

RECONSTRUCTION AGREEMENT

THIS RECONSTRUCTION AGREEMENT (the "Agreement") is made on _____ by and between the City of Fort Pierce, Florida (the "City"), a municipal corporation organized and existing under the laws of the State of Florida, and All Digital All Day, LLC ("ADAD"), a Florida Limited Liability Company.

WHEREAS, Section 70.20, Florida Statutes, expressly authorizes and encourages agreements of this type by empowering municipalities and owners of billboard signs to enter into relocation and reconstruction agreements, on mutually agreeable terms, that allow the municipality to accomplish its public goals while allowing the continued maintenance of private investment in outdoor advertising signs as a medium of commercial and noncommercial communication; and

WHEREAS, ADAD is engaged in the business of constructing, operating and maintaining one or more billboard signs in St. Lucie County, Florida and, in particular, within the City; and

WHEREAS, ADAD operates a legally existing, conforming sign structure (the "Existing Sign") in the City on certain real property with a street address of 7049 Okeechobee Road, Fort Pierce, FL 34945, and bearing Parcel ID 2324-331-0004-020-2 (the "Existing Sign Parcel"); and

WHEREAS, the Existing Sign was lawfully permitted and erected in conformity with the land development regulations in effect at the time, and remains a lawful, conforming structure under the City's current Land Development Code (the "LDC"); and

WHEREAS, the Existing Sign may not meet current wind-load and other relevant engineering and safety requirements of the applicable building codes and the LDC; and

WHEREAS, the City desires to encourage outdoor advertising companies to voluntarily reduce or eliminate outdoor advertising structures within the City that do not comply with current engineering and wind-load requirements; and

WHEREAS, ADAD proposes to remove the Existing Sign and construct a Replacement outdoor advertising sign (the "Replacement Sign") that meets all current engineering and wind-load requirements; and

WHEREAS, the City desires to allow ADAD to remove the Existing Sign and reconstruct the Replacement Sign, pursuant to §70.20, Florida Statutes, and this Agreement; and

WHEREAS, the City and ADAD desire to enter into this Agreement, establishing the terms and conditions under which ADAD will be permitted to remove the Existing Sign, and to construct and maintain the Replacement Sign; and

WHEREAS, the City acknowledges and agrees that ADAD is relying on this Agreement and that ADAD will proceed to remove the Existing Sign and construct the Replacement Sign, which activities will require the expenditure of substantial monies by ADAD, the relinquishment of significant property rights by ADAD, or both; and

WHEREAS, the City finds and determines that the provisions of this Agreement are in the public interest; and

WHEREAS, on _____ the City Commission adopted Resolution No. _____ authorizing the execution of this Agreement; and

WHEREAS, the City desires to ensure that the Replacement Sign continues to be operated in a manner consistent with Florida law and conforming to building codes and the LDC, and in a manner satisfactory to the City.

NOW THEREFORE, for and in consideration of the above recitals and the mutual exchange of the covenants contained in this Agreement, the receipt and sufficiency of which is acknowledged and agreed upon, the City and ADAD agree as follows:

1. Recitals. The foregoing recitals express the intent of the parties and they are incorporated in this Agreement as contractual terms, and not merely recitals.

2. The Existing Sign.

A. Location. The Existing Sign will be completely removed and the Replacement Sign will be constructed on the Existing Sign Parcel, as depicted in the site plan attached as **Exhibit A**.

B. Permits and Construction. ADAD shall be responsible for obtaining and paying for (at normal and customary rates) all required building permits and approvals to remove the Existing Sign and to erect, operate and maintain the Replacement Sign, including any necessary permits or approvals from the Florida Department of Transportation ("FDOT"), or any other State, federal or local agency or department. The City shall consider for approval all applications related to permits necessary for removal of the Existing Sign and erection of the Replacement Sign within forty-five (45) days after submission of a complete permit application(s) by ADAD, including any necessary engineering and construction plans or specifications demonstrating compliance with all applicable building and electrical codes. The City shall cooperate with and assist ADAD in obtaining any necessary permits and approvals from FDOT or any other agency or department, or both, for the removal of the Existing Sign and the erection and maintenance of the Replacement Sign by, among other things, timely executing such forms, applications or other documents as may be required for ADAD to obtain all such permits or approvals.

C. The Replacement Sign shall be constructed, operated, maintained, and replaced by licensed, registered contractors in a manner that meets or exceeds the City's building and electrical requirements, and upon completion of construction, structural certifications by State Licensed Engineers will be provided to the City by ADAD. The Replacement Sign shall be constructed substantially in the location occupied by the Existing Sign, which location shall be approved by FDOT (if necessary) and the City.

D. ADAD shall submit to the City signed and sealed site plan(s) and survey(s) for any proposed construction of the Replacement Sign, evidencing compliance with applicable conditions of this Agreement prior to issuance of any Building Permits by the City. Within thirty (30) days after completion of construction and installation of the Replacement Sign, ADAD shall provide the City with an as-built survey of the Replacement Sign, which shall be a condition precedent to the City issuing a Certificate of Completion for the Replacement Sign.

E. The placement of the Replacement Sign must conform with Chapter 479, *Florida Statutes*, Chapter 14-10, *Florida Administrative Code*, and any and all other applicable federal, state, county and municipal regulations.

F. The Replacement Sign shall not be illuminated by flashing, intermittent, or moving lights (i.e., the message shall be static, and shall not include any full-motion video or animation), and shall otherwise comply with all requirements of Chapter 14-10, *Florida Administrative Code*, as that Chapter may be amended from time to time, as provided in Paragraph 2(G) below. The Sign shall not emit any sound of any kind and shall not use or release any steam or smoke or any other substance.

G. Description. The City and ADAD agree that the height of the Replacement Sign shall be measured pursuant to, and shall comply with the provisions of, Chapter 479, *Florida Statutes*, and the related *Florida Administrative Code* provisions and FDOT regulations. The Replacement Sign shall be a double-face monopole structure. The size of each face of the Replacement Sign shall not exceed 10.5 feet in height and 36 feet in length, not including embellishments, and the total height of the sign structure shall not exceed 55 feet (as shown on **Exhibit A**). The term "embellishment" means a temporary extension of a sign face which contains a portion of the message or informative contents, and which is added, modified, or removed when the message is changed. Pursuant to Sec. 14-10.004 of the *Florida Administrative Code*, as amended from time to time, embellishments shall not extend more than five (5) feet beyond the permanent sign face. The Replacement Sign will utilize LED or other similar electronic changeable message technology (as may be determined by ADAD from time to time). Operation of the changeable message displays shall comply with all applicable FDOT regulations (as they may be amended from time to time) relating to brightness and the interval of copy change, which regulations are currently set forth in Section 14-10.004 of the *Florida Administrative Code*, a copy of which is attached as **Exhibit B**.

H. Repair and Maintenance. Upon completion, the Replacement Sign shall be deemed a conforming sign in all respects under the City's current LDC for the purpose of future repair, replacement and maintenance.

I. Compliance with Agreement/Laws. ADAD agrees that it shall operate the Replacement Sign in accordance with the terms of this Agreement and all applicable laws, rules, ordinances and regulations. Failure to abide by the terms of this Agreement, or to adhere to all applicable laws will be deemed a violation of this Agreement, and the City may pursue any and all equitable and legal remedies relating to the violations/defaults, including, but not limited to, requiring ADAD to remove the Replacement Sign; provided, however, prior to the exercise of any such legal or equitable remedies, the City shall first provide ADAD written notice of any alleged violation/default, which notice shall state the nature of the violation/default with as much specificity as is practicable under the circumstances. ADAD shall have 15 business days from the receipt of the City's notice to cure such violation/default, or if the violation/default is not reasonably capable of being cured within 15 business days, to commence to cure the violation/default and to diligently pursue the cure to completion.

3. Sign Removal. Contemporaneously with the submission of ADAD 's permit application to the City for construction of the Replacement Sign, ADAD shall also apply for a demolition permit for the Existing Sign, which application the City shall consider for approval within forty-five (45) days after submission of complete permit applications for same, as provided in Paragraph 2(B) above. ADAD shall demolish the Existing Sign, remove all sign debris, and dispose of same in accordance with applicable regulations of the City's ordinances and the LDC, prior to or contemporaneous with erection of the Replacement Sign. ADAD shall have no obligation to demolish or remove the Existing Sign unless and until it has obtained all necessary state and local permits and approvals for construction and maintenance of the Replacement Sign. In the event that ADAD is unable to obtain all necessary permits and approvals for the construction and maintenance of the Replacement Sign, ADAD shall be relieved of any obligation under this Agreement to remove the Existing Sign and shall have the right to terminate this Agreement upon thirty (30) days' written notice to the City.

4. Advertising and Notifications by the City/Public Service Messages. ADAD will make the Replacement Sign available for the dissemination of public service information. ADAD voluntarily offers announcements and advertising slots to the City as provided in this paragraph, and the City accepts this offer. Unless expressly stated otherwise in subparagraphs (A) and (B) of this Paragraph 4, the following terms shall apply: (i) all announcements and advertising slots provided by ADAD to the City shall be at no cost to the City; (ii) all artwork/design/graphics relating to the City's chosen advertisements shall be provided by the City to ADAD at least 10 days prior to the scheduled advertising run commencement date; and (iii) in the event the City desires to utilize ADAD advertising artwork/design/graphics, ADAD shall provide the artwork/design/graphics to the City (at the City's expense) for its approval at least 10 days prior to the scheduled advertising run commencement date.

