

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 21 TRAFFIC CONTROL SIGNAGE
PART 5 OUTDOOR ADVERTISING REQUIREMENTS

18.21.5.1 ISSUING AGENCY: New Mexico Department of Transportation.
[18.21.5.1 NMAC - Rp, 18 NMAC 21.5.1, 02/14/14]
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18.21.5.2 SCOPE: This part applies to all state agencies and the general public.
[18.21.5.2 NMAC - Rp, 18 NMAC 21.5.2, 02/14/14]

18.21.5.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the New Mexico Highway Beautification Act, Sections 67-12-1 et seq., NMSA 1978; and Sections 67-3-6, 67-3-11 and 67-3-14 NMSA 1978.
[18.21.5.3 NMAC - Rp, 18 NMAC 21.5.3, 02/14/14]

18.21.5.4 DURATION: Permanent.
[18.21.5.4 NMAC - Rp, 18 NMAC 21.5.4, 02/14/14]

18.21.5.5 EFFECTIVE DATE: February 14, 2014, unless a later date is cited at the end of a section.
[18.21.5.5 NMAC - Rp, 18 NMAC 21.5.5, 02/14/14]

18.21.5.6 OBJECTIVE: The purpose of this part is to implement and enforce the New Mexico Highway Beautification Act, Sections 67-12-1 et seq., NMSA 1978.
[18.21.5.6 NMAC - Rp, 18 NMAC 21.5.6, 02/14/14]

18.21.5.7 DEFINITIONS:

A. “Abandoned sign” or “discontinued sign” means any outdoor advertising device that:
(1) is without copy for a period of six (6) months; or
(2) where the permit holder no longer has the right to occupy or possess the site on which the outdoor advertising device is located.

B. “Advertisement” means copy, information or content on an outdoor advertising device designed, intended or used to advertise or inform.

C. “Apron support” means paneling on the exterior of an outdoor advertising device which serves as a decorative/ornamental feature; an apron support shall not include advertisements, but may include a sign owner name plate.

D. “Beautification Act” means the New Mexico Highway Beautification Act, Sections 67-12-1 et seq., NMSA 1978.

E. “Bona fide commercial or industrial activity” means a commercial or industrial activity which is carried on for profit and which operates for at least six (6) continuous months of the year and with a valid twelve (12) month business license issued by a city, county, or state whether or not a permanent structure is located where the commercial or industrial activity takes place.

F. “Centerline of highway” means a line equidistant from the edges of the median separating the main-traveled way of a divided interstate, NHS or primary highway or the centerline of the main-traveled way of a non-divided interstate, NHS or primary highway.

G. “Changeable electronic variable message sign” or “CEVMS” means an outdoor advertising device that changes the advertisement on the sign electronically or mechanically, or by remote control, by movement or rotation of panels or slats, light emitting diodes (LED), or an electronic sign that utilizes changeable electronic variable message technology through a programmable display of variable text or symbolic imagery to form multiple advertisements. Changeable electronic variable message signs include, but are not limited to, tri-vision and other rotating slat technology. The use of changeable electronic variable message sign (CEVMS) technology, shall not, in itself, constitute the use of flashing, intermittent or moving light or lights.

H. “Commercial or industrial activity” means those activities generally recognized as commercial or industrial by zoning authorities in New Mexico, except that none of the following shall be considered a commercial or industrial activity:

- (1) outdoor advertising devices;

- (2) agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;
- (3) transient or temporary activities;
- (4) activities not visible from the main-traveled way;
- (5) activities conducted in a building principally used as a residence;
- (6) railroad track and minor sidings and supporting building and fixtures, except for depots open to the public at least six (6) hours per day;
- (7) activities located in their entirety more than six hundred sixty (660) feet from the nearest edge of the right-of-way line outside urban areas;
- (8) feeder pens and dairy activities;
- (9) camping or overnight parking unless such facilities are equipped with adequate parking accommodations, modern sanitary facilities and drinking water, and which are licensed or approved by an appropriate governmental agency.

