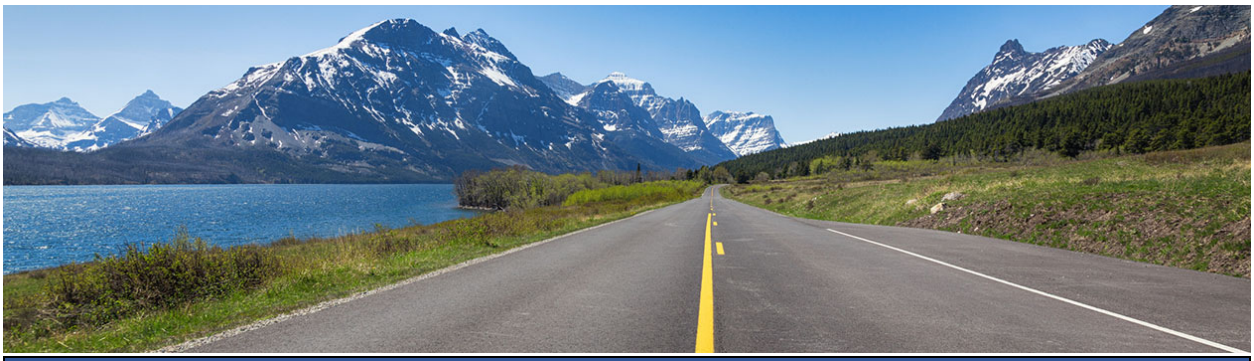


RIGHT-OF-WAY OPERATIONS MANUAL

Chapter Eight Outdoor Advertising Control

October 2023

Revision Information – Appendix A

MONTANA DEPARTMENT OF TRANSPORTATION

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Chapter Eight
OUTDOOR ADVERTISING CONTROL

8-1 SIGN CONTROL PROGRAM OVERVIEW

8-1.1 Statutory Requirements, Authority for Control and Administration

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

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

8-1.2 Scope of Sign Control Program

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

a) Review, approval or rejections of sign permit applications.

b) The inventory of all affected routes to determine sign owners' compliance with regulations of the program.

c) The removal of any signs is unlawfully erected or maintained.

8-1.3 Definitions

A. The following statutory definitions are found in Section 75-15-103, MCA.

1. “Commercial or industrial activities” means those activities generally recognized as commercial or industrial by zoning authorities in the state, except that none of the following activities are considered commercial or industrial:

   a) Agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands.
   b) Transient or temporary activities.
   c) Activities not visible from the main-traveled way.
   d) Activities conducted in a building principally used as a residence.
   e) Railroad tracks and minor sidings.
   f) Activities more than 660 feet from the nearest edge of the Right-of-Way.

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

3. “Commission” means the transportation commission of Montana.

4. “Department” means the department of transportation.

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

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

7. “Maintain” means to allow to exist, subject to the provisions of this part.

8. “Maintenance” means to repair, refurbish, repaint, or otherwise keep an existing sign structure in a state suitable for use.

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

10. “Primary system” means that portion of connected main highway as officially designated or as may be designated by the commission and approved by the secretary pursuant of Title 23, United States Code, “Highways”.

11. “Safety rest area” means an area or site established and maintained within or adjacent to the Right-of-Way, by or under public supervision or control, for the convenience of the traveling public.

12. “Secretary” means the secretary of the United States department of transportation.

13. “Un-zoned commercial or industrial area” means an area not zoned by state or local law, regulation, or ordinance that is occupied by one or more commercial or industrial activities, other than outdoor advertising, on the lands along the highway for 600 feet from the edge of the main commercial/industrial facility.

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

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

B. Additional definitions are found in ARM 18.6.202.

8-2 AUTHORIZED SIGNS

8-2.1 Signs Requiring Permits

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

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

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

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

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

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

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

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

The following signs may be permitted outside of zoned or un-zoned industrial and commercial areas.

- Signs pertaining to a church, service club, or youth organization provided they meet the requirements of ARM 18.6.241.

- Signs pertaining to natural wonders, scenic and historical attractions, or ranching, grazing or farming activities provided they meet the requirements of ARM 18.6.243.

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

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

An un-zoned Commercial or Industrial Area means an area not zoned by state or local law, regulation or ordinance that is occupied by one or more industrial or commercial activities, other than outdoor advertising. The permittable commercial or industrial area shall be on lands along the highway for 600 feet in either direction immediately adjacent to the activities and measured from the edge of the main commercial/industrial facility. (Ref: 75-15-103(14), MCA). For more information on new application qualifying business examples, refer to Chapter 7 of the OAC Procedure Manual.