For purposes of this Paragraph 4, the contact persons shall be:

CITY: Nick Mimms, City Manager at (772) 465-4170

ADAD: Matt Ashley, Partner, (561)353-6167

(A) Public Service Advertising. On a space available basis, ADAD will allow the City to post public service announcements and advertise City-sponsored events (the "City Announcements") on the Replacement Sign, pursuant and subject to the terms, conditions and restrictions contained in this Agreement. Any such City Announcements shall be strictly for the benefit of the City. If after posting a City Announcement any third party asserts that the announcement is defamatory or infringes on any copyright, trademark, or other intellectual property or privacy right, or if adverse publicity results from it, ADAD shall have the right to remove the City Announcement, and to discontinue the display of City Announcements until such time as the City shall supply a new, or designate a previous, City Announcement. Any such public service announcements may be removed by ADAD in the event that space so occupied by City Announcements is leased or rented to third parties by ADAD. ADAD agrees to give the City reasonable notice of anticipated space availability on the Replacement Sign for City Announcements; provided, however, that ADAD shall have no obligation to notify the City if such space availability is limited to time periods of less than 30 days. All artwork, design, graphics, production and installation costs relating to the City Announcements shall be at the sole expense of the City.

(B) During times of declared weather emergencies affecting the City, ADAD will make the Replacement Sign available, and will add one Slot on each face of the Replacement Sign for the sole and limited purpose of communicating emergency information to the City's citizens and the travelling public, in accordance with the terms and conditions of the emergency alert notification program (the "Emergency Notification Program") adopted by the Florida Outdoor Advertising Association (the "FOAA") and the Florida Division of Emergency Management ("FDEM"), which sign shall not be required to provide the 10 day advance notice required under subsection (A), above.

(C) ADAD will make the Replacement Sign available, by adding one Slot on each face of the Replacement Sign, for the display of "amber alerts" issued by the Florida Department of Law Enforcement ("FDLE"), or such other law enforcement agency that may from time to time be responsible for issuance of same, when it is determined (pursuant to guidelines and procedures already in place between the FDLE or such other agency/agencies and the outdoor advertising industry to identify appropriate situations, duration and sign locations) that display of the "amber alert" on the Replacement Sign would provide information to the travelling public that could be instrumental in assisting authorities in resolving an abduction.

(D) Finally, ADAD will add one Slot on each face of the Replacement Sign and make that Slot available for the display of official emergency notifications issued by the City of Fort Pierce Police Department (the "Agency") to advise the public of an active or imminent public threat posed by: (i) a dangerous condition other than weather, (ii) a fugitive known or reasonably suspected to be in the area, or (iii) an active-shooter situation (the "Local Emergency Announcements"). The City or the Agency shall be responsible for providing ADAD with a template for use by ADAD in displaying the Local Emergency Announcements, which template shall be compatible with ADAD's policies and procedures (the "Alert Template"). The Alert Template will be maintained by ADAD at its national operations center, from which the messaging for the Replacement Sign is controlled. Upon the occurrence of a local emergency within the scope of this Paragraph, the City shall contact the local ADAD representative identified in Paragraph 4 above and provide the representative with the desired text for the Local Emergency Announcement. The text will be relayed by the local ADAD representative to the ADAD national operations center, which will post the Local Emergency Announcement using the Alert Template then on file. ADAD will use its best efforts to post the copy as soon as practicable and will continue to display such copy so long as the threat remains imminent or active. The City may modify the Alert Template at any time, and from time to time; provided that such modification will not be effective until 30 days after receipt by ADAD.

(E) ADAD voluntarily offers and the City has agreed that any advertising shall not include any tobacco product, adult retail, adult performance, adult entertainment establishment or adult service, or any advertising messages that may be reasonably construed as "hate speech" against any person or organization or obscene or offensive materials as determined by the City. If the City reasonably objects to any advertisement, such advertisement shall be removed within 24 hours of receipt by ADAD of written notice from the City.

(F) Annual Contribution. ADAD shall pay the City annual neighborhood enhancement contribution payments in the amount of Ten Thousand 00/100 Dollars per digital sign face on the Replacement Sign, for so long as the Replacement Sign remains installed, operational and utilizing automatic changeable message displays (the "Annual Contribution"). The initial Annual Contribution for the Replacement Sign shall be due and payable within fifteen (15) days after completion of construction and issuance of all final permits and approvals necessary for the operation of the Replacement Sign.

Thereafter, ADAD shall pay to the City the Annual Contribution on or before the anniversary of the date upon which the initial Annual Contribution payment was paid. The parties understand and agree that the Annual Contribution payments are being paid to mitigate any impacts to the City and its residents from the rights granted under this Agreement and actions taken pursuant to it.

5. Indemnification and Hold Harmless. In consideration of the City permitting ADAD to construct and operate the Replacement Sign within the City, ADAD agrees to defend (with counsel of ADAD's choosing, subject to the prior approval by the City Attorney, which approval shall not be unreasonably withheld), indemnify and hold harmless the City, its officers, agents and employees, from and against any and all claims, suits, actions, damages and causes of action whatsoever, arising during the term of this Agreement and resulting in personal injury, loss of life or damage to property sustained by any person or entity as a result of the doing of any work in this Agreement as authorized or the failure to do any work in this Agreement as required, or as a result of this Agreement or the construction, maintenance or use related to the removal of the Existing Sign and installation of the Replacement Sign or the use by ADAD of the Property upon which the Replacement Sign is to be located. Such obligation to indemnify and hold harmless shall continue notwithstanding any negligence (except gross negligence) on the part of the City relating to such loss or damage and shall include all costs, expenses and liabilities incurred by the City in connection with any such claim, suit, action or cause of action, including the investigation of any of them and the defense of any action or proceeding brought on any of them and any order, judgment or decree which may be entered in any such action or proceeding or as a result of any of them. These provisions shall survive the expiration or earlier termination of this Agreement. Nothing in this Agreement shall be construed to affect in any way the City's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, *Florida Statutes*. With respect to the removal of the Existing Sign pursuant to this Agreement, ADAD waives and releases the City from and against any and all claims for compensation or other reimbursement which it has or may have in the future as a result of any provisions of Section 70.20, *Florida Statutes*, or the provisions of any other statute or under common law, except as otherwise specifically provided in this Agreement. In the event that any third party brings any challenge either to this Agreement as a whole or to any application for permits or approvals under this Agreement, the City shall give sufficiently prompt notice to ADAD of such challenge and shall in all events give such notice within 10 business days of the date that the City first learns of the challenge. The City will reasonably assist in the defense of any such action by ADAD in such a matter.

6. Complete Agreement. This Agreement, and all the terms and provisions contained in this Agreement, including without limitation its Exhibits (if any), constitute the full and complete agreement between the parties with respect to the matters covered in this Agreement, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence and statements whether written, oral or implied, which are deemed to be merged into this Agreement.

7. Amendment. The parties may amend this Agreement only by a written instrument signed by each of the parties. There cannot be any waiver, variation, modification, amendment or change to the terms of this Agreement except as may be made in writing and executed by each party to this Agreement. If any party fails to enforce its respective rights under this Agreement or fails to insist upon the performance of another party's Agreement obligations, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

8. Notices. All notices, demands, requests for approvals or other communications required or authorized to be given by either party to another shall be in writing and shall be hand delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or by a recognized overnight courier service to each party indicated below, addressed as follows:

City:

City Manager
City of Fort Pierce
100 N. US Hwy. 1
Fort Pierce, Florida 34950

Copies to:

City Attorney
City of Fort Pierce
100 N. US Hwy. 1
Fort Pierce, Florida 34950

ADAD:

Matt Ashley
All Digital All Day, LLC
1900 South Harbor City Blvd
Suite 319
Melbourne, FL 32901

Copies to:

W. Lee Dobbins, Esq.
Dean, Mead, Minton & Moore
1903 South 25th Street
Suite 200, Fort Pierce, Florida 34947

Notices given by courier service or by hand delivery shall be effective upon delivery and notices given by mail shall be effective on the fifth (5th) business day after mailing. Refusal by any person to accept delivery of any notice delivered at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section as of the date and time of such refusal. The addresses to which notices are to be sent may be changed from time to time by written notice delivered to the other parties in accordance with this provision and such notices shall be effective upon receipt. Until notice of change of address is received as to a party, the other party may rely upon the last address given.

9. Default. In the event any party is in default of any Agreement provision, the non-defaulting party, as a condition precedent to the exercise of its remedies, shall be required to give the defaulting party or parties written notice of same pursuant to this Agreement. The defaulting party or parties shall have fifteen (15) business days from the receipt of such notice to cure the default or, if the default cannot be cured within fifteen (15) business days, to commence and diligently pursue a cure. If the defaulting party timely cures the default, the default shall be deemed waived and this Agreement shall continue in full force and effect. If the defaulting party or parties do not timely cure such default, the non-defaulting party or parties shall be entitled to pursue its remedies which are available at law or equity.

10. Severability. The parties covenant and agree that they will not initiate, pursue, assist, participate in (except to oppose or defend against) or in any way aid or support any action or proceeding of any type or nature challenging the constitutionality, legality or enforceability of this Agreement, or having the effect of rendering this Agreement void or unenforceable, or that would negatively impact the validity or enforceability of this Agreement in any way. The foregoing shall not prevent any party from initiating or pursuing legal action based on the other party's default under this Agreement. If any term or provision of this Agreement or the application of it to any person or circumstance is declared invalid or unenforceable as a result of any third-party challenge, the remainder of this Agreement, including any valid portion of the invalid term or provision stricken or held invalid, shall not be affected and shall, with the remainder of this Agreement, continue unmodified and in full force and effect. In the event that any portion of this Agreement shall be held invalid, unenforceable or both resulting in the forced removal of the Replacement Sign, the parties shall be released from any further obligations under this Agreement and shall be returned to their respective positions as they existed just prior to the execution of this Agreement, including, but not limited to, ADAD 's right to re-erect the Existing Sign, at its current location.

11. Controlling Law, Venue, Jury Trial Waiver. This Agreement shall be construed under the laws of the State of Florida. Venue for any proceeding arising under this Agreement shall be solely in the Nineteenth Judicial Circuit in and for St. Lucie County, Florida, to the exclusion of any other venue. THE PARTIES EACH HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTES RELATING TO OR ARISING OUT OF THIS AGREEMENT. ALL COURT ACTIONS OF ANY NATURE OR KIND SHALL BE NON-JURY.