I. “Commission” means the state transportation commission.

J. “Copy” means an advertisement which depicts activities or advertising which may include gas price, lottery and other add-ons where such add-ons are fully contained within the physical boundaries of the advertising face and reference the static advertisement to which they are attached. Add-ons shall display only numbers, shall remain static for no less than eight (8) seconds in duration, shall achieve a transition to another static display in less than two (2) seconds, and shall not contain or utilize transitional elements or any movement at all between copy changes. Copy may also include self-promotion or public service messages as long as the entire advertising face of the outdoor advertising device is covered.

K. “Customary maintenance” means the usual state of maintaining a sign in order to keep it in a good state of repair while not changing the general structure of the sign significantly. Customary maintenance of a non-conforming sign means maintaining the sign so that it remains substantially the same as it was on the effective date of the Beautification Act. Reasonable repair and maintenance of the sign, including a change in advertising content, is not a change which would terminate non-conforming rights.

L. “Department” means the New Mexico department of transportation.

M. “Directional signs” means signs containing directional information about public places owned or operated by federal, state or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, education, 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.

N. “Erect” means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way establish or bring a sign into being.

O. “Face” means the advertising surface on a sign. Each sign may contain more than one face; each face shall require a separate permit.

P. “Freeway” means a divided arterial highway for through traffic with full control of access.

Q. “Interstate system” means that portion of the national system of interstate and defense highways located within this state as may now or hereafter be officially so designated by the commission and approved pursuant to 23 U.S.C. Section 103.

R. “Legible” means capable of being read without visual aid by a person of normal visual acuity.

S. “Maintain” means to allow to exist.

T. “Main-traveled way” means the traveled way 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.

U. “Mobile type sign” means an outdoor advertising device that is attached or placed on mobile vehicles or trailers or other mobile devices or objects outside of the right-of-way, and is not permanently affixed to real property or a sign structure.

V. “National highway system” or “NHS” means the federal aid system which includes the interstate system; the National Highway System consists of the highway routes and connections to transportation facilities that serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and major travel destinations that meet national defense requirements, and that serve interstate and interregional travel and commerce.

W. “Non-conforming sign” means an outdoor advertising device lawfully in existence on the effective date of the Beautification Act, whose owner obtained a department outdoor advertising permit(s) with permit renewal fees paid current thereafter, which continues to exist and complies with customary maintenance

requirements, but which currently does not meet all requirements of 18.21.5 NMAC or the Beautification Act due to state law passed at a later date or due to changed conditions. A non-conforming sign may also include an outdoor advertising device whose owner obtained a department outdoor advertising permit(s) with permit renewal fees paid current thereafter, which continues to exist and complies with customary maintenance requirements, but which currently does not meet all requirements of 18.21.5 NMAC or the Beautification Act. Illegally erected or maintained outdoor advertising devices shall not be considered non-conforming outdoor advertising devices.

X. “Official signs and notices” means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with authorization contained in federal, state or local law for the purpose of carrying out an official duty or responsibility. Historical markers authorized by law and erected by state or local government agencies or non-profit historical societies shall be considered official signs.

Y. “Off-premise sign” means any outdoor advertising device which advertises an activity, service or product not conducted on the property upon which the outdoor advertising device is located.

Z. “On-premise sign” means an outdoor advertising device, which advertises activities, conducted on the property upon which the sign is located, and which is located within the area actually utilized for the purpose of the activity it advertises.

AA. “Outdoor advertising device” means any surface and supporting structure, visible from the main-traveled way of the interstate system, NHS or primary system, and designed, intended, or used to advertise or inform, and includes, but is not limited to, a sign, billboard, changeable electronic variable message sign (CEVMS), device, display, face, surface, light, figure, person, animal, painting, drawing, posting, plaque, poster, banner, graffiti, art, sculpture, statue, building structure, wall, fence, utility system, tower, bridge, motor vehicle, trailer, marine craft, holding tank, natural feature (such as a tree or rock), object, or other thing, whether permanently affixed to the real estate or mobile, portable, or temporary in nature, and regardless of size, which may support multiple faces. Each advertising surface shall be considered a separate face. Any structure used or intended to be used to support such a face shall be considered a part of the outdoor advertising device.

BB. “Primary system” means the federal and primary system in existence on June 1, 1991.