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

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

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

The extent of the property used to qualify an activity is the active area of the business, including its buildings, parking area and incorporated landscaped area, but does not include vacant land, land used for unrelated activities, driveways or land that is separated by other ownerships or roadways. The measurement is taken at a right angle from the activity to the edge of the right of way. This measurement from right of way edge to proposed sign location must be 600 feet or less.

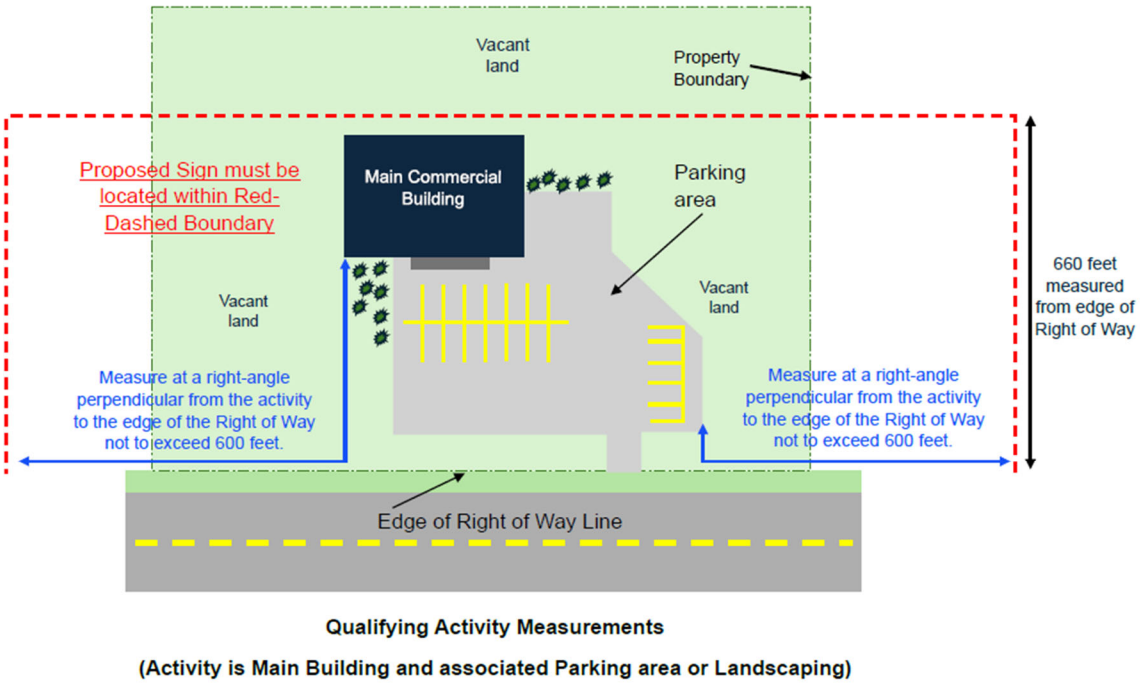
If the activity is over 660 feet from the nearest edge of the highway Right-of-Way and is accessed by an approach and road from the highway, any sign, landscaped area or appurtenance associated with the activity adjacent to the highway approach and access road shall not qualify the activity. `

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

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

In the event the determination of a qualifying activity is unclear, the Special Programs Supervisor shall be contacted to provide advice and/or determination. The Special Program Supervisor, at their discretion, will determine qualifying activities on a case-by-case basis. Photos or other evidence may be required by the applicant.

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



Spacing measurements

8-3 RESTRICTED AREAS FOR OUTDOOR ADVERTISING

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

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

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

8-4 NONCONFORMING SIGNS

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

There are two categories of nonconforming signs as follows:

- **Class I** are Signs which were lawfully conforming **on April 21, 1995**, but became nonconforming after that date because they no longer complied with the requirements in Section 75-15-113, MCA. Class I also includes signs that were classified nonconforming by the Department prior to April 21, 1995.

- **Class II** are Signs in un-zoned commercial or industrial areas that were lawfully conforming **after April 21, 1995**, and still meet the requirements of Section 75-15-113, MCA, but that exceed the restrictions of Section 75-15-111(1)(e), MCA.

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

- Do not meet the size requirements of Section 75-15-113, MCA.

- Are not on the same side of the highway as the qualifying activity.

- Are not the first two (2) signs by date of permit issuance.

- If the date of permit issuance cannot be determined, or if more than two signs were permitted on the same date, the two (2) signs closest to the principal place of business of the qualifying activity, when measured at right angles along the centerline of the highway will be classified lawfully conforming signs.

