

DEPARTMENT OF TRANSPORTATION
DIVISION OF MAINTENANCE AND OPERATIONS
Statutory Authority: 17 Delaware Code, Section 1103 (17 **Del.C.** §1103)
2 **DE Admin. Code** 2601

FINAL

REGULATORY IMPLEMENTING ORDER

2601 Outdoor Advertising

Summary of the Evidence and Information Submitted

The Department of Transportation sought to revise its existing regulations regarding outdoor advertising. Notice for public comment was properly noticed in 19 **DE Reg.** 728, February 1, 2016. There were no questions or comments during the public comment period.

Findings of Fact

The Secretary finds that it is appropriate to amend the existing Outdoor Advertising regulation as proposed to incorporate appropriate changes to the Outdoor Advertising regulations since the original regulations were adopted.

Decision to Amend the Regulations

For the foregoing reasons, the Secretary concludes that it is appropriate to amend the Outdoor Advertising regulations as described herein.

Text and Citation

The text of 2 **DE Admin. Code** 2601 shall be in the form attached as Exhibit "A".

Effective Date of Order

The effective date of this Order shall be ten (10) days from the date this Order is published in the Delaware *Register of Regulations*.

IT IS SO ORDERED THIS 15th DAY OF APRIL 2016.

Jennifer L. Cohan, Secretary
Department of Transportation

2601 Outdoor Advertising

1.0 Authority

- 1.1 The following rules and regulations are issued under the authority granted to the Department by Section 1103, Subchapter 1, Chapter 11, Title 17 of the **Delaware Code**.
- 1.2 The Department of Transportation shall have overall jurisdiction and control throughout the State subject to the certification process for political subdivisions as defined under Section 20.0 of this regulation. Within the Department, the responsibility for administration of the program shall rest with the Roadside Control Section in the Division of Maintenance and Operations.
- 1.3 All interpretations will be made by the Secretary of the Department of Transportation and their decision will be final except in those cases where a point of law is raised.

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2.0 Applicability

- 2.1 The following rules and regulations apply to all outdoor advertising or outdoor advertising signs which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the National Highway System (NHS) as defined in this regulation, and which are visible from the main traveled way of such systems.

- 2.2 The following rules and regulations shall also apply to any on-premise signs, as defined in this regulation, which are erected and maintained within 660 feet of the nearest edge of the right-of-way of any interstate highway in this State, and which are visible from the main traveled way of such systems.
- 2.3 These rules and regulations shall become effective upon approval by the Secretary of the Department of Transportation.

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3.0 Purpose

- 3.1 Under Section 1101, Subchapter 1, Chapter 11, Title 17 of the **Delaware Code**, the General Assembly has declared that it is in the public's interest to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the NHS in order to protect the public investment in such highways.
- 3.2 The General Assembly by enactment of Section 1103, Subchapter 1, Chapter 11, Title 17 of the Code directed the Department to enforce the provisions of Chapter 11 and to issue regulations to implement the policy and accomplish the purpose of the Chapter.
- 3.3 The following rules and regulations are issued in response to that directive and to clarify and implement the Department's policy regarding the control of outdoor advertising.

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4.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

"A controlled area" shall mean, and **"controlled areas"** shall include any area inside the boundaries of the State of Delaware which is adjacent to and within 660 ft. of the edge of the right-of-way of a highway of the NHS, and after July 1, 1975 beyond 660 feet.

"Abandoned Sign" means any sign in which the owner has not demonstrated an interest by maintaining it in good condition.

"Administrator" means the Secretary of Transportation of the United States.

"Agri-produce signs" shall mean those signs located on the property of a farmer indicating the sale of seasonal agricultural products.

"Centerline of the highway" means (1) a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or (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.

"Commercial or industrial activities for purposes of unzoned commercial or industrial areas" means those activities generally recognized as commercial or industrial by zoning authorities within the State of Delaware, except that none of the following activities shall be considered commercial or industrial:

Outdoor Advertising structures.

Forestry, ranching, grazing, and farming including, but not limited to, wayside fresh produce stands.

Transient or temporary activities.

Activities more than 660 feet from the nearest edge of the right-of-way along the NHS.

Activities conducted in buildings principally used as a residence.

Railroad tracks and minor sidings.

Activities not visible from the main-traveled way.

"Customary maintenance" means the action necessary to keep a sign in good condition by (1) replacement of parts damaged or worn by age and (2) painting of areas exposed to the weather as the major portion of the sign, but shall not include either maintenance which would be necessary for signs over 50% damaged or in 50% disrepair or maintenance which would increase the size or monetary value of the sign.

"Decorative residential subdivision sign" means a non-official sign erected at a main entrance to a residential subdivision for the purpose of identifying the subdivision, and consisting of a message area containing only the name of the subdivision, and a supporting structure, constructed in accordance with current laws and regulations.

"Department" means the Delaware Department of Transportation.

"Directional and other official signs and notices" shall mean and include only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

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

"Division" means the Division of Maintenance and Operations under the Department of Transportation.

"Double-faced or back-to-back" shall mean those configurations of multiple sign structures as those terms are commonly understood, except that in no instance shall these terms include two or more signs which are not in the same ownership, which are not physically contiguous, or which are not connected by the same structure or crossbracing, or in the case of back-to-back signs located more than 15 feet apart at their nearest points.

"Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of a sign or sign structure, display or device.

"Free standing sign" means an outdoor advertising sign, sign structure, display or device including its ground-anchored supporting elements, that is entirely self-supporting upon the ground, and not attached to, anchored to, mounted upon, secured by, supported by, stabilized by, or in any other way dependent upon, any other structure or device.

"Freeway" means a controlled-access or limited-access street, road, or highway, whether or not part of the Interstate system.

"Gateway sign" means any sign, display, or device intended for its purpose to provide information to the traveling public advising motorists they are entering the boundaries of a political subdivision or established non-incorporated area of the State.

"Historical Marker" means plaques and signs placed throughout the state to commemorate and visually educate the public about the people, places, and events that are significant to Delaware's state, local, and national history.

"Illegal Sign" means any sign, display or device which was erected and/or maintained in violation of the Delaware Law.

"Illuminated Sign" means any sign that is lighted internally or externally and shall be defined as illuminated whether or not the light is attached directly to the sign structure.

"Information Center" means an area or site established and maintained at a safety rest area for the purpose of providing information to the public of places of interest within the State and other information the Department deems to be in the public interest.