CC. “Public service signs” means signs located on school bus stop shelters, which signs:

- (1) identify the donor, sponsor, or contributor of the shelters;
- (2) contain public service messages;
- (3) contain no other content;
- (4) are located on school bus shelters which are 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

(5) may not exceed thirty-two (32) square feet in area, and not more than one sign on each shelter shall face in any one direction.

DD. “Ranch/farm notices”, “service club notices” and “religious notices” mean signs and notices which do not exceed eight (8) square feet, are erected and authorized by law, and relate to the name of ranch/farm, service club, charitable organization or religious services and directions to it.

EE. “Roadway” means an open, generally public way for the passage of vehicles, people and animals.

FF. “Safety rest area” means a site established and maintained by or under public supervision or control for the convenience of the traveling public within or adjacent to the right of way of the interstate system, NHS or primary system.

GG. “Sign” means any outdoor advertising device as defined in 18.21.5.7 NMAC.

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

II. “Unzoned land” means an area which has not been zoned by a properly constituted zoning authority according to legally prescribed procedure.

JJ. “Unzoned commercial or industrial area” means unzoned lands upon which there is located a bona fide commercial or industrial activity and the area along the highway extending outward one thousand (1,000) feet from and beyond the edge of such commercial or industrial activity and extending perpendicular from the centerline of highway to a depth of six hundred sixty (660) feet from the nearest edge of the right-of-way line on the same side of the highway as the commercial or industrial activity.

KK. “Urban area” means an area including and adjacent to a municipality or other urban place having a population of five thousand (5000) or more, as determined by the latest available federal census, within boundaries to be fixed by the commission, subject to any necessary approval by any federal agency, department or personnel.

LL. “Visible” means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity, except that within urban areas, “visible” means within six hundred sixty (660) feet of the nearest edge of the right-of-way line.

MM. “Zoned commercial or industrial area” means an area which is reserved for business, commerce, trade, manufacturing, or industry, pursuant to a validly promulgated state law or regulation or local ordinance whose validity for outdoor advertising purposes is determined by the department pursuant to the provisions of 18.21.5.28 NMAC.

[18.21.5.7 NMAC - Rp, 18 NMAC 21.5.7, 02/14/14]

18.21.5.8 SIGNS ALLOWED: Only the following outdoor advertising devices may be erected or maintained:

- A.** directional signs and other official signs and notices;
- B.** signs on a piece of property giving notice that the specific land or improvements alone are offered for sale or lease;
- C.** on-premise signs that are in compliance with 18.21.5.12 NMAC;
- D.** signs located within six hundred sixty (660) feet of the nearest edge of the right-of-way, in zoned commercial or industrial areas;
- E.** signs located within six hundred sixty (660) feet of the nearest edge of the right-of-way in unzoned commercial or industrial areas;
- F.** signs located beyond six hundred sixty (660) feet of the right-of-way, located outside of urban areas, visible from the main-traveled way of the interstate system, NHS or primary system and erected with the purpose of the content being read from such main-traveled way;
- G.** signs lawfully in existence on October 22, 1965, determined by the commission, subject to any necessary federal approval, to be landmark signs of historic or artistic significance worthy of preservation including signs on farm structures or natural surfaces, and which requirements are set forth in 18.21.5.15 NMAC;
- H.** signs lawfully in existence on the effective date of the Beautification Act, whose owner obtained a department outdoor advertising permit(s) with permit renewal fees paid current thereafter, and which continue to exist and be maintained lawfully, but which currently do not meet all requirements of 18.21.5 NMAC or the Beautification Act due to state law passed at a later date or due to changed conditions. Illegally erected or maintained outdoor advertising devices shall not be considered non-conforming outdoor advertising devices;
- I.** signs whose owner obtained a department outdoor advertising permit(s) with permit renewal fees paid current thereafter, which continues to exist and complies with customary maintenance requirements, but which currently does not meet all requirements of 18.21.5 NMAC or the Beautification Act. Illegally erected or maintained outdoor advertising devices shall not be considered non-conforming outdoor advertising devices.

