

**Sub-part 7501 - Maintenance**

**Chapter 09002 Control of Outdoor Advertising Adjacent to State Controlled Routes**

**PURPOSE**

100 To establish a policy and procedure for the control of outdoor advertising adjacent to State Controlled Routes.

101 This Rule establishes a policy and procedure for the control of outdoor advertising adjacent to State Controlled Routes.

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**STATEMENT OF POLICY**

200 Pursuant to Public Law 89-385, 89<sup>th</sup> Congress, also known as the Highway Beautification Act of 1965, as amended, all regulations promulgated under said act by the Federal Highway Administration, that said agreement entered into between the State of Mississippi and the Federal Highway Administration, dated March 6, 1972 , and Section 49-23-1, et. seq., Mississippi Code of 1972, as amended, the Mississippi Transportation Commission, hereinafter “the Commission”, declares that the erection and maintenance of outdoor advertising and directional or other official signs and notices in control areas adjacent to the rights of way of the State Controlled Routes within this State shall be regulated in accordance with the terms of this rule. This action is taken based on a

finding by the Commission that control of outdoor advertising is necessary in order to: (1) prevent unreasonable distraction of operators of motor vehicles, (2) prevent confusion with regard to traffic lights, signs or signals or other interference with the effectiveness of traffic regulations, (3) attract tourists and promote the prosperity and economic wellbeing of the general welfare of the State, (4) promote the safety, convenience, recreational value, and enjoyment of travel on highways within this State, (5) protect the public investment in highways, and/or (6) preserve and enhance the natural scenic beauty and aesthetic features of the highways and the areas adjacent thereto.

- 201 It is the intention of the Commission to provide a basis for control of outdoor advertising and specially authorized signs and notices consistent with the public policy declared by the Congress of the United States, the Legislature of the State of Mississippi, and the agreement dated March 6, 1972, with the Federal Highway administration in control areas adjacent to the Federal Aid Interstate and Federal Aid Primary Highway Systems.
- 202 The Legislature of the State of Mississippi, pursuant to Sections 55-13-33 through 55-13-45, Mississippi Code of 1972, as amended, has given the Commission the authority to make and promulgate rules and regulations necessary for controlling advertising adjacent to the Natchez Trace Parkway.
- 203 The Legislature of the State of Mississippi, pursuant to Section 65-41-11, Mississippi Code of 1972, et seq, has given the Commission the authority to make and promulgate rules and regulations necessary for controlling advertising adjacent to Scenic Byways designated by the Legislature under said Statutes.
- 204 Nothing in this Rule shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution more restrictive than the provisions of this Rule.

DEFINITIONS (The following definitions shall apply to this Rule)

- 300 Abandoned and/or Obsolete Sign: A sign in such a state of disrepair so as to be considered an unsightly nuisance, a sign which no longer serves any useful purpose for the owner or the advertiser thereon, or a sign which fits the requisites for an abandoned and/or obsolete sign set out herein. An abandoned or obsolete sign is a sign that contains obsolete advertising or no advertising matter for a period of twelve (12) consecutive months or otherwise fits the definition set out herein.
- 301 Applicant: The person, or business entity making application to erect and maintain a sign.
- 302 At-Grade-Intersection or Intersection: The general area where two or more roadways join or cross at grade, including the roadway and roadside facilities for traffic movements within it.

- 303 Centerline of Highway: (1) A line equidistant from the edge of the median separating the main-traveled ways of a divided highway, (2) The centerline of the main-traveled way of a non-divided highway, or (3) 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.
- 304 Commercial or Industrial Activities: Activities on unzoned property that would generally be recognized by local zoning authorities as commercial or industrial for the purpose of zoning an area under one of the recognized commercial or industrial zoning classifications.
- 305 Commission: Mississippi Transportation Commission.
- 306 Conforming Signs: A sign that conforms to the requirements under this rule, the applicable state statutes, the state-federal agreement, federal statutes and federal regulations.
- 307 Control Area: An area within 660 feet of the nearest edge of the right of way of state controlled routes within Urban Areas measured horizontally from the edges of the right of way along lines perpendicular to the centerline of the highway and beyond 660 feet of the right of way of state controlled routes outside of Urban Areas.
- 308 Department: The Mississippi Department of Transportation.
- 309 Digital Sign: Any sign having the capability to display a message by manipulation of light projected onto a screen or otherwise produced within the screen. Digital sign includes signs using LED Technology, Plasma Technology, or any industry equivalent that produces the same result as these technologies.
- 310 Divided Highway: A highway with separate roadways for traffic traveling in opposite directions.
- 311 Display: The message placed on the face or facing of a sign for the purpose of providing information to the public.
- 312 Dwell Time: The length of time allowed between the rotating of faces on a tri-vision structure.
- 313 Erect. To construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any way bring into being or establish an advertising message on a site.
- 314 Federal Aid Interstate System: That portion of the National System of Interstate and Defense Highways located within this State, as officially designated or as may hereafter be designated by the State Highway Commission, and approved by the Secretary of Transportation, pursuant to the provisions of 23 USC 103(d).

- 315 Federal Aid Primary Highway System: That portion of the main connected highways, excluding interstates that are identified on the Federal Aid Interstate and Primary Systems of Mississippi Map, prepared by Mississippi State Highway Department Transportation Planning Division in cooperation with U.S. Department of Transportation Federal Highway Administration dated July 14, 1988.
- 316 Freeway: A divided arterial highway for through traffic with full control of access.
- 317 Grandfathered Sign: A sign that was:
1. Erected and existing before June 15, 1966 adjacent to a Federal Aid Interstate or Federal Aid Primary Highway; or
  2. Erected and existing before May 6, 1976 at or beyond 660 feet from the nearest edge on the right of way of a Federal Aid Interstate or Federal Aid Primary Highway outside of a municipality; or
  3. Erected and existing before July 1, 1988 and within one thousand (1000) feet of the Natchez Trace Parkway.
  4. Grandfathered Signs may also be referred to herein as signs(s) existing under the so called “grandfather clause”.
- 318 Height of sign: The vertical distance from the ground at the *road grade* to the highest point on the sign face unless the grade of land adjacent to the road is higher than the level of the road grade, then the height shall be measured from the ground level at the support nearest the highway.
- 319 Height of face: The vertical dimension of the panel on which the informative contents of a sign are placed, including border and trim, but excluding supports.
- 320 Illegal Sign: Any sign not permitted under this Rule or which otherwise fits the definition of “Unlawful or Illegal Sign” herein.
- 321 Interchange: A junction of two or more highways by a system of separate levels that permits traffic to pass from one to the other without the crossing of traffic streams.
- 322 Length of face: The horizontal dimension of the face on which the informative contents of a sign are placed including border and trim, but excluding supports.
- 323 Maintain or Maintenance: The act or activity of prolonging the existence of an otherwise functional sign, including painting, cleaning, replacing advertising message on panels, replacing walkways, replacing lighting equipment, and performing any activities which fit into the normally accepted use and usage of said words. In order to meet the criteria of being a functional advertising sign, said sign must be capable of performing the function of an advertising sign without the performance of said maintenance activities.
- 324 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 opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways or parking areas.

- 325 MDOT: The Mississippi Department of Transportation.
- 326 Natchez Trace Parkway: A federally funded paved highway of scenic beauty and of great value to the State of Mississippi which is created under Section 55-13-15, Mississippi Code of 1972, as amended.
- 327 1966 Inventory: The record of the survey of advertising signs and junkyards, compiled in accordance with the FHWA Instructional Memorandum 50-1-66 dated January 7, 1966.
- 328 Non-Conforming Sign: A sign that was legally erected under the law and circumstances then and there existing that fails to conform to the requirements of this Rule because of subsequent changes to the law or the circumstances. Examples of nonconforming signs include but are not limited to the following:
1. A sign that is erected in a commercial or industrial zone conforming to all requisites of this Rule that fails to conform at a later date because the commercial or industrial zone has been modified by the local government unit to another classification that doesn't support outdoor advertising (residential, agricultural area, etc.);
  2. A sign that is erected in an unzoned commercial or industrial area conforming to all requisites of this Rule that fails to conform at a later date because the character of the area has changed to that of a residential or agricultural area; or
  3. A sign that is erected in a commercial or industrial area (zoned or unzoned) conforming to all requisites of this Rule that fails to conform to the spacing requirements at a later date (i.e. an interchange is built in close proximity placing it within 500 feet of a ramp). For treatment of non-conforming issues regarding qualifying business activities or size restrictions refer to sections 344, 345, 1000, and 1001.
- 329 Owner: The owner of a sign.
- 330 Parkland: Any publicly-owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historical site.
- 331 Rest Area/Welcome Center: 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.
- 332 Rezone; rezoned; rezoning: The act by a local governmental authority to change the zoning classification for an area of land from the existing classification to a new zoning classification.
- 333 Right of Way: A general term denoting land, property, or interest therein, usually in a strip acquired for or devoted to a highway.

- 334 Scenic Area: Any area of particular scenic beauty or historical significance as determined by Federal, State, or local officials having jurisdiction thereof, which includes interests in lands that have been acquired for the restoration, preservation, and enhancement of scenic beauty.
- 335 Scenic Byway: A public highway, road or street including the corridor through which it passes, that has been designated by the State of Mississippi under Section 65-41-1 MCA et seq in accordance with the process set out herein.
- 336 Sign: An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of a state controlled route. The sign consists of the sign face, supports, piling, masts and other structural members. Embellishments on or cut-out extensions of sign faces refer to any temporary add-ons to the structure (usually bulletins) that extend beyond the standard structure area to command greater attention to the message. These can include letters, packages, 3-D elements, fiber optics, etc. Various categories of signs are:
1. Advertising Signs: These are signs that advertise a service or product and are not located on the premises where the service or product is vended. These signs are controlled in accordance with this Rule.
  2. On-Premise Signs: Signs used to advertise or identify the principal activities conducted on the property on which they are located. These are commonly referred to as on-premise signs and are not controlled. See Section 1100 for determination of on-premise signs. The acquisition of corridors either in fee or by easement for the purpose of erecting on-premise signs is not acceptable under 23 USC 103(d) under this Rule.
  3. Specially Authorized Signs and Notices as defined and controlled in Section 1700.
  4. Sale or Lease Sign: These are signs advertising the sale or lease of the property upon which they are located. These signs are not controlled except as provided in Section 1100, herein.
  5. Landmark Signs: These are signs lawfully in existence on October 22, 1965, determined by the State, subject to approval by the Secretary of Transportation, to be Landmark Signs, including signs on farm structures or natural surfaces, or historic or artistic significance, the preservation of which is consistent with the purpose of 23 USC 131.
  6. Small Business Signs: These are signs advertising a service or product offered by a business but not located on premises. These signs are addressed in Section 603 and controlled in accordance with this Rule.
  7. A destroyed sign is a sign that has sustained damage such that 60% or more of the upright supports of the sign structure are physically damaged such that normal repair practices would call for: (in the case of wooden sign structures), replacement of the broken supports or, (in the case of metal sign structures),

replacement of at least 25% of the length above ground of each broken, bent, or twisted support.