"Interstate System" means that portion of the National System of Interstate and Defense Highways located within the State of Delaware officially designated as such, or as may hereafter be designated as such, by the Department and approved by the Secretary of Transportation of the United States pursuant to the provisions of Title 23, United States Code.

"Lease (license, contract, or easement)" means an agreement in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.

"Legible" means capable of being correctly read as text or accurately identified or understood as a symbol or illustration without visual aids or enhancements, by a person of normal visual acuity.

"Maintain" means to allow to exist in accordance with state law.

"Main-traveled way" or **"traveled ways"** means those parts of a street, road, or highway intended for and used by traffic, and are exclusive of acceleration, deceleration, auxiliary, or turn lanes, ramps, shoulders. It does not include such facilities as frontage roads, turning roadways, or parking areas.

"National Highway System" or **"NHS"** means those streets, roads, and highways that comprise the current National Highway System within this State, and those streets, roads, and highways that were parts of the Interstate System or the Federal-aid Primary System as they existed on June 1, 1991, as declared by the Congress of the United States in Title 23, United States Code.

"Nonconforming Sign" is one which was lawfully erected, but which does not comply with the provisions of the Laws of the State of Delaware or State regulations passed at a later date or which later fails to comply with such law or regulations due to changed conditions.

"Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State or local law for the purposes of carrying out an official duty or responsibility or historical marker authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

"On premises signs" shall mean those signs, displays and devices advertising the sale or lease of property upon which they are located and those signs, displays, and devices advertising activities conducted on the property on which they are located.

"Outdoor Advertising" or **"Outdoor Advertising Signs"** shall mean and shall include any outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is not an on-premise sign as defined in this regulation and is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the NHS.

"Panel" or **"sign panel"** means a subdivision of a face, and may be so distinguished by borders or boundaries of paint, tape, strips of wood, metal or plastic, contrasting colors, or the like, that visually separate it from an adjoining panel; or it may consist of a separate piece of material physically separated (as by a gap or space) from an adjoining panel.

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

"Political subdivision" means any municipal or county government duly established under the provisions of the Delaware Code.

"Public service signs" means signs located on school bus stop shelters.

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

"Safety rest areas" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for the convenience of the traveling public.

"Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services.

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

"Section" means the Roadside Control Section under the Division of Maintenance and Operations.

"Sign facing" or **"face"** means a single sign message separated from other sign facings by border or trim.

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

"Variable message sign" or **"VMS"** means a sign or portion thereof where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically or mechanically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

"V-type" means a sign structure consisting of two faces joined at one vertical edge; or two structures under the same ownership with a vertical edge of each separated by not more than 15 feet along their entire lengths; and forming an angle of not greater than 120 degrees between them.

"Zoned commercial or industrial areas" means those areas which are zoned for business, industry, commerce or trade pursuant to a State regulation or local zoning ordinance.

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5.0 Statutory Requirements

5.1 Section 1121, Chapter 11, Title 17 of the **Delaware Code** provides that signs within 660 feet of the nearest edge of the right of way and visible from the main traveled way of the NHS shall be limited to the following types:

5.1.1 Directional and other official signs and notices which shall include only official signs and notices, public utility and railroad signs, service club and religious notices, public service signs, and directional signs.

5.1.2 On Premise signs which shall include only:

5.1.2.1 Those signs, displays and devices advertising the sale or lease of the real property upon which they are located, and

5.1.2.2 Those signs, displays and devices advertising activities conducted on the real property upon which they are located.

5.1.3 Signs, displays, and devices located in the controlled areas adjacent to highways of the NHS which are zoned industrial and commercial under authority of State Law.

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6.0 Standards for Directional Signs

- 6.1 General: Permits as mentioned in Section 19.0 of this regulation will not be required for directional signs.
 - 6.1.1 The following standards shall apply to directional signs erected outside of the State's right-of-way only. Directional signs within the State's right-of-way shall follow the most current version of the Delaware Manual on Uniform Traffic Control Devices.
 - 6.1.2 A sign shall only be erected after first securing approval of the Department. Requests for approval to erect a directional sign shall be in writing directed to the Department for the attention of the Manager of the Roadside Control Section. All requests shall be processed in accord with procedures promulgated by the Department.
 - 6.1.3 The following directional signs are prohibited:
 - 6.1.3.1 Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of the activity.
 - 6.1.3.2 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic control device ("TCD"), or obstruct or interfere with the driver's view of approaching, merging, or intersection traffic.
 - 6.1.3.3 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
 - 6.1.3.4 Obsolete signs.
 - 6.1.3.5 Signs which are structurally unsafe or in disrepair.
 - 6.1.3.6 Signs which move or have any animated or moving parts.
 - 6.1.3.7 Signs located in rest areas, parklands or scenic areas.
 - 6.1.3.8 Signs not in conformance with applicable wind pressure requirements determined by adopted local building code or 25 pounds per square foot.
 - 6.1.3.9 Signs for privately owned facilities unless such facilities are determined to be eligible for signing under the criteria and methods described in 6.6 and 6.7 of this section.
- 6.2 Size
 - 6.2.1 The following limits shall apply to directional signs:
 - 6.2.1.1 Maximum area 150 square feet
 - 6.2.1.2 Maximum height 20 feet
 - 6.2.1.3 Maximum length 20 feet
 - 6.2.2 All dimensions include border and trim, but exclude supports.
- 6.3 Lighting
 - 6.3.1 Signs may be illuminated, subject to the following:
 - 6.3.1.1 Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. The use of a variable message sign (VMS) as defined in Section 4.0 of these regulations shall be prohibited for directional signs.
 - 6.3.1.2 Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or Primary system highway or which are of such intensity or brilliance as 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.
 - 6.3.1.3 No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device or signal.
- 6.4 Spacing
 - 6.4.1 Each location of a directional sign must be approved by the Department.
 - 6.4.2 A directional sign must be located beyond 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way), unless erected by the Division.
 - 6.4.3 A directional sign shall be located beyond 2,000 feet of a rest area, parkland, or scenic area, unless erected by the Division.
 - 6.4.4
 - 6.4.4.1 Two directional signs facing the same direction of travel shall be spaced more than 1 mile apart;