[18.21.5.8 NMAC - Rp, 18 NMAC 21.5.8, 02/14/14]

18.21.5.9 RECLASSIFICATION OF HIGHWAYS:

A. Any sign lawfully erected along a highway which is not part of the interstate system, NHS or primary system at the time of the sign's erection and which sign becomes subject to the provisions of the Beautification Act and this rule due to the reclassification of the highway as part of the NHS system, shall remain a legal non-conforming and compensable sign so long as all permits for the sign are timely obtained and all permit fees timely paid. The failure to timely obtain permits and timely pay permit fees shall render such a sign illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

B. Permits and permit fees for the class of signs described in this section are timely obtained and timely paid if obtained and paid for the next calendar year following the reclassification, notification of which shall be sent to the sign owner by the department.

[18.21.5.9 NMAC - Rp, 18 NMAC 21.5.9, 02/14/14]

18.21.5.10 SIGNS PROHIBITED: No outdoor advertising device may be erected or maintained which:

- A.** physically intrudes upon the right-of-way or by being of such a distracting nature so as to dangerously divert driver's attention from the roadway;
- B.** attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device;
- C.** prevents the driver of a vehicle from having a clear and unobstructed view of pre-existing official signs and approaching or merging traffic;

- D. contains, includes or is illuminated by any flashing, intermittent or moving light or lights;
- E. is lighted in any way unless the lighting is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the interstate system, NHS or primary system, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle;
- F. moves or has any animated or moving parts;
- G. is erected or maintained upon trees or painted or drawn upon rocks or other natural features;
- H. is structurally unsafe or in disrepair as determined by the department;
- I. is an abandoned sign as defined in 18.21.5.7 NMAC;
- J. is located in an area zoned by a local government, but which local zoning does not amount to or come within a comprehensive zoning plan, or which is created primarily to permit outdoor advertising, as determined by the department pursuant to the provisions of 18.21.5.28 NMAC;
- K. is a mobile type sign as defined in 18.21.5.7 NMAC; or
- L. violates any of the provisions of 18.21.5 NMAC.

[18.21.5.10 NMAC - Rp, 18 NMAC 21.5.10 & 39, 02/14/14]

18.21.5.11 SIGN CONTENTS PROHIBITED: Signs containing the following copy are prohibited:

- A. the imitation or simulation of official U.S. interstate, state or county highway sign shields within advertising displays; and
- B. any words that could be construed as a command, such as “stop, turn right (or left),” or any such words whether used alone or in combination on signs which duplicate or resemble official signs and notices so as to cause a motorist to be misled in any manner.

[18.21.5.11 NMAC - Rp, 18 NMAC 21.5.11, 02/14/14]

18.21.5.12 ON-PREMISE SIGNS: On-premise signs are limited to signs advertising on-premise activities only and shall adhere to the following requirements.

- A. Signs must be used only to advertise the activities conducted on the property where the sign is located.
- B. There must be a regularly used building, service, repair, processing, storage, or parking area used in conjunction with the on-premise activity.
- C. Land, whether contiguous or not, and whether owned or not, that is not used as part of the major activity as set forth herein, but is surplus if held for future use, shall not qualify as a part of the immediate on-premise area, including railroad mainline tracks, siding, spurs and loading docks.
- D. The lands that are directly used as an integral part of the principal activity of the subject advertised, even though the sign site and principal activity are separated by a roadway, shall be deemed to be contiguous.
- E. On-premise parking lots, storage areas, and servicing areas are those areas regularly used in conjunction with on-premise activity and in which surfacing and lighting are continuously maintained.
- F. Upon the termination or cessation for twelve (12) consecutive months of the activities, services or products advertised by an on-premise sign along the interstate system, NHS or primary system, the sign advertising that activity shall no longer qualify as an on-premise sign and shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

[18.21.5.12 NMAC - Rp, 18 NMAC 21.5.42, 02/14/14]

