

Title 70
TRANSPORTATION
Part III. Office of the General Counsel

Chapter 1. Outdoor Advertisement
Subchapter C. Regulations for Control of Outdoor Advertising

§127. Definitions

Centerline of Highway – a line equal distance 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 non-divided Interstate Highway or the centerline of each of the main-traveled ways of a divided highway separated by more than the normal median width or constructed on independent alignment.

Controlled Areas – within urban areas, the applicable control area distance is 660 feet measured horizontally from the edges of the right-of-way along a line perpendicular to the centerline of the Interstate and/or Federal Aid Primary Systems or National Highway System. Outside urban areas, the control area extends beyond 660 feet to include any sign within visibility of the Interstate and/or Federal Aid Primary System or National Highway System.

Day Care Facility - for the purpose of outdoor advertising, a day care facility is considered a school when it includes a comprehensive child development program such as Early Head start and Head start.

Destroyed Sign – means that 50 percent or more of the upright supports of a sign structure are physically damaged so that normal repair practices would require:

1. In the case of wooden sign structures, replacement of the broken supports or,
2. In case of metal sign structures, replacement of at least thirty percent of the length above ground of each broken, bent, or twisted support.

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

Grandfathered Non-Conforming Sign – an outdoor advertising sign in place at the time that a roadway became part of the National Highway System or Federal Aid Primary Highway System, subject to control of outdoor advertising rules, which could not obtain a permit due to regulations in effect at the time that the roadway became subject to outdoor advertising control.

Illegal Sign – one which was erected and/or maintained in violation of State law or local law or ordinance.

Inventory of 1996 – the record of the survey of outdoor advertising signs in existence along Interstate and Federal-Aid Primary Highways as of the date of the inventory compiled by the State Highway Department (now Department of Transportation and Development) pursuant to FHWA Instructional Memorandum No. 50-1-66 dated January 7, 1966.

Landscaped Area – landscaped area of the commercial and industrial activity shall be areas within 50 feet of the commercial or industrial building/structure(s) that are planted and maintained

in good health with commercially available ornamental and/or natural vegetation for the beautification of the commercial or industrial activity.

Lease – an agreement, license, permit or easement, oral or in writing, by which permission or use of land or interest therein is given for a special purpose and which is a valid contract under the laws of Louisiana.

Legal Non-Conforming Sign – an outdoor advertising sign which when permitted by the department met all legal requirements, but does not meet current requirements of law.

Main-Traveled Way – 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 opposing directions is a main-traveled way. The main-traveled way does not include such facilities as frontage roads, turning roadways, or parking areas.

Maintenance – to allow to exist. The dimensions of the existing sign are not to be altered nor shall any additions be made to it except for a change in message content. When the **damage to the upright supports of a sign is 50 percent or more (see definition of destroyed sign)**, it shall be considered new construction and shall be subject to all requirements pertaining to new construction.

Safety Rest Area – 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.

Sign – any outdoor sign, light, display, figure, painting, drawing, message, placard, poster, billboard, or other device which is designed, intended or used to advertise or inform, and any part of the advertising or informative content which is visible from any place on the main-traveled way of the Interstate or Federal Aid Primary Highway System, whether the same be a permanent or portable installation.

Travel Way – the portion of a roadway designed for the movement of vehicles, exclusive of shoulders.

Turning Roadway – a connecting roadway for traffic turning between two intersecting portions of an interchange.

Unzoned—for purposes of R.S. 48:461 et seq. that no land-use zoning is in effect. The term does not include any land area which has a rural zoning classification, or which has land uses established by zoning variance, nonconforming rights recognition or special exception.

Urban Area – an urbanized area or an urban place as designated by the Bureau of Census having a population of 5000 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 United State Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of Census.

Visible—for purposes of R.S. 48:461 et seq., capable of being seen, whether or not readable, without visual aid by a person of normal visual acuity.

Zoned Commercial or Industrial Areas – those areas which are zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. **A zone in which limited commercial or industrial activities are permitted as an incidental to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising purposes.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

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HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 28:872 (April 2002), amended LR 31:944 April 2005), LR 33:530 (March 2007), LR 37:916 (March 2011)

§132. Off-Premise Changeable Message Signs

A. **Changeable Message Sign** - any outdoor advertising sign which displays a series of advertisements, regardless of technology used, including, but not limited to, the following:

1. rotating slats;
2. changing placards;
3. rotating cubes;
4. changes in light configuration or light colors.
5. LED (Light Emitting Diodes)/ video displays.