12. Authority to Execute and Bind. Each party represents and warrants that all requisite actions have been taken to authorize execution of this Agreement by the person signing on behalf of that party, and thereby bind that party to the terms and conditions of this Agreement.

13. Non-Waiver. The failure of any party to promptly or continually insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any of its Exhibits or any other agreement, instrument or document of whatever form or nature contemplated by any other party or parties, shall not be deemed a waiver of any right or remedy that the party may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

14. Successors and Assigns. This Agreement shall be freely assignable by ADAD. The terms of this Agreement shall be binding upon and shall inure to the benefit of all successors in interest to the parties to this Agreement.

15. Continuing Cooperation. The parties covenant and agree that they will execute such further documents and take such further actions as may be reasonably necessary to effectuate and implement the provisions and intent of this Agreement.

16. Construction. The provisions of this Agreement shall not be construed in favor of or against any particular party as each party has reviewed its terms and conditions and by execution of this Agreement, acknowledges that each party has carefully considered the legal ramifications of this instrument, has consulted with legal counsel or has knowingly and willingly chosen not to do so. This Agreement has been negotiated by the City and ADAD, and this Agreement, including, without limitation, the Exhibits, shall not be deemed to have been prepared by any one party but, rather, by both equally.

17. No Third-Party Beneficiaries. It is expressly agreed and understood that there are no third parties intended to be benefited by this Agreement or any of the terms, provisions, rights or benefits conferred in this Agreement, and no private right of action is intended to be created by this Agreement in any third party.

18. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute a single instrument.

19. Term. The parties expressly agree that the term of this Agreement shall be for a period of forty (40) years (the "Initial Term"), commencing on the date the last party to this Agreement executes same, and that at the end of the Initial Term, this Agreement shall automatically renew for one (1) additional term of forty (40) years (the "Renewal Term"), unless ADAD shall deliver written notice to the City no later than sixty (60) days prior to expiration of the Initial Term opting out of the Renewal Term.

20. Public Records. As may be requested by the City from time to time, ADAD shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by it in conjunction with the execution or performance of this Agreement. ADAD shall be obligated to comply with Florida's Public Records Law only to the extent it may apply to this Agreement and any communications related to this Agreement, and only as expressly requested by City from time to time. Specifically, ADAD shall:

- a. Keep and maintain public records related to this Agreement required by the City.
- b. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following expiration or termination of the Agreement if ADAD does not transfer the records to the City.

d. Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of ADAD upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology system of the City.

IF ADAD HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, ADAD SHOULD CONTACT THE CITY'S CUSTODIAN OF RECORDS AS FOLLOWS:

**CITY CLERK'S OFFICE
100 N. US 1
FORT PIERCE, FL 34950
772-467-3065
lcox@cityoffortpierce.com**

- SIGNATURES APPEAR ON FOLLOW PAGES -

IN WITNESS WHEREOF, the City and ADAD have executed or caused their duly authorized representatives to execute this Agreement.

CITY OF FORT PIERCE

By: _____
Mayor

Date: _____, 2024

Attest:

City Clerk

Dated: _____, 2024

Approved as to legal form:

City Attorney

Dated: _____, 2024

ALL DIGITAL ALL DAY, LLC

By:  _____

Printed Name: MATTHEW ASHLEY

Title: PARTNER

Dated: 06/17, 2024

EXHIBIT A

EXHIBIT B

CHAPTER 14-10
OUTDOOR ADVERTISING SIGN REGULATION AND HIGHWAY BEAUTIFICATION PROGRAM

- 14-10.001 Purpose (Repealed)
- 14-10.0011 General Provisions
- 14-10.002 Scope (Repealed)
- 14-10.0021 Definitions (Repealed)
- 14-10.0022 Outdoor Advertising Sign Inventory
- 14-10.003 Licenses
- 14-10.004 Outdoor Advertising Permit Applications, Criteria, and Permit Issuance
- 14-10.00401 Administration of Outdoor Advertising Permits
- 14-10.0041 Annual Renewal Billing – Licenses and Permits
- 14-10.0042 Denial, Suspension, or Revocation of Licenses, and Denial or Revocation of Permits
- 14-10.0043 Outdoor Advertising License and Permit Fees
- 14-10.005 Violations of Chapter 479 or Section 337.407, FS. (Repealed)
- 14-10.0051 Zoned and Unzoned Commercial and Industrial Areas Along Interstate and Federal-Aid Primary Highways (Repealed)
- 14-10.0052 Zoning Enacted Primarily to Permit Outdoor Advertising Signs
- 14-10.006 Permitting Criteria (Repealed)
- 14-10.007 Maintenance of Nonconforming Signs
- 14-10.008 Directional and Official Signs and Notices (Repealed)
- 14-10.009 Agreement Relating to Size, Lighting and Spacing of Signs Along Interstate and Federal-Aid Highways (Repealed)
- 14-10.016 Purpose (Repealed)
- 14-10.017 General (Repealed)
- 14-10.018 Priorities (Repealed)
- 14-10.019 Compensation (Repealed)
- 14-10.020 Outdoor Advertising Sign Estimates (Repealed)
- 14-10.021 Responsibilities (Repealed)
- 14-10.022 Documentation (Repealed)
- 14-10.023 Acquisition by Condemnation (Repealed)
- 14-10.031 Purpose (Repealed)
- 14-10.032 Scope (Repealed)
- 14-10.033 Advertisement (Repealed)
- 14-10.034 Processing Invoices and Proof of Publications (Repealed)
- 14-10.035 Information Bulletin and Inspection of Improvement (Repealed)
- 14-10.036 Sale for Removal of Signs and Paraphernalia (Repealed)
- 14-10.037 Contracts (Repealed)
- 14-10.038 Payments (Repealed)
- 14-10.039 Sales Contract Review and Approval (Repealed)
- 14-10.040 Extension of Contracts (Repealed)
- 14-10.041 Request for Payment on Contracts (Repealed)
- 14-10.046 Purpose (Repealed)
- 14-10.047 Jurisdiction (Repealed)
- 14-10.048 Definition (Repealed)
- 14-10.049 Screening Criteria (Repealed)
- 14-10.050 Nonconforming Junkyards (Repealed)
- 14-10.051 Violations (Repealed)
- 14-10.056 Forms (Repealed)
- 14-10.057 Vegetation Management Application and Permit Issuance

14-10.001 Purpose.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.03 FS. History—New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.01, Repealed 6-28-98.

14-10.002 Scope.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.03, 479.20 FS. History—New 3-28-76, Amended 4-21-77, 12-10-77, Formerly 14-10.02, Repealed 1-1-86.

14-10.0011 General Provisions.

(1) Definitions. All terms in this rule chapter shall have the same meanings as those in Section 479.01, F.S. Additionally, the following terms are defined:

- (a) “Applicant” means the person or entity seeking permission for an outdoor advertising sign under this rule chapter.
- (b) “Completed Sign,” for purposes of Section 479.07(5)(a), F.S., means an erected sign structure with attached facing, and a posted message.
- (c) “Crown” means the highest point of elevation on the road pavement of the main traveled way immediately adjacent to the sign.
- (d) “Embellishment” means a temporary extension of a sign face which contains a portion of the message or informative contents, and which is added, modified, or removed when the message is changed.
- (e) “Height Above Ground Level (HAGL)” means the distance between the ground and the bottom of the sign face, excluding any border and trim, as measured from the point on the sign facing closest to the main-traveled way.
- (f) “Location or site” means the specific place or position of a proposed or existing sign. Location is generally identified by specifying a milepost on the Roadway Characteristics Inventory (RCI) system together with a distance from the edge of the pavement or the right of way line by specifying the State Plane Coordinates or by specifying the latitude and longitude.
- (g) “Permitted Sign” means a sign, whether erected or not, for which an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, incorporated herein by reference, has been issued, which permit has not been revoked, canceled, expired, or declared void.
- (h) “Rest Area” means a publicly owned, controlled, and designated place for emergency stops, relaxation, and recreation, including sanitary and other facilities within or adjacent to the highway right of way.
- (i) “Sign Structure Height” means the total vertical distance from the crown of the main-traveled way to the top of the highest sign face, including any border or trim, excluding embellishments.

(2) Names and Addresses.

- (a) For consideration of a license or sign permit under this rule chapter, completed forms must be sent to:

Outdoor Advertising License and Permit Office
Florida Department of Transportation
605 Suwannee Street, MS #22
Tallahassee, Florida 32399-0450

Forms referenced in this rule may be obtained at the above address or at the website:
<http://www.dot.state.fl.us/rightofway/Documents.shtm>.

(b) Licenses and sign permits may only be issued in the current legal name or registered fictitious name of the applicant, whether an individual, business, or corporation. Any notice issued by the Department to a fictitious name filed with the Department shall have the same effect as if issued in the legal name of the permittee or licensee.

(c) All correspondence from the Department to the licensee or permittee including billing, notices of violation, or other information issued by the Department will be electronic unless the licensee or permittee notifies the Department in writing that the mailing address is the preferred method of receipt.

(d) A licensee or permittee shall notify the Department, in writing, within 30 calendar days of any change in address. This notification shall include:

1. The date the change of name or address (mailing or e-mail) becomes effective,
2. The account name as listed on the Department billing,
3. The name of the individual authorized to sign the notice, and
4. Certification from the person with authority to update the information.

(e) Notices or any other correspondence issued by the Department to the address on file prior to receipt of such written notification of an address change are valid and shall be considered received by the licensee or permittee.

(f) License Applications, Permit Applications, Replacement Requests, Transfer Requests, and Cancellation Certifications must contain a statement by the signatory that he/she is the authorized representative and has the authority to sign for the applicant.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 334.044(28), 479.02 FS. History–New 6-28-98, Amended 8-19-01, 10-3-10, 10-7-15.

14-10.0021 Definitions.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.01, 479.02, 479.03, 479.07(9) FS. History–New 1-1-86, Formerly 14-10.21, Amended 12-26-95, Repealed 6-28-98.