- 6.4.4.2 A maximum of three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;
- 6.4.4.3 Signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and
- 6.4.4.4 Signs located adjacent to the non-interstate portions of the NHS shall be within 50 air miles of the activity.
- 6.4.5 In determining the distance between signs facing in the same direction and those within a seventy-five air mile radius, signs beyond the 660' limit shall not be considered.
- 6.4.6 Signs legally in place within the 660' controlled area shall be considered as though it were a sign erected under these regulations.
- 6.5 Message Content
 - 6.5.1 The message of directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.
- 6.6 Criteria for Eligibility
 - 6.6.1 The criteria for determining whether or not a privately owned facility is eligible for directional signing shall be that criteria presently utilized or hereafter adopted by one of the existing State agencies where primary purpose is the control and administration of the type of specific unique phenomena or site for which a directional sign application may be made.
 - 6.6.2 A determination by the State agency to which a request is referred as to whether or not a privately owned facility is eligible for directional signing will be binding on the Department.
- 6.7 Eligible Activities
 - 6.7.1 Privately owned activities or attractions eligible for directional signing shall be limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas any of which must be nationally or regionally known, and of outstanding interest to the traveling public as determined by the appropriate State agency authority.

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7.0 Standards for Gateway Signs

7.1 General

- 7.1.1 Permits as defined in Section 19.0 of these Regulations will not be required for gateway signs. The following provisions apply to gateway signs erected within the right-of-way of any state maintained roadway within this State.
- 7.1.2 A gateway sign shall only be erected after first securing approval of the Department. Requests for approval to erect a gateway sign shall be in writing directed to the Department for the attention of the Manager of the Roadside Control Section. Requests for gateway signs shall be accepted from either of the following:
 - 7.1.2.1 A political subdivision of this State on their official letterhead, or
 - 7.1.2.2 Non-incorporated areas through a sponsor. Acceptable sponsors for gateway signs shall be governmental agencies or an elected county or state official. Where applicable, requests via sponsors shall be on official letterhead.
- 7.1.3 Gateway signs, upon approval of the Roadside Control Section, shall execute an official Right-of-Way Use Agreement with the appropriate departmental personnel.
- 7.1.4 A gateway sign shall be limited to conventional roadways. At no time will permission be granted for a gateway sign to be erected adjacent to an interstate, or other controlled access highway.
- 7.1.5 A gateway sign erected under this section shall meet one of the following requirements:
 - 7.1.5.1 Signs shall be compliant with the standards as set forth under the National Cooperative Highway Research Program 350 (NCHRP 350), the Manual for Assessing Safety Hardware (MASH), or the most current version in effect at the time.
 - 7.1.5.1.1 Applicants shall submit supporting documentation that such signs meet current standards at time application is submitted to the Department. Gateway signs constructed by the Department shall be exempt from this requirement.
 - 7.1.5.2 Signs shall be erected outside of the design clear zone for the roadway they are proposed to be constructed on.
- 7.1.6 Any gateway sign erected under this section which becomes in conflict with any improvement project will be required to be either temporarily removed or relocated as a result of such project. All costs associated

with removal or relocation shall be the sole responsibility of the entity responsible for the sign. In the event of a permanent conflict and no appropriate site for relocation, the sign will not be permitted to be re-erected.

7.1.7 The following gateway signs are prohibited:

- 7.1.7.1 Signs advertising activities that are illegal under Federal or State laws or regulations in effect at the location of those signs or at the location of the activity.
- 7.1.7.2 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
- 7.1.7.3 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
- 7.1.7.4 Obsolete signs.
- 7.1.7.5 Signs which are structurally unsafe or in disrepair.
- 7.1.7.6 Signs which move or have any animated or moving parts.
- 7.1.7.7 Signs located in rest areas, parklands or scenic areas.
- 7.1.7.8 Signs not in conformance with applicable wind pressure requirements determined by adopted local building code or 25 pounds per square foot.

7.2 Size

7.2.1 The following limits shall apply to gateway signs:

- 7.2.1.1 Maximum area...32 square feet
- 7.2.1.2 Maximum height...10 feet
- 7.2.1.3 Maximum width...8 feet

7.2.2 The following limits shall apply to gateway signs constructed of a Department approved ornamental sign:

- 7.2.2.1 Maximum area...66 square feet
- 7.2.2.2 Maximum height...11 feet
- 7.2.2.3 Maximum width...6 feet

7.2.3 All dimensions include border and trim, but exclude supports.

7.3 Spacing

- 7.3.1 A gateway sign shall be placed no less than 200 feet from any official TCD maintained by the Department.
- 7.3.2 As defined in subsection 7.1.5.2 of this regulation, a gateway sign shall be located outside of the design clear zone for a roadway if such sign does not meet standards as set forth under NCHRP 350, MASH, or the most current version in effect at the time of application. The design clear zone will be calculated by the most practical method in use by the Department.

7.4 Lighting

- 7.4.1 Illumination of a gateway sign is prohibited.
- 7.4.2 A gateway sign shall be retro-reflective based on guidelines set forth in the most current version of the Delaware Manual on Uniform Traffic Control Devices (MUTCD).

7.5 Content

- 7.5.1 As per the Delaware MUTCD, the standard colors of red, orange, yellow, purple, or the fluorescent versions thereof, fluorescent yellow-green and fluorescent pink shall not be used for background colors for a gateway sign.
- 7.5.2 Abbreviations should be kept to a minimum, and should include only those that are commonly recognized and understood.
- 7.5.3 Word messages should be as brief as practical and the lettering should be large enough to provide the necessary legibility distance.
- 7.5.4 Internet and e-mail addresses, domain names, Uniform Resource Locators (URL), or phone numbers shall not be displayed on a gateway sign.
- 7.5.5 Slogans and related graphics shall be of some specific interest to the area represented by a gateway sign.
- 7.5.6 The interpolation of any type of advertising message is expressly prohibited.

7.6 Maintenance of Signs

- 7.6.1 All gateway signs shall be maintained in a good state of repair at all times. When any sign is damaged or falls into disrepair to the extent that obvious repairs are needed, the owner shall be notified by Certified Mail to make all necessary and allowable repairs. If the sign is not repaired, rebuilt, or removed within thirty

days of said notification the sign will be considered as being abandoned and will be removed by the Department.

7.6.2 Signs causing an immediate safety concern will be removed by the Department without prior notification.

7.6.3 Applicants for gateway signs shall provide contact information for a responsible party in the event the sign is destroyed or enters a state of disrepair.