B. Qualifying Criteria

1. Message changes must be accomplished within four seconds and the message must remain stationary for a minimum of eight seconds.
2. The message change must be accomplished in such a manner that there is no appearance of movement of the message or copy during the change. This rule is not intended to prohibit movement of the structure in sequence in order to effect a change in message.
3. The sign may not contain flashing, intermittent or moving lights.
4. The use of such technology is limited to conforming signs only. Application of such technology to nonconforming signs is prohibited.
5. Any such sign shall contain a default design that will freeze the sign in one position if a malfunction occurs.
6. Such signs shall not be animated, scrolling or full motion video displays.
7. A changeable message sign which meets these criteria shall be considered an outdoor advertising sign.
8. On stacked sign structures, changeable message signs shall be allowed one per side.
9. Changeable message signs shall not exceed 672 square feet.

C. This rule is not applicable to "on-premise" outdoor advertising signs.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 25:2463 (December 1999), amended LR 37:916 (March 2011).

§134. Spacing of Signs

A. **Interstate, Federal-Aid primary Highways and National Highway System** signs may not be located in such a manner to obscure or otherwise physically interfere with the effectiveness of an official traffic

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

B. Interstate Highways

1. No two structures shall be spaced less than 1000 feet apart.
2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.

C. Freeways on the Federal-Aid Primary System or National Highway System (Control of Access Routes).

1. No two structures shall be spaced less than **500 feet apart**.
2. Outside of incorporated villages, towns and cities, no structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area.

D. Non-Freeway Federal-Aid Primary Highways or National Highway System

1. Outside of incorporated villages, towns and cities, no two structures shall be spaced less than **300 feet apart**.
2. Within incorporated villages, towns and cities, no two structures shall be less than **100 feet apart**.

E. The above provisions applying to spacing between structures do not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time. This exception does not apply to vegetation.

E. **Official and "on-premise"** signs, as defined in **§139**, and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for the purpose of determining compliance with spacing requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 28:872 (April 2002), amended LR 33:530 (March 2007), LR 37:916 (March 2011)

§135. Measurements for Spacing

- A. Distance from the edge of the right-of-way to a subject sign for control purposes, is measured horizontally along a line perpendicular to the centerline of the said highway.
- B. Centerline of the highway means a line equal distance from the edges of the median separating the main traveled way of a divided highway or the centerline of the main traveled way of a non-divided highway.
- C. The minimum distance between structures shall be measured horizontally along a line perpendicular to the edge of the main traveled way between points directly opposite the center of the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

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- D. For continuous ramps which start at one entrance and end at the next exit, the allowable spacing shall be measured from the intersection of the edge of the mainline shoulder and the edge of the ramp shoulder; or in the case of bridges, the measurement would be taken where the mainline and the ramp bridge rails meet. This provision shall apply to §134.B.1 and 2 and §134.C.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:188 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005), LR 33:530 (March 2007), amended LR 37:917 (March 2011).

§136. Erection and Maintenance of Outdoor Advertising in Unzoned Commercial and Industrial Areas

A. Definitions

unzoned – repealed.

Unzoned Commercial or Industrial Areas - those areas which are not zoned by state or local law, regulation, ordinance and on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted, and **where the area along the highway extends outward 800 feet from and beyond the edge of the activity.**

B. Qualifying Criteria

1. Primary Use Test

- a. The business must be equipped with all customary utilities and must be open to the public regularly or be regularly used by employees of the business as their principal work stations.
- b. The primary use or activity conducted in the area must be the type customarily and generally required by local comprehensive zoning authorities in this state to be restricted as a primary use to areas which are zoned industrial or commercial.
- c. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an *unzoned commercial or industrial area*. Activities incidental to the primary use of the area, such as a kennel or a repair shop in a building or on **land** which is used primarily as a residence, **school, church or assisted/extended living facilities** do not constitute commercial or industrial activities for the purpose of determining the primary use of an *unzoned* area even though income is derived from the activity.
- d. If, however, the activity is primary and local comprehensive zoning authorities in this State would customarily and generally require the use to be restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of an area, even though the owner or occupant of the land may also live on the property.
- e. The actual land use at the sign site cannot be agricultural or farm land.**

2. Visibility and Measurement Test

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a. The area along the highway extending outward 800 feet from and beyond the edge of such activity shall also be included in the defined area.

b. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at a maximum posted speed limit on the main traveled way of the highway. Visibility will be determined at the time of the field inspection by the Department's authorized representative.

c. Each side of the highway will be considered separately. All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage, processing, or landscaped areas of the commercial or industrial activity and shall not be made from the property lines of the activities. The measurement shall be along or parallel to the edge of the pavement of the highway.