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

Although nonconforming signs are lawfully permitted, certain restrictions apply. In the event the permit is not renewed in a timely manner, or if the permit is canceled, the sign structure is required to be removed without compensation by the Department.
New permits cannot be issued for nonconforming signs and signs in conforming areas which do not meet the required size, lighting, height and spacing requirements under current state law and state regulations.

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

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

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

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

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

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

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

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

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

The Department shall notify the sign owner of the violation and may allow a permittee who has upgraded a nonconforming sign to a reasonable time to restore the sign as originally permitted. If the sign is not restored within the permitted time, or the sign is upgraded a second time, the permit will be immediately revoked. (Ref: ARM 18.6.251(12))

8-5 SIGNS NOT REQUIRING PERMITS

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

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

8-5.1 On-Premise Signs

See ARM 18.6.204

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

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

  An example is a large billboard located on the corner of the property along the highway advertising candy or tobacco products available from a vending machine at the business location.
- A sign which advertises activities conducted on the premises, but which also advertises activities not conducted on premise. An example is “Carol’s Café” (the on-premise business) and “Carol’s Motel – 3 Blocks Ahead”.

- A sale or lease sign that also advertises a product or service not located on and unrelated to the business or premises for sale or lease. An example is “This Property for Sale – More information at Carol’s Motel – 20 Air-conditioned Rooms – 3 Blocks Ahead”.

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

8-5.2 Standards For Permitted Advertising Signs

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

- Exceed 672 square feet in area, including border and trim but excluding base or apron, supports, and other structural members.

- Exceed two facings visible and readable from the same direction on the main-traveled way. Whenever two facings are so positioned, neither may exceed 325 square feet.

- Exceed 48 feet in length (width).

- Exceed 30 feet in height, when measured at a right angle from the surface of the roadway at the centerline of the interstate or primary highway (if the Department is unsure of the height of a sign structure, it is the responsibility of the applicant or sign owner to prove the structure does not exceed the height restriction); or

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

8-5.3 Spacing

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

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

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

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

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

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

- Where the distance between centerlines of intersecting streets or highways is 1000 feet or more, minimum spacing between signs must be 300 feet.

- Electronic billboards are spaced 2,000 feet from a permitted sign on the same side of any roadway.

8-6 ILLUMINATION

See MCA 75-15-113 (10)

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

8-7 ISSUING NEW SIGN PERMITS

Outdoor Advertising Permit Application must be completed in full by the applicant. The application must be accompanied by documents such as an Applicant Landowner Affidavit, and if applicable an Encroachment Permit, a local zoning certification, a business license, and the non-refundable inspection fee and initial permit fee.

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

The fees are as follows:

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

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

8-7.1 Application Analysis

Upon receipt of the application and non-refundable application fee, the funds should be deposited, and a receipt (MDT-ROW-009) completed. One copy must be placed with the application and a copy sent to the applicant along with a cover letter acknowledging receipt of the application.

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

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

8-7.2 Field Inspection

Following analysis of the application, the Department will complete a field inspection of the proposed sign site. It may be advisable to contact the applicant who may want to be present during the field inspection. Completion of an inspection checklist — along with the information in the application will allow the Department adequate information to recommend approval or denial of the application.
Upon completion of the application analysis and field inspection, the Special Programs Right-of-Way Agent shall make a recommendation to approve or deny the application and forward the recommendation, along with the original application and copies of all relevant documents, to the Special Programs Supervisor.

8-7.3 Determination of Approval/Denial of Permit Application

The Special Programs Supervisor shall make the final determination of approval or denial of an application for a signed permit.

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

In the event the applicant does not agree with the Department's determination to deny the application form MDT-ROW-003, they may petition the Department and request an administrative hearing, pursuant to the provisions of the Montana Administrative Procedures Act (MAPA).

8-7.4 New Signs Not Erected Within 90 Days of Permit Issuance

The sign owner, within 90 days of the date of issuance of the permit, needs to erect the sign.

