

Dear Senators OKUNIEWICZ, Den Hartog, Rabe, and
Representatives PALMER, Mitchell, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Idaho Transportation Department:

IDAPA 39.03.60 - Rules Governing Outdoor Advertising, Accident Memorials, and Other Official
Signs (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0360-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/03/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/31/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee
FROM: Division Manager - Matt Drake
DATE: November 13, 2024
SUBJECT: Idaho Transportation Department

IDAPA 39.03.60 - Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0360-2401)

Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits Notice of Rulemaking regarding the Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs. The Department notes that this is a Zero-Based Regulation (“ZBR”) chapter rewrite. The Department states that rule changes were intended to remove definitions for terms that are already defined in Idaho Code.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The rules are not anticipated to have a fiscal impact.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Department in Sections 40-310, 40-313, and 40-314, Idaho Code, and Chapter 19, Title 40, Idaho Code.

cc: Idaho Transportation Department
Brendan Floyd

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
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IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.03.60 – RULES GOVERNING OUTDOOR ADVERTISING, ACCIDENT MEMORIALS, AND OTHER OFFICIAL SIGNS

DOCKET NO. 39-0360-2401 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule establishes provisions concerning the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho. This rule was reviewed in accordance with the agency's Zero-Based Regulation review schedule. The proposed edits remove several definitions that are already established through Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2024, Idaho Administrative Bulletin, [Vol. 24-7, pages 273-274](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Brendan Floyd at 208-334-8474.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 30th day of August, 2024.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0360-2401
(ZBR Chapter Rewrite)

39.03.60 – RULES GOVERNING OUTDOOR ADVERTISING,
ACCIDENT MEMORIALS, AND OTHER OFFICIAL SIGNS

000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (3-31-22)

001. ~~TITLE AND SCOPE~~ PURPOSE.

~~01. Title. This rule is titled IDAPA 39.03.60 “Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs,” IDAPA 39, TITLE 03, Chapter 60. (3-31-22)~~

~~02. Scope. This rule contains guidelines for the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code. (3-31-22)()~~

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~The Idaho Transportation Department adopts the definitions set forth in Sections 40-101 through 40-127, Idaho Code. In addition, as used in this chapter: (3-31-22)~~

~~01. Advertising Structure(s) or Sign(s), or Advertising Display(s). Any outdoor structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform. These do not include: (3-31-22)()~~

~~a. Official notices issued by any court or public body or officer. (3-31-22)~~

~~b. Notices posted by any public officer in performance of a public duty or by any person giving legal notice. (3-31-22)~~

~~c. Directional, warning, or informational structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures. (3-31-22)~~

~~d. An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of such city or county, provided the same is maintained wholly at public expense. (3-31-22)~~

~~02. Bypassed Community Signs. A form of community official sign erected when a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway. Such communities have the right to erect and maintain, at city expense, a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. (3-31-22)~~

~~03. Commercial or Industrial Activities. Those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities are considered commercial or industrial: (3-31-22)~~

~~a. Agricultural, forestry, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands. (3-31-22)~~

- b. Transient or temporary activities. (3-31-22)
- c. Activities not visible from the main traveled way. (3-31-22)
- d. Activities conducted in a building principally used as a residence. (3-31-22)
- e. Railroad tracks and minor sidings. (3-31-22)
- f. Outdoor advertising displays. (3-31-22)

04. Commercial or Industrial Zones. The provisions of Section 40-1911, Idaho Code, do not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business, or industrial zones within the boundaries of incorporated municipalities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to municipal or county regulation or control, or which traverse and abut on other areas where the land use is clearly established by State law or county zoning regulation, as industrial, business, or commercial, or which are located within areas adjacent to the interstate and primary system of highways which are in unzoned commercial or industrial areas as determined by the Department from actual land uses; provided, however, that the Department will determine the size, lighting, and spacing of signs in such zoned and unzoned industrial, business, or commercial areas. For the purpose of this rule, areas abutting interstate and primary highways of this State which are zoned commercial or industrial by counties and municipalities are to be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date nor does it include areas so zoned for the primary purpose of allowing advertising structures. (3-31-22)