3. Structures and Grounds Requirements

a. **Area.** Any structure to be used as a business or office must have an enclosed area of 600 square feet or more.

b. **Foundation.** Any structure to be used as a business or office must be affixed on a slab, piers, or foundation.

c. **Access.** Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate customer parking lot adjacent to the business building.

d. **Utilities.** Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service, and waste water disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.

e. **Identification.** The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premise signing or outside visible display of product.

f. **Use.** Any structure to be used as a business or an office must be used exclusively for the purported commercial or industrial activity.

g. **Limits.** Limits of business activity shall be in accordance with the definition of *Unzoned* commercial or industrial areas as stated in **§136.B.2.**

h. **Activity Requirements.** In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions **shall** be taken into consideration by the Department. The department shall make a determination based upon a totality of the circumstances.

i. The purported activity enterprise is open for business and actively operated and staffed with personnel on the premises a minimum of eight hours each day and a minimum of five days each week. **However, some businesses may not require staffing, such as a laundry mat, car wash, etc. The department has the discretion to determine if the business requires staff to operate the business.**

- ii. The purported activity or enterprise maintains all necessary business licenses, occupancy permits, sales tax and other records as may be required by applicable state, parish or local law or ordinance.
- iii. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it **must be** available for purchase on the premise.
- iv. The purported activity or enterprise is in active operation a minimum of six months at its current location prior to the issuance of any outdoor advertising permit.

C. Where a mobile home, **manufactured buildings, or a recreational vehicle is used as a business or office, the following conditions and requirements also apply.**

1. Self-propelled vehicles will not qualify for use as a business or office for the purpose of these rules.
2. All wheels, axles, and springs must be removed.
3. The vehicle must be permanently secured on piers, pad or foundation.
4. The vehicle must be tied down in accordance with minimum code requirements. If no code the vehicle must be affixed to piers, pad, or foundation.

D. Non-Qualifying Activities for Commercial or Industrial Unzoned Areas.

1. Outdoor advertising structures.
2. Agriculture, forestry, ranching, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands.
3. Transient or temporary activities.
4. Activities more than 660 feet from the nearest edge of right-of-way.
5. Activities conducted in a building principally used as a residence, **school or church, or assisted/extended living**.
6. Railroad tracks and minor sidings.
7. Residential trailer parks. Apartments, rental housing and related housing establishments intended for long term residential use.
8. Oil and mineral extraction activities.
9. Junkyards.
10. Schools, churches or cemeteries.
- 11. Public park lands or playgrounds.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(e).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 25:880 (May 1999), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005) promulgated LR 32:117 (January 2006), amended LR 37:917 (March 2011).

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§137. Nonconforming Signs

A. In addition to all other laws, regulations, and rules, the following conditions and requirements apply to continue **and maintain a** nonconforming sign.

1. The sign must remain substantially the same as it existed on the effective date of the state law, regulation, rule, or local ordinance which caused said sign to be nonconforming.
2. Reasonable repair and maintenance of the sign **includes** a change of advertising message, repainting of the structure, sign face, or trim, and replacing electrical components after failure. Reasonable maintenance also includes of replacement of stringers, platforms and worker supports. The type of sign face may not be changed, except that a wood or steel face may be wrapped with a vinyl wrap containing the message or the face may be replaced with a panel free frame for hurricane protection. Lighting cannot be added to the sign structure or placed on the ground with the intention of illuminating a previously unilluminated nonconforming sign. Replacement of 50 percent or more of the upright supports is prohibited. (See definitions of *Destroyed Sign* in §127).
3. A substantial change in the subject sign which will terminate the status of legal but nonconforming usage occurs when:
 - a. there has been an addition of 25 percent or more of the square footage of the sign (excluding trim);
 - b. there has been **any** change in the material composition of the sign super-structure or sign facing **other than reasonable maintenance as defined in section 137.2. (wooden poles must be replaced by wooden poles, I-beams, pipe, or other metal poles must be replaced or repair by the same materials).**
4. When and if nonconforming use rights in and to a sign structure are acquired by the Louisiana Department of Transportation and Development through the exercise of eminent domain, just compensation will be based upon the original size and material of the sign when it became a nonconforming structure and not upon any enlarged sized or improvement or betterment to the sign.
5. When any sign which loses its nonconforming use status by reason of any substantial change, including those changes prohibited above, the subject sign will be considered a new advertising device and subject to all current regulations and prohibitions as of the time of the change.

6. Destruction.

Nonconforming signs **are considered destroyed when 50 percent or more of the upright supports of a sign structure are physically damaged such that normal repair practices would call for:**

- a. **In the case of wooden sign structures, replacement of the broken supports or,**
- b. **In case of metal sign structures, replacement of at least thirty percent of the length above ground of each broken, bent, or twisted support or**
- c. **Any signs so damaged by intentional, criminal conduct may be re-erected within 180 days of its destruction to retain nonconforming status; however, such re-erection must occur at the identical location and the size, lighting and spacing must be identical to the prior circumstances;**
- d. **Nonconforming signs cannot be modified or repaired unless the requirements of this Section are met. Prior to repair or modification, authorized district personnel must review**

the damages and approve the repairs. If the sign is repaired prior to approval by the department's authorized personnel, the sign shall become illegal and the permit shall be revoked. The request and documentation of what is to be repaired must be made to the outdoor advertising program manager by certified mail. The department shall respond to the request within 14 business days of receipt of the certified letter. The department's failure to respond within 14 business days of receiving the repair request will allow the owner to repair the sign without the department's approval.