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

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

8-8 RENEWAL OF SIGN PERMITS

Renewal payments are due January 1st of each year. Sign permits are renewed every 3 years. Failure to submit the mandatory sign renewal fee by January 31st (30 days) may result in revocation of the permit. (Ref: ARM 18.6.214)

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

A. Renewal fees:

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

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

8-8.1 Renewal Notices

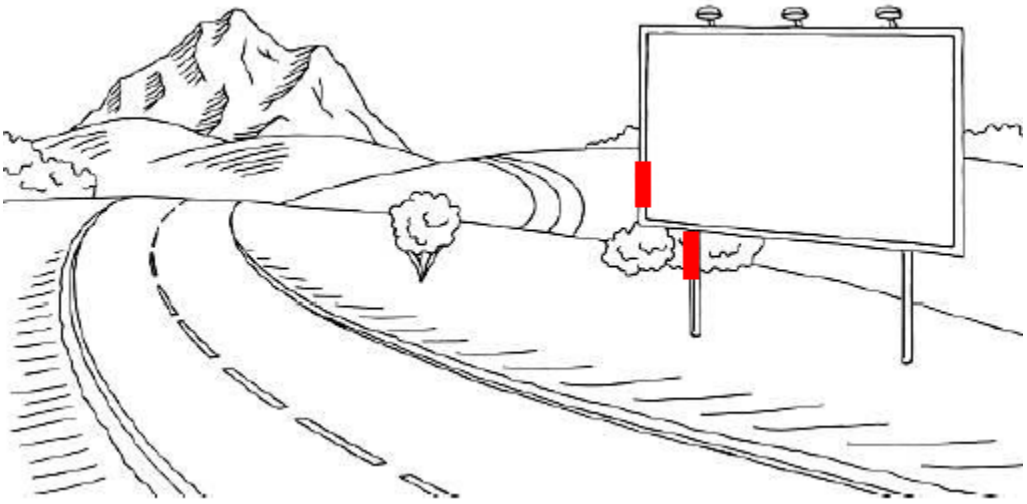
The Right-of Way Bureau may electronically email or mail renewal notices identifying the appropriate renewal fee. Special Programs Right- of-Way Agents will follow up with sign owners to ensure the renewal fee is paid. In the event the required renewal fee is not received within 30 days, a notice of intent letter will be prepared by MDT Legal.

The renewal notices may be sent on/or after November 1st and a second notice on December 1st of each year. Past due renewal notices are emailed or mailed on January 2nd of each year. As a courtesy the Department sends renewal notices to remind sign owners to pay their renewal fees, failure to issue such notice will not serve to excuse the sign owner from their duty to renew a permit.

8-9 PERMIT PLATE ATTACHMENT

It is required and the responsibility of the sign owner to ensure the permit plate is attached to the sign for which it was issued. It is not the Department's responsibility to physically attach the permit plate. ARMS 18.6.213.

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



The red box displays correct permit plate attachment area.

Permit plates that are affixed to the wrong sign or are otherwise in violation of requirements will receive a violation notice. ARMS 18.6.213.

If the original permit plate has been lost or destroyed, a substitute permit plate must be obtained from the Department upon payment of a $20 fee. ARMS 18.6.215.

8-10 TRANSFER OF OWNERSHIP

Ownership of a signed permit shall not be transferred without the expressed written consent of the permit holder(s). The permit transfer request document transferring the permit shall be completed in full by the landowner/permit owner/buyer.

Upon receiving a complete transfer request, the Special Programs Right-of-Way Agent will then make the proper entries into the OAC permit system. Transfer request form MDT-ROW-009.

8-11 PERMIT RELINQUISHED

Permits can be relinquished by completing the department's permit relinquishment form MDT-ROW-017 by the permit holder(s). Permit relinquishment is subject to department approval. The document requesting relinquishment of a permit must be signed by the current landowner and permit owner. Permits may be withdrawn by the department if the permit is in violation of the provisions of the outdoor advertising regulations.

8-11.1 – Permit Withdrawn or Modified for a Highway Project

Occasionally a highway project involves an acquisition or relocation of permitted signs. The valuation process is outlined in Chapter 3-3-23, Upon closing of the sign parcel the permitted conforming sign will be modified outside of the proposed r/w and the sign will continue to stay in a status of green -Active or if the non-conforming sign is purchased by MDT and withdrawn the status is revised to blue -Withdrawn in OAC system and uploads the executed R/W agreement.

8-12 ENFORCEMENT

8-12.1 Route Surveys

It is important that continuous inspection of Montana's controlled routes be conducted to ensure compliance with all applicable statutes, rules, and regulations associated with outdoor advertising. The Department will perform route surveys to keep a current inventory of all signs under the jurisdiction of the OAC program. The frequency of route surveys will be determined by route and district, based on the number of signs located on each route and in each district.

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

8-12.2 Removal of Unlawful Signs

When a new sign appears in an area controlled by the Department and no permit has been issued for the sign, Special Programs Right-Of-Way Agents will research the finding and notify the Special Programs Supervisor. The Special Programs Supervisor will present the violation to MDT Legal who will determine and initiate the appropriate corrective action plan.

8-12.3 Administrative Hearing

Legal Services is responsible for planning an administrative hearing pursuant to the provisions of the Montana Administrative Procedures Act (MAPA).