- 337 Sign Face: The planar area to which the advertising message is attached. For Tri-Vision Billboards the sign face is the area which constitutes a single message as the panels rotate. Although Tri-Vision Billboards have, effectively, three faces, they shall be treated as though they only have one face for the purpose of this Rule.
- 338 Site: A parcel or area of property on which the outdoor advertising sign is to be erected.
- 339 Size: The area of a sign face including border and trim but exclusive of supports. For Tri-Vision Billboards the area shall be the area of the sign face of one of the two or three potential sign faces.
- 340 Spacing: The distance between signs, as set out in Section 1000.3.
- 341 State Controlled Routes: Those highways contained in the Federal Aid Interstate System and the Federal Aid Primary Highway System, the National Highway System, the Great River Road and any scenic byways as defined herein along with any additions or deletions thereto as the Federal Highway Administration shall determine by federal statutes or regulations.
- 342 Tri-Vision Billboard: A single face, back-to-back, or “V” type advertising structure that has rotating panels on which more than one advertising message may be contained. It is the intent to include within this definition those signs which conform to the industry definition of Tri-Vision Billboard and no other Billboards.
- 343 Twirl-Time: Length of time allowed between the rotating of each advertising face of a Tri-Vision Billboard.
- 344 Unlawful or Illegal Sign:
1. A sign within 660 feet of the right of way of a state controlled route erected after June 15, 1966, or erected after the date the highway is reclassified as a state controlled route, without a proper permit.
  2. A sign at or beyond 660 feet of the right of way of a state controlled route outside of urban areas, erected after May 6, 1976, or erected after the date a highway is reclassified as part of the state controlled route and not authorized under Section 800 of this Rule.
  3. A sign not erected in accordance with the terms of its permit.
  4. A sign or advertising structure that is erected, constructed, installed, maintained, or operated within one thousand (1,000) feet of the outside boundary of the Natchez Trace Parkway outside the limits of any municipality, except as indicated in Section 803 herein.
- 345 Unzoned Commercial or Industrial Area: An unzoned commercial or industrial area is an area along the highway right of way that has not been comprehensively zoned under

authority of law, that is not predominantly used for residential or agricultural purposes, and that is within 800 feet, measured along the edge of the right of way, of, and on the same side of the highway as, the principal part of at least two (2) adjacent recognized commercial or industrial activities. The sign must be located on the same side of the highway as the commercial or industrial activity.

1. Proximity to Right of Way

A portion of the regularly used buildings, parking lots, storage and processing areas, where each respective business activity is conducted, must be within 200 feet of the highway right of way, and the permanent building where the activity is conducted must be visible from the main-traveled way.

2. Two Separate and Adjacent Activities

To be considered adjacent, there must be no separation of the regularly used buildings, parking lots, storage or processing areas of the two activities by vacant lots, or undeveloped areas over 50 feet wide as measured parallel to the centerline. Two activities may occupy one building as long as each has at least 300 square feet of floor space dedicated to that activity and otherwise meets the definition of a commercial or industrial activity. There must be separation of the two activities by a dividing wall, separate ownership, or other distinctive characteristics. A separate product line offered by one business will not be considered two activities.

3. Measurements

a. The area to be considered, based upon the qualifying activities, is 1,600 feet (800 feet on each side) plus the actual or projected frontage of the commercial or industrial activities, measured along the highway right of way by a depth of 660 feet.

b. The depth of an unzoned commercial or industrial area is measured from the nearest edge of the highway right of way perpendicular to the centerline of the main-traveled way of the highway.

4. Test for Residential or Agricultural

a. The area must be considered as a whole prior to the application of the test for predominantly residential or agricultural.

b. An area shall be considered to be predominantly residential or agricultural if more than 50% of the area is being used for a residential or agricultural purpose. Roads and streets with residential or agricultural property on both sides shall be considered as being used for residential or agricultural purposes.

5. Non-Qualifying Commercial or Industrial Activities

The following activities will ***not*** be considered commercial or industrial for the purposes of establishing an unzoned commercial or industrial area:

a. Outside advertising structures:

b. Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, temporary wayside fresh produce stands;

c. Activities:

i. Not housed in a permanent building or structure;

ii. Not having an indoor restroom, telephone, running water, functioning electrical connections, and adequate heating;

- iii. Not having permanent flooring other than material such as dirt, gravel, or sand or,
  - iv. Not accessible in all non-catastrophic weather conditions.
  - d. Activities not housed in a permanent building that is visible from the traffic lanes of the main-traveled way;
  - e. Activities conducted in a building primarily used as a residence;
  - f. Railroad right of way
  - g. Activities that do not have a portion of the regularly used buildings, parking lots, storage or processing areas within 200 feet from the edge of the right of way;
  - h. Activities conducted only seasonally;
  - i. Activities conducted in a building having less than 300 square feet of floor space devoted to the activities;
  - j. Activities that do not have at least one person who is at the activity site, performing work, an average of at least 30 hours per week and spread over four (4) days;
  - k. Activities which have not been open for at least 6 months;
  - l. Recreational facilities such as campgrounds, golf courses, tennis courts, wild animal parks, and zoos, except for the portion of the activities occupied by permanent buildings which otherwise meet the criteria in this subsection, and parking lots;
  - m. Apartment houses or residential condominiums;
  - n. Areas used by public or private preschools, secondary schools, colleges and universities for education or recreation (this does not preclude trade schools or corporate training campuses);
  - o. Quarries or borrow pits, except for any portion of the activities occupied by permanent buildings which otherwise meet the criteria in this subsection and parking lots;
  - p. Cemeteries, or churches, synagogues, mosques, or other places primarily used for worship; and
  - q. Radio or microwave communication towers.
6. Effect of Cessation of Activities
- a. Except as provided in subsection (c) below, a sign permitted through the presence of qualifying activity(s) under both the present rule or previous rules, will be classified as conforming so long as a like number of qualifying activity(s) remain. If all qualifying activities in the area cease, the sign will become nonconforming. The intent of this provision is such that a sign that qualified under the current regulations or preceding regulations will remain conforming so long as the qualifying activity(s) remain. For example, if a sign qualified under the rule requiring one qualifying activity, the sign will remain conforming so long as a qualifying activity continues. Likewise, if the sign qualified under the rule requiring two qualifying activities, the sign will remain conforming so long as two qualifying activities continue.

- b. With regard to a sign that qualifies under the test for agricultural and/or residential (subsection 4 above) if the area ceases to qualify under this test, the sign will become nonconforming.
- c. If MDOT has evidence that an activity supporting an unzoned commercial or industrial area was created primarily to qualify an area as an unzoned commercial or industrial area, and that no business has been conducted at the activity site within one year after erection of the sign, MDOT may cancel the permit.

346 Urban Area: An area including and adjacent to a municipality or other urban place having a population of five thousand (5,000) or more, as determined by the latest available Federal Census, within boundaries to be fixed by the Department, subject to the approval of the Secretary of Transportation. Information relative to the boundaries or urban areas may be obtained from Transportation Planning Division, Mississippi Department of Transportation, Post Office Box 1850, Jackson, Mississippi 39215-1850.

347 Vegetation Removal Permit: A permit giving consent to selectively cut and remove vegetation from within the Department right-of-way as provided in Section 503. Form MND-830, Vegetation Removal Permit, shall be used for removing vegetation. This permit is to be differentiated from a right of way encroachment permit for the removal of vegetation for business visibility, or other reason.

348 Visible/Visible from the Traveled Way: Capable of being seen without visual aid by a person of normal visual acuity in any season of the year from the main traveled way. The following criteria will be used in determining which signs have been erected for the purpose of their messages being read from the main traveled way.

1. Location of sign
2. Local terrain and physical obstructions
3. Size of sign
4. Angle of sign in relation to controlled highway
5. Message content
6. Distance from controlled highway in relation to size of sign
7. Exposure time in relation to maximum speed limit.

349 Zoning: The act of a county or municipality under Title 17, Chapter 1 of the Mississippi Code of 1972 whereby said county or municipality categorizes all of the property within its boundaries for the purpose of controlling land use and development as required by statute. Zoning ordinances must address the entire aerial extent of the county or municipality (i.e. must be comprehensive).

350 Zoned Commercial or Industrial Areas: Those areas which are comprehensively zoned for commercial or industrial purposes pursuant to local zoning ordinances or regulations. In locations lacking a comprehensive zoning plan, the area will be evaluated as an unzoned commercial and industrial area in accordance with Section 345 of this rule. Zoned Commercial or Industrial Areas are further addressed in Section 502.

## BONDS

400 All persons, partnerships, corporations, or other business entities erecting and or maintaining permitted outdoor advertising devices under these regulations shall be required, as of January 1, 1968, to provide the Commission with a bond in an amount not to exceed one thousand dollars (\$1,000.00) to insure the faithful compliance with the rules and regulations. Form MND-810, Bond for Outdoor Advertising Business, shall be used.

401 All persons requesting a Vegetation Removal Permit shall provide the Commission with a performance bond in the full sum of Five Thousand Dollars (\$5,000.00). Form MND-835, Vegetation Removal Performance Bond, shall be used for furnishing said bond.

When multiple permits are requested there must be a separate Bond for each permit. In lieu of separate bonds, the Applicant may post one bond in an amount totaling \$5,000.00 per permit with reference to each permit number noted on the bond. The bond must stay in effect until completion of the work for all referenced permits as determined by the State Permit Officer.

## PERMITS

500 General: A permit must be secured from the Department by any person or company before erecting outdoor advertising within the control area when such outdoor advertising is within the provisions of Sections 800.1, 800.4, 800.5 or 801.1.

501 A permit is not required for the erection of outdoor advertising within the control area when such outdoor advertising is within the provisions of Sections 800.2, 800.3, 800.6, 800.7, 801.2, 801.3, or 801.4.