8. Abandonment

a. If an existing, nonconforming sign ceases to display a bona fide advertising message for a period of 12 months or more; then, the sign shall be considered abandoned and its nonconforming use rights are thereby terminated.

b. The said 12 month period may be interrupted for the period of time during which the controlled highway relative to such sign is closed for repairs adjacent to said sign **or the sign owner is able to demonstrate that the sign has been the subject of an administrative or legal proceeding preventing him from displaying copy.**

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:188 (June 1976), amended by the Department of Transportation and Development Department of Highways / Engineering LR 29:2855 (December 2003), amended LR 37:917 (March 2011).

§138. Erection and Maintenance of Outdoor Advertising in Areas Zoned Commercial and Industrial

- A. *Areas Zoned Commercial and Zoned Industrial* – those areas in a comprehensively zoned political subdivision set aside for commercial and industrial use pursuant to the state or local zoning regulations, but shall not include areas which reflect strip zoning, spot zoning or variances granted by the local political subdivisions strictly for outdoor advertising.
- B. To determine whether a zoning action, past or present, is an attempt to circumvent outdoor advertising laws and/or rules, the following factors shall be taken into consideration:
1. expressed reason for zoning change;
 2. zoning for the surrounding area;
 3. actual land use;
 4. existence of plans for commercial or industrial development;
 5. availability of utilities (water, electricity, sewage) in the newly zoned area;
 6. existence of access roads or dedicated access to the newly zoned area; and
 7. documentation that property has been assessed in accordance with zoning.
- C. If a combination of the factors set forth in Subsection B demonstrate that the zoning action is taken primarily to allow outdoor advertising devices (billboards) in areas that have none of the attributes of a commercial or industrial area, the department may deny a permit for the erection of outdoor advertising devices.
- D. If outdoor advertising permits have been issued for existing devices in zoned areas which do not meet the requirements of Subsections B and C, such outdoor advertising devices will be considered "legal nonconforming".

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:1610 (July 2005).

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§139. Determination of On-premise Exemptions

A. Section 131(c) of Title 23, United States Code and R.S. 48:461.2 specifically exempt "signs, displays and devices advertising activities conducted on the property upon which they are located" and "signs, displays and devices advertising the sale or lease of property upon which they are located". Such signs are hereinafter referred to as "on-premise" signs. The regulations hereinafter following set forth the rules by which the Louisiana Department of highways shall determine whether or not an advertising sign, display or device comes within the exempt categories set forth by R.S. 48:461.2. It is the purpose of the following rules to prevent abuses or obvious attempts to erect and maintain illegal outdoor advertising in the guise of on-premise advertising.

B. **Criteria.** A sign, display or device will be considered to be an on-premise sign and exempt from controls, if it conforms to the following standards.

1. **Premises.** The sign must be situated on the same premises, as the principal or accessory activities, products, or services offered, or upon the property of the land area advertised to be for sale or for lease. The structure or office housing the principal or accessory activities, products, or services must meet the following requirements.

- a. **Area.** Any structure to be used as a business must have an enclosed area of 600 square feet or more. For any structure containing multiple offices, each office may have an on-premise sign if the individual office has an enclosed area of 120 square feet or more.
- b. **Foundation.** Any structure to be used as a business or office must be affixed on a slab, piers, or foundation.
- c. **Access.** Any structure to be used as a business or office must have unimpeded access from a roadway to an adequate parking lot adjacent to the business building.
- d. **Utilities.** Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include business telephones, electricity, water service disposal, all in compliance with appropriate local, state and parish rules. Should a state, parish or local rule not exist, compliance with minimum utility service shall be determined at the time of field inspection by the department's authorized representative.
- e. **Identification.** The name of the business must be displayed on premise.

2. **Activity Requirements.**

- a. The purported **activity** enterprise is open for business and actively operated and staffed with personnel on the premise a minimum of eight hours each day and a minimum of five days a week. **However, some businesses may not require staffing, such as a laundry mat, car wash etc. The department has the discretion to determine if staffing is required to operate the business.**
- b. The purported activity or enterprise must maintain and display all necessary business licenses, occupancy permits, and other records as may be required by applicable state, parish or local law or ordinance.
- c. A sufficient inventory of products is maintained for immediate sale or delivery to the consumer. If the product is a service, it **must be** available for purchase on the premise.