The hearing examiner (appointed through the Department of Justice, Legal Services Division, Agency Legal Services Bureau or through an attorney, licensed in Montana, under contract with the Department) will be responsible for conducting the hearing.

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

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

The sign owner, landowner and Special Programs Supervisor will be notified of the final Commission order. In the event the final order determines the structure is unlawful and must be removed, the sign owner and landowner will be given thirty days to remove the structure. The sign owner and landowner may petition for judicial review with the appropriate District Court, within that time. Action shall not be taken to remove the sign without the approval of the Special Programs Supervisor and assurance that the sign owner or landowner has not petitioned the District Court for judicial review.

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

8-13 SIGN STRUCTURES THAT ARE BLANK, ABANDONED OR IN DISREPAIR

Sign structures that have no face or have faces without 100 percent advertising cover shall be considered a blank sign. Blank sign is defined as a sign structure that has no face or has faces without 100 percent advertising cover. The sign owner is not prohibited from noticing the sign for rent or lease; however, the sign shall be considered blank if the notice does not cover the sign face completely. (Ref: 75-25-132, MCA)

Sign structures are considered abandoned if the sign has not been erected, has been removed, or the sign owner fails to pay the appropriate sign permit fee. (Ref: 75-25-132, MCA)

A sign may be determined in disrepair if the structure is unsafe or if the sign face is unreadable or not visible to the traveling public. (Ref: 75-25-132, MCA)

8-14 VIOLATION OF ACCESS CONTROL FENCE

Erection or maintenance of a sign through, over or across an access control fence or line is prohibited. When such activity is discovered and documented, the sign may be in violation, and the sign owner and landowner shall be notified by certified mail with return receipt requested. A written history and photos of the violation is required prior to sending the notice.

8-15 ENCROACHING SIGNS

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

Once the department determines that the unlawful sign will be treated as an unpermitted encroachment, the remedy will be pursued under the provisions of the Maintenance

Operations Manual - Title 60 of Chapter 6 Highway Encroachments, Part 1 is Removal of Encroachment by state authorities.

8-16 SIGN TYPES

Types of signs identified in Chapter 4, Section 4-4.10 are allowed outside of zoned and un-zoned commercial and industrial areas, subject to the provisions set forth in this chapter. Except for slat-type rural/residential directory signs (signs not to exceed 36” x 8”) and political signs, all signs in this chapter are subject to permit requirements, including payment of nonrefundable inspection fees set forth in ARM 18.6.211(3). The renewal fees set forth in ARM 18.6.211(4) are waived.

The following signs are prohibited:

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

8-16.3 Electronic Billboards (EBB)

Advertising signs on electronic billboards must be permitted and may be approved as an off-premise outdoor advertising sign if it is visible to the traveling public from a controlled route and is within an area zoned commercial or industrial within the city limits or urban area of an incorporated or unincorporated city or town as shown on the department's official city urban and unincorporated town maps, see ARM 18.6.237 for current regulations.

8-16.2 Transit Shelters and Benches

Advertising signs on transit shelters and benches must be permitted and located in government owned Right-of-Way, see ARM 18.6.236 for current regulations.

8-16.3 Community Welcome to Signs

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

“Welcome to” signs may be in existing Right-of-Way with an approved Maintenance encroachment permit.

8-16.4 Church and Service Club Signs

A church, service club, or youth organization which conducts regular meetings may erect and maintain signs which give the name of the organization and the time and place at which regularly scheduled meetings are held, see ARM 18.6.241 for current regulations.

8-16.5 Directional Signs

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

8-16.6 Political Signs

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

8-16.7 Official Signs

Official signs must be erected pursuant to direction or authorization contained in federal, state, or local law, such that the office must be directed by statute or must have the specific authority by statute to erect and maintain signs and notices. Official signs may be erected and maintained within 660 feet of the nearest edge of the Right-of-Way of a controlled route, see ARM 18.6.247 for current regulations.

8-16.8 Recognition of Sponsors, Benefactors, and Support Groups

Recognition of Sponsors, Benefactors, and Support Groups signs must be erected pursuant to direction or authorization contained in federal, state, or local law, such that the office must be directed by statute or must have the specific authority by statute to erect and maintain signs and notices see ARM 18.6.248 for current regulations.

APPENDIX A - CHAPTER 8 – REVISIONS

Revision Version	DATE	SECTION
8.1	JANUARY 15, 2025	8-2.1 Signs Requiring Permits
8.2	JUNE 10, 2026	8-11.1 Permit Withdrawn or Modified for a Highway Project