502 Procedure: Permits shall be administered in accord with the following procedure:

1. Each person or company desiring to erect outdoor advertising subject to these regulations shall make application on Form MND-800, Application for Permit to Erect Outdoor Advertising Sign. Prior to submitting the completed form, the applicant shall place a marker on the site of the proposed billboard indicating the exact location of said billboard. Failure to place the marker on the site will result in rejection of the permit. The applicant shall attach to the completed form a certified copy of any permits required by the county and/or municipality in which the proposed sign will be located. The completed form and the permit fee of eighty five dollars (\$85.00) will be submitted to the State Maintenance Engineer, in Jackson, Mississippi.
2. Upon receipt of an application in proper form and the permit application fee, the State Maintenance Engineer or his/her designated agent will inspect the proposed location to insure the site conforms to the requirements in this Rule, check all additional information required, and photograph said sign location. Following the inspection the State Maintenance Engineer or his/her designated agent shall within ten (10) days, grant or deny the application unless good cause exist for

extending said deadline for an additional ten (10) days and the applicant is notified prior to the extension. If the sign is located within a municipality or county that requires permitting of outdoor advertising in its jurisdiction, a certified copy of the permit from said municipality or county must be attached to the permit application. If the permit application lacks any of the information required by Federal Law, Mississippi Law, or the provisions of this Rule it will be returned to the applicant without further action until the applicant corrects the deficiencies.

3. If the application is in order and complies with the applicable Law as set out herein, the State Maintenance Engineer or his appointed representative will approve the permit and enter the permit number on the form.
4. Copies of the approved permit will be distributed to the applicant and other affected parties.
5. Upon approval of each permit, the permit fee will be forwarded to the Financial Management Division for deposit with the State Treasurer.
6. After erection of the sign in conformance with the permit, the applicant shall be required to place the Company Logo on the sign structure in full view from the highway.
7. The applicant shall advise the State Maintenance Engineer or designated agent in writing, as soon as the sign is erected in order that a final inspection can be made and a sign marker, showing the permit number, affixed to the sign.
8. After the sign is erected by permit the designated agent will affix a sign marker to the sign structure in a prominent location.
9. No extensions of this initial term will be granted, provided the sign structure has not been erected during this term, and the permit shall expire. If the sign structure has not been erected during the 12 month term and if the permittee still desires to erect an Outdoor Advertising structure at the site, a new application and another eighty five dollar (\$85.00) fee must be submitted. Following the expiration of the initial term, permittees of Outdoor Advertising structures erected within the allowed 12 month period will be required to pay an annual renewal fee of twenty (\$20.00) beginning the following July 1<sup>st</sup>, which shall begin the secondary term of the permit.
  - a. The secondary term of the permit shall end on the next following July 1<sup>st</sup> after payment of the renewal fee. The renewal fee will be billed to the permit holder on July 1 of each year thereafter. Failure to pay the renewal fee before September 1 of that same year will result in revocation of the permit and the billboard will be declared an illegal sign subject to immediate removal.
10. Form MND-800, Application for Permit to Erect Outdoor Advertising Sign, is required for each proposed sign installation. A double face or “V” type structure shall only require one (1) application as provided in Section 900.
11. Nothing contained in this Rule shall be construed to limit in any way the authority of any municipality or county in which the sign is to be erected to grant or deny a permit for the erection of said sign or to waive any requirement of any municipality or county for a permit for the erection of said sign. If a municipality

- or county refuses to grant a permit for a sign within their jurisdiction, the Department will not grant a permit for said sign.
12. If the application is denied, the Applicant shall have the right to request an Administrative Review as set out under Section 1800 – Administrative Reviews.
  13. Procedure Where Site is Zoned Commercial or Industrial.
    - a. If the site has been zoned Commercial or Industrial as a part of the original zoning ordinance of the Municipality or County, the applicant must attach an affidavit of the clerk of said Municipality or County that attests to the zoning classification of said site.
    - b. If the application is being made for a sign which is contained within an area that has been rezoned from a classification that would not allow commercial advertising to a commercial or industrial area, a certified copy of the rezoning ordinance or order shall be attached to the application.
  14. If the owner of a permit granted hereunder assigns, sells or otherwise transfers said permit to another owner, the transferring owner, jointly with the new owner, must notify the Department by submitting Form 850, Notification of Transfer of MDOT Outdoor Advertising Permit, to the State Maintenance Engineer within thirty (30) days of the transfer.
  15. A sign that is allowed to remain as a “grandfathered” sign and that otherwise conforms to the requirements herein may obtain a permit. For such signs, the initial permit fee will be the same as a permit application fee as set herein.
  16. Where the property owner, outdoor advertising firm, or any agent or predecessor in interest has received an encroachment permit allowing them to remove trees from the adjacent right of way, no outdoor advertising permit may be granted within that area for twenty (20) years from the date of the permit. Where trees have been removed from the right of way without permit, no outdoor advertising permit will be allowed until thirty (30) years from the date that the illegal removal was discovered by the Department. It is the express intent herein to prohibit outdoor advertising where vegetation has been removed from the right of way to create a visible location for the billboard. If an environmental review under NEPA has begun for a project before the complete permit application is received by the department, the resulting permit, if any, may be provisionally granted. After the Right of Way plans for the project are certified, the provisional permit may be reevaluated. If upon reevaluation, the proposed sign location will be non-conforming at the time construction of the project is completed, the permittee will be required to remove the sign at his expense without compensation at a mutually agreed upon date such that the sign does not interfere with the applicable construction project. If the final plans for construction of a project have been certified before the receipt of a completed permit application and the proposed location will be non-conforming at the time construction is completed, the permit will be denied.

503 Vegetation Removal Permit, Form MND-830

1. General: A Vegetation Removal Permit must be secured from the Department by any person or company before cutting, or trimming vegetation from the Department’s right-of-way. Trees, bushes and vegetation growing at or near

permitted sites may be cleared or removed by a permittee, his employee, or contractor upon application made to and approval by the Department. The Department shall charge a permittee a vegetation clearance fee of fifty dollars (\$50.00) per site each time that the Department authorizes a vegetation clearance as provided in Section 49-23-11, Mississippi Code of 1972, as amended.

2. Procedure: Any person or company requesting a Vegetation Removal Permit to selectively cut and remove vegetation from the Department's right-of-way must submit a written request on Form MND-829 to the State Maintenance Engineer or his/her designated agent via the Maintenance Division. Except as provided herein, a Vegetation Removal Permit may be granted for legally permitted sign locations only. Before a permit is granted, said sign must be in place for at least three (3) years. A Vegetation Removal Permit at Grandfathered Sign locations will not be allowed unless a permit is obtained under section 501. No Vegetation Removal Permit will be allowed on a scenic byway. The vegetation control view area shall not extend beyond the distances indicated in the diagram that shall be attached to the Vegetation Removal Permit. This distance shall be measured along the highway from the viewable face(s) of the advertising device. Vegetation Cuts will not be allowed in the median of a State Controlled Route. Any agreement with any local governing body relative to the planting of vegetation on the right of way of any state controlled route shall direct that the provisions of these regulations shall continue to apply to vegetation removal in those affected areas. The written request for a vegetation cut must include definite mileage from certain points to the sign location, permit number from the approved permit application, a description of the work to be performed and a permit fee of fifty dollars (\$50.00) for each location.
3. The applicant will submit all correspondence, a completed Vegetation Removal Permit request (Form MND-829), and fee to the State Maintenance Engineer or his/her designated agent. The State Maintenance Engineer's agent will arrange with the applicant for a field inspection. After completing the field inspection, the State Maintenance Engineer's designated agent shall determine the existence of marketable timber and the value thereof. The State Maintenance Engineer may, in his/her discretion, require the applicant to pay the market value of the timber before the Vegetation Removal Permit is granted. The State Maintenance Engineer's designated agent shall approve or disapprove the Vegetation Removal Permit. If the Vegetation Removal Permit is approved, the State Maintenance Engineer's designated agent shall send copies of the approved Vegetation Removal Permit and a diagram of the vegetation removal area to the applicant, and the appropriate District Maintenance Engineer. If the Vegetation Removal Permit request is denied, a letter of explanation will be sent to the applicant. The applicant shall have the right to appeal this denial in accordance with Section 1800 herein. If approved, the Applicant will provide a Vegetation Removal Performance Bond as required in Section 400 herein before beginning any work. The applicant will also provide proof of general liability insurance with a registered Mississippi agent in the amount of \$500,000 or more. Upon posting said bond the Applicant will advise the State Maintenance Engineer or his/her designated agent at least twenty-four (24) hours in advance of performing any

work. The State Maintenance Engineer's designated agent shall observe the work in progress.

4. The Vegetation Removal Permit holder or his/her agent shall not impede traffic on any highway while performing the work. If workers or equipment are to be in the proximity of the traffic lanes, the applicant shall furnish, place and maintain traffic control in accordance with Part 6 of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD). The applicant or the State Maintenance Engineer shall attach a special traffic control plan to the application if special traffic control details are required.
5. The Vegetation Removal Permit will expire on the completion of the work or one (1) year from the date of issuance unless canceled, suspended, or revoked prior to the expiration date whichever comes earlier.
6. Violations of this subsection are addressed in Section 1305.

## FEES

- 600 The permit fee for outdoor advertising shall be eighty-five dollars (\$85.00) per sign location and must be submitted along with completed Form MND-800, Application for Permit to Erect Outdoor Advertising Sign. A side by side, back to back, or V-type, structure shall be considered as one (1) sign in payment of fees. If the permitted sign structure is not erected in the allowed 12-month period, see Section 500. The permit fee covers the expenses incurred by MDOT in processing the application and is, therefore, nonrefundable.
- 601 There is a twenty-dollar (\$20.00) annual renewal fee for all permitted outdoor advertising signs. Failure to pay the renewal fee when due may result in revocation of the permit and removal of the sign.
- 602 There is a fee of Fifty Dollars (\$50.00) per site for each Vegetation Removal Permit request.
- 603 Small Business Signs are exempt from the payment of fees hereunder provided they meet the following criteria:
  1. The sign must advertise a service or product offered by the business;
  2. The sign is not located on the premises of the business that offers the product or service;
  3. The sign face does not exceed thirty-two (32) square feet;
  4. The sign is owned, not leased, by the owner of the business that offers the product or service;
  5. The only information that appears on the sign consists of the product or service that is offered by the business and the name and location of the business; and
  6. The business that offers the product or service is located at a single site, is operated by the owner and employs no more than two (2) individuals, excluding family members.

