaling the square footage of the sign face or sign faces if the sign has more than one face.

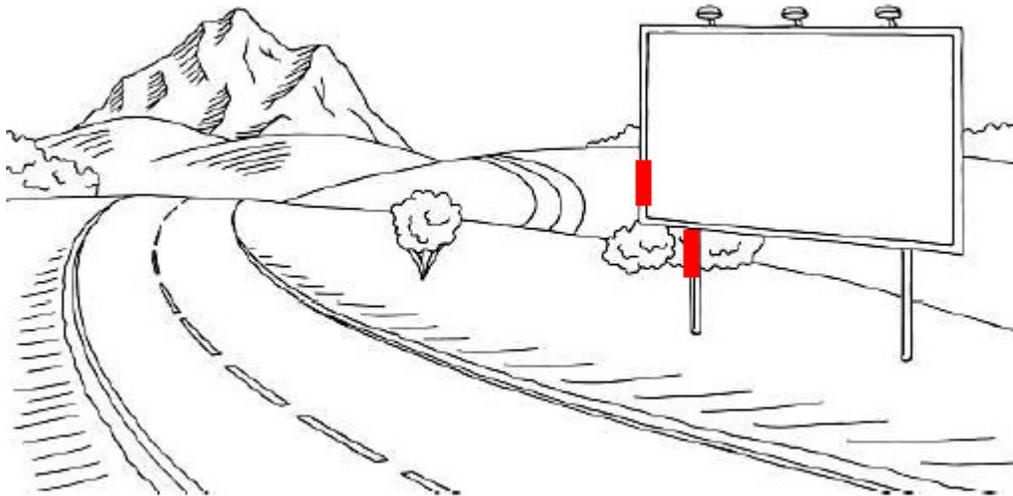
Renewal Notices

The Fiscal Operations Bureau will print and send out the renewal notices identifying the appropriate renewal fee. Special Programs Right Of Way Agents will follow up with sign owners to ensure the renewal fee is paid. In the event the required renewal fee is not received within the required time, a 45 day violation notice will be issued, and appropriate action taken.

Permit Attachment

It is the responsibility of the sign owner to see that the proper permit plate is continuously attached to the sign or device for which it was issued. It is not the Department's responsibility to physically attach the permit plate.

The permit plate shall be attached to the sign or the supporting structure closest to the highway and near the lower corner of the sign, facing traffic and visible from the highway.



Red box displays correct permit plate attachment area.

Permit plates that are affixed to the wrong sign or are otherwise in violation of requirements will receive a violation notice.

If the original permit plate has been lost or destroyed, a substitute permit plate must be obtained from the Department upon payment of a \$20 fee.

Transfer of Ownership

Ownership of a sign permit shall not be transferred without the expressed written consent of the permit holder(s). The permit transfer request document transferring the permit shall be completed in full by the transferor. Upon receiving a complete transfer request, the Special Programs Right Of Way Agents will then make the proper entries into the OAC permit system.

Permit Cancellation

Permits can be relinquished by completing the department's permit relinquishment document by the permit holder(s). Permit cancellation is subject to department approval. The document requesting relinquishment of a permit must be signed by the current permit holder(s). Permits may be cancelled by the department if the permit is in violation of the provisions of the outdoor advertising regulations.

9-3 ENFORCEMENT

Route Surveys

It is important that continuing surveillance of Montana's controlled routes be conducted to properly control outdoor advertising. The Department will perform route surveys to keep a current inventory of all signs under the jurisdiction of the OAC program. The frequency of route surveys will be determined by route and district, based on the number of signs located on each route and in each district.

Route surveys are intended to identify illegal signs, update the Department's inventory of current permitted signs and identify potential violations with existing permitting signs. When illegal signs and/or violations are identified, Special Programs Right Of Way Agents will take steps to correct the identified issues.

Route Survey Reviews

During a route survey, Special Programs Right Of Way Agents will review and photograph if necessary, each sign on the route being surveyed. The following procedure should be followed by Special Programs Right Of Way Agents.

1. Special Programs Special Programs Right Of Way Agents will stop at each sign and photograph the structure if necessary and, if possible, the back of the face of the sign. These pictures will be added to the permit file as part of the sign inventory.
2. Special Programs Special Programs Right Of Way Agents will compare the permitted sign to the information in the permit file. The following items must be verified:
 - a. The right permit plate is correctly attached to the sign;
 - b. The sign structure has not changed (the number of poles, pole materials, additional supports, etc.);
 - c. The size of the sign face has not changed;
 - d. Lights have not been added to a previously unlit structure; and
3. If any of these items has changed, Special Programs Right Of Way Agents will photograph the change and note the change in the permit file.
4. When the route survey is completed and Special Programs Right Of Way Agents is back in the office, Special Programs Right Of Way Agents will verify that no sign owner paperwork addressing the change has been submitted to the Department. If no paperwork has been submitted, the Special Programs Right Of Way Agents will contact the sign owner, in writing, identifying the violation, what the sign owner needs to do to correct the violation and timeline for correction to be made.