14-10.0022 Outdoor Advertising Sign Inventory.

Pursuant to Section 479.02(8), F.S., the Department shall update its outdoor advertising database inventory information for all permitted signs no less than every two years. This inventory shall provide, as a minimum, the following current information derived from field review and historical information contained in the Department's files:

- (1) Location of the sign;
- (2) Original sign permit issue date;
- (3) Date the sign was erected;
- (4) Height, width and square footage of each sign facing;
- (5) Number and type of support structures used;
- (6) Height above ground level of the sign facing;
- (7) Sign structure height;
- (8) Whether the sign is lighted;
- (9) Whether the sign is in conformance with local land use requirements;
- (10) Whether the sign is in an urban area;
- (11) Whether the sign is in an incorporated area;
- (12) Status of the sign, whether conforming, nonconforming, or illegal;
- (13) Permittee's name and address;
- (14) Sign permit number(s), current and previous, assigned to the sign facing;
- (15) Status of the sign permit, whether active or canceled, revoked, expired, or void; and,
- (16) Date the sign was removed, when applicable.

Changes made to the Department's previous inventory records to reflect physical characteristics of a sign or sign facing existing at the time of an inventory update shall not create a waiver or constitute forgiveness of any violation of the provisions of Chapter 479, F.S.

Rulemaking Authority 334.044(2), 479.02(7), (8) FS. Law Implemented 339.05, 479.01, 479.02, 479.03, 479.07(9) FS. History–New 6-28-98, Amended 10-3-10.

14-10.003 Licenses.

(1) Outdoor Advertising License Required.

(a) A person or entity is considered to be in the business of outdoor advertising and is required to have an outdoor advertising license if that person or entity is operating, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements.

(b) Persons or entities solely engaged in the following are exempt from the licensing requirement:

1. Advertising their own business or businesses, or
2. Erecting or constructing signs.

(2) Application Form. An application for a license to engage in the business of outdoor advertising shall be made on an Outdoor Advertising License Application, Form 575-070-02, Rev. 08/15, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06269>.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 120.60, 215.34(2), 334.044(28), 339.05, 479.02, 479.04, 479.05, 479.07 FS. History—(Formerly part of Rule 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.03, Amended 6-28-98, 8-19-01, 1-25-04, 12-31-06, 10-3-10, 1-7-16.

14-10.004 Outdoor Advertising Permit Applications, Criteria, and Permit Issuance.

(1) Applications. An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 6/15, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05475> to the address listed in paragraph 14-10.0011(2)(a), F.A.C. Each application for a sign permit shall meet the requirements of Chapter 479, F.S., this rule chapter, and the 1972 Federal-State Agreement, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05479>. In the event of a conflict between a provision in the 1972 Federal-State Agreement and a provision of Chapter 479, F.S., the more restrictive provision shall apply.

(a) A separate application is required for each sign permit requested (i.e. a back to back sign will require two applications). Separate payment for each application is recommended to avoid denial of multiple applications should one application be denied.

(b) Prior to issuing a sign permit, the Department will inspect the proposed sign site for compliance with Chapter 479, F.S., and this rule chapter. To ensure that the site being inspected is the same site specified in the application, the applicant shall mark the proposed site in such a manner that the markings are visible from the main-traveled way. The markings shall be displayed upon submission of the application, and shall be maintained by the applicant until the Department has approved or denied the application.

(c) The Department will act on sign permit applications in order of the date and time of receipt of complete applications.

1. An application will be considered complete when all items on the application form have been filled in, all required attachments have been received, and the correct permit fees have been submitted. All information provided on the application must be certified as being true and correct. Information required on the application from the local zoning official providing allowable land use and local government approval, must be current as of the date the complete application is received by the Department and the applicant must demonstrate that the conditions are still in effect.

2. Applications submitted with payment that will become void within 30 days from the Department receipt will be returned as incomplete.

3. Applications containing incorrect information will be denied.

4. Incomplete sign permit applications will be returned to the applicant along with any sign permit fees submitted with the application.

5. Completion of, or corrections to, the original submitted document must be initialed by the applicant on the original application.

6. Pursuant to Section 479.07(3)(b), F.S., the written statement from the landowner must have been issued to the applicant, or on behalf of the applicant. If a lease document is submitted as the statement from the landowner, the applicant must be the named lessee, or the document must be accompanied by a properly executed transfer of the leasehold rights to the applicant. The written statement must:

a. Identify the property on which the sign is to be located;

b. Indicate that the person authorizing placement of the sign on the property is the owner or the person in lawful control of the property. If the person authorizing placement of the sign is not the owner of the property, the legal status which gives him or her lawful control of the property must be indicated;

c. Grant the permission to or on behalf of the applicant; and,

d. Authorize placement of the sign on the subject property.

(2) Application status. Complete applications will be either approved or denied within 30 calendar days of receipt by the Department unless an earlier application for that site or a competing site is under review, the applicant is seeking a vegetation management permit, or removal of a conflicting sign is pending.

(a) A denied application will remain in a pending status until the time to request an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., has elapsed. If a hearing is requested, the application shall remain in a pending status until a final order has been issued and the time to request an appeal of the order has elapsed. If an appeal is taken, the application will remain in a pending status until the mandate is issued by the appellate court. Subsequent applications for conflicting sites shall be held without action until the pending status of the earlier application is resolved.

(b) If an application is approved, all subsequently received applications for conflicting sites shall be denied.

(c) When a permit application is received for a new sign site where vegetation management is required pursuant to Section 479.106, F.S., the permit will not be issued until the applicant has been issued a vegetation management permit by the Department in accordance with Rule 14-10.057, F.A.C. A permit shall not be issued to an applicant for a location at which unpermitted cutting, removal, or trimming of vegetation has occurred until such time as payment of the administrative penalty and mitigation as required by Rule 14-10.057, F.A.C., and Section 479.106(7), F.S., respectively, have been collected and the applicant has surrendered two nonconforming signs in accordance with Section 479.106(5), F.S.

(d) Applications for sign permits at locations which conflict with spacing requirements relating to the location of an expired or canceled sign permit will not be processed until the sign for which the expired or canceled permit was issued is removed, except for a sign permit being canceled as a condition for issuance of a new sign permit.

(3) Reduced Spacing on Interstates. For applications to be considered for a sign with between 1,000 feet and 1,500 feet of spacing from the nearest outdoor advertising sign along an interstate in accordance with Section 479.07(9)(c), F.S., in addition to the requirements of subsection (1) of this section, the applicant must submit:

(a) A copy of the local government adopted policy, ordinance, or other official document authorizing the placement of a new outdoor advertising sign along an interstate highway, in exchange for the removal of an existing sign from areas specifically designated by the local government; and,

(b) A copy of the agreement between the local government and the sign owner allowing such removal and replacement.

(4) Size. Each sign facing shall not exceed 30 feet in height. Each sign facing shall not exceed 60 feet in length. Advertising copy shall not exceed 950 square feet for all sign faces. Embellishments shall not extend more than five feet beyond the permanent sign face, and are included in any measurement of the height, width, or area of the sign facing.

(5) Number of Sign Faces. There shall be no more than two faces showing at one time for each sign facing.

(6) Location. Signs shall not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device.

(7) Spacing. The distance between a proposed sign and the nearest permitted sign shall be measured along the edge of pavement of the main-traveled way from the location marked by the applicant to the location of the permitted sign. For signs that are permitted, but not constructed, the milepost location reflected in the permitted sign's application shall be used. Measurement along the edge of pavement shall be from a point perpendicular to a tangent on the edge of the main-traveled way nearest the location of the sign.

(a) For V-type, or back-to-back signs, to be considered one sign for spacing purposes, the sign facings must either be connected by the same sign structure or cross-bracing, or the sign structures must be not more than fifteen feet apart at their nearest point.

(b) Official signs, signs exempt from permitting under Section 479.16, F.S., and structures that are not permitted signs shall not be considered in determining compliance with spacing requirements.

(c) The width of any intersections will be included in the measured distance between signs. This distance is measured in a direct line from the points of intersection of the edges of the main-traveled way.

(d) No sign permit shall be issued for a sign to be located on the interstate highway system, which is outside the boundaries of an incorporated municipality and within 500 feet of an interchange, intersection at grade, or rest area. The distance shall be measured along the interstate in the direction leading away from the interchange, intersection at grade, or rest area beginning at the pavement widening of the exit from the main-traveled way, or at the end of pavement widening of the entrance to the main-traveled way. For the purposes of this subsection, all portions of an interchange between the points of pavement widening of the entrance and exit ramps of the same interchange shall be considered part of that interchange.

(e) When a sign or proposed sign is, or would be located within the controlled area and visible from any portion of the main-traveled way of more than one highway subject to the jurisdiction of the Department, pursuant to Section 479.07(1), F.S., the sign shall meet the permitting requirements of all highways, and be permitted to the roadway with the stricter controls.

(8) Sign Structure Height. The height of a sign structure shall be measured from the elevation of the crown of the main-traveled way to which the sign is permitted to the top of the highest sign face, excluding embellishments.

(9) Lighting. Signs shall not be illuminated by flashing, intermittent, or moving lights. Signs shall not be illuminated so that it interferes with the effectiveness of or obscures, an official traffic sign, device, or signal.

(10) Changeable messages – Signs may have an automatic changeable facing provided:

(a) The static display time for each message is at least six seconds;

(b) The time to completely change from one message to the next is a maximum of two seconds or, if messages are displayed digitally, the message must change instantaneously;

(c) The change of message occurs simultaneously for the entire sign face; and,

(d) All signs with changeable messages shall contain a default design that will ensure no flashing, intermittent message, or any other apparent movement is displayed should a malfunction occur.

(11) Outside an incorporated area, signs will not be permitted within 100 feet of the property line of a cemetery, public park, public reservation, public playground, or state or national forest. For schools and churches outside an incorporated area, signs will not be permitted within 100 feet of the outer edges of the primary building or primary building complex when the individual units of the complex are connected by covered walkways.