05. Community Official Signs. Signs approved by a city, erected within its territorial or zoning jurisdiction and maintained wholly at city expense. These signs will display only the name of the city and driver directional information. Specific advertising is not allowed. (3-31-22)

06. Customary Maintenance. Repainting the structure, trim, or sign face, changing poster paper, replacing existing electrical components after failure and replacing damaged structural parts. It does not include the installation of a new sign face nor the initial installation of lighting. Substantial replacement begins when repair and other costs exceed fifty percent (50%) of the sign's reproduction cost. (3-31-22)

~~**07. Department.** The Idaho Transportation Department, acting through the Idaho Transportation Board. (3-31-22)~~

~~**087. Directional Signs.** Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. (3-31-22)~~

~~**098. Erect.** To construct, build, raise, assemble, place, affix, create, paint, draw, or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. (3-31-22)~~

~~**10. Federal or State Law.** A federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by this state or a federal agency or a political subdivision of this state pursuant to a federal or state constitution or statutes. (3-31-22)~~

~~**109. Freeway.** A divided highway with four (4) or more lanes for through traffic and full control of access. (3-31-22)~~

~~**120. Grandfather Sign.** One which was lawfully in existence in a zoned or unzoned commercial or industrial area on the effective date of the State law and which may remain even though it may not comply with the size, lighting, or spacing criteria within this rule. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. (3-31-22)~~

- ~~131.~~ **Illegal Sign.** One which was erected and/or maintained in violation of State law. (3-31-22)
- ~~14.~~ **Interstate System or Interstate Highway.** Any portion of the national system of interstate and defense highways located within the state, as officially designated, or as may hereinafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." (3-31-22)
- ~~15.~~ **Maintain or Place.** To allow to exist, subject to the provision of Chapter 19, Title 40, Idaho Code. (3-31-22)
- ~~16.~~ **Maintenance.** To preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an existing highway or structure in a suitable state for use. (3-31-22)
- ~~172.~~ **Main Traveled Way.** The portion of a roadway for the movement of vehicles, exclusive of shoulders. (3-31-22)
- ~~183.~~ **Multiple Message Sign (MMS).** A sign, display, or device that changes the message or image on the sign electronically by movement or rotation of panels or slats, or electronic billboards that have a programmable display of variable text or symbolic imagery. (3-31-22)
- ~~194.~~ **Nonconforming Sign.** One which was lawfully erected, but does not comply with the provisions of State law or State regulation passed at a later date or which later fails to comply with State law or State regulation due to changed conditions. Illegally erected and/or maintained signs are not nonconforming signs. All signs located within an unzoned area are nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months. (3-31-22)
- ~~2015.~~ **Official Signs and Notices.** Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs. (3-31-22)
- ~~216.~~ **Parkland.** Any publicly owned land which is designated or used as a public park, recreation area, wildlife or water fowl refuge or historical site. (3-31-22)
- ~~2217.~~ **Permit.** A written approval by the department covering location, size, lighting, spacing, number and message content requirements of permissible directional signs. (3-31-22)
- ~~23.~~ **Permit Application.** The form or format of information and data supplied by an individual, agency, or organization to obtain approval for erection and maintenance of a directional sign. (3-31-22)
- ~~24.~~ **Primary System or Primary Highway.** Any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." (3-31-22)
- ~~2518.~~ **Public Service Signs.** Signs located on school bus or other bus stop bench or shelter, which: (3-31-22)
- a. Identify the donor, sponsor, or contributor of said shelters; (3-31-22)
 - b. Contain public service messages, which will ~~not~~ occupy not less than fifty percent (50%) of the area of the sign; (3-31-22)()
 - c. Contain no other message; (3-31-22)
 - d. Are located on school bus or other bench or shelter authorized or approved by city, county, or state

law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and (3-31-22)

e. May not exceed thirty-two (32) square feet in area. Not more than one (1) sign on each bench or shelter ~~shall will~~ face in any one (1) direction. (3-31-22)()

2619. Public Utility Signs. Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations. (3-31-22)

270. Regionally Known. The attraction or activity must be known statewide and in one (1) or more adjoining states. (3-31-22)

