

730:35-1-4. Maintenance responsibilities

(a) The Department shall pay the cost or perform the act of constructing, improving, or maintaining roads, including frontage roads, public roads, local roads, and interchange ramps or any sections thereof, which have been designated by the Transportation Commission as part of the state highway system.

(b) The Department ~~shall~~ may pay the cost of maintaining all official traffic signs and pavement markings except for parking space markings, ~~crosswalks, and stop lines~~, from right-of-way line to right-of-way line.

(c) Within a municipality, the Department shall maintain the roadway pavement and pavement structure only. The ~~d~~Department may pay the cost of construction or reconstruction of drainage systems, curbs, sidewalks, and driveways when necessary to construct or reconstruct an existing highway within a municipality. The Department shall not perform maintenance on or pay the cost of accident or spill clean up, sweeping, mowing the right-of-way, drainage systems, and facilities including inlets, curbs, sidewalks, and driveways, ~~electronic traffic control devices or highway system lights~~. The Department may also perform maintenance on electronic traffic control devices or highway system lights when the Department determines it is in the best interest for the safety and mobility of the highway. The Department shall not perform maintenance on or pay the cost of accident or spill cleanup, sweeping, mowing the right-of-way, drainage systems, and facilities including inlets, curbs, sidewalks, driveway, ~~electronic traffic control devices or highway system lights~~.

(d) The Department may participate in the cost of construction or replacement of highway lighting systems and electronic traffic control devices on highways within municipal limits.

(e) At places where city streets or county roads intersect with the state highway system, the city or county shall be responsible for maintaining all advance warning signs and for roadside maintenance activities outside the highway right-of-way line including sight distance clearance on the city street or county road leading to the stop intersection.

730:35-1-11. Department maintenance within municipalities

(a) **Discretionary funding.** The Commission shall, except as provided by law, exercise sole discretion in the expenditure of State Transportation funds for work involving Department personnel, equipment or material on roads, streets or other locations in municipalities. Such cases may include but are not strictly limited to the following:

- (1) Maintenance, construction or other improvement of designated portions of the state highway system.
- (2) Right-of-way or other properties owned or under jurisdiction of the Department.
- (3) Maintenance, construction or other improvement of the principal access roads or streets providing connections from the designated state highway system to state institutions, as provided in 730:35-1-6.
- (4) Construction or improvement of industrial access, airport access, lake access, or state park roads, when such facilities are part of an approved industrial access, lake access, or state park road program.

(b) **Routine maintenance.** The following shall govern routine maintenance on the state highway system including frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within the corporate limits of cities and towns.

(1) The Department shall maintain, or pay the cost of maintaining, any municipal streets where such streets are a continuation of the State or Federal highway system as follows:

(A) The Department shall maintain the area of the roadway pavement and pavement structure between the gutter lines excluding curbs and sidewalks, and, if no curb exists, only that portion of the roadway pavement and pavement structure between the outer edge of the shoulder lines, excluding any underground utilities and appurtenances. ~~The Department shall not perform maintenance on or pay the cost of accident or spill clean up, sweeping, mowing the right of way, drainage systems, and facilities including inlets, curbs, sidewalks, or driveways, electronic traffic control devices or highway system lights.~~ In areas where cities or towns have annexed additional rural lands into the corporate limits, the Department may choose to continue turf management prior to the development of such lands.

(B) The Department ~~shall~~may maintain or pay for the cost of installation, repair and maintenance of signs and lane markings.

(C) The Department may participate in or pay the cost of lighting and electronic traffic control devices. ~~The maintenance of such equipment shall be the responsibility of the cities and towns.~~

(D) The Department may maintain, or participate in the cost of constructing or improving any safety appurtenances.

(E) The cities and towns shall maintain that portion of the rights-of-way beyond the gutter or shoulder lines, including storm sewers and inlets as well as all other underground facilities.

(F) The cities and towns shall maintain any public roads as defined in 730:35-1-2 within their corporate limits.

(2) Maintenance of the designated Interstate Routes which are a part of the National Highway System, urban freeways with fully controlled access, together with all frontage roads, local roads, public roads and interchange-collector-distributor roads thereto, within

the limits of the cities and towns which are a part of the state highway system shall be as follows:

(A) The Department shall maintain the highway, interchange ramps, interchange-collector-distributor roads, and that portion of the frontage roads or local roads between the nearest edge of the first crossroad or street and the ramp from the mainline connecting to the frontage road or local road. This maintenance shall include all signs, pavement markings, and other traffic control devices, ~~except for traffic signals and lighting.~~

(B) Cities and towns shall maintain only that area of the right-of-way occupied by a frontage road or local road between the control of access line and the right-of-way line, and that portion of frontage roads or local roads that is not considered a part of an interchange ramp.