- 604 Notwithstanding the waiver of permit fees, all Small Business Signs must be permitted and maintained under the applicable regulations for permitting outdoor advertising signs under this Rule.
- 605 There are no fees required for Specially Authorized Signs and Notices as defined in Section 1700. However, said applicant shall submit Form MND-805, Application for Permit to Erect Directional or Other Official Signs Adjacent to Mississippi Federal Aid Primary or Interstate Highways, for a permit to erect any sign off the Department right-of-way.
- 606 As defined in Section 1700, the applicant shall submit Form MND-004, Application for Permit to Locate Certain Facilities on or To Perform Certain Work on State Highway Right-of-Way, with no permit fee required, for “Welcome to City/County Name” Encroachment Signs and “Acknowledgment” Signs. These signs may be permitted on the Department right-of-way. See MDOT-Rule 37.I.7501.04002, Right of Way Encroachment Permits, for permitting process.
- 607 Nothing contained in this Rule shall be construed to prohibit the payment of a permit fee to a municipality or county in addition to that imposed hereunder.

#### PROHIBITED SIGNS

- 700 Signs within the control area and visible from the traveled way of State Controlled Routes are prohibited as follows:
1. Those which in any way imitate any traffic control device, railroad sign or signal, or highway directional signs.
  2. Those which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, except those giving public service information such as time, date, temperature, weather or similar information. Signs that contain changing electronic messages that scroll are prohibited. Digital signs are allowed and are further addressed by Section 1000 below.
  3. Those which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver’s operation of a motor vehicle.
  4. Those so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal.
  5. Those located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, and those that obstruct, or physically interfere with the driver’s view of approaching, merging, or intersecting traffic.
  6. Those which are erected or maintained upon trees or painted or drawn upon rocks or other natural features, or those signs displayed on trailers or other portable objects
  7. Those which are abandoned discontinued or destroyed as defined herein.

8. Those within 150 feet from centerline of the main traveled way of divided and undivided state controlled routes that are located on railroad right-of-way, property owned by the United States or property owned by other public agencies on which, for any reason, the Commission was prevented from securing the normal right-of-way widths.
  9. Those closer than fifty (50) feet to the centerline of any State Highway as provided in Section 49-23-31, Mississippi Code of 1972.
  10. Those otherwise prohibited by the regulations contained herein.
  11. Signs located within 150 feet of the centerline of any highway when the deed for the right of way contains a setback clause prohibiting the erection of signs within said area.
  12. "Welcome to (City/County Name)" encroachment signs, "Acknowledgement" signs or "Small Business" signs located on Interstate or fully controlled right-of-way and site flares.
  13. Signs that are located on MDOT right-of-way including signs with a portion of the face overhanging MDOT's right-of-way.
- 701 Signs at and beyond 660 feet of the nearest edge of the right-of-way of state controlled routes, outside of urban areas, and visible from the main traveled way of such state controlled routes are prohibited except those specifically authorized in Section 801.1, 801.2, 801.3 or 801.4.
- 702 Signs or advertising structures erected, constructed, installed, maintained, or operated within one thousand (1000) feet of the outside boundary of the Natchez Trace Parkway outside the limits of any municipality are prohibited, except those specifically authorized in Section 803.
- 703 From and after the date of its designation as an official Mississippi Scenic Byway by the Legislature as provided in Section 65-41-11 MCA, no Outdoor Advertising structures may be erected that are visible from said Scenic Byway. MDOT shall have full jurisdiction over scenic byways and these regulations shall apply. All signs or advertising structures existing prior to the designation of said Scenic Byway shall be considered and maintained as nonconforming signs under this Rule.

#### AUTHORIZED SIGNS

- 800 Signs authorized to be erected and maintained within the control area are listed as follows:
1. Specially Authorized signs and notices as set out in Section 1700 herein.
  2. Signs advertising the sale or lease of property upon which they are located.
  3. Signs advertising the principal activities conducted on the property upon which they are located.
  4. Signs located in areas which are zoned industrial or commercial as defined herein.
  5. Signs located in unzoned commercial or industrial areas as defined herein.

6. Signs which locate, identify, mark or warn of the presence of pipelines, utility lines or rail and appurtenances thereto, including, but not limited to, markers used in maintenance, operation, observation and safety of said facilities.
  7. Grandfathered signs are allowed to remain and shall be maintained as set out in Section 1300 until they are abandoned, destroyed or purchased by the State. However, a Grandfathered sign that is permissible under this Rule may be permitted as set out in Section 500, and those permitted shall be treated as a permitted sign from that time forward.
  8. Nonconforming signs are allowed to remain and shall be maintained as set out in Section 1300 until they are abandoned, destroyed or purchased by the State.
801. Signs at or beyond 660 feet of the nearest edge of the right-of-way of state controlled routes outside of urban areas that are visible from the main-traveled way of such state controlled routes are authorized as follows:
1. Specially Authorized signs and notices as set out in Section 1700.
  2. Signs advertising the sale or lease of property upon which they are located.
  3. Signs advertising the principal activities conducted on the property upon which they are located.
  4. Grandfathered signs are allowed to remain and shall be maintained as set out in Section 1300 until they are Abandoned, destroyed or purchased by the State.
802. Landmark Signs, as defined herein in existence on October 22, 1965, are authorized to remain. These signs will be maintained in accordance with the provisions of Section 1300 herein until such time as they are abandoned or destroyed as defined herein.
803. Signs allowed within one thousand (1,000) feet of the outside boundary of the Natchez Trace Parkway are:
1. Signs, displays or devices which advertise the sale, lease, rental, or development of the property on which they are located;
  2. Signs, displays or devices which carry only advertisements strictly related to the lawful use of the property on which they are located, including signs, displays, and devices which identify the business transacted, services rendered, goods sold or produced on the property, name of the business or name of the person, firm or corporation occupying or owning the property. The size of signs advertising the major activity of a business is not regulated under Sections 55-13-33 through 55-13-45 Mississippi Code of 1972. Signs which advertise brand name products or services sold or offered for sale on the property shall not be displayed unless such signs are attached to the building in which such products are sold. All signs permitted under this subsection shall be located not more than one hundred fifty (150) feet from the building in which such business activity is carried on;
  3. Historic markers erected by duly-constituted and authorized public authorities;
  4. Highway markers and signs erected or caused to be erected by the Department or other authorized authorities in accordance with the law;
  5. Directional and official signs and notices erected and maintained by public officers or agencies pursuant to and in accordance with lawful authorization for the purpose of carrying out an official duty or responsibility.

6. Except as otherwise provided by law, signs located within a one thousand (1,000) foot radius of intersections created by the crossing of the boundary of the Natchez Trace Parkway with the right-of-way lines of components of the National System of Interstate and Defense Highways, the Federal Aid Primary Highway System, or the Mississippi System of Primary Highways.

#### SIGN CONFIGURATIONS WHICH MAY BE ERECTED

- 900 Conventional Signs may be erected back to back, side by side, or “V” type with not more than two (2) faces on one side. Each face shall be limited to one (1) display.
- 901 The signs in Section 900 will be considered as one sign for permit and spacing requirements provided the sign structures are physically contiguous or connected by the same structure or cross bracing, or located not more than fifteen (15) feet apart at their nearest point in the case of back to back or “V” signs.
- 902 A Tri-Vision sign structure may be erected as a single face, back-to-back or “V” type. A Tri-Vision sign structure may not be erected in a side by side or stacked configuration.
- 903 A Digital sign structure may be erected as a single face, back-to-back or “V” type. The structure will have no more than one face on any side. A Digital sign structure may not be erected in a side by side or stacked configuration.

#### STANDARDS FOR SIGNS ERECTED UNDER PERMITS

- 1000 The following standards or requirements apply to all signs erected under permits issued through this Rule. These standards are subject to the standards set out in § 49-23-1, et seq., Mississippi Code of 1972 and shall conform to any amendments thereto from and after the adoption of this Rule.
  1. Maximum Size and Height
    - a. The maximum area for each face of a sign erected before July 1, 2003 shall be 1,200 square feet.
    - b. For sign structures erected on or after July 1, 2003, the maximum area for any one (1) sign face shall be 672 square feet, the maximum height shall be fourteen (14) feet and the maximum length shall be forty-eight (48) feet, inclusive of any border and trim on the sign face, but excluding any embellishment on, and cut-out extension of, the sign face, the base or apron, supports and other structural members. The height of any sign structure shall not exceed forty (40) feet.
    - c. For sign structures erected on or after April 15, 2008, the height of any sign structure shall not exceed forty (40) feet above the level of the road grade unless the grade of the land adjacent to the road is higher than the level of the road grade, then the height of the sign structure may exceed forty (40) feet above the level of the road grade but shall not exceed forty (40) feet above the grade of the site where the sign is placed. Any

embellishment on or cut-out extension of any sign face shall not exceed twenty percent (20%) of the square footage of such sign face.

- d. The area of any sign face shall be measured by the smallest square, rectangle, triangle or circle or combination thereof which will encompass the entire sign. Any embellishment on or cut-out extension of any sign face shall not exceed twenty percent (20%) of the square footage of such sign face.
- e. Maximum size for a Tri-Vision face will be that area prescribed herein as of the date of erection. Each face will have three (3) rotating displays with only one (1) display being viewed at a time.
- f. Where the visibility of an outdoor advertising structure is affected by the installation of a noise attenuation barrier, the permittee may apply for relief by the following methods:
  - i. Relocation of the sign;
  - ii. A modification of the height of the sign to mitigate the reduced visibility. Application for modification to the height of the sign must be made to the State Maintenance Engineer and approved by the Commission. The municipality or county in which the sign is located must concur with the height modification.

2. Location:

- a. **INTERCHANGES:** Signs shall not be located adjacent to or within five hundred (500) feet of an interchange, safety Rest Area/Welcome Center, scale area or any other facility requiring ramps for access to or from the main traveled way. Said five hundred (500) feet is to be measured along the roadway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way. The 500 feet shall be measured independently for each direction of travel and a sign legal in one direction shall not be placed in such a manner that it can be read from the opposing direction if within the opposing traffic control zone. Within the limits of an incorporated city, town, or village an interchange of the "split diamond" configuration will be treated as two separate interchanges for the purpose of this subsection.
- b. **INTERSECTIONS:** Signs shall not be located within five hundred (500) feet of an intersection at grade of two (2) or more Federal Aid Primary highways. Said five hundred (500) feet to be measured from the centerlines of the at-grade highways.

3. Spacing: The distance between signs shall be measured along the nearest edge of the traveled way between points directly opposite the center of the sign supports nearest the traveled way for each respective sign.