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8.0 Standards for Official Signs and Notices

8.1 General

8.1.1 Permits as defined in Section 19.0 will not be required for official signs and notices. An Official sign or notice shall be erected however, only after first securing approval of the Department. Requests for approval to erect such signs shall be made and processed in the same manner as for directional signs (See Section 6.0).

8.1.2 The following standards shall apply to official signs and notices erected outside of the State's right-of-way only.

8.1.3 Official signs and notices shall be limited to the following:

8.1.3.1 Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization by Federal, State or local law for the purposes of carrying out an official duty or responsibility.

8.1.4 The following signs are prohibited:

8.1.4.1 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersection traffic.

8.1.4.2 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.

8.1.4.3 Obsolete signs.

8.1.4.4 Signs which are structurally unsafe or in disrepair.

8.1.5 Size

8.1.5.1 The following limits are applicable to official signs and notices:

8.1.5.1.1 Maximum area 15 square feet

8.1.5.1.2 Maximum height 5 feet

8.1.5.1.3 Maximum length 5 feet

All dimensions shall include border and trim but shall exclude supports.

8.1.6 Lighting

8.1.6.1 Signs may be illuminated, subject to the following restrictions:

8.1.6.1.1 Signs which contain, include, or are illuminated by any flashing, intermittent or moving light or lights are prohibited, except those giving public service information. The use of a variable message sign (VMS) as defined in Section 4.0 shall be prohibited for official signs and notices.

8.1.6.1.2 Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

8.1.6.1.3 Signs so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal are prohibited.

8.1.7 Spacing

8.1.7.1 Each location of official sign or notice sign must be approved by the Department.

8.1.7.2 An Official sign or notice shall be located beyond 2,000 feet of an interchange, or intersection at grade along the Interstate System or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).

8.1.7.3 An official sign or notice shall be located beyond 2,000 feet of a rest area, parkland, or scenic area.

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9.0 Standards for Historical Markers

9.1 General

- 9.1.1 Permits as mentioned in Section 19.0 of these regulations will not be required for historical markers.
- 9.1.2 A historical marker shall only be erected after first securing approval of the Department. Requests for approval to erect a historical marker shall be in writing directed to the Department for the attention of the Manager of the Roadside Control Section. All requests shall be processed in accord with procedures promulgated by the Department.
- 9.1.3 Historical Markers shall be limited to the following:
 - 9.1.3.1 Markers authorized by State law and erected by State or local government agencies or nonprofit historical societies.
- 9.1.4 The following historical markers are prohibited:
 - 9.1.4.1 Markers located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersection traffic.
 - 9.1.4.2 Markers which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
 - 9.1.4.3 Markers which are structurally unsafe or in disrepair.

9.2 Size

- 9.2.1 The following limits are applicable to historical markers:
 - 9.2.1.1 Maximum area...15 square feet
 - 9.2.1.2 Maximum height...5 feet
 - 9.2.1.3 Maximum length...5 feet
- All dimensions shall include border and trim but shall exclude supports.

9.3 Lighting

- 9.3.1 Lighting of historical markers is prohibited.

9.4 Spacing

- 9.4.1 Each location of a historical marker must be approved by the Department.
- 9.4.2 Historical markers shall not be erected along the Interstate System or other freeways.
- 9.4.3 Where applicable, historical markers should be located outside of the State's right-of-way.
- 9.4.4 Historical markers located within the State's right-of-way shall meet standards as set forth under the National Cooperative Highway Research Program 350 (NCHRP 350), the Manual for Assessing Safety Hardware (MASH), or the most current version in effect at the time.

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10.0 Standards for Public Utility and railroad Signs

10.1 General

- 10.1.1 The erection of a public utility or railroad sign may be undertaken without Department approval. Such signs will, however, be limited to warning signs, informational signs, and notices or markers which are customarily erected and maintained by publicly or privately owned public utilities or railroads as essential to their operation.
- 10.1.2 Public utility and railroad signs shall be installed to standards as set forth under the National Cooperative Highway Research Program 350 (NCHRP 350), the Manual for Assessing Safety Hardware (MASH), or the most current version in effect at the time.
- 10.1.3 The following signs are prohibited:
 - 10.1.3.1 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersection traffic.
 - 10.1.3.2 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
 - 10.1.3.3 Obsolete signs.
 - 10.1.3.4 Signs which are structurally unsafe or in disrepair.

10.2 Size

- 10.2.1 The following limits are applicable to public utility and railroad signs:

10.2.1.1 Maximum area 4 square feet

10.2.1.2 Maximum height 4 feet

10.2.1.3 Maximum length 4 feet

10.2.2 All dimensions include border and trim but exclude supports.

10.3 Lighting

10.3.1 Signs may be illuminated, subject to the following restrictions:

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

10.3.1.2 Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of the NHS 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.

10.3.1.3 Signs so illuminated as to interfere with the effectiveness of or obscure an official TCD are prohibited.

10.4 Spacing

10.4.1 The number and spacing of public utility and railroad signs shall be limited to those customarily erected and maintained as essential to the operation of a particular utility or railroad.

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11.0 Standards for Service Club and Religious Notices

11.1 General

11.1.1 Service club or religious notices shall be erected or maintained only after first securing approval from the Department. Applications shall be made and processed in accord with procedures promulgated by the Department. Service club and religious signs shall be limited to the following:

11.1.1.1 Signs and notices relating to meetings of nonprofit service clubs.

11.1.1.2 Signs and notices of charitable associations.

11.1.1.3 Signs and notices stating place and time of religious services.

11.1.2 The following signs are expressly prohibited:

11.1.2.1 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

11.1.2.2 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.

11.1.2.3 Obsolete signs.

11.1.2.4 Signs which are structurally unsafe or in disrepair.

11.1.2.5 Signs which move or have any animated or moving parts.

11.1.2.6 Signs located in rest areas, parklands or scenic areas.

11.1.2.7 Signs not in conformance with applicable wind pressure requirements.

11.1.2.8 Signs erected on the right-of-way of any public highway.

11.2 Size

11.2.1 The following limits are applicable to service club and religious notices:

11.2.1.1 Maximum area 8 square feet

11.2.1.2 Maximum height 4 feet

11.2.1.3 Maximum length 4 feet

11.3 Lighting

11.3.1 Illumination of service club and religious notices is prohibited.

11.4 Spacing

11.4.1 A sign may be placed on a major route entering the vicinity of the involved activity but must be located within one-half mile of the meeting place.