(C) The Department shall maintain all interchange and cross-over bridge structures, exclusive of the surface and/or deck as provided in 730:35-1-5.

(D) The cities and towns shall maintain all streets connecting to the highway or Department maintained frontage road, including all signs, pavement markings and traffic control devices along the cross streets, except as noted in 730:35-1-11(b)(2)(A).

(E) Cities and towns shall maintain any Public Roads as defined in 730:35-1-2 within their corporate limits.

(c) **Maintenance agreements.** ~~In all cases,~~ The Department will obtain written maintenance agreements from the governing bodies of such cities and towns. These maintenance agreements shall incorporate the foregoing provisions and such other provisions to which the parties agree delineating maintenance responsibilities. Where written agreements concerning maintenance responsibilities within cities and towns have heretofore been obtained, they are hereby approved if reasonably conforming to the provisions of this section. The provisions of this subchapter are supplemental to such maintenance agreements and shall be used to carry into effect the overall policy of the Commission. Where maintenance agreements cannot be obtained, the provisions of this subchapter and State law shall govern in determining maintenance responsibilities.

(1) The Department will not participate in the improvement or maintenance of campus streets or parking areas at the various state college and university campuses.

(2) Any other uses of funds, personnel or equipment under the jurisdiction of the Commission in municipalities, except in instances of legislative mandate, shall be considered contrary to established policies of the Commission.

(3) The Department shall control, by means of a permit system, driveway entrances and exits on the state highway system, but may delegate this responsibility to a city or town. Before permanent authority is delegated, the city or town involved must enact an ordinance adopting the policy of the Commission on driveway regulations for Oklahoma highways.

(4) The Department shall control, by means of a permit system, the installation of landscaping within the rights-of-way on the state highway system. Modification of right-of-way on controlled access facilities is considered to be a landscape improvement and will be considered for approval in accordance with the Commission policy on fencing for controlled access highways.

730:35-5-3. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Abandoned sign" means a registered sign in need of substantial repair, or which is overgrown by trees or other vegetation not on the highway right-of-way or is otherwise no longer being utilized as an outdoor advertising device, for a period of one (1) year, shall be considered "abandoned" and any nonconforming or grandfather status granted by the Highway Advertising Control Act shall be terminated. Leasing information shall not be considered advertising content for purposes of this definition.

"Adjacent area" or "control area" within urban areas means the area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way on any Interstate or the National Highway System. The six hundred sixty foot (660) distance shall be measured horizontally along a line perpendicular to, or ninety degrees (90°) to the centerline of the highway. Outside of urban areas, adjacent area or control area means the area which is visible from the main traveled way on any interstate or the National Highway System and has the purpose of being read. All spacing considerations are determined by whether or not they exist within the adjacent or control area. Signs located outside the "control area" will not be registered.

"Adjacent Property Owners" means any person, firm or corporation owning property which is located adjacent to a "Clearance Area," as defined in this subsection. Applicant shall submit written consent from any such property owner when making application for a clearance permit.

"Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign or similar device which is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or personal property, business, services, entertainment or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by any person; the term shall also include any part of an advertisement recognizable as such, whether a permanent or portable installation, but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use; nor shall same include temporary election candidate campaign signs or voters' referendum signs, if erected not more than forty-five (45) days prior to an election and removed within seven (7) days following the election or within seven (7) days following the final election if more than one is required to settle the advertised candidate election or non-election, or referendum issue.

"Agreement" means the agreement between the Director of the Oklahoma Department of Transportation and the Secretary of the Transportation of the United States, regarding the enforcement of the Highway Beautification Act of 1965.

"Business area" means any part of an adjacent (control) area which is zoned for business, commercial or industrial activities under the authority of any law of this state, or not zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

"Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided highway, or the centerline of the main-traveled way of a non-divided highway.

"Commercial or industrial area" means any part of a control area which is within six hundred sixty (660) feet of the nearest edge of the right of way and is:

(A) Zoned for industrial or commercial activities under the authority of any state zoning law, or city or county zoning ordinance of this State. Any commercial or industrial area created or

established by any zoning authority must actually be capable of supporting commercial or industrial activities. A zoning action which is not a part of a comprehensive zoning plan and is created primarily to allow outdoor advertising structures does not constitute valid zoning for outdoor advertising control purposes.