- a. No two (2) signs shall be spaced less than five hundred (500) feet except as to signs in existence on April 15, 2008. This spacing limitation shall apply to areas within incorporated cities, towns, villages and in zoned and unzoned industrial or commercial areas outside of incorporated limits of cities, towns, or villages.
- b. All outdoor advertising signs and other advertising devices located within one-half mile of an intersection of two (2) or more primary highways, or a

primary highway and the Great River Road, or an interchange on the interstate system shall be erected and/or maintained with a minimum spacing between structures of five hundred (500) feet, unless separated by another commercial building or structure, other than outdoor advertising, in which case outdoor advertising may be permitted on one or more sides of the building(s). The minimum spacing requirements of five hundred (500) feet between structures shall not apply to signs in existence on April 15, 2008.

- c. Minimum spacing between two consecutive Tri-Vision sign structures viewed from the same side of the highway will double the applicable minimum spacing. The minimum spacing for a Tri-Vision sign structure adjacent to a conventional sign shall be determined in the same manner as spacing between two conventional signs.
- d. Minimum spacing between a Digital Sign Structure and any other outdoor advertising sign structure located on the same side of the highway will be double the applicable minimum spacing (1,000 Feet). Other signs adjacent to the Digital Sign that read in the opposite direction from the Digital Sign will not be considered when measuring the spacing. i.e. where the digital sign reads only to northbound traffic, a conventional sign that is less than 1000 feet from the Digital sign and reads only to southbound traffic will not be considered as a violation of this spacing rule. This paragraph applies only to the spacing of Digital Sign Structures and does not apply to conventional signs or tri-vision signs.

4. Lighting

- a. Signs which were in existence without lighting on March 6, 1972, and which do not comply with the permit requirements of this Rule are not to be illuminated.
- b. Signs which were in existence on March 6, 1972, without lighting, and which comply with the permit requirements of this Rule, together with signs erected by permit under authority of this Rule may be illuminated in adherence to the customary practices of the sign industry in Mississippi on June 15, 1966, but not in a manner prohibited in Section 700.

5. Tri-Vision Signs

- a. Tri-Vision Signs shall have no more than two (2) faces with three (3) rotating displays per face; dwell time for each face shall be at least ten (10) seconds; twirl time of each face shall be three (3) seconds or less. Tri-Vision signs shall contain a default design that will freeze the sign in one position if malfunction occurs. Tri-Vision signs may not be erected in a side by side or stacked configuration.
  - i. No conventional sign structure can be converted to a Tri-Vision sign unless the site is a conforming site. Sign owners are required to obtain all applicable city/municipality/county permit(s) and furnish MDOT with certified copies of same to allow a Tri-Vision Face on converted or new signs. Nonconforming, grandfathered, or illegal sign structures will not be allowed to be retro-fitted with a Tri-Vision sign. Before applying to MDOT for a permit to convert

a sign to a Tri-Vision Sign, Sign owners are required to comply with all applicable permitting requirements of the city or county. Certified copies of the local permits must be furnished to MDOT with the request to modify the sign.

- ii. All retro-fitted Tri-Vision signs on permitted, conforming structures must first be approved for compliance with these rules by the State Maintenance Engineer or his/her representative.

6. Digital Signs

- a. In addition to the provisions set out herein. Digital sign structures shall be governed by the following:

- i. The display change time shall be not more than (1) second with duration of each display not less than (8) seconds. Digital/LED Display structures shall contain a default design that will freeze the display in one still position if a malfunction occurs. The owner of every permitted Digital/LED Display sign will provide the MDOT State Maintenance Engineer with an on-call contact person and phone number for each permitted Digital/LED Display sign. The contact person must have the authority and ability to make immediate modifications to the displays and lighting levels should the need arise.

- ii. Digital/LED Display – Displays shall not create excessive brightness or glare. Such displays shall contain static messages only without movement. Movement is herein defined as the appearance or illusion of movement, either text or images, of any part of the sign structure, design, or pictorial, segment of the sign, including the movement of any illumination or the flashing, scintillating, or varying of light intensity.

- iii. The digital billboard must have capability to adjust its intensity in response to ambient lighting conditions. Should MDOT, at its sole discretion, find the sign, any display or effect thereon, to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interferes with the operation of a motor vehicle, upon request, the owner of the sign shall immediately reduce lighting intensity of the sign to a level acceptable to MDOT. Failure to reduce lighting intensity on request shall be cause for revocation of the permit.

- vi. No conventional sign structure can be converted to Digital/LED Display unless the site is a conforming site. Sign owners are required to obtain all applicable city/municipality/county permit(s) and furnish MDOT with certified copies of same to allow a digital sign face on converted or new signs. Nonconforming, grandfathered, or illegal sign structures will not be allowed to be retro-fitted with a Digital/LED Display. Before applying to MDOT for a permit to convert a sign to Digital/LED Display, Sign owners are required to comply with all applicable permitting requirements of the city or county. Certified copies of the local

permits must be furnished to MDOT with the request to modify the sign.

vii. All retro-fitted Digital/LED Displays on permitted, conforming structures must first be approved for compliance with these rules by the State Maintenance Engineer or his/her representative.

b. 'Immediate' or 'immediately' referred to in Sections 1000.5.a.i. and 1000.5.a.iii. above, shall be considered by the Department to mean that the owner shall promptly and diligently begin and complete modifications as soon as it is advised of the need therefore. If the malfunction poses a hazard to the safety of the traveling public, the sign shall be turned off on arrival by the owner or its maintenance personnel until such repairs can be made.

7. Conflicts

Many of the limits set out herein are controlled by Statute. Any conflict between the language in this section and the statutory language shall be controlled by the language of the Statute. Any modification to said statutes enacted after adoption of this rule shall have control over the limits set out herein.

## DETERMINATION OF ON-PREMISE SIGNS

### 1100 General

1. 23 USC 131, and Section 49-23-5, Mississippi Code of 1972, define on premise signs. Said statutes also place "on premise signs" beyond the regulatory control of the Department. The guidelines herein are derived and developed from these statutes and are applicable to Federal and state regulations to identify on-premise signs. The provisions herein do not prohibit signs containing non-commercial speech.
2. In addition to the above, Section 55-13-33, Mississippi Code of 1972 allows signs, displays, or devices to be erected within one thousand (1000) feet of the outside boundary of the Natchez Trace Parkway if the sign only has advertisements strictly related to the lawful use of the property on which it is located including signs, displays or devices which identify the business transacted, services rendered, goods sold or produced on the property, name of the business or name of the person, firm, or corporation occupying or owning the property. Signs which advertise brand name products or service sold or offered for sale on the property shall not be displayed unless such signs are on or attached to the building in which such products are sold. All signs allowed under this subsection shall be located not more than one hundred fifty (150) feet from the building in which such business activity is carried on.
3. This section sets forth the policies and procedures for determining whether a sign is an on premise sign. It is the purpose of this section to prevent possible abuses or obvious attempts to qualify off premise outdoor advertising as on-premise signs, thereby exempting them from control.

### 1101 Characteristics of an on-premise sign

1. A sign, display or device will be considered to be an on-premise sign if it meets the following requirements:
  - a. The sign must be located on the same premises as the activity or property advertised; and
  - b. The sign must have as its purpose (1) the identification of the activity, or its products or services or (2) the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

#### 1102 Premises Test

1. The following shall be used for determining whether a sign, display or device is located on the same premises as the activity or property advertised as requested under 1101.1.a above.
  - a. The premises on which the activity is conducted is determined by physical facts rather than property lines. Generally, the premises is defined as the land 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 designed 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 will be considered off-premise advertising:
    - i. Any land which is not used as an integral part of the principle activity. This would include, but is not limited to, land which is separated from the activity by a roadway, highway, or other obstruction, and not used by an extensive highway frontage contiguous to the land actually used by a commercial facility, even though it might be under the same ownership.
    - ii. Any land which is used for, or devoted to, a separate purpose unrelated to the advertising activity. For example, land adjacent to or adjoining a service station but devoted to the raising of crops, residence or farmstead uses or other commercial or industrial uses having no relationship to the service station activity would not be part of the premises of the service station, even though under the same ownership.
    - iii. Any land which is (a) at some distance from the principal activity, and (b) in closer proximity to the highway than the principal activity, and (c) developed or used only in the area of the sign site, or between the sign site and the principal activity, and (d) occupied solely by structures or uses which are only incidental to the principal activity, and which serve no reasonable or integrated purpose relative to the activity other than an attempt to qualify the land for signing purposes. Generally, said land supports facilities that include: picnic, playground or camping areas, dog kennels, golf driving ranges, skeet ranges, walking paths, fences, unpaved parking lots and sign maintenance sheds.
  - c. Narrow Strips

- i. 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 signing purposes.
- ii. 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:
  - A. Which is non-buildable land, such as swampland, marshland, or other wet land, or
  - B. Which is a common or private roadway, or
  - C. Held by easement or other lesser interest than the premises where the advertised activity is located.

### 1103 Purpose Test

- 1. The following will be used to determine whether a sign, display or device has an appropriate purpose as required in 1101.1.b above.
  - a. Any sign which consists solely of the name of the establishment is an on-premise sign.
  - b. A sign which identifies the establishment's principal or accessory products or services offered on the premises is an on-premise sign.
  - c. When a sign,
    - i Brings rental income to an independent property owner,
    - ii. Consists principally of a brand name or trade name advertising, and
    - iii. The product or service advertised is only incidental to the principal activity; it shall be considered an outdoor advertising sign and not an on-premise sign.
  - d. A sign which advertises activities conducted on the premises, but which also advertises, in a prominent manner, activities not conducted on the premises is not an on-premise sign.
  - e. A sale or lease sign which also advertises any product or service not located upon and related to the business of selling or leasing the land on which the sign is located is not an on-premise sign.

### CONSTRUCTION OF SIGNS

1200 Construction should conform to the requirements set forth in the current edition of the Plant Operations Guideline Manual for Outdoor Advertisers Association of America and by the Southern Building Code Congress, or should conform to the applicable local sign code or ordinance, whichever is more restrictive.

1201 The Applicant will be required to erect permitted sign(s) so that all sign faces are visible above the tree line. The State Maintenance Engineer's designated agent will make final

inspection of the permitted sign and determine whether the sign is above the tree line and take a photograph. The owner of the permitted sign will be advised if the sign is not above the tree line and will be required to raise the height of the sign or the permit will be forfeited and the sign must be removed. If the sign cannot be raised above the tree line without exceeding the maximum height of sign, the permit will be forfeited. Applications for permits to erect signs which are not visible due to existing landscaping of the right-of-way will be denied.

- 1202 The erection of signs adjacent to non-access highways by access from the highway right of way is prohibited. The parking of vehicles on any highway right of way while constructing signs is also prohibited. Violation of this section may result in penalties as provided in Section 1305.
- 1203 Methods of construction and materials used shall not produce a sign which, when viewed from the rear, presents an unsightly appearance.