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3. Purposes. The sign must have as a purpose:

- a. the identification of the principal or accessory activities, products or services offered; or
- b. the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

4. Premises Test. For purposes of determining whether outdoor advertising is exempt from control as on-premise advertising, the following definitions of property or premises shall apply.

a. The property or land upon which an activity is conducted is determined by physical facts rather than boundaries of ownership. Generally, premises are defined as the land area occupied by the buildings or other physical uses that are necessary or customarily incident to the activity, including such open spaces as are arranged and designated to be used in connection with such buildings or uses.

b. The following will not be considered to be a part of the premises on which the activity is conducted, and any signs located on such land areas will not be "on-premise" signs which are exempt from control.

i. Any land which is not used as an integral part of the principal activity. Such would include, but is not limited to, land which is separated from the activity by a public roadway or other obstruction and not used by the activity, and extensive undeveloped highway frontage contiguous to the land which is actually used by the commercial or industrial facility, even though such undeveloped land is commonly owned with the land area comprising the premises of the activity.

ii. Any land which is used for or devoted to a separate purpose unrelated to the advertised activity. For example:

a). land adjacent to or adjoining an automobile service station, but which is devoted to raising of crops;

(b). residential use;

(c). farm stead uses; or

(d). another commercial or industrial use having no relationship to the service station activity would not be part of the premises of the said service station even though under common ownership or lease.

iii. Any land which is:

a). developed or used only in the area of the sign site, or between the sign site and the principal activity; and

(b). occupied solely by structures or uses which are only incidental to the principal activity, and would serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for advertising purposes. For example:

(i). such inexpensive facilities as a picnic, playground, or camping area;

(ii). dog kennels;

(iii). golf driving ranges;

- (iv). common or private roadways or easements;
- (v). walking paths;
- (vi). fences; and
- (vii). sign maintenance sheds.

(c). **Narrow Strips.** Where the sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the sign site shall not be considered part of the premises on which the activity being advertised is conducted. A narrow strip shall include any configuration of land which is such that it cannot be put to any reasonable use related to the activity other than for signing purposes. In no event shall a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is:

unbuildable land, such as a swampland or wetland; or which is a common or private roadway; or held by easement or other lesser interest than the premises where the advertised activity is located.

c. Purposes Test. For purposes of determining whether an advertising sign display or device shall be exempted from control as "on-premise" advertising, the following standards shall be used for determining whether a sign, display or device has as its purpose:

i. the identification of the activity conducted on the premises where the sign is situated or the products or services sold on said premises; or

ii. the sale or lease of the land or property on which the subject sign, display or device is situated, rather than the business of outdoor advertising.

(a). Any sign, display or device which consists exclusively of the name of the activity conducted on the premises, is an on-premise sign.

(b). Any sign which exclusively identifies the principal or accessory products or services offered on the premises is an on-premise sign. An example of an accessory product would be a brand of tires offered for sale at a service station, but would not include products merely incidental such as cigarettes or beverages.

(c). When a sign brings rental income to the landowner or other occupant of the land; consists of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity, it shall be considered the business of outdoor advertising, and such signs shall be subject to control.

(d). A sign, display or device which does not exclusively advertise activities conducted upon the premises or services and principal and accessory products offered on the premises or exclusively advertise sale or lease of the premises or land whereon situated shall not be considered on-premise advertising which is exempt from control; but, rather, shall be considered and shall be outdoor advertising subject to control and regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering,

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LR 31:945 (April 2005), repromulgated LR 32:117 (January 2006), amended LR 33:531 (March 2007), LR 37:918 (March 2011).

C. Public Facility Sign Restrictions

1. Signs on the premises of a public facility, including but not limited to the following:

schools, civic center, coliseums, governmental buildings, sports areas, and amusement parks, do not generate rental income to the owner of the public facility may advertise:

- a. the name of the facility, including sponsors of the public sign; and
- b. principal or accessory products or services offered on the property and activities conducted on the property as permitted by 23 CFR 750, 709, including:
 - i. events being conducted in the facility or upon the premises, including the sponsor of the current event; and
 - ii. products or services sold at the facility and activities conducted on the property that produce significant income to the operation of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 2:189 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:945 (April 2005).

§141. Destruction of Trees and Violations of Control of Access

- A. The Louisiana Department of Transportation and Development shall not issue a permit for a sign which cannot be erected or maintained from private property without violating control of access boundaries. A permitted sign shall not be services, repaired or replaced from the highway right-of-way.
- B. The Louisiana Department of Transportation and Development shall not issue permits for any signs, the visibility of which will be obscured by existing vegetation, trees, or landscaping on the highway from which subject sign is intended to be read.

AUTHORITY NOTE: Promulgated in accordance with R.S.48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191(June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 33:532 (March 2007).