11.5 Number

11.5.1 Total number of service club and religious notices to a particular locale shall not exceed two.

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12.0 Standards for Public Service Signs

12.1 General

- 12.1.1 No public service sign shall be erected or maintained without first securing a permit from the Department as required by these regulations. Applications for permits shall be processed in accord with procedures promulgated by the Department. A certification by the Department of ~~Public Instruction~~ Education (DOE) that each shelter on which signs are or are to be erected is needed to provide shelter for students at that location shall accompany each application. Applications and approval shall be processed in accord with procedures promulgated by the Department.
- 12.1.2 Shelters shall bear an identifying tag indicating the name and contact information of the party responsible for the shelter and any signs affixed to it. Such identification tags shall be placed within the interior of the shelter and cannot exceed 2 square feet.
- 12.1.3 Shelters located within the right-of-way of any public highway shall not display any type of advertising sign except an identification tag as defined in subsection 12.1.2.
- 12.1.4 At such time a shelter is no longer deemed necessary by the DOE, or is no longer being occupied by students, any and all signs affixed to such shelter shall be removed immediately. This paragraph does not apply to identification tags as defined in subsection 12.1.2.

12.2 Public Service signs shall be limited to the following:

- 12.2.1 Signs which identify the donor, sponsor, or contributors of the shelter on which the sign is erected, and or
- 12.2.2 Which contain safety slogans or messages which shall occupy not less than 60 percent of the area of the sign and
- 12.2.3 Which contain no other message.

12.3 Size

- 12.3.1 Public service sign shall not exceed 32 square feet in area.

12.4 Lighting

- 12.4.1 Lighting of public service signs is prohibited.

12.5 Spacing

- 12.5.1 Only two public service signs shall be permitted at any one location. Signs will only be approved for a shelter provided it does not in any way obscure or otherwise interfere with the effectiveness of an official ~~traffic sign, signal, or device~~ TCD, or which obstructs or interferes with the driver's view of approaching, merging, or intersection traffic, or which interferes with the safe and free flow of traffic in any way.

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13.0 Standards for On Premise Signs

13.1 General

- 13.1.1 Section 1114, Subchapter 1, Chapter 11, Title 17 of the **Delaware Code** exempts on premise signs from all provisions of Subchapter 1, except that such signs shall be subject to the Rules and Regulations adopted by the Department as required by Section 1103 of Subchapter 1, Chapter 11 of Title 17. Consistent with the stated policy of Chapter 11 of Title 17 for protecting the public's investment in highways and enhancing the natural scenic beauty, the following shall apply to all on premise signs which are erected and maintained within 660 feet of the nearest edge of the right-of-way of any interstate highway in this State, and which are visible from the main traveled way of such systems.

13.2 Eligibility

- 13.2.1 A sign display, or device shall be considered an on-premise sign if:
 - 13.2.1.1 it is located on the same premises as the activity or property advertised and
 - 13.2.1.2 it has as its purpose the identification of the activity conducted on the premises or advertises the sale or lease of the property on which it is located.
- 13.2.2 Signs greater than 32 square feet shall be considered on premise if they meet the conditions as defined in subsections 13.3 and 13.4 of this section.

13.3 Premise Test

- 13.3.1 As used in these regulations, the premises on which an activity is conducted shall be the land occupied by the building 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.
- 13.3.2 The following will not be considered to be a part of the premises on which an activity is conducted and any signs located on such land will be considered "off premise" advertising:
 - 13.3.2.1 Any lands not used as an integral part of the principal activity, or

- 13.3.2.2 Any land used for a separate purpose unrelated to the advertised activity, or
- 13.3.2.3 Any land at some distance from the principal activity, and in closer proximity to the highway than the principal activity, and developed or used only in the area of the sign site, or between the sign site and the principal activity, and occupied solely by structures or uses only incidental to the principal activity, and which serve no reasonable purpose other than to qualify the land for signing purposes, or
- 13.3.2.4 Any configuration of land which is such that it cannot be put to any reasonable use related to the principal activity other than for signing purposes, or
- 13.3.2.5 Any land which is nonbuildable, such as swamp, marsh or other wetland, or
- 13.3.2.6 Any land which is common or private roadway or held by easement or other lesser interest than the premises where the advertised activity is located,
- 13.3.2.7 With the exception of agri-produce signs, any land in excess of 50 feet from the principal activity or accessory uses.

13.4 Purpose Test

- 13.4.1 The following signs, displays, and devices shall be considered as having as their purpose, (1) the identification of the activity located on the premises or its products or services, or (2) the sale or lease of the property on which the sign is located:
 - 13.4.1.1 Any sign which consists solely of the name of the establishment.
 - 13.4.1.2 Any sign which identifies the establishments principal or accessory products or services offered on the premises.
 - 13.4.1.3 Any sign which has no message content other than for sale or lease.
- 13.4.2 Signs in the following categories shall be considered as not fulfilling requirements and shall be treated as "off premise" advertising:
 - 13.4.2.1 A sign which brings rental income to the property owner, or
 - 13.4.2.2 Which consists principally of brand or trade name advertising, or
 - 13.4.2.3 Which advertises a product only incidental to the principal activity, or
 - 13.4.2.4 Which advertises, in addition to the activities conducted on the premises, activities not conducted on the premises, or
 - 13.4.2.5 One which in addition to the sale or lease aspects of the property advertises any product or service not located upon and unrelated to the business of selling or leasing the land on which the sign is located.

13.5 Applications

- 13.5.1 A permit shall not be required for an "on premise" sign. Any such sign shall be erected, however, only after first securing written approval of the Department. Application for permission to erect on premise signs shall be made and processed in the same manner as applications for outdoor advertising signs (See Section 15.0). Such signs may be either freestanding or attached to buildings providing they meet the requirements of this section.

13.6 The following "on premise" signs are prohibited:

- 13.6.1 Signs advertising activities that are illegal under Federal and State laws or regulations in effect at the location of those signs or at the location of the activity.
- 13.6.2 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
- 13.6.3 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.
- 13.6.4 Obsolete signs.
- 13.6.5 Signs which are structurally unsafe or in disrepair.
- 13.6.6 Signs which move or have any animated or moving parts except as provided in subsection 13.8 below.
- 13.6.7 Signs not in conformance with applicable wind pressure requirements determined by adopted local building code or 25 pounds per square foot (85 M.P.H. winds).