#### MAINTENANCE AND CONTINUANCE OF SIGNS

- 1300 For the purpose of defining maintenance requirements, signs are divided into four (4) categories.
1. Conforming signs as defined in Section 306;
  2. Grandfathered signs as defined in Sections 317;
  3. Non-Conforming signs as defined in 328;
  3. Landmark Signs are defined in Section 802.
- 1301 All signs described in Section 1300 shall be maintained in accordance with the following:
1. Signs shall be satisfactorily maintained. Those not maintained in a satisfactory manner will be declared abandoned.
  2. The use of chemicals to destroy trees and other vegetation is strictly prohibited. The trimming or cutting of trees, shrubs and/or vegetation on highway right of way in order to improve or enhance the visibility of any sign is strictly prohibited, except after securing an approved Vegetation Removal Permit, Form MND-830, from the Department.
  3. The maintenance of signs adjacent to non-access highways by access from the highway right of way is prohibited. The parking of vehicles on any highway right of way while maintaining signs is also prohibited.
  4. Abandoned, and/or obsolete signs shall be immediately removed by the owner(s) thereof at the owner(s) sole expense with no compensation.
    - a. An “Available for Lease” or similar message that concerns the availability of the sign itself does not constitute advertising matter. A sign with such a message will be treated as a discontinued sign as set out above.
    - b. Similarly, a sign whose message has been partially obliterated by the owner so as not to identify a particular product, service or facility is considered to be an obsolete sign.
  5. Destroyed sign structures, as defined in Section 300, shall be immediately removed by the owner(s) thereof at the owner(s) sole expense with no

compensation. The repaired sign must be at the original location and substantially the same as the original sign.

1302 In addition to the requirements set out in Section 1301, conforming signs shall also be subject to the following:

1. After a sign has been erected in conformity with the permit requirements, additional faces or lighting may be added or the sign may be increased in size without obtaining an additional permit, provided the sign owner submits a written request to the State Maintenance Engineer. The written request shall identify the sign by the Department permit number and give details of proposed changes. The sign shall at all times conform to the standards contained in Section 1300 of this Rule.
  - a. The Permit Officer for Control of Outdoor Advertising will inspect the permitted location and submit a copy of the request to the State Maintenance Engineer. If proposed changes are approved, the State Maintenance Engineer will advise the State Permit Officer and the State Permit Officer will advise the sign owner.
2. The location of a permitted sign may be changed by the filing of a new permit application and the approval of the State Maintenance Engineer

1303 In addition to the requirements set out in Section 1301 above, grandfathered signs shall be maintained in accordance with the following:

No repair or maintenance will be allowed on grandfathered signs except customary maintenance or repair as defined herein. The following activities are considered customary maintenance and repair.

- a. Change of advertising message or copy.
- b. Routine replacement of border and trim not to include the sign face. Any net decrease in the outside dimensions of the advertising copy portion of the sign will be permitted. Any subsequent change in the outside dimensions of the sign will be permitted so long as it does not exceed the actual dimensions owner records indicate existed on March 6, 1972. However, in no case will legal size limitations be exceeded.
- d. The placing of night time illumination on existing sign structures is specifically prohibited as customary maintenance; however, such illumination may be permanently removed from such sign structure.
- e. A grandfathered sign that is damaged but not destroyed as defined in Section 336(7) is still subject to the restrictions on repair and maintenance set out herein. Such a sign that does not receive damage sufficient to render it destroyed may only be repaired to the extent that it is damaged. Undamaged portions of the sign may not be repaired or replaced.

1304 In addition to the requirements set out in Section 1301 above, non-conforming signs shall be maintained in accordance with the following:

No repair or maintenance will be allowed on non-conforming signs except customary maintenance or repair as defined herein. The following activities are considered customary maintenance and repair.

- a. Change of advertising message or copy.
- b. Slight alterations of the dimensions of painted bulletins incidental to copy change which do not substantially increase the overall dimensions of the advertising copy portion of the sign.
- c. Slight alterations of the dimensions of painted bulletins incidental to copy change which do not substantially increase the overall dimensions of the advertising copy portion of the sign.
- d. Any net decrease in the outside dimensions of the advertising copy portion of the sign will be permitted. Any subsequent change in the outside dimensions of the sign will be permitted so long as it does not exceed the actual dimensions owner records indicate existed on March 6, 1972. However, in no case will legal size limitations be exceeded.
- e. The placing of night time illumination on existing sign structures is specifically prohibited as customary maintenance; however, such illumination may be permanently removed from such sign structure.
- f. A nonconforming sign that is damaged but not destroyed as defined in Section 336 (7) is still subject to the restrictions on repair and maintenance set out herein. Such a sign that does not receive damage sufficient to render it destroyed may only be repaired to the extent that it is damaged. Undamaged portions of the sign may not be repaired or replaced.

1305 In addition to the maintenance requirements set out in Section 1301 above, Landmark signs shall be maintained as follows:

1. Reasonable restoration of the sign will be permitted.
2. Substantial change in size or message content or the addition of night time lighting will not be permitted.

1306 The rules and regulations set out under this rule will be administered and penalties applied as follows:

1. The Permit Officer for Control of Outdoor Advertising shall be responsible for investigating and gathering all evidence pertinent to any violation hereunder.
2. Upon completing his investigation, the Permit Officer for Control of Outdoor Advertising shall inform the State Permit Officer of the violation in writing and shall set out in said document all facts and circumstances, which support or refute the reported violation.
3. Upon receiving said written document, the State Permit Officer shall make a determination as to whether a violation has occurred. The State Permit Officer may notify the responsible party of the violation and may request a response from that individual or company.
4. If the State Permit Officer determines that a violation has occurred, he shall contact the State Maintenance Engineer who will determine the appropriate penalty to be assessed against the owner of said sign company. The State Maintenance Engineer shall have the discretion to make said determination of

penalty. Once the penalty is determined, the State Maintenance Engineer shall inform the owner who committed the violation by letter of the violation and penalties to be assessed. A copy of the report prepared by the Permit Officer for Control of Outdoor Advertising shall be attached to said letter.

5. The penalties which may be assessed against the violator include the following:
  - a. Payment for any physical damage may include costs to repair fences, ruts, etc. If timber is cut, it will be assessed at the higher of its saw log, pulpwood or landscape value along with statutory penalties.
  - b. Suspension of the permit for periods of up to six (6) months.
  - c. Probation for the violating firm for a period of up to twelve (12) months, further violations during the probation period will cause additional penalties.
  - d. Revocation of the permit. Under revocation, it is intended that the violator will not be eligible for a re-issued permit at the same site. The site will include the boundaries of the violation plus the applicable spacing distance.
  - e. Suspension of the site eligibility for periods up to duration of the violator's lease
  - f. Suspension of the violating firm for periods up to twelve (12) months and/or bond forfeiture. During such suspension, the firm will be ineligible for permits.
  - g. A moratorium may be declared as to permits for the site for an established period. The site will include the boundaries of the violation plus the applicable spacing distance.
  - h. Under no circumstances will a revoked permit be reinstated until the owner of said permit has accepted and complied with the penalties imposed hereunder. The time for service of any suspension or moratorium will be tolled until the owner accepts and complies with said penalties.
  - i. Removal of the sign at the owner's expense
6. Should the violating firm desire to have an administrative review of the imposition of these penalties, it may do so as set out in Section 1800 hereof.

#### NON-CONFORMING SIGNS

- 1400 Any non-conforming sign, may be required to be removed after the end of the fifth year after it becomes non-conforming.
- 1401 The Commission may acquire by purchase, gift, or condemnation all advertising devices and property rights pertaining thereto of all non-conforming signs required to be removed by this Rule.

#### REMOVAL OF UNLAWFUL OR ILLEGAL SIGNS

- 1500 Unlawful and/or illegal signs are to be expeditiously removed at the owner's expense. The Maintenance Division of MDOT will pursue the removal of these signs as provided for in section 1306 herein.

## IDENTIFICATION OF SIGNS

- 1600 From and after July 1, 1977, the owner of every outdoor advertising sign adjacent to a state controlled route shall identify such sign by placing his name or logo thereon in permanent letters of such size that can be readily read from the main traveled way.
- 1601 On-premise signs, signs that advertise the sale or lease of property on which they are located, directional and other official signs and signs that identify or warn of the presence of utility and rail lines or appurtenances thereto are exempt from this provision.

## SPECIALLY AUTHORIZED SIGNS and NOTICES

1700 **SPECIALLY AUTHORIZED SIGNS and NOTICES** shall be controlled by this Section 1700. The standards, restrictions or processes herein are solely applicable to the sign types specifically named in Section 1700.1 below. Similarly, with the exception of the Definitions in Section 300, the administrative review process in Section 1800 or any other Section specified herein, none of the standards, restrictions or processes in the other sections of this Rule shall apply to the signs specified in Section 1700.1 below. The signs named in this section are specifically exempted from paying a permit fee.

1. **SPECIALLY AUTHORIZED SIGNS and NOTICES** include the following:
  - a. **Directional Signs:** Signs containing directional information about public places owned or operated by Federal, State or local governments of their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
  - b. **Public Service Signs:** These are signs located on school bus stop shelters which are authorized or approved by city, county or state law, regulations or ordinances at places approved by the city, county or MDOT. No shelters will be permitted on the MDOT right of way.
  - c. **Service Club and Religious Information Signs:** Signs and notices, whose erection is authorized by law, relating to meetings of non-profit service clubs or charitable associations, or religious services and directions to said meeting places.
  - d. **Public Utility Signs:** Warning signs, informational signs, notices or markers which are customarily erected and maintained by public or privately owned utilities, as essential to their operation.
  - e. **Official Signs and Notices:** Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility.

NOTE: Historic monuments and markers authorized by State law erected by State or local government agencies or non-profit historical societies are not considered as being either outdoor advertising signs or directional or

other Specially Authorized signs and notices and are not subject to control by this Rule.

- f. Other Signs: Signs erected prior to June 15, 1966, and which do not conform to the size, location and spacing requirements of this Rule and are not otherwise prohibited in Section 1700.3 are authorized to be maintained as defined in this Rule.
- g. "Welcome to (City/County Name)" Encroachment Signs: Specially Authorized signs erected and maintained by public officers or elected officials of incorporated cities or counties while carrying out an official duty or responsibility. Welcome to (City/County Name) signs may be erected on or off the right-of-way subject to the provisions set out below
- h. "Acknowledgement" sign: This Specially Authorized sign becomes a part of "Welcome to (City/County Name)" encroachment sign permit acknowledging landscaping, maintenance, and appearance improvements at the site of said city/county permitted sign.