§143. Procedure and Policy for Issuing Permits for Controlled Outdoor Advertising

- A. Applications shall be made by the person who is the contemplated owner of the subject sign to be permitted.
- B. Applicants for a permit shall execute an application form furnished by the Louisiana Department of Transportation and Development and shall forward such application form properly and completely executed as to all information requested to the district office of the Louisiana Department of Transportation and Development situated within the highway district where said sign is to be located.
- C. All permits for the erection of outdoor advertising shall be conditioned upon compliance with state law and any action by or on behalf of the permit holder or sign owner contrary to state law and regulations shall be grounds for voiding any subject permit heretofore or hereafter issued.

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- D. The department shall void the permit for the sign wherein the violation took place and the department shall not issue future permits within the district where the violation occurred to the permit holder and/or sign owner and/or landowner until the illegal sign is removed.
- E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permitted installation. Such notification may be done by submittal of sales agreement.
- F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each application.
- G. Every applicant who seeks to situate a controlled advertising structure in a commercial or an industrial zone shall furnish evidence of the restrictive zoning of the subject land on the department's zoning supplement form which shall be completed by the appropriate state or local authority.
- H. Permit applications which are properly completed and executed and which are accompanied by all other required documentation shall be thereafter submitted by the district office to the appropriate permit office in Baton Rouge, Louisiana for review. Permit applications which are not in proper form or which are not complete or not accompanied by required documentation or do not meet the requirements of state law at the time of the submittal of the application shall be returned to the applicant by the district office with reasons for its return. Applications may be resubmitted at any time.
- I. The appropriate permit-issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued or the application rejected and returned to the applicant with reasons for denial of the permit.
- J. Copies of all permits shall be transmitted to the district office of the district where the sign is to be situated for subsequent surveillance by the district office.
- K. Each permit shall specify a time delay of 12 months within which to erect the subject advertising device. The district office shall determine whether or not the device has been erected within the specified time delay.
- L. If a sign has not been erected within the delay provided by the subject permit, the permit may be voided by the department and the applicant or permittee so notified. On the day following the posting of notice to any such applicant or permittee of the voiding of the permit to the last known address as furnished by the applicant, the subject sign location shall be available to any other applicant.
- M. If a sign has been erected within the delays allowed by the permit, but the subject sign does not conform to the specifications of the permit, the Louisiana Department of Transportation and Development shall notify the applicant or permittee in writing to cause the sign to conform to the permit. The applicant or permittee shall have 30 days to cause the sign to conform to the permit. The time delay begins on the day following the posting of written notice to said applicant or permittee at the last known address as furnished by the applicant or permittee. Extensions of time within which the applicant or permittee may bring the sign into legal conformity may be granted by the department when the department determines that good cause has been demonstrated. The department will void any permit when the permittee fails to conform the sign within the time delay or extensions provided. Thereafter the sign must be removed at the sign owner's expense. The sign owner may prevent such removal only by securing a new permit for the subject sign, which did not conform to the previous permit. A new permit may be obtained upon appropriate application including payment of all fees in connection therewith. Nevertheless, once a permit has been voided the sign location is available to any applicant.
- N. If a sign is erected without first obtaining a permit from the department and the department notifies the owner that the sign is illegal, the owner of the sign will have a period of 30 days from the date

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of receipt of the department's letter to bring the sign into legal compliance and make proper application for the permit. Extensions of time within which the applicant or permittee may bring the sign into conformity may be granted by the department when the department determines that good cause has been demonstrated.

- O. When a permitted outdoor advertising sign or device is knocked down or destroyed, or modified, the sign or device cannot be reinstalled or rebuilt without first obtaining a new outdoor advertising permit pursuant to the procedures established in this part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 2:191 (June 1976), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2856 (December 2003), LR 31:945 (April 2005), amended LR 33:531 (March 2007), LR 37:918 (March 2011).

§144. Penalties for Illegal Outdoor Advertising Signs

- A. An outdoor advertising sign is deemed to be illegal **for the purpose of issuing penalties if:**

1. the owner has received a certified letter from the department under the provisions of R.S. 48:461.7 and has failed to respond within the time allotted; **or**
2. the owner has received a certified letter from the department under R.S. 48:461.7 received a permit review as provided for hereafter, **with a ruling of illegality by the permit review committee; and failed to appeal to a court of competent jurisdiction.**
3. the owner replied to the certified letter provided for in R.S. 48:461.7; received a permit review as provided for hereafter; received a ruling of illegality **by the permit review committee**; appealed said ruling to a court of competent jurisdiction and a final ruling of illegality was rendered by the Court.