(12) Changes to Roadway Designations.

(a) A sign existing at a location which was not previously subject to the permitting requirements of Chapter 479, F.S., and this rule chapter, but has subsequently become subject to the requirements due to changes in the jurisdictional designation of highways, shall be granted a conforming or non-conforming state permit in accordance with the process outlined below:

1. The Department shall conduct an inventory of outdoor advertising signs on the highway section subject to jurisdictional change and, within 60 calendar days of the effective date of the proposed change, advise all affected sign owners and local governments that the change is being considered, the regulatory effect of the change, and when the change may become effective.

2. Upon approval of the jurisdictional change, the Department will provide a second notice to sign owners and local governments advising that the change in jurisdiction has become effective and that sign owners have 30 calendar days from receipt of the second notice to submit an application for a sign permit.

3. When the Department is unable to provide the advance notice referenced in paragraph (a), the Department will advise the affected sign owners that they have 90 calendar days from receipt of the notice, that the change in jurisdiction has become effective and to submit an application for a sign permit.

4. The sign owner shall submit a completed application as provided in above subsection (1) together with all items required pursuant to Section 479.07(3)(b), F.S. The written statement required by Section 479.07(3)(b), F.S., shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in the application that the local government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed. If land use information is not provided in accordance with Section 479.024, F.S., but all other permit requirements are met, the Department shall classify the sign as non-conforming upon permit issuance.

(b) When a change in the designation of a highway removes that highway from the Department's regulatory jurisdiction, a notice will be provided to all permittees on the affected roadway informing them their sign is no longer subject to the Department's jurisdiction and their permit will not be renewed.

(c) When a controlled road, or any portion of a controlled road, is designated as a scenic highway or scenic byway pursuant to Section 335.093, F.S., new permits will not be issued for signs visible from the portion of the highway designated as a scenic highway or byway.

(13) Upon Department verification that an application meets the requirements of Chapter 479, F.S., and this rule chapter, the Department will issue an Outdoor Advertising Permit and a permit tag to the applicant.

(14) Posting of Tags. The permit tag issued by the Department must be posted at the sign site within 30 calendar days of issuing the sign permit and must remain in place at all times, whether or not a sign has been erected, or a previously erected sign has been removed. If a permit tag is lost, stolen, or destroyed, the permittee must apply to the Department for a replacement tag on Outdoor Advertising Permit Tag Replacement Request, Form 575-070-01, Rev. 06/15, incorporated herein by reference, at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05477> and shall include a replacement fee of \$12.00 per tag.

(15) Changes made to the Department's inventory, maintained in accordance with Section 479.02(8), F.S., to reflect physical characteristics of a sign or sign facing existing at the time of an inventory update shall not create a waiver or constitute forgiveness of any violation of Chapter 479, F.S.

10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, 8-19-01, 1-25-04, 3-15-05, 12-31-06, 4-2-09, 10-3-10, 1-7-16.

14-10.00401 Administration of Outdoor Advertising Permits.

(1) Transfer of Permits. Requests to transfer a permit pursuant to Section 479.07(6), F.S., shall be submitted on an Outdoor Advertising Permit Transfer Request, Form 575-070-25, Rev. 10/15, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06272>.

(a) The recipient of the transferred permit shall certify that written permission from the landowner, or other person in lawful control of the sign site, to maintain the sign on the site pursuant to Section 479.07(2), F.S., has been secured.

(b) If a transfer of permit is made when the permit has been issued a notice of violation, or if a revocation proceeding is pending, the permit is subject to conditions existing at the time of transfer. The Department's approval of a permit transfer shall not constitute a waiver of rights on the part of the Department, nor shall a permit transfer in any way prohibit the issuance of a notice of violation, or preclude the Department from revoking the transferee's permit pursuant to Section 479.08, F.S., or this rule chapter.

(c) If a transfer of sign permit is made during the initial 270 days from the date of permit issuance, the permit transferee receives the sign permit subject to all conditions which were applicable to the original applicant.

(2) Cancellation of Permits. Permit cancellation notification must be submitted on Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 10/15, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06273>. All canceled tags must be returned to the Department with the certification, or otherwise be accounted for in writing.

(3) Conditional Permit Cancellation. When an applicant requests cancellation of one permit in order to obtain a new permit, the existing permit shall be canceled simultaneously with the issuance of the new permit. The Outdoor Advertising Permit Cancellation Certification incorporated in above subsection (2), and the Application for Outdoor Advertising Permit incorporated in subsection 14-10.004(1), F.A.C., shall be submitted simultaneously to the Department. If a new permit does not meet current permitting requirements and cannot be issued, the existing permit will not be canceled.

(4) Permits Canceled, or Not Renewed, in Error – Petition for Reinstatement. Pursuant to Section 479.07(8)(b), F.S., a petition for reinstatement of permits canceled, or not renewed, in error shall be submitted to the State Outdoor Advertising License and Permit Office. The petition must be in writing, list the affected permit(s), and shall certify that:

- (a) The permit was canceled, or not renewed, in error by the permittee;
- (b) The permit tag for the canceled or expired permit was returned to the Department or otherwise accounted for;
- (c) The sign has not been disassembled; and,
- (d) The local government has not declared the sign illegal or taken any other action to have it removed.

If the Reinstatement Petition is denied by the Department, a new permit may be issued for a sign only if the sign meets all current permitting requirements. The reinstatement fee is \$300.00 per permitted sign.

(5) Reestablishment. Where the expansion or relocation of a transportation facility causes a sign to be located in the right of way, or within fifteen feet of the right of way, and the sign cannot be relocated pursuant to Sections 479.15(3)(4) and (6), F.S., the permittee may reestablish the sign at a location that conforms with Chapter 479, F.S., and this rule chapter and meets all current requirements for permitting by submitting a completed Application for Outdoor Advertising Permit, incorporated in subsection 14-10.004(1), F.A.C. Initial application fees are not required with an application for reestablishment.

(6) Relocation. Where a Department project causes a sign lawfully permitted by the Department to be located in the right of way, the Department shall allow the relocation of the sign provided all requirements of Sections 479.15(3), (4), (5), and (6), F.S., are met. A sign relocation shall be by agreement between the permit holder and the Department. The sign permit will be amended to reflect the relocated location in the outdoor advertising database.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 334.044(28), 479.02, 479.07, 479.15 FS. History—(Formerly part of Rule 14-10.004) New 1-7-16.

14-10.0041 Annual Renewal Billing – Licenses and Permits.

(1) All licenses and sign permits expire annually and shall be renewed pursuant to Section 479.07(8), F.S.

(2) Annual renewal of a license shall include the annual license fee, and the fees for all sign permits being renewed by the licensee. Acceptance by the Department of renewal fees for a suspended license or a sign permit against which a violation notice has

been issued, or which may be issued, shall not constitute waiver by the Department of any right to pursue remedies for the violation.

(a) Any of the following shall result in the return of submitted fees to the applicant, and shall constitute nonpayment:

1. Payment of renewal fees for any amount less than the amount shown as due on the Department's billing statement (or its adjusted billing statement prepared in response to a timely notice from the permittee of corrections, additions or deletions). When an overpayment of renewal fees is submitted, the Department shall accept the fees due amount as shown on the billing statement (or the adjusted billing statement), and provide for the issuance of a refund to the payor in the amount of the overpayment. Acceptance of payment in an amount greater than the amount due shall not constitute acceptance of renewal fees for sign permits which have been declared invalid.

2. Failure to return or provide an accounting for the nonrenewed sign permit tags on the Cancellation Certification.

3. Failure to submit complete transfer forms and transfer fees for any sign permits being transferred.

(b) Payment for sign permits being transferred at the time of permit renewal shall be submitted with the sign permit renewal payment, but must be in a separate payment instrument.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 479.02, 479.07 FS. History--New 6-28-98, Amended 8-19-01, 10-3-10, 1-7-16.

14-10.0042 Denial, Suspension, or Revocation of Licenses, and Denial or Revocation of Permits.

(1) If the Department intends to deny an application for a license or sign permit, deny reinstatement of a sign permit cancelled or not renewed in error, revoke a sign permit, or intends to suspend or revoke a license, the Department shall provide notice of the facts which warrant the action to the permittee. The written notice shall contain:

(a) A detailed statement of the facts or basis for the Department's action;

(b) The statute or rule relied upon;

(c) A statement that the applicant, licensee, or permittee has the right to an administrative hearing pursuant to Section 120.57, F.S.;

(d) A statement that the Department's action shall become conclusive and the final agency action and that the sign permit shall be denied or revoked, or the license shall be denied, suspended or revoked as indicated in the notice of intended action, if no request for a hearing is filed within 30 calendar days of receipt of the notice of the Department's intended action.

(2) If a licensee fails to renew its license, or its license is revoked, any sign permits owned by the licensee shall become subject to revocation, pursuant to Section 479.08, F.S.

Rulemaking Authority 334.044(2), 479.02 FS. Law Implemented 120.60, 479.05, 479.08 FS. History--New 6-28-98, Amended 10-3-10, 10-7-15.

14-10.0043 Outdoor Advertising License and Permit Fees.

(1) The annual fee for an Outdoor Advertising License is \$300.00. Licenses expire on January 15 of each year. Licenses issued after October 1, shall not expire in the calendar year following the approval date.

(2) The annual permit fee for each sign facing is \$71.00.

(3) Permit fees for the year in which application is made may be prorated by paying one-fourth of the annual fee for each whole or partial quarter remaining in that year. Applications received after September 30 must include fees for the last quarter plus fees for the following year. The fee schedule is based on the date the application is received by the Department as follows:

(a) January 16 through April 15: \$71.00;

(b) April 16 through July 15: \$53.25;

(c) July 16 through September 30: \$35.50;

(d) October 1 through January 15: \$88.75.