NOTE: Signs erected prior to June 15, 1966 and which do not conform to the requirements in this Section and are not otherwise prohibited in this section are authorized to be maintained as defined in this Section.

- 2. Authorized directional and other Specially Authorized signs on and/or adjacent to the highway right-of-way shall adhere to the following standards:

- a. Directional Signs

- i. Size: No directional signs shall exceed the following limits:

- A. Maximum height of face- 20 feet
- B. Maximum length of face- 20 feet
- C. Maximum area - 150 square feet - including border and trim

- ii. Spacing and location:

- A. Each location of a directional sign must be approved by MDOT. Directional signs may be erected adjacent to the highway right-of-way.
- B. No directional sign may be located within 2000 feet of an interchange, or at grade intersection.
- C. No directional sign may be located within 2000 feet of the edge of a welcome center, rest area, parkland or scenic area.
- D. No two (2) directional signs facing the same direction of travel shall be spaced less than one (1) mile apart.
- E. Not more than three (3) directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity.
- F. Signs located adjacent to the Interstate System shall be within 75 air miles of the activity.
- G. Signs located adjacent to the Primary System shall be within 50 air miles of the activity.
- H. Directional signs may be allowed on the right-of-way. Directional signs located on the right-of-way must be

permitted through the Traffic Engineering Division of MDOT, subject to their regulations.

- I. All signs not specifically authorized to be located on the right of way must be located adjacent to the right of way.
- iii. Message Content:  
The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating this attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.
- b. Public Service Signs
  - i. Size: Not to exceed thirty (32) square feet in area, including border and trim.
  - ii. Location: Located only on school bus shelters as described in Section 1700.1.b of this Rule. No shelters will be permitted on the right of way of State highways. Not more than one sign on each shelter may face in any one direction. Public Service Signs will not be allowed on the MDOT right-of-way. They may be erected adjacent to highway right-of-way.
  - iii. Message Content: (1) Identify the donor, sponsor or contributor of said shelter: (2) Contain safety slogans or messages which shall occupy not less than sixty (60) percent of the area of the sign: and (3) Contain no other message.
- c. Service Club and Religious Information Signs
  - i. Size: Not to exceed thirty two (32) square feet, including border and trim.
  - ii. Location:
    - A. Signs conveying information only may be erected on the premises of the Service Club or Religious Organization.
    - B. Signs conveying directional information for Service Clubs and Religious Organizations may be located adjacent to the highway right-of-way in any area not prohibited in Section F.1.e. of this Rule. Signs conveying directional information must be located within 10 air miles of the premises of the Service Club or Religious Organization. Each Service Club or Religious Organization shall be limited to two (2) signs conveying directional information.
    - C. Signs conveying directional information for Service Club and Religious Information Organizations may not be located on the MDOT right-of-way or adjacent to an Interstate or a Freeway.
  - iii. For signs conveying information only, several notices may be placed on a single "billboard" type support; however, the size of

each sign shall conform to the requirements of Section 1700.2.c.i above.

- d. Public Utility Signs  
There are no limitations as to size, spacing or location of these signs.
- e. Official Signs and Notices  
There are no limitations as to size and spacing of Official Signs and Notices. These signs may be located in any area adjacent to the highway right-of-way not prohibited by Section 700.5 of this Rule.
- f. "Welcome to (City/County Name)" Encroachment Signs located on/or adjacent to the highway right-of-way are controlled by this rule. The District Engineer or his/her representative has the responsibility for the implementation of the "Welcome To" and "Acknowledgement" sign program. Questions of interpretation concerning these guidelines are to be discussed with the State Maintenance Engineer. Any deviation from these guidelines must be approved by the Chief Engineer. The District Engineer or his/her representative shall advise the applicant of the disposition of their application. It is preferable that "Welcome to (City/County Name)" Signs be located adjacent to the right of way if at all possible. Where location adjacent to the right of way is impossible, the sign may be located on the right of way.
  - i. Signs located on the right of way shall be administered and approved by the District Engineer as an encroachment in conformity with the MUTCD and the following:
    - A. Size: The size of "Welcome to (City/County Name)" signs permitted to be erected under this subsection will be determined by the District Engineer in consideration of the amount of available right-of-way.
    - B. "Welcome to (City/County Name)" signs erected on highway right-of-way shall have the closest edge of said sign at least fifty (50) feet from the nearest edge of pavement and no closer than five (5) feet from the right-of-way line except in curb and gutter sections. In curb and gutter sections with a speed limit of forty-five (45) MPH or less, the minimum distance may be reduced to ten (10) feet from the outside edge of the curb.
    - C. "Welcome to (City/County Name)" encroachment signs proposed on controlled access highways at uncontrolled exits or side roads will be considered on a case-by-case basis. Said determination shall be made by the District Engineer.
    - D. "Welcome to (City/County Name)" encroachment signs shall be located at a site where the cutting of trees can be kept to a minimum.

- ii. "Welcome to (City/County Name)" Signs located adjacent to the right of way shall be approved by the State Maintenance Engineer subject to the following:
  - A. Size: The size of "Welcome to (City/County Name)" signs permitted to be erected under this subsection will be determined by the State Maintenance Engineer on a case by case basis. However, the maximum size allocated for non-advertising recognition signs contained within the "Welcome to (City/County Name)" shall be 24 square feet.
  - B. "Welcome to (City/County Name)" signs shall be located at a site where the cutting of trees can be kept to a minimum.
- iii. Spacing and Location: Whether they are located on or off of the right of way, "Welcome to (City/County Name)" signs shall be located near the city limits or county line as dictated by terrain and to avoid visual conflict with other signs within the highway right-of-way. Each City/County shall be limited to one such sign at each location where the city limit/county line and the subject highway intersect.
- iv. "Welcome to (City/County Name)" encroachment signs are strictly prohibited from the right-of-way of Interstates and Freeways.
- v. Message Content regardless of location shall be restricted to "Welcome to (City/County Name)" or "(City/County Name) Welcomes You" and an established City/County logo or slogan. No advertisements shall be included, attached to, or in the proximity of the proposed sign except an "Acknowledgement" or "Recognition" sign. "Recognition" signs are designations, honors, or certifications bestowed upon the applicable City or County. "Acknowledgement" or "Recognition" signs shall conform with content and size provisions described herein and as approved by the State Maintenance Engineer.
- g. "Acknowledgement" Signs
  - i. Size: "Acknowledgement" Signs shall be no larger than 24 inches long by 24 inches wide. The top of an "Acknowledgement" Sign shall be no higher than four (4) feet above the ground.
  - ii. Spacing and Location: "Acknowledgement" signs may be located on highway right-of-way and must be within ten (10) feet of a "Welcome to (City/County Name)" Sign. One (1) "Acknowledgment" Sign is allowed for each "Welcome to (City/County Name)" Sign. The "Acknowledgment" sign shall not block the view of the "Welcome to (City/County Name)" Sign.
  - iii. Message Content: The "Acknowledgement" sign shall have white letters on a blue background. The Message on the sign shall read "maintained by (Sponsor's Name)" or "Sponsored by (Sponsor's Name)". No company logo, color, or advertisement of any kind will be allowed.
- h. "Recognition" Signs

- i. Size: Each individual "Recognition" Sign may vary in size; however, all recognition signs shall be located within a maximum total 24 square foot area.
  - ii. Spacing and Location: "Recognition" signs may be located on or within ten (10) feet of a "Welcome to (City/County Name)" Sign. If located on the "Welcome to (City/County Name)" Sign, the recognition sign shall follow "Welcome to (City/County Name)" or "(City/County Name) Welcomes You" and any City/County logo or slogan. Each "Recognition" sign may vary in size, but all "Recognition" Signs posted on a "Welcome To" sign shall be located within an area not to exceed twenty four (24) square feet and shall be located below the Welcome to (City/County Name) portion of the sign. Only one (1) "Recognition" Sign is allowed for each "Welcome to (City/County Name)" Sign. Any "Recognition" not attached to the "Welcome to (City/County Name)" sign structure shall not block the view of the "Welcome to (City/County Name)" Sign.
  - iii. Message Content: "Recognition" signs shall include non-advertising Designations, Honors, or Certifications bestowed upon the applicable City or County. "Recognition" signs shall conform with content and size provisions described herein and as approved by the State Maintenance Engineer. No company logo, color(s), or advertisement of any kind will be allowed.
3. Standards applying to all signs in this Section:
  - a. Double faced or "V"-type structures will not be permitted for signs under this Section.
  - b. Construction should conform to the applicable requirements set forth in the current edition of the Outdoor Advertising Association of America's "Plant Operations Guideline Manual"; to the applicable local sign companies' specifications; or to the local governmental unit's (City or County) ordinances, whichever is more restrictive.
  - c. Wood shall not be used for structural purposes in the ground unless pressure treated with appropriate preservatives.
  - d. The backs of all structures not shielded by buildings or otherwise hidden should be completely painted in a neutral color to camouflage the back of the sign.
  - e. Methods of construction and materials used shall not produce a sign which, when viewed from the rear, presents an unsightly appearance.
  - f. Lighting: Signs may be illuminated in adherence to the customary practices of the sign industry in Mississippi subject to the following:
    - 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 Federal Aid Interstate or Federal Aid 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 to obscure an official traffic sign, device or signal.
  - iv. All wiring for signs placed on highway right-of-way shall be underground and in conduit and shall conform to the National Electric Code.
4. Directional Sign Selection Methods and Criteria for Privately-Owned Activities and Attractions to be located off the right of way.
- a. Privately owned activities or activities eligible for directional signing are limited to:
    - i. Natural Phenomena
    - ii. Scenic Attractions
    - iii. Historic Sites
    - iv. Educational Sites
    - v. Cultural Sites
    - vi. Scientific Sites
    - vii. Religious Sites
    - viii. Outdoor Recreational Areas
  - b. To be eligible, privately owned activities or attractions must be nationally or regionally known, and of outstanding interest to the traveling public.
  - c. The owner(s) or any privately owned activity or attraction listed in Section 1700.4.a who desire to erect directional signs, must furnish the District Engineer of the district in which the activity or attraction is located a statement describing the activity or attraction. The statement should indicate the average number of visitors per day in summer and winter; state that adequate rest room and parking facilities are furnished; and show evidence that the activity or attraction is nationally or regionally known and of outstanding interest to the traveling public. Such evidence could be an approved listing in the National Register of Historic Places; a guest register with a listing of the home states of the visitors; or any other evidence that could establish the fact that the activity is nationally or regionally known and of outstanding interest to the traveling public.
  - d. The District Engineer shall forward the statements, evidence, etc., to the State Maintenance Engineer. After verification of the information submitted by the owner, the State Maintenance Engineer will submit the information to the Commission for approval.
  - e. If the Commission determines that the activity or attraction meets the requirements of Sections 1700.4.a and 1700.4.b, the owner(s) may submit an application on Form MND-805, Application for Permit to Erect Directional or Other Specially Authorized Signs Adjacent to Mississippi Federal Aid Primary or Interstate Highways, for erection of directional signs in accordance with the requirements of this Section.
5. Permits  
General:

- a. A permit must be secured from the Department by any person or company before erecting any sign controlled by this Section with the exception of Public Utility Signs as defined herein.
- b. Procedure
  - i. For all signs under Section 1700.1.a through 1700.1.f.  
Each person, company or entity desiring to erect a sign subject to the permitting requirements of this section shall make application on Form MND-805 listed above. Upon receipt of said application in proper form and properly executed, the District Engineer or his/her representative will inspect the proposed location, check all information required, sign for field inspection and forward the completed application to the State Maintenance Engineer for approval. If the application is in order and complies with State statutes and the provisions of this section, the State Maintenance Engineer or his/her representative will approve applications for signs to be located off the right of way and shall enter the permit number on the form. The Traffic Engineering Division has the responsibility for approving signs to be located on the right-of-way. Copies of the approved permit will be forwarded to the appropriate District Engineer for distribution to the applicant and other affected parties. The applicant shall advise the State Permit Officer in writing, as soon as the sign is erected in order that a final inspection can be made. For all signs located adjacent to the right-of-way, a permit marker, showing the permit number, shall be affixed to the sign by the Permit Officer for the Control of Outdoor Advertising in a prominent location that can be viewed from the highway. Permit markers will not be issued for signs located on the highway right-of-way.
  - ii. For "Welcome to (City/County Name)" or "Acknowledgement" signs, defined in Sections 1700.1.g. and 1700.1.h.  
All Cities/Counties making application for a "Welcome to (City/County Name)", "Acknowledgement", or Recognition sign shall submit Form MND-004, Application for Permit to Locate Certain Facilities on or to Perform Certain Work on State Highway Right of Way. Upon receipt of this application, the District Engineer will make the appropriate inspection and authorize the permit at his discretion. For all permits for signs under this paragraph to be located on the right-of-way, the District Engineer will notify the Traffic Engineering Division. A permit for a recognition sign must be associated with an existing or proposed "Welcome To (City/County Name) sign. Each organization, individual, business, and/or industry may make application to install an "Acknowledgement" sign recognizing their efforts for furnishing and maintaining landscaping and/or grounds at the "Welcome to (City/County Name)" sign sites that are permitted on highway right-of-way. Although the application may be

completed and submitted by the applicant, the permit will be granted in the name of the City/County and will become a part of the "Welcome to (City/County Name)" sign permit. The City/County is responsible for approving the sponsor named on the "Acknowledgement" sign and for change of the sponsor, if necessary. If anyone has any questions relative this program, contact the State Maintenance Engineer.

c. General Provisions

Each permit issued under this section will expire twelve (12) months from the date of approval. No extension of this time will be granted. If the work has not been completed before expiration application must be made for another permit. Nothing contained in this Rule shall be construed to limit in any way the authority or any municipality in which the sign is to be erected or to waive any requirement of a municipality for a permit for the erection of such sign. The denial of the application herein shall entitle the applicant to an administrative review in accord with Section 1800 in this Rule.

FEES: There are no fees chargeable on permit applications made under this Section.

6. Maintenance of Signs

- a. Signs shall be satisfactorily maintained and failure to do so shall be sufficient cause for disapproval of subsequent permits.
- b. Grounds surrounding the sign structure should be kept clean and all weeds should be cut regularly. Whenever practicable, locations should be planted with grass or otherwise landscaped. There should be a frequent check of condition of the area surrounding sign structures. Accumulated debris or weeds should be eliminated promptly

### Administrative Reviews

1800 An applicant/owner shall have the right to an administrative review from an adverse decision made by the Department under this Rule according to the following Rules:

1. Jurisdiction - An administrative review may only be taken from decisions involving the following:
  - a. the denial of a permit to erect a sign;
  - b. the denial of a vegetation removal permit; or
  - c. the revocation of a permit; or
  - d. the imposition of any penalty applied under section L above.
2. Timing - From the date of the correspondence advising him of the adverse decision from which the administrative review is to be taken, the applicant/owner shall have thirty (30) days from said date to request an administrative review by sending a notice of request for administrative review to the State Maintenance Engineer. Said notice of administrative review shall contain the following:
  - a. a description of the decision being appealed and the pertinent facts related thereto. Said notice must be adequate to inform the Department of the specific adverse decision being reviewed;

- b. a short listing of the factual and/or legal errors that he contends warrant a reversal of said adverse decision; and
  - c. an estimate of the number of witnesses and exhibits which he will present in the administrative review along with the estimated time which will be required to conduct said hearing.
- 3. Costs - Upon receipt of the notice of administrative review in conformance with the above, the State Maintenance Engineer shall transmit said notice of administrative review to the Office of the Attorney General. The Office of the Attorney General will appoint an Administrative Law Judge, hereinafter ALJ, to preside over the administrative review within thirty (30) working days of the receipt of the notice of administrative review. Within said thirty (30) working day period, the Office of the Attorney General will also make an estimate of the costs of the ALJ and the court reporter and will transmit it to the applicant/owner. The applicant/owner shall deposit with the Office of the Attorney General within 30 days of his receipt of said estimate, a cash bond or surety bond on a form to be provided by the Department, Form MND-855, Outdoor Advertising Appeals Bond, in the amount of said estimate which shall insure payment to the Department of the costs of said hearing if the decision being reviewed is upheld.
- 4. Hearing - The administrative review herein shall be a hearing before the appointed ALJ on the Record. Said hearing shall be conducted under the following rules of procedure:
  - a. Procedure shall be controlled by the Mississippi Rules of Civil procedure subject to the following:
    - i. Discovery shall be limited to obtaining names of witnesses and pertinent documents and deposing the parties only. The ALJ shall set a scheduling order within sixty (60) days of his being appointed which shall set out the deadline for discovery, deadlines for motions and the date of the hearing.
    - ii. There shall be no joinder of parties, intervention of parties or third party practice involved in said administrative review.
    - iii. In all proceedings the Department shall be the Respondent and the Applicant/Owner shall be the Petitioner. It is intended by this language that the Petitioner shall have the burden of proving to a preponderance that it is entitled to the relief requested.
    - iv. All pleadings shall be filed with the Office of the Secretary to the Mississippi Transportation Commission.
  - b. Introduction of evidence shall be controlled by the Mississippi Rules of Evidence subject to the following:
    - i. the rules prohibiting hearsay shall be construed liberally by the ALJ.
    - ii. the presentation of evidence shall be conducted in a less formal manner than an actual trial.
  - c. With regard to illegal vegetation removal, there shall be a rebuttable presumption that the owner of the sign, the owner of the affected property or both benefiting from said illegal vegetation removal caused said vegetation to be removed.

- d. On conclusion of the presentation of all evidence, the ALJ shall make a written finding of fact and conclusions of law and shall present these to the parties.
- e. If the ALJ upholds the decision of the Department, the Office of the Attorney General shall, within thirty (30) days, send an actual bill to the applicant/owner for payment. Failure to pay said bill with ten (10) working days from the receipt thereof shall result in the forfeiture of the cost bond posted by the applicant/owner. The forfeiture of said bond shall not extinguish the right of the Department to recover the remainder of the actual costs, if any.
- f. If the ALJ overturns the decision being approved the bond shall be returned to the appellant.
- g. If the ALJ overturns the decision, the Department shall have the right to appeal the decision of the ALJ.

1801. Savings Clause – If a court decision results in voiding any provisions of this rule, those provisions unaffected by the decision shall continue in full force and effect.

#### OUTDOOR ADVERTISING FORMS

- 1900 **FORM MND-800**, APPLICATION FOR PERMIT TO ERECT OUTDOOR ADVERTISING SIGNS.
- 1901 **FORM MND-805**, APPLICATION FOR PERMIT TO ERECT DIRECTIONAL OR OTHER OFFICIAL SIGNS ADJACENT TO MISSISSIPPI FEDERAL AID PRIMARY OR INTERSTATE HIGHWAYS.
- 1902 **FORM MND-810**, BOND FOR OUTDOOR ADVERTISING BUSINESS.
- 1903 **FORM MND-815**, SIGN CLASSIFICATION SHEET OF CONTROL OF OUTDOOR ADVERTISING.
- 1904 **FORM MND-820**, NOTICE TO APPLICANT.
- 1905 **FORM MND-825**, RECORD OF PERMIT ISSUED FOR SIGN ERECTION.
- 1906 **FORM MND-829**, APPLICATION FOR PERMIT TO REMOVE VEGETATION FROM THE RIGHT OF WAY OF A STATE CONTROLLED ROUTE.
- 1907 **FORM MND-830**, VEGETATION REMOVAL PERMIT.
- 1908 **FORM MND-835**, VEGETATION REMOVAL PERFORMANCE BOND.
- 1909 **FORM MND-840**, NOTICE OF BLANK SIGN.
- 1910 **FORM MND-845**, REMOVAL OF ILLEGAL OUTDOOR ADVERTISING.

1911 **FORM MND-850**, NOTIFICATION OF TRANSFER OF MDOT OUTDOOR ADVERTISING PERMIT.

1912 **FORM MND-855**, OUTDOOR ADVERTISING APPEALS BOND.

**NOTICE: CURRENT FORMS WILL CONTINUE TO BE USED UNTIL THE NEW FORMS ARE DEVELOPED AND APPROVED.**

REFERENCES (All references herein to other materials are as to the most current version of that particular document.)

2000 Section 49-23-1, et seq, MCA;

2001 Section 55-13-1, et seq, MCA;

2002 Section 17-1-1, et seq, MCA;

2003 Section 65-41-11, et seq, MCA;

2004 23 USC 131, et seq.; 23CFR 750;

2005 The State-Federal Agreement for control of outdoor advertising between The Mississippi State Highway Commission and Federal Highway Administrator dated March 6, 1972.

2006 For Mississippi Code see [www.state.ms.us](http://www.state.ms.us)

2007 For Federal Government U.S. Code see [www.gpoaccess.gov](http://www.gpoaccess.gov) or [www.dot.gov](http://www.dot.gov)

2008 MDOT specific rules, forms, publications, SOPs, and other support documentation are available for review at MDOT.