13.7 Size

- 13.7.1 On premise signs 32 square feet or less are exempt from the provisions of this section.
- 13.7.2 A sign advertising the sale or lease of property shall not exceed square feet in area.
 - 12 SF-Residential
 - 32 SF-Commercial

13.7.3 Signs greater than 32 square feet shall be considered on premise if they meet the conditions as defined in subsections 13.3 and 13.4.

13.7.4 All measurements shall include border and trim but shall exclude supports.

13.8 Lighting

13.8.1 On premise signs may be illuminated subject to the following:

13.8.1.1 Signs which contain, include, or are illuminated by any flashing, intermittent, or, moving light or lights are prohibited except as provided in subsection 13.8.1.4.

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

13.8.1.3 A sign may be so illuminated provided it does not interfere with the effectiveness of or obscure an official TCD.

13.8.1.4 Variable Message Signs (VMS) may be changed at intervals by electronic or mechanical process or remote control provided that:

13.8.1.4.1 Each message remains fixed for a minimum of at least 10 seconds.

13.8.1.4.2 When the message is changed, it must be accomplished in 1 second or less, with all moving parts or illumination changing simultaneously and in unison.

13.8.1.4.3 A variable message sign must contain a default design that will freeze the sign in one position if a malfunction occurs or, in the alternative, that will shut down.

13.8.1.4.4 A variable message sign may not contain or display any lights, effects, or messages that flash, move, appear to be animated or to move, scroll, or change in intensity during the fixed display period. A variable message sign must appropriately adjust display brightness as ambient light levels change.

13.8.1.4.5 A sign that attempts or appears to attempt to direct the movement of traffic or which contains wording, color, shapes, or likenesses of official traffic control devices is prohibited.

13.9 Spacing

13.9.1 Spacing requirements shall not apply to "on premise" signs except for sale or lease signs shall be limited to a total of two for any one property.

13.10 Decorative Residential Subdivision Signs

13.10.1 Decorative residential subdivision signs which basically indicate the name of the individual suburban community are, for the purposes of these rules and regulations, considered a type of on premise signs and are allowable provided:

13.10.1.1 They are erected within the subdivision limits,

13.10.1.2 The prime intent is identification of the subdivision,

13.10.1.3 They have received prior approval from the Division and

13.10.1.4 They meet all eligibility tests specified in this paragraph.

13.10.1.5 The ~~above~~ provisions in this section apply to decorative residential subdivision signs erected adjacent to any state maintained roadway within this State.

13.10.2 The following signs are expressly prohibited:

13.10.2.1 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

13.10.2.2 Signs which are erected or maintained upon trees or utility poles or painted or drawn upon rocks or other natural features.

13.10.2.3 Obsolete signs.

13.10.2.4 Signs which are structurally unsafe or in disrepair.

13.10.2.5 Signs which move or have any animated or moving parts.

13.10.2.6 Signs located in rest areas or parklands.

13.10.2.7 Signs containing the names of builders or developers.

13.10.3 Placement

13.10.3.1 New signs shall be placed on an established easement, or private property at the entrance to the subdivision. In areas where no easement is available due to limited site frontage, or placement on

private property is not possible, provisions may be made to locate the sign within the right-of-way provided that:

13.10.3.1.1 Signs shall be compliant with the standards as set forth under the National Cooperative Highway Research Program 350 (NCHRP 350), the Manual for Assessing Safety Hardware (MASH), or the most current version in effect at the time.

13.10.3.1.2 Signs do not present a sight distance or safety hazard.

13.10.3.1.3 A right-of-way use agreement is executed with the Department.

13.10.4 Lighting

13.10.4.1 Signs may be illuminated subject to the following:

13.10.4.1.1 Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. The use of a variable message sign (VMS) as defined in Section 4.0 of these regulations shall be prohibited for decorative residential subdivision signs.

13.10.4.1.2 Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any highway or which are of such intensity or brilliance as 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.

13.10.4.1.3 No sign may be so illuminated as to interfere with the effectiveness of or obscure an official TCD.

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14.0 Standards for Agri-Produce Signs

14.1 General

14.1.1 Agri-produce signs shall not be allowed to be erected on the Interstate system unless they fully meet the requirements for "on premise" signs as set out in Section 13.0 of these regulations.

14.1.2 On other systems, agri-produce signs shall be considered as "on premise" signs and shall be subject to the same requirements and conditions as described for "on premise" signs in Section 13.0 of these regulations with the following exceptions:

14.1.2.1 Free standing agri-produce signs shall be allowed to remain erected only during the seasonal period ~~from May 1 through September 30~~ of the item being advertised. During the off season signs of this type shall be removed.

14.1.2.2 Free standing signs may be located more than 50 feet but no more than 500 feet from the activity and on the same property as the activity being conducted.

14.2 Size

14.2.1 The following limits are applicable to agri-produce signs:

14.2.1.1 Maximum area 32 square feet

14.2.1.2 Maximum height 8 feet

14.2.1.3 Maximum length 8 feet

14.2.1.4 Total sign area allowable per site - 100 square feet (maximum)

14.3 Lighting

14.3.1 Signs may be illuminated, subject to the following:

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

14.3.1.2 Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of the NHS 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 is prohibited.

14.3.1.3 Signs so illuminated as to interfere with the effectiveness of or obscure an official TCD are prohibited.

14.3.1.4 VMS signs shall follow guidelines as defined in subsection 13.8.1.4.

14.4 Spacing

14.4.1 Each location of an agri-produce sign must be approved by the Department and shall receive written approval prior to erection of any signs.

14.4.2 Each sign must be located within 500 feet of the activity, on the same property and same side of highway as the activity.

14.5 Number

14.5.1 Each location may have a variable number of agri-produce signs necessary for the individual site provided total site sign area allowable is not exceeded. Each application must be made to the Department and directed to the attention of the Roadside Control Section. Applications will be processed in accordance with procedures promulgated by the Department.

14.6 Safety of traveling public

14.6.1 At all times the Division must give prime consideration to the safety of the traveling public and if at any time an unsafe condition should arise, the Department shall advise the location owner of certain positive steps which must be undertaken within a specified duration of time. Failure to comply with the required improvements will result in suspension of the approval and removal of the sign until such time that corrective measures have been implemented.