(4) All payment instruments must be made out to the Department of Transportation. Payment of fees may be made by cash, postal money order, bank draft, cashier's check, or a personal or business check. In the event a payment document is not honored for any reason by the bank on which it is drawn, a service fee of \$15.00 or five percent of the amount payable, whichever is greater will be assessed. If an individual or company issues two checks to the Department which are not honored, no further personal or business checks will be accepted regardless of whether restitution has been made on previous checks.

Rulemaking Authority 334.044(2), 479.02(7), 479.07(3)(c) FS. Law Implemented 215.34, 479.04, 479.07 FS. History--New 1-25-04, Amended 4-2-09, 10-7-15.

14-10.005 Violations of Chapter 479 or Section 337.407, FS.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 337.407, 339.05, 479.02, 479.05, 479.07(1), (7), (9), (10), 479.08, 479.10, 479.11 FS. History—New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.05, Repealed 6-28-98.

14-10.0051 Zoned and Unzoned Commercial and Industrial Areas Along Interstate and Federal-Aid Primary Highways.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.05, 479.11 FS. History—New 8-7-86, Amended 6-28-98, Repealed 8-19-01.

14-10.0052 Zoning Enacted Primarily to Permit Outdoor Advertising Signs.

(1) “Comprehensively Zoned” means a county or municipal government has adopted ordinances or other laws pertaining to and designating the allowable uses of parcels within its jurisdiction, pursuant to and consistent with a comprehensive plan enacted in accordance with Chapter 163, F.S.

(2) If a parcel is in an area comprehensively zoned, the following criteria, including public records related thereto, shall be considered in determining whether such zoning is enacted primarily to permit signs:

(a) The land use or zoning designation provides for limited commercial or industrial activity only as accessory, ancillary, or incidental to the allowable uses.

(b) The commercial and industrial activities, separately or together, are permitted only by variance or waiver.

(c) The parcel will not reasonably accommodate commercial or industrial uses pursuant to Section 479.024(2)(b), F.S., and the area surrounding the affected parcel is not predominantly commercial or industrial.

(d) The parcel is within, or surrounded by, a larger area with non-commercial/non-industrial allowable uses.

(e) The parcel is part of a larger strip of comprehensively zoned land that is parallel to the highway with no active commercial or industrial activities, and no existing formal plans for commercial or industrial development.

(f) The parcel has no access roads or dedicated access.

(3) No single factor in above subsection (2) is determinative of whether zoning is enacted primarily to permit signs. If a combination of factors indicates that the zoning is enacted primarily to allow signs in areas that do not have the attributes of a commercial or industrial area, the zoning will not be recognized for purpose of permitting signs.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 479.07(10), 479.024(2) FS. History—New 3-16-04, Amended 5-5-05, 10-7-15.

14-10.006 Permitting Criteria.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9), 479.08, 479.11 FS. History—New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.06, Amended 12-26-95, 6-28-98, 8-19-01, 12-31-06, 10-3-10, Repealed 1-7-16.

14-10.007 Maintenance of Nonconforming Signs.

(1) A nonconforming sign must remain substantially the same as it was as of the date it became nonconforming.

(2) Reasonable repair and maintenance of nonconforming signs, including change of advertising message, is permitted and is not a change which would terminate the nonconforming status. Reasonable repair and maintenance means the work necessary to keep the sign structure in a state of good repair, including the replacement in kind of materials in the sign structure. Where the replacement of materials is involved, such replacement may not exceed 50% of the structural materials in the sign within any 24 month period. “Structural materials” are all those materials incorporated into the sign as load-bearing parts, including vertical supports, horizontal stringers, braces, bracing wires, brackets, and catwalks. Structural materials do not include the sign face, any skirt, any electrical service, or electric lighting, except in cases where such items have been incorporated into the sign as load-bearing parts. The following are examples of modifications which do not constitute reasonable repair or maintenance, and which constitute substantial changes to a nonconforming sign that will result in the loss of nonconforming status:

(a) Modification that changes the structure of, or the type of structure of, the sign, such as conversion of a back-to-back sign to a V-type, or conversion of a wooden sign structure to a metal structure;

1. The Department will authorize structural alterations to a nonconforming sign in instances where the Occupational Safety and Health Administration (OSHA) requirements or other safety related requirements necessitate alterations, provided that the reconstruction shall not be authorized primarily for the purpose of replacement of deteriorated materials. The Department will accept

a notice or other writing from OSHA or other regulatory body to the permittee requiring the intended alteration as documentation of safety requirements. If the structural alterations are intended to be made to comply with OSHA regulations, the permittee must submit to the Department a statement in writing citing the OSHA regulation with which it is intending to comply and explaining how the intended alteration is required by the cited OSHA regulation. If the structural alterations are required to be made to comply with building codes applicable to existing structures, the permittee must submit to the Department a statement in writing citing the specific requirement of the building code which the alterations are intended to meet. Structural alterations are allowed only if no alternatives are available which address safety requirements. Documentation of the requirements must be submitted to, and approved by, the Department prior to making any structural alterations. The location, structural configuration, number of faces, size of the sign faces, sign structure height, and the materials used in the sign structure and sign faces must be the same type as those used in the sign prior to approval of the alterations. Structural configuration means the physical arrangement of a sign whether arranged as a single-faced, V-type, back-to-back, side-to-side, or stacked sign. During the period of temporary removal for those approved structural alterations, the permittee must permanently display the permit tag at the sign location.

2. The addition of a catwalk or other fall protection device for safety reasons, where the device does not increase the structural integrity of the sign or prolong the life of the sign, is allowed without obtaining prior approval from the Department;

(b) Modification that changes the area of the sign facing or the HAGL of the sign, however:

1. Reduction in the area of the sign facing or the HAGL of the sign, which reduction is required by an ordinance adopted by a local governmental entity with jurisdiction over the sign, is not a change which would terminate the nonconforming status of the sign, provided like materials are used and no enhancements are made to the visibility of the sign.

2. Embellishments may be added to nonconforming signs subject to the limitations regarding size of sign facing, and provided they do not exceed 10% of the area of the sign facing prior to the addition of the embellishment;

(c) Modification that enhances the visibility of the sign's message, or the period of time that the sign's message is visible;

(d) Modification that adds automatic changeable faces; or

(e) Modification that adds artificial lighting, or changes the existing lighting such that the illumination to the sign facing is substantially increased.

(3) Prohibited modifications need not be physically part of the sign if they have the effect of enhancing the sign's message, the visibility of the message, or the period of time that the message is visible. However, in such cases, the modifications will not be considered a modification to the sign if:

(a) The modification is the result of removal, cutting, or trimming of vegetation in front of the sign pursuant to a permit for such removal, cutting, or trimming from the Department; or

(b) The modification only incidentally affects the visibility of the sign's message, and the bona fide purpose of the modification is unrelated to the sign.

(4) A nonconforming sign may not be disassembled, or in a state of being no longer erect and then re-erected at the same location except as provided in paragraph (5)(a), below.

(5) A nonconforming sign may continue to exist so long as it is not destroyed, abandoned, or discontinued. "Destroyed," "abandoned," and "discontinued" have the following meanings:

(a) "Destroyed" means more than 60% of the upright supports of a sign structure are physically damaged such that normal repair practices of the industry would call for, in the case of wooden sign structures, replacement of the broken supports and, in the case of a metal sign structure, replacement of at least 25% of the length above ground of each broken, bent, or twisted support. A sign will not be considered "destroyed" within the meaning of this section where the destruction is caused by vandalism or other criminal or tortious act.

(b) A nonconforming sign is "abandoned" or "discontinued" when a sign structure no longer exists at the permitted location or the sign owner fails to operate and maintain the sign for a period of 12 months or longer. Signs displaying bona fide public interest messages are not "abandoned" or "discontinued" within the meaning of this section. The following conditions shall be considered failure to operate and maintain the sign:

1. Signs displaying only an "available for lease" or similar message,

2. Signs displaying advertising for a product or service which is no longer available,

3. Signs which are blank or do not identify a particular product, service, or facility.

14-10.008 Priorities.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 316.131, 316.135, 316.138, 339.05 FS. History–New 12-10-77, Formerly 14-10.08, Repealed 1-1-86.

14-10.009 Agreement Relating to Size, Lighting and Spacing of Signs Along Interstate and Federal-Aid Highways.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 479.02, 479.05, 479.20 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.09, Repealed 6-28-98.

14-10.016 Purpose.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.24 FS. History–New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.16, Repealed 6-28-98.

14-10.017 General.

Rulemaking Authority 20.50(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.20, 479.24 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.17, Repealed 1-1-86.

14-10.018 Priorities.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.24 FS. History–New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.18, Repealed 6-28-98.

14-10.019 Compensation.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.24 FS. History–New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.19, Repealed 6-28-98.

14-10.020 Outdoor Advertising Sign Estimates.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 120.60, 339.05, 479.01, 479.02, 479.20, 479.24 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.20, Repealed 1-1-86.

14-10.021 Responsibilities.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.20, 479.24 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.21, Repealed 1-1-86.

14-10.022 Documentation.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.20, 479.24 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.22, Repealed 1-1-86.

14-10.023 Acquisition by Condemnation.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.20, 479.24 FS. History–New 3-28-77, Amended 12-10-77, Formerly 14-10.23, Repealed 1-1-86.

14-10.031 Purpose.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.07(1), 479.10, 479.16, 479.17, 479.23 FS. History–New 12-10-77, Amended 2-25-82, Formerly 14-10.31, Repealed 1-1-86.

14-10.032 Scope.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.16, 479.17, 479.23 FS. History—New 12-10-77, Amended 2-25-82, Formerly 14-10.32, Repealed 1-1-86.

14-10.033 Advertisement.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.16, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.33, Repealed 1-1-86.

14-10.034 Processing Invoices and Proof of Publications.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.34, Repealed 1-1-86.

14-10.035 Information Bulletin and Inspection of Improvement.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.35, Repealed 1-1-86.

14-10.036 Sale for Removal of Signs and Paraphernalia.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.36, Repealed 1-1-86.