281. Rest Area. Any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty. (3-31-22)

292. Service Club and Religious Notices. Signs and notices, whose erection is authorized by law, relating to meeting of nonprofit service clubs or charitable associations, or religious services, which do not exceed eight (8) square feet in area. (3-31-22)

3023. Sign. An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the interstate or primary highway. (3-31-22)

3124. Sign Face. The overall dimensions or area of that portion or side of an individual sign structure that is designed, intended, and capable of displaying messages. It includes border and trim, but excludes the base or apron, supports and other structural members. (3-31-22)

3225. Sign Structure. A construction including the sign face, base or apron, and other structural members. (3-31-22)

~~33. State. State of Idaho.~~ (3-31-22)

3426. Territorial or Zoning Jurisdiction. The geographical area located outside of any city or county limits for a distance of three (3) miles. (3-31-22)

3527. Transient or Temporary Activity. An activity is transient or temporary for the purposes of Chapter 19, Title 40, Idaho Code when: (3-31-22)

a. The activity lacks any business or privilege license required by the city, county or state. (3-31-22)

b. The activity on the property has not been conducted for at least six (6) months at the time of application for a sign permit. (3-31-22)

c. The activity lacks utilities (water, power, telephone, etc.) and which are normally utilized by similar commercial activities. (3-31-22)

d. The activity is not carried on in a permanent building designed, built or modified for its current commercial or industrial use, located within six hundred sixty (660) feet of the nearest edge of the right-of-way. (3-31-22)

e. The property upon which the activity is conducted lacks direct or indirect vehicular access or does not generate vehicular traffic. (3-31-22)

f. The activity does not have employees on-site during normal business hours which is considered

normal, usual, and customary. (3-31-22)

g. The activity lacks a frequency of operations which are considered usual, normal and customary for that type of commercial or industrial operation and the activity is visible and recognizable as a commercial or industrial activity. (3-31-22)

~~**36. Unzoned Commercial or Industrial Area.** Any area not zoned by State or local law, regulation or ordinance which is occupied by one (1) or more industrial or commercial activities, other than outdoor advertising signs, and the land along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements need to be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway. (3-31-22)~~

~~**3728. Urban Areas.** Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to in this Subsection shall will be determined by the latest United States census. (3-31-22)()~~

~~**38. Visible.** Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. (3-31-22)~~

011. -- 099. (RESERVED)

100. GENERAL.

01. Visible Informative Content. This rule applies only to advertising displays whose informative content is visible from the main traveled way of interstate or primary highways. (3-31-22)

02. Responsibilities. Both the owner of a sign and the landowner upon whose property the sign is located will be held responsible for violations of this rule. (3-31-22)

03. Nonconforming Signs. Signs which stand without advertising copy, obsolete advertising matter, or continued need for repairs beyond customary maintenance constitute discontinuance and abandonment after a period of six (6) months and will be subject to removal. (3-31-22)

04. Signs Visible from the Main Travel-Way. Signs beyond six hundred and sixty (660) feet from the right-of-way will be considered to have been erected with the purpose of their message being read from the main traveled way when: (3-31-22)

a. The sign angle and size is such that the message content is readily visible from the main traveled way; or (3-31-22)

b. The exposure time is long enough at the maximum speed limit for the sign message to be readable and comprehensible. (3-31-22)

05. Permit or License Revocation. The erection or maintenance of signs from the highway right-of-way; or the destruction of trees or shrubs within the highway right-of-way will be cause for permit or license revocation. (3-31-22)

06. Multiple Sign Faces. Criteria which permit multiple sign faces to be considered as one (1) sign structure for spacing purposes are limited to signs which are physically contiguous, or connected by the same structure or cross-bracing. (3-31-22)

07. Edge of Right-of-Way. Distance from the edge of the right-of-way is measured horizontally along a line normal or perpendicular to the centerline of the highway. (3-31-22)

08. Control Requirement. Where a sign is erected with the purpose of its message being read from two (2) or more highways, one (1) or more of which is a controlled highway, the more stringent of applicable control requirements will apply. (3-31-22)