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15.0 Standards for Outdoor Advertising Signs, Displays, and Devices in Areas Zoned Industrial or Commercial Within the Controlled Area

15.1 General

15.1.1 Except as otherwise provided in these regulations, no signs, displays, or devices will be permitted to be erected or maintained unless it is within an area zoned as commercial or industrial under authority of State law. Permits shall be required for all such signs. Applications and permits shall be processed in accordance with procedures promulgated by the Department.

15.1.2 Signs, displays, and devices erected and maintained within all other zoned industrial and commercial areas shall be subject to the following conditions and requirements.

15.1.3 On-premise signs, displays, and devices which do not meet criteria set forth in Section 13.0 shall be considered "off-premise" advertising and shall be subject to the following conditions and requirements.

15.2 The following signs shall be prohibited:

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

15.2.2 Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official TCD, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

15.2.3 Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

15.2.4 Obsolete signs.

15.2.5 Signs which are structurally unsafe or in disrepair.

15.2.6 Signs not in conformance with applicable wind pressure requirements determined by adopted local building code or 25 pounds per square foot, whichever is greater.

15.3 Size

15.3.1 The maximum area for any outdoor advertising sign facing shall be 1,200 square feet with a maximum height of 25 feet and a maximum length of 60 feet.

15.3.2 The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign.

15.3.3 All dimensions shall include border and trim but shall exclude supports.

15.3.4 A sign structure may contain one or two signs per facing and two sign facings may be placed back to back or V-type at one location but in no event shall the total area of any facing exceed 1,200 square feet.

15.3.5 A sign which exceeds 600 square feet in area may not be on the same sign facing with any other sign.

15.4 Lighting

15.4.1 Signs may be illuminated, subject to the following restrictions:

15.4.1.1 Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except as defined in subsection 15.4.1.5 below.

15.4.1.2 Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of any highway and which are of such intensity or brilliance as to cause glare or to impair the vision of a driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle are prohibited:

15.4.1.3 Signs so illuminated as to interfere with the effectiveness of, or obstructs an official TCD is prohibited.

15.4.1.4 All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the Department.

15.4.1.5 Variable Message Signs (VMS) may be changed at intervals by electronic process or remote control provided that:

15.4.1.5.1 Each message remains fixed for a minimum of at least 10 seconds.

15.4.1.5.2 When the message is changed, it must be accomplished in 1 second or less, with all moving parts or illumination changing simultaneously and in unison.

15.4.1.5.3 A VMS must contain a default design that will freeze the sign in one position if a malfunction occurs or, in the alternative, that will shut down.

15.4.1.5.4 A VMS may not contain or display any lights, effects, or messages that flash, move, appear to be animated or move, scroll, or change in intensity during the fixed display period.

15.4.1.5.5 A VMS must appropriately adjust display brightness as ambient light levels change.

15.4.1.5.6 A VMS that attempts or appears to attempt to direct the movement of traffic, or which contains wording, color, shapes, or likenesses of official traffic control devices is prohibited.

15.4.1.5.7 A VMS providing public service information such as time, temperature, weather or traffic conditions is permitted provided that the addition or interpolation of any advertising text, illustration, or message of any kind is prohibited and that such signs follow the other provisions of this section.

15.4.1.5.8 A VMS may not be placed along designated scenic or historic byways.

15.4.1.5.9 Except for official Department use, a VMS may not be placed along the portion of State Route 1 from the point at which it merges with U.S. Route 13 below State Route 71 to the point where it merges with the southbound on-ramp of State Route 9.

15.5 Spacing

15.5.1 For Interstate and controlled access highways, the structure for outdoor advertising sign shall be at least 500 feet from any similar structure.

15.5.2 For non-controlled access highways, outside incorporated areas, the structure for any sign shall be at least 300 feet from any similar structure. For non-controlled access highways within incorporated areas, the structure for any sign shall be at least 100 feet from any similar structure.

15.5.3 When structures are separated by building or other artificial obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at one time, variances may upon application be granted by the Department.

15.5.4 The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and is applicable only to structures located on the same side of the highway.

15.5.5 Outside incorporated areas outdoor advertising signs shall be located 500 feet (minimum from any interchange, intersection, at grade, safety rest area or information center (measured along the Interstate or freeway from the beginning or ending of pavement widening at the exit or entrance to the main traveled way).

15.5.6 Except for roof signs, wall signs and free standing signs against the wall of a building, no ground signs shall be placed within 35 feet of either highway right of way at an intersection where they converge, unless the base of such sign is at least 8 feet above ground level or road bed, whichever is higher.

15.5.7 Official and "on premise" signs, as defined in these regulations shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

15.5.8 A VMS along the same roadway and facing in the same direction of travel may not be placed, as measured along the centerline of the roadway, within 2,500 feet of another VMS, or within 500 feet of a static outdoor advertising sign, or within 1,000 feet of an interchange, interstate junction or merging or diverging traffic, or an at-grade intersection.

15.6 Non-Conforming Signs

15.6.1 Legally erected signs found not to be in compliance with the spacing requirements of this section shall be determined to be a non-conforming sign and shall be purchased as provided by State law and in accord with Policy and Procedures developed and adopted by the Department.

15.6.2 In any instance where it is found that two or more signs do not meet spacing requirement, the date of the issuance of the original permit shall control with the older being allowed to remain.

15.7 Control by Political Subdivisions

15.7.1 At any time that a political subdivision adopts comprehensive zoning that provides for and enforces regulation of size lighting and spacing of signs in commercial and industrial zones and applies for and is certified by the Department under the provisions of Section 20.0 of these regulations, control shall pass to such political subdivision. Certification is at the sole discretion of the Department.

16.0 Bonding Requirements

At its discretion, the Department may require that any resident, non-resident or foreign corporation engaged in the business of outdoor advertising prior to the issuance of any permit for the posting or display of any advertisement or the erection, use or maintenance of any advertising structure shall furnish and file with the Roadside Control Section a bond payable to the State of Delaware with surety approved by the Department, and in the sum of \$5,000.00, conditioned that said individual company or corporation fulfills all the requirements of law and regulations and orders of the Department relating to the display of advertisements or the erection of advertising structures. Such bond shall remain in full force and effect until such obligations of such licensee to the State are satisfied.