14-10.037 Contracts.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.37, Repealed 1-1-86.

14-10.038 Payments.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.38, Repealed 1-1-86.

14-10.039 Sales Contract Review and Approval.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.39, Repealed 1-1-86.

14-10.040 Extension of Contracts.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.40, Repealed 1-1-86.

14-10.041 Request for Payment on Contracts.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.41, Repealed 1-1-86.

14-10.046 Purpose.

Rulemaking Authority 20.05(5), 120.53(1)(a), (b), 334.02(6) FS. Law Implemented 334.021(1), 337.11, 339.05, 479.02, 479.07(1), 479.10, 479.11, 479.17, 479.23 FS. History—New 12-10-77, Formerly 14-10.46, Repealed 6-28-98.

14-10.047 Jurisdiction.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 339.241 FS. History—New 12-10-77, Formerly 14-10.47, Amended 6-28-98,

Repealed 11-30-11.

14-10.048 Definition.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 339.241(2) FS. History—New 12-10-77, Formerly 14-10.48, Repealed 6-28-98.

14-10.049 Screening Criteria.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 339.241(3), (4), (6), (7) FS. History—New 12-10-77, Amended 6-26-78, Formerly 14-10.49, Amended 6-28-98, Repealed 11-30-11.

14-10.050 Nonconforming Junkyards.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 339.241(3) FS. History—New 12-10-77, Formerly 14-10.50, Amended 6-28-98, Repealed 11-30-11.

14-10.051 Violations.

Rulemaking Authority 334.044(2) FS. Law Implemented 339.05, 339.241 FS. History—New 12-10-72, Amended 6-26-78, Formerly 14-10.51, Amended 6-28-98, Repealed 11-30-11.

14-10.056 Forms.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.24 FS. History—New 3-23-77, Amended 12-10-77, 1-1-86, Repealed 6-28-98.

14-10.057 Vegetation Management Application and Permit Issuance.

(1) Permit Required.

(a) No person or entity may remove, cut, or trim trees, shrubs, or herbaceous plants on the Department's right of way to make visible or to ensure future visibility of off-premise outdoor advertising signs without Department approval of an Application to Permit Vegetation Management at Outdoor Advertising Signs, Form 650-050-06, Rev. 10/20, which is incorporated herein by reference at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12483> and available electronically at <http://www.osp.fdot.gov>. For purposes of this rule, the use of chemical control constitutes removing, cutting, or trimming, depending on the impact on the tree, shrub, or herbaceous plant. The Application must be submitted to the State Outdoor Advertising Administrator, at the address referenced in subsection 14-10.0011(2), F.A.C., of this rule chapter or through the on-line portal. This rule does not apply to requests to trim or remove vegetation that screens signs that are not permitted by the Department pursuant to Section 479.07, F.S.

(b) An Application must be submitted by the outdoor advertising sign permit holder. A separate application is required for each sign facing. The vegetation management plan and mitigation appraisal (if required), shall be prepared by a Certified Forester, an International Society of Arboriculture (ISA) Certified Arborist® with Advanced Training in Roadside Vegetation, or an individual with equivalent credentials from a nationally recognized arboricultural organization, or a Landscape Architect registered pursuant to Chapter 481, Part II, F.S.

(c) The Application Package shall contain the completed application and:

1. The applicant's vegetation management plan (plan) for a period of five years. The plan shall include a plan for removing vegetation within the view zone, cutting (removing or altering more than one quarter of any plant's height, spread, or density of branches), or trimming (the shaping or pruning of less than one quarter of any plant's height, spread, or density of branches). The plan shall be a graphic and written document that describes the removal, cutting, trimming, planting, fertilizing, mulching, irrigation, and desired condition and appearance of existing and proposed vegetation, including a plan for disposal of debris, and a schedule and description of the intended vegetation management method(s). All vegetation management proposed in the plan shall be in accordance with this rule and Rule 14-40.003, F.A.C.

2. Color photographs of the sign and entire view zone taken within six weeks prior to the application being made to the Department. The photographs and accompanying drawings must depict a clear representative overview of the vegetation to be removed, cut, or trimmed.

3. A photocopy of the qualifying credentials of the person preparing the vegetation management plan, and appraisal for

mitigation, if mitigation is required. If herbicides will be used, the application must include a photocopy of the applicator's license in three categories (core curriculum, right of way, and aquatic) by the Florida Department of Agriculture and Consumer Services.

4. An itemized appraisal of the mitigation value of vegetation to be removed, cut, or trimmed, if mitigation is required.

5. The application fee is \$25.00. The application fee shall be a total of \$200.00 for more than eight applications submitted simultaneously within the same Department District. If payment is by check, the fee submitted with an application must be paid separately from fees for other types of permits.

6. For a proposed sign or a sign originally permitted after July 1, 1996, designation of two permitted non-conforming outdoor advertising signs, comparable in size to the sign for which a vegetation management permit is sought, for permit cancellation and sign removal within 30 days of the Department's issuance of a Notice of Intent to Approve Vegetation Management at Outdoor Advertising Sign.

(d) An approved Application to Permit Vegetation Management at Outdoor Advertising Sign will serve as a permit, and authorizes the permittee to remove, cut, or trim trees, shrubs, or herbaceous plants only as provided in the approved plan, and only within an established view zone, which will be determined as follows:

1. In accordance with Section 479.106(6)(a) and (b), F.S., a view zone is established beginning at a point on the edge of pavement perpendicular to the edge of the sign facing nearest the highway and extending in the direction of approaching traffic, unless an alternative view zone is agreed upon in writing between the sign permittee and the Department's District (Director of Operations) Maintenance Engineer or his/her designee in the District Office.

2. A sign facing shall have only one view zone, and only within the Department's right of way of the roadway to which the sign is permitted.

a. The view zone for a right-view sign (see Figure 2) is a four sided area with the critical dimensions of 350 feet for posted speed limits of 35 miles per hour or less, or 500 feet for posted speed limits over 35 miles per hour measured along the right edge of the nearest travel lane on the same side of the highway to which the sign is permitted.

b. The view zone for a left-view sign (see Figure 3) is a four sided area with the critical dimension of 350 feet for posted speed limits of 35 miles per hour or less or 500 feet for posted speed limits over 35 miles per hour is measured along the left edge of the nearest travel lane on the other side of the highway centerline.

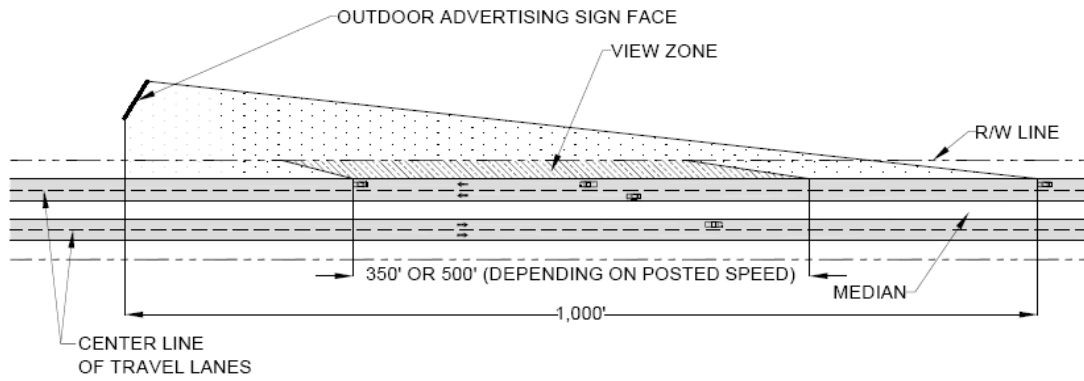


FIGURE 2
VIEW ZONE

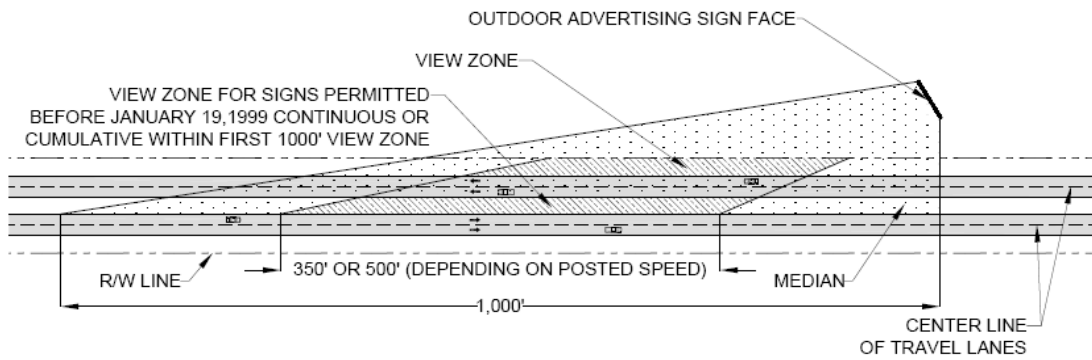


FIGURE 3
VIEW ZONE

c. Areas within the median will be approved for vegetation management zone only for left-read signs legally erected before January 19, 1999, and only as necessary to maintain the view of that sign across the median as it existed before January 19, 1999.

(e) An Application will not be approved:

1. For applications that are incomplete.
2. For vegetation control to enhance the view of an outdoor advertising sign which does not have a currently valid state permit.
3. For mowing (nonselective mechanical or chemical control of vegetation) of grass or other vegetation. Mechanical mowing, to a minimum height of 6 inches, will be permitted when no other means of vegetation management is practicable to control vegetation that screens or is likely to screen a sign face.