101. -- 109. (RESERVED)

110. EXEMPTIONS AUTHORIZED BY SECTION 40-1904, IDAHO CODE.

01. Signs Erected by Public Officers or Agencies. Directional and other official signs and notices erected by public officers or agencies will be issued permits at no cost to the owners, as described more fully elsewhere in this rule. (3-31-22)

02. Advertising Sale or Lease of Property. Signs advertising the sale or lease of property upon which they are located. These signs ~~shall~~ will not advertise any products, services, or anything unrelated to the selling or leasing of the property. (3-31-22)()

03. On-Premise Signs. Signs (on-premise) advertising activities conducted on the property upon which they are located are allowed, subject to the following: Not more than one (1) such sign, visible to traffic proceeding in any one (1) direction and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertised activity. The criteria for determining the limits of the area of the advertised activity from which the fifty (50) feet measurement can be taken are as follows: (3-31-22)

a. When the advertised activity is a business, commercial, or industrial land use, the distance ~~shall~~ will be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business and within its limits of the real property. It is not be measured from driveways, fences, or similar facilities. (3-31-22)()

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance is measured from the major structures on the property. (3-31-22)

c. In no event will a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is nonbuildable land, such as, but not limited to, swampland, marshland, or other wetland, or which is a common or private roadway, or held by easement or other lesser interest than the premises where the advertised activity is located. (3-31-22)

111. -- 119. (RESERVED)

120. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.

01. Size of Signs. Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, the face of an advertising display ~~shall~~ will not exceed the following size limits: (3-31-22)()

a. Maximum area - one thousand (1000) square feet; (3-31-22)

b. Maximum height - thirty (30) feet; (3-31-22)

c. Maximum length - fifty (50) feet. (3-31-22)

02. Dimensions. The area of a sign face will include all of the border, trim, cutouts, and extensions. (3-31-22)

03. Spacing of Advertising Displays. Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations apply: (3-31-22)

a. Advertising displays on interstate and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or

interfere with the driver's view of approaching, merging, or intersecting traffic. (3-31-22)

b. Advertising displays on interstate and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds; scenic areas designated as such by the Department or other State agencies having and exercising such authority. (3-31-22)

c. In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (3-31-22)

d. Measurement between signs or from a sign to another feature ~~shall~~ will be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway is used to determine the measurement point. (3-31-22)()

e. Two (2) sign faces will be permitted at a single location, arranged back to back, or in a V-type configuration, but ~~shall~~ will only have one (1) sign face visible to one (1) direction of travel and will be considered as one (1) sign for spacing regulation. (3-31-22)()

f. Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, ~~shall~~ will not be counted nor ~~shall~~ will measurements be made from them for determining compliance with spacing requirements. (3-31-22)()

g. Spacing on interstate highways between advertising displays along each side of the highway ~~shall~~ will be a minimum of five hundred (500) feet. The spacing between multiple message signs ~~shall~~ will be a minimum of five thousand (5,000) feet. (3-31-22)()

h. No advertising display on interstate highways ~~shall~~ will be erected or maintained within one thousand (1000) feet of an interchange or rest area with the exception of permitted, existing displays which ~~shall~~ will have grandfather rights. The minimum spacing between displays as set forth herein for interstate highways ~~shall~~ will govern the actual location of any sign display permitted and existing within this zone. No advertising display subject to this regulation ~~shall~~ will be permitted along any interstate highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate freeway. (3-31-22)()

i. The spacing of signs on primary highways between advertising displays along each side of the highway ~~must~~ will be a minimum of one hundred (100) feet in urban areas and a minimum of two hundred and fifty (250) feet outside of urban areas. The spacing between multiple message signs ~~shall~~ will be a minimum of one thousand (1,000) feet in urban areas and a minimum of five thousand (5,000) feet outside urban areas. (3-31-22)()

j. Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures. (3-31-22)

k. When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road ~~must~~ will have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays ~~must~~ will not be located so as to cause greater restriction to vision than the existing buildings or structures. (3-31-22)()

l. Alleys, undeveloped rights-of-way, private roads and driveways ~~shall~~ will not be regarded as

intersecting streets, roads or highways. (3-31-22)()

m. Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility for the use of motorists. (3-31-22)