17.0 Maintenance of Signs

17.1 General

- 17.1.1 All signs within the controlled areas shall be maintained in a good state of repair at all times. When any sign is damaged or falls into disrepair to the extent that obvious repairs are needed, the owner shall be notified by Certified Mail to make all necessary and allowable repairs. If the sign is not repaired, rebuilt, or removed within six months of said notification the applicable sign permit shall lapse and become null and void. In these cases where permits are not required, such signs will be considered as being abandoned and will be removed by the Department.

17.2 Alterations

- 17.2.1 The size and shape of signs may be altered during repair with the exception of non-conforming signs providing that:
 - 17.2.1.1 At least ten working days prior to beginning of alterations written notice is furnished to the Department fully defining the nature and extent of the proposed alterations.
 - 17.2.1.2 Alterations do not exceed permit limits and
 - 17.2.1.3 Other requirements of these regulations are met.

17.3 Relocation of Signs

- 17.3.1 With the exception on non-conforming signs, signs may be relocated provided they meet all criteria and requirements of these regulations. Any sign moved to a new location will require a new permit and permit number and will be considered and processed as a new sign.

17.4 Maintenance of Non-conforming Signs

17.4.1 General

- 17.4.1.1 Non-conforming signs may be maintained or rebuilt when destroyed by vandalism providing they are rebuilt to substantially be the same as they are in existence on June 30, 1970. Such signs may continue as long as they are not abandoned, destroyed or discontinued.

17.4.2 Discontinued signs

- 17.4.2.1 A non-conforming sign which has displayed obsolete or damaged advertising matter or has not displayed advertising matter for a period of six months subsequent to receipt of written notice from the Department shall be considered as a discontinued sign and shall be required to be removed by the owner without compensation.

17.4.3 Abandoned signs

- 17.4.3.1 Non-conforming signs which are in need of substantial repair either to the face or support structure and are not repaired within a period of six months after receipt of written notice from the Department shall be considered as an abandoned sign and shall be required to be removed by the owner without compensation.

17.4.4 Destroyed signs

- 17.4.4.1 Non-conforming signs which have been damaged, except by vandalism, to the extent that the cost of reconstructing the sign exceeds 50% of the sign if it were constructed new shall be considered as being destroyed and shall be required to be removed by the owner without compensation.

17.4.5 Owners Liability

- 17.4.5.1 All costs incurred by the Department shall be the responsibility of the sign owner of any signs listed in subsections 17.4.2, 17.4.3 and 17.4.4 of this section that are removed by Division personnel.

18.0 Destruction of Trees

18.1 General

- 18.1.1 In no case will the destruction of trees or shrubs within the right of way of any highway for the purpose of increasing or enhancing the visibility of an outdoor advertising sign be allowed.

18.2 Penalties

- 18.2.1 Persons who undertake such action will be

- 18.2.1.1 Subject to possible criminal prosecution and

- 18.2.1.2 Have the permit for the involved sign revoked and

- 18.2.1.3 Responsible for any corrective action relative to the trees and shrubs deemed necessary by the Department.

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19.0 Permits and Fees

19.1 General

- 19.1.1 Section 1104, Subchapter 1, Chapter 11, Title 17 of the **Delaware Code** includes provisions for:

- 19.1.1.1 The Department to issue and renew permits for each sign for a period of at least one year for the erection and maintenance of outdoor advertising signs, displays, and devices, and

- 19.1.1.2 The Department to establish and collect fees for the issuance of permits and renewals thereof in an amount deemed necessary to defray the costs of this operation.

19.2 Duration of Permits

- 19.2.1 Each permit shall be valid for the period beginning January 1 and ending December 31 of each calendar year.

- 19.2.2 Permits granted during any month of the year shall expire on December 31 of the same calendar year.

19.3 Fees

- 19.3.1 Each calendar year the Department shall review its administrative costs and the number of signs and determine the adequacy of present permit fees to defray the involved costs.

- 19.3.2 When a change in fee is necessary, the new fee shall become effective for all new permits immediately upon receipt of Department approval and for renewals on January 1 of the next calendar year following approval.

- 19.3.3 The fee for a portion of the calendar year will be the same as determined necessary for the entire calendar year.

- 19.3.4 The Department shall notify all interested parties of any change in fee.

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20.0 Certification of Political Subdivisions

20.1 General

- 20.1.1 Subsection (a) of Section 1110, Subchapter 1, Chapter 11, Title 17 of the **Delaware Code** provides for the Department to certify a political subdivision as having effective control when such political subdivision has established and is enforcing regulations as to the size, spacing, and lighting of outdoor advertising signs, displays and devices in zoned commercial and industrial areas within its zoning jurisdiction.

- 20.1.2 Until such time as a political subdivision has been certified by the Department, full responsibility for the control of outdoor advertising within the controlled area shall remain with the Department. Upon certification, the authority and responsibility for the control of outdoor advertising shall pass to the political subdivision. A certified political subdivision shall implement control and surveillance procedures and maintain such records as may be necessary to assure compliance with its regulations.

- 20.1.3 The Department shall have the right to inspect any certified subdivisions procedures and records and if it is found that a subdivision's regulations are not being enforced, shall after 30 days written notice, resume full authority and responsibility for control of outdoor advertising in the controlled area.

- 20.1.4 Applications for certification shall be initiated by political subdivisions and shall be in writing addressed to the Secretary of the Department. Applications shall be processed in accordance with procedures promulgated by the Department.

- 20.1.5 The authority and responsibility for the control and regulation of directional and other official signs and notices as described in these regulations shall remain with the Department.

18 DE Reg. 999 (06/01/15)

21.0 Political Subdivision Regulations

A political subdivision of the State of Delaware may establish and maintain standards which are more restrictive with respect to certain signs than the standards in these rules and regulations.

18 DE Reg. 999 (06/01/15)

22.0 Penalties

22.1 Whoever violates the provisions of these regulations shall be fined not less than \$10.00 nor more than \$50.00.

22.2 Each day that a violation is allowed to continue beyond the legal notice shall be considered a separate offense.

18 DE Reg. 999 (06/01/15)

23.0 Separability

The various paragraphs of these rules and regulations are declared to be separable and should any word, phrase, sentence or portion be declared invalid, the remaining portions shall not be affected, but shall remain in full force and effect.

Approved: 1975

Amended: 1981

18 DE Reg. 999 (06/01/15)

19 DE Reg. 1029 (05/01/16) (Final)