(B) Not zoned, but which constitutes an unzoned commercial or industrial area as herein defined.

"Clearance Area" means the area of state right-of-way adjacent to property upon which a legal outdoor advertising sign is located, of which said sign owner wishes to remove vegetation. This area shall not exceed 800 feet in length, from any face of the sign, along the highway. This distance shall be determined by measuring horizontally along the highway from a line perpendicular from the support pole, nearest the highway, of the sign to the centerline of the highway.

"Commercial and industrial activities" means those activities, clearly visible and recognized as a commercial or industrial activity from the main traveled way, generally recognized as commercial or industrial by zoning authorities in the state.

"Comprehensive zoning" means a complete approach to land use within the jurisdiction of a zoning authority. For example, the mere placing of the label "zoned commercial or industrial" on land does not constitute comprehensive zoning, but rather, the establishment of a complete set of regulations to govern the land use within the entire jurisdiction of the zoning authority.

"Control Area Measurement Methodology" is the standard method which is used by the Department for measuring all distances between signs and disqualifiers. In measuring proper spacing between registered signs and disqualifying factors, a line perpendicular from the sign site to the centerline of the highway is first determined. The distance is then measured from that line in each direction along the highway. Lines from those measured points are then run perpendicular to the centerline of the highway extending outward six hundred and sixty (660) feet from the nearest edge of the right-of-way; on both sides of the roadway when undivided, or same side only, if the roadway is divided. The area located inside this delineated space constitutes the control area of the proposed sign location.

"Control of access" means the Department shall not issue a permit for any sign which cannot be erected or maintained from private property without violating control of access boundaries.

"Customary maintenance" means maintenance that shall only include, change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing vegetation (not on right-of-way), reinforcing the structure with banding or nails, and repairing the apron or catwalks. Additional maintenance activities may be approved upon written request to the Department. An increase in dimension, any change in location, increase in height, change in location in lighting, or the addition of lighting does not constitute customary maintenance. An increase, change, addition or any maintenance which is not listed above, shall terminate any nonconforming or grandfather status granted by the Act and the sign shall be considered illegal, thus a public nuisance subject to summary abatement and removal without compensation.

"Damage" means injury or harm as a result of wear and tear, storms, or other natural causes including, but not limited to, insect damage. If such damage occurs, the owner of the damaged sign shall notify the Department by letter within thirty (30) days of the occurrence, giving the sign's registration number, date damage occurred, whether or not the sign will be repaired, an itemized list of repairs, and a picture of the damaged structure. Failure to comply with any part of the above requirements before repairing a damaged sign shall result in forfeiture of any nonconforming or grandfather status granted by the 1972 Highway Advertising Control Act. After

receiving authorization and repairs have been completed, the owner shall send a picture of the repaired structure to the Department.

"Department" means the Oklahoma Department of Transportation.

"Destroyed" means that a sign shall be considered destroyed when damaged, from any cause except a criminal or tortious act, exceeds fifty percent (50%) of the sign structure.

"Directional signs" means signs giving directional information about goods and services of interest to the traveling public. Such signs shall be limited to those pertaining to rest stops, camping grounds, food services, fuel and automotive services, and lodging.

"Director" means the Director of the Department of Transportation or his designee.

"Discontinued or blank sign" means a registered sign not displaying products or service advertising contents for a period of one (1) year shall be considered discontinued and removed at the expense of the sign owner. Leasing information shall be considered advertising content for purposes of this definition.

"Divided highway" means that part of a primary highway which has been constructed as divided, dual lane fully controlled access to the throughways except for the established interchanges.

"Federal-aid primary highway" means any highway at any time officially designated as part of the Federal-aid Primary System by the Department and approved by the appropriate authority of the federal government.

"Grandfathered sign" means a sign which was lawfully erected but does not comply with all the provisions of the State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs. (Same as Non-conforming (grandfathered) sign.)

"Illegal sign" means signs that are situated in control areas adjacent to Interstate and Federal-aid Primary Systems which are outside zoned and unzoned commercial or industrial areas, are not listed on the 1972 inventory and do not qualify either as on-premise, directional or official signs and notices required or authorized by law. Signs erected within zoned and unzoned commercial and industrial areas without the benefit of a permit or which are erected or maintained not in accordance with permit requirements are also illegal.