4. To remove, cut, or trim, vegetation that has established historic, cultural, economic, environmental, or aesthetic significance. Such vegetation would:

- a. Form an important part of the setting or landscaping for an historic structure;
- b. Possess historic significance through a direct association with an event or person important in history;
- c. Contribute strongly to the historic character as well as visual appeal of an historic structure or district;
- d. Screen historic structures or residential property from traffic congestion;
- e. Serve as memorials;
- f. Be directly descended from historically significant trees or plants;
- g. Be listed on the National Register of Historic Places, the State Register of Historic Sites, or local historical registries;
- h. Be the only vegetation in the immediate vicinity, such that removal would leave the area barren of any substantial trees;
- i. Have reached an age, size, or shape that it is known to be a local landmark; or
- j. Be in the immediate vicinity of a roadway that has been lined with trees for a lengthy period of time where removal of such vegetation would significantly diminish the "tree lined" character of the roadway;

5. To remove, cut, or trim trees, shrubs, or herbaceous plants that are protected by state law.

6. To remove, cut, or trim trees, shrubs, or herbaceous plants, when the Department has determined that the proposed vegetation management will significantly disrupt natural systems, roadside aesthetics, or have other negative impacts on the operation of the highway.

7. To create a new view zone by removing, cutting, or trimming existing vegetation for any sign originally permitted after July 1, 1996, unless the applicant removes at least two approximate comparable size nonconforming signs under valid permits issued pursuant to Section 479.07, F.S., and surrender the permits to the Department.

8. To remove, cut, or trim trees that have a circumference, measured at 4 1/2 feet above grade, equal to or greater than 70% of the circumference of the Florida Champion of the same species as listed in the Big Trees, The Florida Register, Florida Native Plant Society, 1997, which is available at many public libraries in Florida, and at on-line bookstores. Posting of this manual for public inspection would violate federal copyright law. A copy is available for public inspection during regular business hours at the Florida Department of Transportation, Program Management Office, 605 Suwannee Street, Tallahassee, Florida.

9. To remove, cut, or trim trees, shrubs, or herbaceous plants in violation of Section 479.106(5), F.S. This applies to vegetation that is part of a beautification project, when the project was approved prior to the permitting of any sign originally permitted after July 1, 1996. For the purpose of this rule, beautification projects include landscape projects, mitigation projects, and restoration projects. For the purpose of this rule, a beautification project is approved when it is specifically identified in the Department's five-year work program, or is a permitted landscape project, or is part of an executed agreement between the Department and a local government, or has been approved in writing by the Department for installation at a later date by a local government.

10. To remove, cut, or trim trees, shrubs, or herbaceous plants within the right of way of a roadway section to which a sign is not permitted, or proposed to be permitted, or to remove, cut, or trim trees, shrubs, or herbaceous plants within the right of way outside of the 1,000 feet view zone parameter in Section 479.106(6)(b), F.S.

(f) Applications will be reviewed and approved or denied within 60 days of receipt of a completed application. The Department will notify the applicant of any apparent errors or omissions and request any additional information within 30 days of the receipt of an application. When using the on-line portal, if a Request for Additional Information (RAI) is sent to the applicant and not responded to within 30 days, the application will become void.

(g) An approved Application (permit) is valid for the five year term of the proposed vegetation management plan.

(h) After approval, the permittee must give the Local Maintenance Engineer a minimum of two working days notification prior to all permitted vegetation management activity on the Department's right of way, unless a different time period is listed as a special

condition of the permit.

(2) Renewal Applications.

(a) Permit holders are responsible to track the expiration date of the permit. When a permit has expired for over 30 calendar days, changes are proposed, or previous permit conditions were not met, a new complete Application is required to obtain a new permit. When a permit is about to expire, or has expired within 30 calendar days, the conditions of the previous permit have been met, and there are no proposed changes to the previously approved vegetation plan; only the following will be required from the applicant for the same location:

1. Cover letter to the Department State Outdoor Advertising Administrator indicating the applicant will adhere to the conditions of the original permit and vegetation management plan.
2. Copy of the previous application that shows the Department's approval.
3. Application fee.
4. Color photographs of the sign and the entire view zone taken within six weeks prior to the renewal request being made to the Department.

(3) Vegetation Management on the Right of Way.

(a) A copy of the entire approved application and vegetation management plan must be on site and available for review by the Department when vegetation management is in progress.

(b) All work performed pursuant to an approved application to permit Vegetation Management at Outdoor Advertising Sign shall follow the approved vegetation management plan.

(c) Chemical control of vegetation is limited to the use of United States Environmental Protection Agency approved selective herbicides. Foliar application of herbicides is limited to the control of invasive exotic plants.

(d) Within 10 working days after completion of the removal, cutting, or trimming of vegetation, a qualified individual, as described in paragraph (1)(b) above, must inspect the view zone and adjoining right of way, and submit written notification to the Department State Outdoor Advertising Administrator that the work is complete. The correspondence must indicate the extent and nature of any unauthorized removal, cutting, or trimming.

(4) Mitigation. An applicant shall mitigate in accordance with this rule chapter for the impact to vegetation from removal, cutting, trimming, or accidental damage of vegetation on the Department's right of way.

(a) Mitigation is required:

1. Where cutting or trimming of, or damage to vegetation permanently detracts from the appearance or health of trees (including palm trees), shrubs, or herbaceous plants, or where cutting and trimming of trees or shrubs is not done in accordance with the standards set forth in American National Standards for Tree Care Operations – Tree, Shrub, and Other Woody Plant Management – Standard Practices (Pruning), ANSI A300 (Part 1) – 2008 Pruning, available at <http://www.tcia.org>. Posting of this manual for public inspection would violate federal copyright law. A copy is available for public inspection during regular business hours at the Florida Department of Transportation, Program Management Office, 605 Suwannee Street, Tallahassee, Florida.

2. Where trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or removed.

3. Where trees or shrubs of a species that are not likely to grow to interfere with the visibility of displays are damaged or removed.

4. Where trees or shrubs of a species that are likely to grow to interfere with the visibility of displays are trimmed improperly, permanently damaged, or removed.

5. Where herbaceous plants are permanently damaged.

(b) Where mitigation is necessary, the applicant will provide with the Application for Vegetation Management an appraisal prepared by a qualified individual as defined in above paragraph (1)(b) using the appropriate appraisal method found in Determining the Mitigation Value of Roadside Vegetation, Rev. 10/20, which is incorporated herein by reference at <http://www.flrules.org/Gateway/reference.asp?No=Ref-12210>. The appraised value of the vegetation to be cut and removed will be the required mitigation subject to Department verification of the completeness and accuracy of mitigation calculations.

1. The mitigation may be paid as a fee equal to the amount of the appraisal. Mitigation fees must be paid to the Department prior to approval of an Application.

2. As an alternative to the mitigation fee, the permittee may design and build a mitigation project equal to the appraised value, at an approved location within the right of way. Applicants must contact the District Landscape Architect when preparing to develop a mitigation plan. For mitigation projects, the applicant must submit a mitigation plan which, in addition to the requirements of this

rule, meets the requirements for landscape plans in Rule 14-40.003, F.A.C., to the Department for approval. Mitigation projects must be designed to avoid additional maintenance costs by the Department. The mitigation plan shall include a landscape plan, maintenance plan (including watering for establishment for a period of one year from the date of planting), and an estimated budget of all expenses to install, establish, and maintain the replacement vegetation. The value of the completed mitigation project must be equal to or greater than the appraised value of the cut and removed vegetation. When a mitigation project does not meet the required mitigation value, the balance is due to the Department as a mitigation fee. When the mitigation plan is approved, the applicant may proceed to construct the mitigation project. Failure to complete the mitigation project within six months after the vegetation is cut or removed will result in a penalty for unauthorized removal, cutting, or trimming as described in subsection (5) of this rule. The permittee is required, at the permittee's expense, to remove and replace any mitigation materials that have not survived in a healthy condition for the first full year after planting. The replacement materials shall be of like size and variety as the replaced material, or may be other material proposed by the permittee, and determined by the Department, to be more likely to survive. If the mitigation project is not restored to meet the permit requirements, the permittee is subject to enforcement of required mitigation and the penalty for unauthorized removal, cutting, or trimming.

(c) Mitigation is not required for the following activities:

1. Trimming limited to maintaining a plant's natural habit of growth, performed in accordance with professionally accepted arboricultural standards, cited in subparagraph (4)(a)1. of this rule.

2. Removal of immature trees that are no taller than the surrounding shrubs and herbaceous plants that upon their maturity are likely to interfere with the visibility of a permitted outdoor advertising sign.

3. Removal of invasive exotic plants as listed by the Florida Department of Agriculture and Consumer Services in rule Chapter 5B-57, F.A.C., Introduction or Release of Plant Pests, Noxious Weeds, Arthropods, and Biological Control Agents, and Rule 5B-64.011, F.A.C., Prohibited Aquatic Plants.

4. Removal of vegetation that is diseased, or structurally damaged through no fault of the applicant, beyond a point where restoration is practicable.

5. Cutting or removal of vegetation that the Department normally cuts or removes pursuant to its regular maintenance of the Department's right of way.

6. Removal of vegetation when the Department's roadway plans explicitly show that the vegetation will be removed as part of the clearing and grubbing for a construction project designed and included in the Department's five-year work program.

7. Removal or cutting of vegetation that was installed within a view zone after July 1, 1996, provided the sign was permitted prior to the installation of the vegetation.

(5) Unauthorized Removal, Cutting, or Trimming of Vegetation. Any person engaged in unauthorized removal cutting, or trimming of vegetation in violation of Section 479.106, F.S., or who benefits from such action, is subject to a penalty of \$1,000 per incident per sign facing and shall provide mitigation as required by subsection (4). For purposes of this subsection, the application of any chemical compound that kills or injures a tree, shrub, or herbaceous plant constitutes removal, cutting, or trimming.

(6) Sunset. The Department intends to repeal the provisions of this rule on November 30, 2025, in accordance with the rulemaking requirements of Section 120.54, F.S., unless this rule is reviewed and determined to remain necessary prior to such proposed repeal.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 334.044(26), 337.405, 479.106 FS. History--New 1-19-99, Amended 2-7-02, 2-8-06, 12-24-08, Formerly 14-40.030, Amended 1-4-21.