B. Penalties

1. If the owner fails to reply to the notice within 30 days, as set forth in §144.A.1, then the owner shall be assessed a penalty of **\$100 per day** for each day that the violation continues to occur, said fine to begin on the date specified in said notice.
 2. If the owner requests and receives a permit hearing as provided for in §144.D, and the hearing results in a finding that the owner's device is illegal, and he fails to appeal said finding to a court of competent jurisdiction, the owner shall be assessed a penalty of **\$100 per day** for each day that the violation occurred and continues to occur following the 30-day written notice of the ruling of the permit hearing.
 3. If the owner receives and appeals the ruling of the permit hearing to a court of competent jurisdiction and receives a final ruling of illegality rendered by a court of competent jurisdiction, then the owner shall be assessed a penalty of \$100 per day for each day that the violation occurred and continues to occur. Said penalty shall be retroactive to the date 30 days after written notice of the ruling of the permit hearing.
- C. An applicant who requests an outdoor advertising permit for a sign erected without a permit (even though permissible), shall be assessed a surcharge in addition to the permit fee in a sum equal to three times the permit fee.
 - D. There is hereby created within the Department of Transportation and Development a permit review process which is available to permit applicants who have received notification that the department intends to remove their outdoor advertising signs or deny future permits.

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1. Composition of the Permit Review Committee. The permit review committee shall be composed of representatives of the following divisions within the Department of Transportation and Development:

- a. Traffic Services and/or Maintenance Division;
- b. Legal Division;
- c. Office of District Traffic Operation Engineer (office of particular district in which the sign is located) (nonvoting);
- d. Traffic Engineering **or their designated representative.**

2. Authority of the Permit Review Committee. The committee, pursuant to a majority vote, may arbitrate and resolve disputes, which arise during the permit process and grant or deny relief to petitioning permittees.

3. The permittee shall bring his complaint before the permit review committee no later than 30 days after notification to remove the illegal sign, or no later than 30 days after receipt of a permit denial, whichever is applicable, in order to receive a permit review.

4. Duties of the Permit Review Committee. The permit review committee must meet in a timely fashion to review all protests filed by permittees. The permit review committee must give each protester due notice of meeting time and place. The permit review committee must notify the permittee of its action within 14 working days of its meeting.

5. Rights of the Protesting Permittee. The permittee in shall submit, in writing, his protest and all pertinent exhibits. Such submittal must be received five days before the review committee meeting. The committee, in its discretion, may waive these requirements in particular circumstances in order to provide a fair hearing. The permittee may appear before the administrative review committee to offer a brief explanation of his grievance.

6. Permittee's failure to submit an appeal in a timely manner shall constitute a **waiver** of the **permit review process.**

E. Section 144 shall apply to any illegal sign installed prior or subsequent to its promulgation as a final rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 24:960 (May 1998), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2856 (December, 2003), LR 37:919 (March 2011).

§145. Directional Signs

A. Directional signs are those 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 areas naturally suited for outdoor recreation,

B. Standards for directional signs.

1. The following criteria apply only to directional signs.

a. General. The following signs are prohibited:

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- i. signs advertising activities which are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those advertised activities;
- ii. signs located 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;
- iii. signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features;
- iv. obsolete signs;
- v. signs which are structurally unsafe or in disrepair;
- vi. signs which move or have any animated or moving parts;
- vii. signs located in rest areas, on parklands or in scenic areas;

b. Size. No sign shall exceed the following limits:

- i. maximum area—150 square feet.
- ii. maximum height—20 feet.
- iii. maximum length—20 feet.
- iv. all dimensions include border and trim, but exclude supports.

c. Lighting. Signs may be illuminated, subject to the following provisions.

- i. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.
- ii. 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.
- iii. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

d. Spacing.

- i. Each location of a directional sign must be approved by the State highway department.
- ii. 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).
- iii. No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.
- iv. No two directional signs facing the same direction of travel shall be spaced less than 1 mile apart;
- v. 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;
- vi. Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and

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

e. Message content.

i. 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.

ii. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

f. Selection method and criteria.

i. Privately owned activities or attractions eligible for directional signing are limited to the following:

a. natural phenomena;

b. scenic attractions;

c. historic, educational, cultural, scientific, and religious sites; and

d. outdoor recreational areas.

ii. Privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development , Outdoor Advertising, LR 37:919 (March 2011).

§148. Issuance of Outdoor Advertising Permits for Grandfathered Nonconforming Signs

A. Applications shall be made by the person who is the owner of the subject sign to be permitted.

B. Applications for a permit shall execute an application form furnished by the department and shall forward the properly and completely executed application form to the appropriate district office of the department. The "appropriate district office" shall be the district office where the sign to be permitted is located.

C. The appropriate permit issuing officer designated by the department shall review all permit applications. Thereafter, permits shall be issued and a copy of the permit shall be sent to the applicant.