18.21.5.13 OFF-PREMISE CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS) – SPECIFICATIONS:

- A. The use of changeable electronic variable message sign (CEVMS) technology, shall not, in itself, constitute the use of flashing, intermittent or moving light or lights.
- B. Off-premise changeable electronic variable message signs (CEVMS) shall be allowed, regardless of the technology used, provided such signs shall:
 - (1) utilize only one (1) advertisement at any given time for each advertising face, and do not display, contain or utilize multiple advertisements or displays;
 - (2) contain a static display that shall remain for no less than eight (8) seconds in duration;
 - (3) achieve a transition to another static display in less than two (2) seconds and shall not contain or utilize transitional elements or any movement at all between copy changes, except tri-vision signs;

(4) not incorporate or display any illumination that changes in intensity during the static display or transition period as described above;

(5) change copy uniformly in a fluid, seamless transition not capable of being detected, except tri-vision signs;

(6) not exceed a maximum surface area of six hundred seventy-two (672) square feet per advertising face, with a maximum length of forty-eight (48) feet and a maximum height of fourteen (14) feet; length and height measurements shall include border and trim, but shall not include any ornamental base or apron support;

(7) not be placed within one thousand (1,000) feet of another off-premise changeable electronic variable message sign on the same side of the highway, regardless of face orientation, except for those tri-vision signs lawfully permitted and erected prior to the effective date of this rule;

(8) not contain or include any advertisements that employ the use of intermittent or flashing light or lights or that are illuminated by intermittent or flashing light or lights;

(9) not include animated, flashing, scrolling, or full-motion video elements, and may not incorporate or display segmented or traveling advertisements;

(10) be shielded so as to prevent light from being directed at any portion of the main-traveled way, or if not so shielded, are of such low intensity or brilliance so as not to cause glare or impair the operation of a motor vehicle or violate the New Mexico Night Sky Protection Act, Sections 74-12-1 et seq., NMSA 1978, to the extent it applies;

(11) have brightness levels capable of being measured and such brightness shall be limited to an acceptable, safe level or measurement, as follows: CEVMS shall utilize automatic dimming technology to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of three tenths (0.3) foot candles above ambient light, as measured using a foot candle meter and in conformance with the following process: light measurements shall be taken with the meter aimed directly at the advertisement or sign face, or at the area of the sign emitting the brightest light if that area is not the advertisement or sign face; measurements shall be taken as follows:

| Sign Face Area | Distance of Measurement |
|-----------------------|--------------------------------|
| 681-1200 sq. ft. | 350 feet |
| 385-680 sq. ft. | 250 feet |
| 300-384 sq. ft. | 200 feet |
| 200-299 sq. ft. | 150 feet |
| 150-199 sq. ft. | 136 feet |
| 125-149 sq. ft. | 118 feet |
| 100-124 sq. ft. | 107 feet |
| 75-99 sq. ft. | 96 feet |
| 50-74 sq. ft. | 83 feet |
| 35-49 sq. ft. | 67 feet |
| 25-34 sq. ft. | 56 feet |
| 15-24 sq. ft. | 47 feet |
| 1-14 sq. ft. | 36 feet |

(12) not incorporate, utilize or emit any sound or noise capable of being detected or emit any smoke, scent or odors;

(13) not contain, incorporate or utilize any interactive component or medium, and not interact or interface with drivers, pedestrians or the general public;

(14) not interfere with or direct, or attempt to direct, the movement of traffic, or resemble or simulate any warning or danger signal, or any official traffic control device, and not contain wording, color, shapes or likenesses of official traffic control devices;

(15) contain a default mechanism so that in the event 50% or more of a sign has failed, the sign will immediately revert to a black screen and remain in such condition until the malfunction is corrected; in all such cases, the malfunctioning sign must be expediently repaired;

(16) utilize sufficient safeguards to prevent unauthorized access, use or hacking of changeable electronic variable message signs and related technology, including infrastructure, hardware, software and networks, by unauthorized users;

(17) be continuously monitored twenty-four (24) hours per day by the device owner or the permit holder, including monitoring of hardware, software, network and other infrastructure; and

(18) comply with all applicable provisions, restrictions and prohibitions regarding outdoor advertising devices contained in federal and state law.