04. Lighting. (3-31-22)

a. No sign will be allowed if it is so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal. (3-31-22)

b. Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger signal. (3-31-22)

c. Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate and primary highways. (3-31-22)

05. Variable or Multiple Message Signs. (3-31-22)

a. Multiple message signs ~~shall will~~ not include any illumination or image which moves continuously, appears to be in motion or has any moving or animated parts or video displays or broadcasts. No multiple message sign may include any illumination which is flashing or moving, except those giving public service information such as date, time, temperature, weather, or other similar information. (3-31-22)()

b. If illuminated with beams or rays of such intensity or brilliance that it would cause glare or impair the vision of the driver or interfere with the operation of a motor vehicle, effective shielding ~~must will~~ be in place so as to prevent beams or rays of light from being directed at any portion of the traveled way. (3-31-22)()

c. If illuminated, illumination ~~must will~~ not obscure or interfere with the effectiveness of official traffic sign, device, or signal. (3-31-22)()

d. Multiple message signs ~~must will~~ not emit or utilize any sound capable of being detected. (3-31-22)()

e. The message or image on a multiple message sign must remain static for a minimum of eight (8) seconds. (3-31-22)

f. An automated change of message or image on a multiple message sign must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur. (3-31-22)

g. If a multiple message sign is in violation of any of the conditions listed in Subsection 300.05.a. through 300.05.g., the permit will be revoked. (3-31-22)

121. -- 129. (RESERVED)

130. LICENSES.

~~Pursuant to Sections 40-1905, 40-1906 and 40-1907, Idaho Code, no person will be allowed to engage in the business of outdoor advertising without first having secured an outdoor advertising license and paid the required license fee. Licenses ~~must will~~ be renewed annually; the Department cannot renew licenses for a period longer than one (1) year at a time. License application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule.~~ (3-31-22)()

131. -- 139. (RESERVED)

140. OUTDOOR ADVERTISING PERMITS.

No person may place any advertising display within the areas affected by the provisions of Section 40-1907, Idaho Code, without first having secured a written permit from the Department. (3-31-22)

01. Application Forms. Permit application forms may be secured at the Idaho Transportation Department District Offices. (3-31-22)

02. Expiration of Annual Permits. Annual permits will expire December 31 each year, but a multi-year permit may be issued as a convenience to the outdoor advertiser. An original annual permit fee of ten dollars (\$10) ~~shall~~ will accompany each original permit application. An annual renewal fee of three dollars (\$3) will be assessed for each permit, and the Department will mail a bill to each sign owner annually. Payment for the renewal of a permit must be received at least thirty (30) days prior to the expiration date. Permit fees will not be prorated for a fraction of a year. (3-31-22)()

03. Modified Advertising Structures. Whenever an advertising structure is relocated or undergoes substantial replacement beyond customary maintenance, the modified structure will be considered to be a new sign. ~~Therefore, p~~ Pursuant to Section 40-1906, Idaho Code, an application for a new display ~~must~~ will be submitted before such reconstruction is begun. A permit fee of ten dollars (\$10) must accompany the application. Conversion of a sign face to a multiple message sign face will be considered substantial replacement beyond customary maintenance and considered a new sign. (3-31-22)()

a. Nonconforming signs which are allowed to be maintained until the State requires their removal cannot be modified so as to increase the reproduction cost. They must remain substantially the same as they were on the effective date of the state law and any subsequent amendments. (3-31-22)

b. The categories of nonconforming signs which may be maintained until they are removed, and nonconforming signs which have been “grandfathered” in commercial and industrial areas cannot include new signs erected in their place or any changes to the existing sign which would be beyond customary maintenance. (3-31-22)

04. Space Requirement Violations. In the event that two (2) or more lawfully erected signs along the interstate and primary highways are in violation of the spacing requirements and the regulations promulgated by the Department, the Department ~~shall~~ will accord the interested parties a full opportunity to be heard and ~~shall~~ will thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected. (3-31-22)()