5. All communication must be documented in the history portion of the permit file identifying contact dates and times, as well as any pertinent information about the sign and sign owner.

Removal of Unlawful Signs

When a new sign appears in an area controlled by the Department and no permit has been issued for the sign, the following procedure should be followed by Special Programs Right Of Way Agents.

1. Special Programs Right Of Way Agents shall prepare a violation notice is sent to the sign owner and the landowner requesting the removal of the sign or a request for a hearing within 45 days. The Notice shall be mailed by certified mail with return receipt requested. The certified number shall be identified on the letter and the return receipt form. (Ref: 75-25-131, MCA)
2. If the Notice of Unlawful Advertising is posted on the sign, the date on the notice should correspond with the date of the certified letter.
3. If the sign is in a conforming area, Special Programs Right Of Way Agents should advise the sign owner that the sign may qualify for a permit under the Outdoor Advertising Act, and the Department would consider an application if it is received before expiration of the 45 day period.
4. All communication must be documented in the history portion of the permit file identifying contact dates and times, as well as any pertinent information about the sign and sign owner.

Procedures

If no request for administrative hearing is received within the 45-day notice period, Special Programs Right Of Way Agents shall transmit a memorandum, copy of the Sign Inspection Record and a photograph of the unlawful sign to the Maintenance Chief or if it a sign removal which cannot be handled by Maintenance it will be contracted out through the Department's Purchasing Services Section.

Prior to removal, Special Programs Right Of Way Agents should contact the landowner and advise him of the fact that we are legally within our rights to enter upon his lands and remove the unlawful advertising structure.

The landowner must be informed of the approximate date when maintenance personnel will be removing the sign. (Ref: 75-15-131, MCA)

If any problems arise with the landowner or the sign owner, the District may request the sheriff's office to send a deputy with the Maintenance crew or Contractor, so they are able to peacefully remove the sign.

After the sign is removed, the Maintenance Chief or Contractor shall inform Special Programs Right Of Way Agents of the removal of the sign. The Maintenance Chief or Contractor shall prepare a statement of costs of removal of the sign. It is the responsibility of Special Programs Right Of Way Agents to send the statement of costs to the sign owner and landowner. It is important to state the sign owner and landowner are jointly and severally responsible for the costs of sign removal. (Ref: 75-15-131(4), MCA)

If a request for administrative hearing is received within 45 days, Special Programs Right Of Way Agents shall notify the Outdoor Advertising work group The Outdoor Advertising work group or Special Programs Manager shall notify Legal Services by memorandum. The memorandum should give a brief history of events and reasons for the determination that the sign is unlawful. The electronic file for the unlawful sign shall be sent to the assigned attorney.

The case will then be the responsibility of Legal Services, and any action thereafter shall only be at the request of representatives of Legal Services.

9-3.1 Legal Procedures

Legal Services is responsible for making arrangements for an administrative hearing pursuant to the provisions of the Montana Administrative Procedures Act (MAPA). The hearing examiner (appointed through Department of Justice, Legal Services Division, Agency Legal Services Bureau or through an attorney, licensed in Montana, under contract with the Department) will be responsible for conducting the hearing.

After conducting an administrative hearing, the hearing examiner enters a proposed Order for Transportation Commission consideration. The sign owner and landowner will be notified of the proposed order and may contest the order by oral argument before the Commission.

Although the proposed order may provide for the removal of the unlawful advertising structure, the Department does not have the authority to remove the structure, pending final Commission action. The Commissioner's final decision (order) will be the final action under MAPA on the legality of the advertising structure and controls the procedures followed by the Department in removing the structure.

The sign owner, landowner and Outdoor Advertising Control Work Group will be notified of the final Commission order. In the event the final order determines the structure is unlawful and must be removed, the sign owner and landowner will be given thirty days to

remove the structure. The sign owner and landowner may petition for judicial review with the appropriate District Court, within that time period. Action shall not be taken to remove the sign without the approval of the Outdoor Advertising Control Work Group and assurance that the sign owner or landowner has not petitioned the District Court for judicial review.

If a petition for judicial review has been filed, the Department will refrain from removing the unlawful advertising structure until a final decision of the District Court is entered and all rights of appeal exhausted.

9-3.2 Sign Structures that are Blank, Abandoned or in Disrepair

- Sign structures that have no face or have faces without 100 percent advertising copy shall be considered a blank sign. Blank sign is defined as a sign structure that has no face or has faces without 100 percent advertising cover. The sign owner is not prohibited from noticing the sign for rent or lease; however, the sign shall be considered blank if the notice does not cover the sign face completely.
- Sign structures are considered abandoned if the sign has not been erected, has been removed, or the sign owner fails to pay the appropriate sign permit fee.
- A sign may be determined in disrepair if the structure is unsafe or if the sign face is unreadable or not visible to the traveling public.

When a sign has been determined to be blank, abandoned or in disrepair ~~for a period of~~ the Department shall notify the sign owner of the violation and require remedial action within 60 days.