C. With the exception of tri-vision signs legally permitted and erected prior to the effective date of this rule, any changeable electronic variable message sign existing prior to the effective date of this rule, 18.21.5 NMAC, shall conform with this section within sixty (60) days of the effective date of this section or such changeable electronic variable message sign shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

[18.21.5.13 NMAC - N, 02/14/14]

18.21.5.14 OFF-PREMISE CHANGEABLE ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS) - ADDITIONAL REQUIREMENTS:

A. Permit required. A person desiring to erect, install, convert or maintain an off-premise changeable electronic variable message sign shall obtain a new permit from the department pursuant to this rule for that use prior to erection, installation, conversion or maintenance of the sign.

B. Location. No sign utilizing changeable electronic variable message technology may be erected, installed, converted or maintained outside the limits of any municipality, town or village, or within the boundaries or limits of any designated scenic byway, or outside the boundaries or limits of any designated scenic byway where the intent or result is that the changeable electronic variable message advertisements are oriented to, or visible or legible from, the scenic byway.

C. Modification. The permit holder and the owner of the sign are responsible for any changes, alterations or modifications to the advertisements or to the use of the changeable electronic variable message sign made by an unauthorized user, or by an advertiser authorized to facilitate such changes, alterations or modifications.

D. Conversion.

(1) An existing static outdoor advertising device may be converted to a changeable electronic variable message sign, provided the existing sign:

- (a) has been approved by the local government;
- (b) is a legal, conforming sign;
- (c) is in good repair;
- (d) has had all permit fees timely paid; and
- (e) does not violate any applicable sections of this rule or of the Beautification Act.

(2) No existing static outdoor advertising device may be converted to changeable electronic variable message sign technology if the existing sign has a non-conforming or grandfathered status.

(3) The conversion of a static outdoor advertising device to a changeable electronic variable message sign must be approved by the applicable local governmental entity.

(4) The application shall include written assurance from the applicant that the sign structure will meet or exceed current engineering standards or practices and all applicable building codes.

(5) The conversion of a static outdoor advertising device to a changeable electronic variable message sign must be accomplished within one hundred twenty (120) days after the issuance of the applicable permit.

[18.21.5.14 NMAC - N, 02/14/14]

18.21.5.15 LANDMARK SIGNS:

A. An outdoor advertising device shall qualify as a landmark sign of historical or artistic significance under 23 U.S.C. Section 131 upon presentation, to the department, of satisfactory proof as determined by the department, that the sign has been lawfully in place and maintained at the same location for a period of twenty-five (25) years or more, and that the sign:

- (1) has not substantially changed in size, lighting or advertising content after designation as a landmark sign;
- (2) has not been significantly altered from its historic appearance, or, if it has been altered, is potentially restorable to its historic function and appearance;
- (3) is structurally safe or can be made safe without significantly altering its historical appearance; and
- (4) complies with all applicable requirements of this rule.

B. Any substantial change or significant alteration, as determined by the department, after designation as a landmark sign shall result in termination of the sign's landmark status.

[18.21.5.15 NMAC - Rp, 18 NMAC 21.5.12, 02/14/14]

18.21.5.16 DIRECTIONAL SIGN REQUIREMENTS:

A. Directional signs prohibited. The following signs are prohibited:

- (1) signs advertising activities that are illegal under federal or state laws in effect at the location of those signs or at the location of those activities;
- (2) 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 intersection traffic;
- (3) signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features;
- (4) obsolete signs;
- (5) signs which are structurally unsafe or in disrepair;
- (6) signs which move or have any animated or moving parts; and
- (7) signs located in safety rest areas, parklands or scenic areas.

B. Size requirement of directional signs. No sign shall exceed the following limits:

- (1) maximum area - one hundred fifty (150) square feet;
- (2) maximum height - twenty (20) feet; and
- (3) maximum length - twenty (20) feet.

C. Dimensions. All dimensions include border and trim, but exclude supports.

D. Lighting of directional signs. Signs may be illuminated, subject to the following:

- (1) signs, which contain, include, or are illuminated by any flashing, intermittent or moving light or lights are prohibited;
- (2) signs which are not effectively shielded so as to prevent beams or rays of light from being directed by any portion of the traveled way of an interstate system, NHS or primary system 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; and
- (3) no sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device or signal.