05. Application. All applications received during the Department’s normal office hours during the same mail pickup will be construed to have been received simultaneously. In the case of a tie between applicants and upon notification thereof by the Department, it ~~shall~~ will determine by lot which will receive the permit. (3-31-22)()

06. Permit Denial. No permit will be issued for a new sign having two (2) or more faces in any one (1) direction. (3-31-22)

07. Physically Connected Signs. Two (2) sign structures which are physically connected will be considered as a single sign for permit purposes. (3-31-22)

08. Standard Permit Application. Owners of displays defined under Sections 40-102(4) and 40-1904, Idaho Code, will be requested to submit a standard permit application for each such display. Identification tags will be issued for such displays at no cost to the owners. No applications will be requested for minor signs, or emergency telephone signs, nor will tags be issued for them. (3-31-22)

09. Lost or Destroyed Identification Tags. Identification tags, except those issued under Subsection 401.08, which are lost or destroyed either before or after being attached to signs will be replaced only upon payment of a three dollar (\$3) fee. Tags issued under Subsection 401.08 will be replaced at no cost if lost or destroyed. (3-31-22)

10. Invalid Permit. A permit will only be issued for a sign that is lawfully erected within one hundred

and eighty (180) days of the permit issuance date. The identification tag is to be affixed only to the sign for which it was issued and ~~must will~~ be so affixed within one hundred and eighty (180) days after being received; otherwise, the permit automatically becomes invalid. (3-31-22)()

11. Cancellation of Permit. If the sign for which a permit has been issued is removed, destroyed, or for any reason becomes unusable prior to the expiration date of permit, the permit may be canceled. (3-31-22)

12. Advertising Illegal Activities. Signs advertising activities illegal under Federal, State, or local law are not eligible for permits. (3-31-22)

13. Revoked Permits. When the Department determines a false or misleading statement has been made in the application for a license or permit, said license or permit ~~shall will~~ be revoked. (3-31-22)()

14. Appeal Process. In the event a permit is denied or revoked, the applicant may obtain instructions for the appeal process at any of the Idaho Transportation Department District Office ~~locations listed in Section 005s.~~ (3-31-22)()

141. -- 149. (RESERVED)

150. BONDS OF OUT-OF-STATE PERMITTEES AND LICENSEES.

As authorized by Section 40-1908, Idaho Code, a bond in the penal sum of one thousand dollars (\$1000) ~~shall will~~ be paid by all non-resident or foreign corporation permittees and licensees. (3-31-22)()

151. -- 199. (RESERVED)

200. GENERAL: TRAFFIC ACCIDENT MEMORIALS.

In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a state highway may apply for a permit to erect a memorial in memory of the decedent. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 202 and Subsections 215.01 through 215.03, of this rule. (3-31-22)

201. TRAFFIC ACCIDENT MEMORIAL PERMIT.

After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway may obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial needs to provide the Department with the following: (3-31-22)

01. Written Approval from the Next of Kin. Written approval from the decedent's next of kin, who are related by blood, marriage or adoption; and (3-31-22)

02. Written Approval from the Property Owner. Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location. (3-31-22)

202. PHYSICAL REQUIREMENTS.

The maximum dimensions of a memorial ~~shall will~~ be thirty-six (36) inches high, sixteen (16) inches wide and ~~shall will~~ weigh no more than seven (7) pounds. The height requirement is measured from the ground level to the highest point on the memorial, the width ~~shall will~~ be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground. (3-31-22)()

01. Shape and Color. Memorials ~~shall will~~ not be shaped or colored to portray, resemble or conflict with any traffic control device. The memorial ~~shall will~~ not be reflectorized. (3-31-22)()

02. Memorial Site. Planting or landscaping at a memorial is not allowed. (3-31-22)

203. -- 214. (RESERVED)

215. LOCATION.

Memorials ~~must~~ **will** be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial is responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 55-2210 of Idaho Code. The applicant is required to meet on site with the Department highway maintenance supervisor assigned to the area where a memorial is to be erected to review the proposed installation. The Department highway maintenance supervisor will be responsible for final approval of the memorial location. (3-31-22)()