"Informational signs" mean signs containing directions or information about public persons or public places which are owned or operated by federal, state, or local governments or their agencies. It also refers to public or privately owned natural phenomenon, historic, cultural, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, when deemed to be of interest to the traveling public. Informational signs do not include political campaign signs or posters.

"Interstate highway" means any highway at any time officially designated a part of the National System of Interstate and Defense Highways by the Department and approved by the United States Department of Transportation.

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

"License" means the privilege granted by the Department to do business as an outdoor advertising company in the State of Oklahoma.

"Main traveled way" means the traveled portion of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

"Maintain" means to hold or keep in a state of continuing existence.

"Non-conforming (grandfathered) sign" means a sign which was lawfully erected but does not comply with all the provisions of the State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions. Illegally erected or maintained signs are not non-conforming signs.

"Non-conforming (grandfathered) sign maintenance" means the sign must remain substantially the same as it existed on the effective date of State law. (Also see "Customary Maintenance" and "Destroyed" above.)

"Official signs and notices" mean signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purpose of carrying out an official duty or responsibility. These signs must not exceed thirty-two (32) total square feet in area.

"On-premise sign" mean signs consisting solely of the name of the establishment, or which identify the establishment's principal or accessory products, or the services which are offered on the business premises. Signs advertising the sale or lease of the property on which they are located, are considered on-premise signs. Signs located on narrow strips of land contiguous to the advertised activity when the purpose clearly is to circumvent the Oklahoma Highway Advertising Control Act shall not qualify as on-premise signs. (See 730:35-5-14)

"Outdoor advertising business" means any person, firm or corporation which builds, leases, sells, or rents advertising space upon an outdoor advertising sign, display or device to others for profit.

"Permittee" means a person, firm or corporation who has applied for and received a permit from the Department for the express purpose of removing brush and/or trees from the state highway rights-of-way.

"Primary highway" means any highway at any time officially designated a part of the Federal-aid Primary System by the Department and approved by the United States Department of Transportation.

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

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

"Scenic turnout" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control which provides a shelter off the main-traveled way for stopped vehicles for the purpose of viewing an area of scenic significance.

"Service club and religious notices" mean signs and notices relating to the existence or meetings of non-profit service clubs, including but not limited to, garden clubs, charitable associations or religious services. Service club or religious notice signs shall not exceed eight (8) square feet in area.

"Sign, outdoor advertising or outdoor advertising device" means any outdoor sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the Interstate

or National Highway System. It includes permanent or portable installations, but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use. It also shall not include temporary election candidate campaign signs or voters' referendum signs, if erected not more than 45 days prior to an election and removed within 7 days following the election or within 7 days following the final election if more than one election is required to fill the office or settle the referendum issue.

"Sign facing" means the total advertising surface of an outdoor advertising sign, display or device which is visible from the main-traveled way of the highway. For purposes of this definition, a single sign facing may consist of one or more sign panels facing in one direction.

"Sign panel" means a separate advertising area contained upon a sign facing, including any border or trim, but excluding ornamental base or apron supports; provided however, that such ornamental base or apron supports shall not contain an advertising message or messages.

"Sign standards by sign type" means Class "A" signs, Class "B" signs, Class "C" signs, Class D signs, "on premise" signs, exempt signs, prohibited signs and all their zoning, spacing, lighting and size requirements. (See 730:35-5-12, 730:35-5-13, 730:35-5-14, 730:35-5-15, and 730:35-5-16.)

"Sign structure support" includes all structures, poles, bracings, lateral supports and other material of every kind and nature used to support a face or surface on which outdoor advertising is placed, whether located on or attached to the surface of the earth or man-made structure.

"The Act" means the Highway Advertising Control Act contained in Title 69 O.S., Section 1271 et seq., and any amendments thereto.

"To erect", and variants of the verb "to erect", means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. These shall not include any of the foregoing activities when performed as incident to the change of advertising message or customary maintenance of the sign structure. Any relocation of the sign structure, however slight, from one site to another site shall be deemed to be within the meaning of the verb "to erect" and its variants.

"Truck weighing station" means an area or site established and maintained within or adjacent to the highway right-of-way and upon which are located permanent truck weighing facilities operated by the Department, the Department of Public Safety, and/or the Oklahoma State Tax Commission.

"Unzoned commercial or industrial areas" means those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon. No area upon which a commercial or industrial activity is conducted shall be considered as an unzoned commercial or industrial area if the commercial or industrial activity is conducted as a method, scheme or ruse designed for the purpose of conducting the business of outdoor advertising.

"Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one state, that part of the urbanized area in each state, or an urban place as designated by the Bureau of the Census having a population of five thousand (5,000) or more and not within any urbanized area, within boundaries to be fixed by responsible state and local officials in cooperation with each other, subject to approval by the Secretary of Transportation.

Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census.

"Visible" means capable of being seen without visual aid by a person of normal visual acuity.

"Zoned commercial or industrial areas" means those area zoned for commercial or industrial activities under the authority of any state law, or city or county zoning ordinance of this state. Any commercial or industrial area created or established by any zoning authority must actually be capable of supporting commercial or industrial activities. Any state or local zoning action which is not a part of a comprehensive zoning plan, such as strip zoning, spot zoning, or variances created primarily to allow outdoor advertising structures, will not be recognized by the Department as zoning for outdoor advertising purposes.

730:35-7-3. Traffic control responsibilities

- (a) On the state highway system within cities and towns, the Department ~~shall~~may pay for the erection and maintenance of all traffic control signs, pavement markings, and traffic control devices, except as noted in 730:35-1-11.
- (b) Following written approval by the Director, time parking restriction signs, and parking space limit markings, crosswalks, and stop lines shall be purchased, installed, and maintained in a satisfactory condition by the individual governing body or school district involved. All such devices shall be in conformance with 730:35-7-2(a). This section shall not be construed to prohibit the Department ~~from installing~~ entering into a cost sharing agreement with the local governing body to install these or other special or supplemental signs or pavement markings where deemed necessary by the Department for proper operation and safety.
- (c) The construction and maintenance of all traffic signs and markings on the interstate highway system shall be the responsibility of the Oklahoma Department of Transportation or the Oklahoma Transportation Authority.
- (d) When Federal Funds are not available, the Oklahoma Transportation Commission ~~shall~~may participate in the cost of construction of warranted traffic control signals ~~in cities, towns, or communities, without regard to population, on a 50-50 ratio of total cost where such traffic control signals are installed or erected on the state highway system~~ on the state highway system that are within cities, towns or communities so long as the installation of such warranted traffic control signals conform with the standards and best practices provided by the Manual of Uniform Traffic Control Devices as published by the Federal Highway Administration Division of the U.S. Department of Transportation. Regardless of population, the Department may contribute up to fifty percent (50%) of the cost when the traffic control system is installed on the state highway system. The city's or town's share of the Engineer's Estimate, or low bid, shall be on deposit with the Department's Comptroller prior to actual award of the contract.
- (e) When Federal Funds are utilized, ~~the local government shall participate in the cost based on the funding ratio designated by the Federal aid program requirements~~ the local government will be required to participate in cost sharing when feasible based on applicable federal programming requirements. When it can be shown that the traffic control signal installation can be done more economically and quickly by the city concerned, the Director may enter into an agreement with the city to provide the project engineering in accordance with Transportation Department Policies and Standards.
- (f) Prior to the installation of traffic control signals, the city or town where the signal is to be installed shall execute an agreement whereby the city or town shall furnish ~~all~~ maintenance and pay all power and electricity costs.
- (g) Traffic control devices erected on the state highway system shall become the permanent property of the Oklahoma Department of Transportation, except, where by formal agreement, they become joint property of the city-county, and state, or the sole property of the city-county.

730:35-13-4. Tourist oriented directional signs (TODS)

(a) The Oklahoma Tourism Signage Advisory Task Force as created by 74 O.S. § 1891 performs screening and issues recommendations to the Department concerning directional signs for tourism and travel-related attractions and enterprises in this state.

(b) Tourist-Oriented Directional Signs are guide signs with one or more sign panels that display the business identification of and directional information for eligible business, service, and activity facilities ~~provide directional information for attractions and points of interest to motorists as historic, cultural, parks, lakes, or as a site of natural scenic beauty or suited for outdoor recreation.~~

(c) ~~In order to help motorists identify a qualified Tourist Attraction, an approved international logo is incorporated into the design of the sign. See Appendix F of this Chapter.~~

(d) The specific criteria for Tourist Oriented Directional Signs are included in The Oklahoma Tourist Oriented Directional Signs Policy. All signage must be in compliance with the MUTCD, "Manual on Uniform Traffic Control Devices", for consistency and uniformity. This program is handled through an application process administered by the Traffic Engineering Division. Requesting facilities are required to pay for approved signs.