D. Copies of all permits shall be transmitted to the district where the sign is located for subsequent surveillance by the district office.

E. The department must be notified in writing by the original permittee upon any change or transfer of ownership of the permit. Such notification shall be by submittal of the sales agreement.

F. An original signature of the landowner or a copy of the current lease agreement shall be submitted with each permit.

G. The request and documentation of what is to be repaired must be made to the outdoor advertising program manager by certified mail. The department shall respond to the request within 14 business days of receipt of the certified letter. The department's failure to respond within

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14 business days of receiving the repair request will allow the owner to repair the sign without the department's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 37:920 (March 2011).

Subchapter D. Outdoor Advertising Fee Schedule

§149. Permit Fee

A. The following permit fee schedule is applicable to new and replacement outdoor advertising signs beginning on the effective date of this rule change:

- a. 1-100 Square Feet: \$75.00 (Per sign face) for a 12 month period until installation. Annual renewal fee after erection is \$7.50 (Per sign face).
- b. 101-300 Square Feet: \$125.00 (Per sign face) for a 12 month period until installation. Annual renewal fee after erection is \$12.50 (Per sign face).
- c. 301 Square Feet and up: \$250.00 (Per sign face) for a 12 month period until installation. Annual renewal fee after erection is \$25.00 (Per sign face).

B. ANNUAL RENEWAL DUE DATES AND EXTENSIONS

1. Annual Renewal fees are due by July 1 of each year. The Department shall provide notice of the amount due for each permit no later than April 30 of each year.
2. A permit shall expire and the sign structure will become illegal if the annual renewal fees are not paid by July 31 of each year. This applies to all permits, including by not limited to legal, nonconforming, and grandfathered signs.
3. Extensions may be granted for 30 days, provided you make a request prior to July 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways, LR 12:602 (September 1986), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 29:2857 (December, 2003), LR 37:920 (March 2011).

§150. Removal of Unlawful Advertising

A. If the owner of any sign erected in violation of this Part fails to comply with the provisions listed herein within 30 days of receipt of notice issued by the Louisiana Department of Transportation and Development, as provided in R.S. 48:461.7, that sign shall be removed by the department or its agent at the expense of the owner, except if said sign is within the right-of-way, in which case the provisions of R.S. 48:347 shall apply.

B. Upon removal of the device by the department, the sign owner, landowner or other person responsible for erecting the sign shall pay the cost of removal to the department. The department shall 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.

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C. A sign which is not claimed within 30 days after removal shall be deemed the property of the department and may be disposed of by the department.

D. Any money received from the disposal of the device will be credited first to the cost of removal and storage of the device. Revenue in excess of such costs will be deposited by the secretary of the department in the state treasury.

E. If the revenue generated from disposal of the device does not meet or exceed the cost of removal and storage of the device, the landowner or other person responsible for erecting the device shall pay the remaining cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 20:796 (July 1994), amended by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:946 (April 2005)

Subchapter E. Seasonal Agriculture Product Outdoor Advertising Devices

§151. Definitions

Federal Aid Primary System—that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Department of Transportation and Development, and approved pursuant to the provisions of Title 23, United States Code.

In Season—that period of time that an agricultural product produced in this state is commonly harvested and sold here.

Right-of-Way—that area dedicated for use as a highway.

Seasonal Agricultural signs —outdoor signs of a temporary nature, erected for the purpose of notifying the public of the sale of agricultural products which are in season at the time the sign is displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20:795 (July 1994).

§153. General Requirements

This Subchapter pertains only to signs placed within 660 feet of the nearest edge of the right-of-way of federal aid primary system highways. To qualify under the provisions of this Subchapter, signs shall meet the following requirements:

1. signs shall not be larger than 32 square feet in surface area;
2. signs shall advertise only the sale of seasonal agricultural products grown by the person who erects and maintains said signs, or the person who directs that the signs be erected;
3. the grower of the agricultural product advertised shall be responsible for maintenance and removal of the sign, even if the grower contracted to have the sign erected by a third party;

4. seasonal agricultural products advertised on the signs shall be offered for sale at the location where they are grown;
5. signs shall be erected only during the period of time that the products advertised are in season and shall be removed by the owner of the sign within seven days of the end of that time;
6. signs shall be placed on private property only with the permission of the landowner and shall not be placed in the highway right-of-way;
7. signs shall not be placed closer than 500 feet to an intersection;
8. all signs must be erected within a 60 mile radius of the location where the agricultural product advertised is grown; and
9. no more than one sign in each direction shall be placed within 500 feet of the interchange leading from the highway to the place where the products advertised are to be sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20:795 (July 1994).

§155. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7) and R.S. 48:461.7.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20:796 (July 1994), repealed by the Department of Transportation and Development, Office of Highways/Engineering, LR 31:946 (April 2005).