01. Shoulder. Memorials ~~shall~~ **will** be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits. (3-31-22)()

02. Medians. Placement of an accident memorial in the median of any interstate or non-interstate highway is ~~prohibited~~ **not allowed**. (3-31-22)()

03. Incorporated Cities. Memorials are not allowed within the boundaries of incorporated cities. (3-31-22)

216. -- 219. (RESERVED)

220. SAFETY.

01. Parking. Those participating in the installation, maintenance, or removal of the memorial ~~shall~~ **will** park their vehicle(s) as far as practical from the travel lanes and in an area where there is adequate sight distance on the highway in both directions. (3-31-22)()

02. Participants and Motorists. Those participating in the installation, maintenance, or removal of a memorial ~~must~~ **will** wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the traveling public and the participants during the installation, maintenance, or removal of a memorial. (3-31-22)()

221. -- 239. (RESERVED)

240. MAINTENANCE.

The Department is not responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee is responsible for maintenance of the memorial. All memorials need to be maintained in good condition at all times and in a manner that complies with this rule. (3-31-22)

241. COMPLIANCE.

01. Improper Installation. Memorials not installed in compliance with this rule are subject to removal by the Department. (3-31-22)

02. Maintenance. Memorials not maintained in good condition are subject to removal by the Department. (3-31-22)

03. Traffic Hazard. Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard are subject to removal by the Department. (3-31-22)

242. -- 299. (RESERVED)

300. GENERAL: STANDARDS FOR COMMUNITY OFFICIAL SIGNS.

01. Direction of Sign. Only one (1) community sign may face the same direction of travel along a single route approaching the community. (3-31-22)

02. Location of Sign. A community sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest

point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way) or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. Community signs may not be located within two thousand (2,000) feet of a rest area, park land or scenic area. (3-31-22)

03. Size of Sign. Community signs ~~shall~~ **will** not exceed the following limits: (3-31-22)()

a. Maximum area -- Three hundred (300) square feet. (3-31-22)

b. Maximum height -- Thirty (30) feet. (3-31-22)

c. Maximum length -- Thirty (30) feet. (3-31-22)

301. STANDARDS FOR DIRECTIONAL SIGNS.

01. Prohibited Directional Signs. ~~The following directional signs are prohibited:~~ (3-31-22)()

a. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities. (3-31-22)

b. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (3-31-22)

c. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features. (3-31-22)

d. Signs which are structurally unsafe or in disrepair. (3-31-22)

e. Signs which move or have any animated or moving parts. (3-31-22)

f. Signs located in rest areas, parklands, or scenic areas. (3-31-22)

g. Signs that advertise or call attention to an activity or attraction no longer in existence and/or abandoned or obsolete signs. (3-31-22)

h. Signs not maintained in a neat, clean, and attractive condition or in good repair. (3-31-22)

i. Signs not designed to withstand a wind pressure of thirty (30) pounds per square foot of exposed surface. (3-31-22)

j. A sign installation that has not been issued an annual permit. (3-31-22)

02. Size of Directional Signs. (3-31-22)

a. Signs ~~shall~~ **will** not exceed the following limits: Maximum area, one hundred and fifty (150) square feet; maximum height twenty (20) feet; maximum length, twenty (20) feet. (3-31-22)()

b. All dimensions include border and trim, but exclude supports. (3-31-22)

03. Spacing of Directional Signs. (3-31-22)

a. Each location of a sign ~~must~~ **will** be approved by the department and the property owner on whose property the sign is installed. (3-31-22)()

b. A sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending

of pavement widening at the exit from or entrance to the main traveled way), or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. (3-31-22)

- c. A sign may not be located within two thousand (2,000) feet of a rest area, park land, or scenic area. (3-31-22)
 - d. A sign ~~shall~~ will not be located within one (1) mile of any other directional sign facing the same direction of travel. (3-31-22)()
 - e. Not more than three (3) signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity. (3-31-22)
 - f. Signs located adjacent to the interstate system ~~shall~~ will be within seventy-five (75) air miles of the activity. (3-31-22)()
 - g. Signs located adjacent to the primary system ~~shall~~ will be within fifty (50) air miles of the activity. (3-31-22)()
- 04. Message Content.** The message on directional signs ~~shall~~ will be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are ~~prohibited~~ not allowed. (3-31-22)()