After the 60 days have expired and remedial action has not been taken, notice is sent and an Unlawful Advertising is posted on the sign, the date on the notice should correspond with the date of the certified letter to the sign owner and the landowner requesting the removal/repair of the sign or a request for a hearing within 45 days. The Notice shall be mailed by certified mail with return receipt requested. The certified number shall be identified on the letter and the return receipt form. (Ref: 75-25-131, MCA)

If such action is not taken, the permit will be canceled and action for the removal of the sign will be taken pursuant to 75-15-131, MCA.

The procedures described in Section 9-3.1 and 9-3.2 will be followed.

If a request for administrative hearing is received within 45 days, Special Programs Right Of Way Agents shall notify the Outdoor Advertising Work Group. The Outdoor Advertising Work Group or Special Programs Manager shall notify Legal Services by memorandum. The memorandum should give a brief history of events and reasons for the determination that the sign is unlawful. The electronic file for the unlawful sign shall be sent to the assigned attorney.

The case will then be the responsibility of Legal Services, and any action thereafter shall only be at the request of representatives of Legal Services.

9-3.3 New Signs Not Erected Within 90 Days of Permit Issuance

The sign owner, within 90 days of the date of issuance of the permit, will:

- Erect the sign structure.
- Attach the permit plate to the sign structure.
- Attach advertising materials or copy to the sign face.
- Attach the sign owner's name plaque to the structure.
- Provide written and photographic verification of the sign erection.

If the provisions above have not been accomplished, or a 30-day extension has not been granted the permit will be canceled. In such cases, the cancellation is final and the sign owner does not have rights of appeal through the Montana Administrative Procedures Act.

In the event the sign owner has not accomplished the requirements of ARM 18.6.221, the agent shall send the sign owner a letter of permit cancellation by certified mail with return receipt requested.

When erection of a sign structure has been delayed at no fault of the applicant, an extension of time may be granted upon written request from the sign owner. The sign owner must explain the reason for the delay. Extensions will be granted on a case by case basis by the Outdoor Advertising Control Committee.

9-3.4 Violation of Access Control Fence

Erection or maintenance of a sign through, over or across an access control fence or line is prohibited. When such activity is discovered and documented, the permit may be canceled and the sign owner and landowner shall be notified by certified mail with return receipt requested. A written history and photographs of the violation are required prior to sending the notice. The procedures described in Sections 9-2.1 and 9-2.3 will be followed.

9-3.5 Encroaching Signs

It is important to recognize that the Department must elect between treating the unlawful outdoor advertising structure as either an encroachment under the encroachment statutes or unlawfully advertising under the Outdoor Advertising Act. If the facts of the case clearly establish an encroachment, then the structure should be treated as an encroachment and not unlawful advertising. Similarly, if the facts do not establish an encroachment, the Department has no remedy for removal of the structure unless the facts clearly establish the structure is unlawful advertising under the Outdoor Advertising Act. Once the Department elects to treat a structure as either an encroachment or unlawful advertising, the Department must pursue the remedy to its conclusion. The Department may not pursue the remedies of encroachment and unlawful advertising at the same time.

Once the department determines that the unlawful sign will be treated as an encroachment, the remedy will be pursued under the provisions of Title 60, Chapter 6, Part I, MCA.

9-4 OTHER SIGNS

9-4.1 Special Signs

Special signs identified in Sub-chapter 4 are allowed outside of zoned and unzoned commercial and industrial areas, subject to the provisions set forth in this sub-chapter. With the exception of slat-type rural/residential directory signs (signs not to exceed 36" x 8") and political signs, all signs in this sub-chapter are subject to permit requirements, including payment of nonrefundable inspection fees set forth in ARM 18.6.211(3). The renewal fees set forth in ARM 18.6.211(4) are waived.

Although there are not specific spacing requirements in the regulations for special signs, it is important that visibility and safety requirements are addressed prior to permit approval.

Requiring permits on special signs allows the Department to inventory all signs visible from the controlled routes.

The following signs are prohibited:

- Signs advertising activities that are illegal under federal or state laws and regulations.
- Signs that obscure or interfere with official traffic signs or which obstruct or interfere with the driver's view of approaching, merging or intersecting traffic.
- Signs erected or maintained on trees, or painted or drawn on rocks or other natural features.
- Signs which are obsolete, unsafe, or in disrepair, or which move or have moving parts.
- Signs located in rest areas, parklands or scenic areas.

A. Community Welcome to Signs

A community, county, or sovereign nation may erect welcome to signs within its territorial jurisdiction or zoning jurisdiction see ARM 18.6.238 for current regulations.

B. Church and Service Club Signs

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 regularly scheduled meetings are held, see ARM 18.6.241 for current regulations.

C. Directional Signs

Signs or displays advertising natural wonders, scenic and historical attractions, or ranching, grazing or farming activities may be erected and maintained within 660 feet of the nearest edge of the right of way of a controlled route, see ARM 18.6.243 for current regulations.

F. Political Signs

Signs promoting political candidates or issues shall be placed on private property only and cannot be placed without the permission of the property owner, see ARM 18.6.246 for current regulations.

G. Official Signs

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. Official signs may be erected and maintained within 660 feet of the nearest edge of the right of way of a controlled route, see ARM 18.6.247 for current regulations.