302. -- 319. (RESERVED)

320. LIGHTING, SIGNS MAY BE ILLUMINATED, SUBJECT TO THE FOLLOWING.

- 01. Flashing or Moving Lights.** Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are ~~prohibited~~ not allowed. (3-31-22)()
- 02. Lights Which Impair Driver Vision.** Signs which are not effectively shielded so as to prevent beams or rays of light from being directed toward any portion of the traveled way of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are ~~prohibited~~ not allowed. (3-31-22)()
- 03. Interference With Traffic Sign, Device, or Signal.** A sign may not be so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal. (3-31-22)

321. -- 339. (RESERVED)

340. ADMINISTRATION.

- 01. Selection Methods and Criteria.** (3-31-22)
 - a. Application for permits to erect and maintain directional and official signs under this regulation ~~shall~~ will be filed with the Idaho Transportation Department, Division of Highways. (3-31-22)()
 - b. The approval of applications of directional signs is to be based on the following criteria: Nationally or regionally known activity of outstanding interest to the traveling public; location of activity relative to highway and proposed signing plan; dominant attraction must be for edification and enjoyment of motorist, not tourist-oriented business or for generation of activity income; and Attraction or Activity ~~shall~~ will have drinking water and toilet facilities meeting the Idaho Department of Health and Welfare standards. (3-31-22)()
 - c. The applicant of directional signs will furnish to the department the following data: Proposed sign plans including sign details, color, construction, shape, legend, lighting and location; letter of property owner approval of directional sign installation; department of Health and Welfare certification that water and toilet facilities meet Idaho standards; and documentation and explanation by applicant if it is a regionally known attraction or

activity of outstanding interest to the traveling public. (3-31-22)

d. Applicants for directional signing will furnish to the department, on request, information relating to the limits of their advertising program, need of directional signing for the traveling public, number of public visits, and such other information as deemed appropriate to assure compliance with federal regulations and state law. The applicant or other representatives may appear before the Idaho Transportation Board in case of controversy. (3-31-22)

e. The applicant of community or bypassed community official signs will furnish the department the same information required in Subsection 340.01.c of this rule. (3-31-22)

02. Permits. (3-31-22)

a. Permit application forms may be secured at any ~~office of the~~ Idaho Transportation Department, ~~Division of Highways~~ District Office. (3-31-22)()

b. Permits will be issued annually expiring on December 31 each year, but can be issued for a period greater than one (1) year as a matter of convenience. (3-31-22)

c. The initial permit application fee is ten dollars (\$10) with an annual renewal fee of three dollars (\$3). The initial application fee is nonrefundable. A fee ~~shall will~~ not be prorated ~~for a fraction of a year~~ or be refunded for the balance of a permit period if the sign is removed. (3-31-22)()

d. A permit ~~shall will~~ not be issued until the sign has been approved by the department. A valid permit may be transferred to another person or jurisdiction upon written notice to the department. (3-31-22)()

e. A permit ~~shall will~~ not be issued for a sign located adjacent to a fully-controlled access highway or freeway unless it has been determined that access to the sign can be obtained without violating the access control provisions of the highway. The department will cancel a permit and require removal of the sign if it is found that the sign has been erected, maintained or serviced from the highway right-of-way at those locations where the department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. In addition, the department may recover from the sign owner or person erecting, maintaining or servicing the sign, the amount of damage of landscaping, sodding, fencing, ditching or other highway appurtenances resulting from such acts. (3-31-22)()

f. The permit can be revoked by the state if the department determines that the applicant has knowingly supplied false or misleading information in his application for a permit or permit renewal. (3-31-22)

g. Service club, religious notice, and community official signs will require a permit but the fees will be waived. For permit purposes, service club and religious notice structures may have more than one (1) face but not more than six (6) faces. (3-31-22)()

341. -- 999. (RESERVED)