E. Spacing of directional signs.

- (1) Each location of a directional sign must be approved by the department.
- (2) No directional sign may be located within two thousand (2,000) feet of an interchange or intersection at grade along the interstate system or other freeways (measured along the interstate system 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).
- (3) No directional sign may be located within two thousand (2,000) feet of the safety rest area, parkland or scenic area.
- (4) No two directional signs facing the same direction of travel shall be spaced less than one (1) mile apart.
- (5) Not more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity.
- (6) Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity.
- (7) Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity.

F. Permitted content of directional signs. The content of directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers or exit numbers. Descriptive words or phrases, and pictorial or photograph representations of the activity or its environs are prohibited.

[18.21.5.16 NMAC - Rp, 18 NMAC 21.5.20, 02/14/14]

18.21.5.17 LANDOWNER PERMISSION: No outdoor advertising device shall be erected or maintained without documentation that the applicant or permit holder has the legal right to occupy or possess the site on which the outdoor advertising device is to be located or currently resides. Violation of this provision shall render the outdoor advertising device illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

[18.21.5.17 NMAC - N, 02/14/14]

18.21.5.18 MAXIMUM SIZE AND AREA LIMITATIONS:

A. The maximum area of the face of any outdoor advertising device, including any embellishments, extensions or add-ons, shall be eight hundred (800) square feet, except as otherwise provided in this rule. Length and height measurements shall include border and trim, but shall not include any ornamental base or apron support.

B. Exceptions to the maximum size and area limitations are:

- (1) stacked signs, which shall be limited to three hundred fifty (350) square feet per face;
- (2) directional signs, which shall be limited to a maximum area of one hundred fifty (150) square feet and no more than twenty (20) feet in any dimension;
- (3) public service signs, which shall be limited to thirty-two (32) square feet;
- (4) ranch/farm notices, service club notices and religious notices, which shall not exceed eight (8) square feet; and
- (5) CEVMS signs, which shall not exceed a maximum surface area of six hundred seventy-two (672) square feet per advertising face, with a maximum length of forty-eight (48) feet and a maximum height of fourteen (14) feet; length and height measurements shall include border and trim, but shall not include any ornamental base or apron support.

C. The areas shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the basic advertising face.

D. A sign may have two or more faces that are placed back-to-back, side-by-side, stacked, or in a “V” type construction with not more than two (2) faces presented in each direction, and each face must be separately permitted.

E. The maximum area of any single advertisement on a single face shall not exceed eight hundred (800) square feet, or, in the case of stacked signs, no more than three hundred fifty (350) square feet.

F. Two (2) sign faces presented in the same direction may be presented as one (1) face on legal conforming signs by covering both faces and the area between the faces with an advertisement, as long as the size limitations of Subsection A of this section are not exceeded.

[18.21.5.18 NMAC - Rp, 18 NMAC 21.5.13, 02/14/14]

18.21.5.19 MINIMUM SPACING REQUIREMENTS: For all signs other than directional signs and CEVMS signs.

A. Interstate systems and access-controlled freeways. No two (2) signs on the same side of the right-of-way shall be spaced less than five hundred (500) feet apart inside and outside villages and cities.

B. NHS or primary systems. Outside of incorporated villages and cities, no two (2) signs on the same side of the right-of-way shall be spaced less than three hundred (300) feet apart. Inside incorporated villages and cities, no two (2) signs on the same side of the right-of-way shall be spaced less than one hundred (100) feet apart.

C. Interstate systems, NHS and primary systems. Any sign adjacent to an interstate, NHS or primary system which is located within the control area of the interstate system must meet the minimum spacing requirements of the interstate system specified in Subsection A of this section.

D. Exceptions.

(1) On-premise, directional signs and official signs and notices or illegal signs within the right-of-way shall not be counted nor shall measurements be made from them for purposes of determining compliance with the five hundred (500), three hundred (300) or one hundred (100) foot spacing requirements.

(2) CEVMS signs shall comply with minimum spacing requirements contained in 18.21.5.13 NMAC.

E. Intersections, interchanges and safety rest areas. Outside of incorporated villages and cities, no sign shall be placed within five hundred (500) feet of an interchange, or an intersection at grade, or a roadside safety rest area on any portion of an interstate system or primary system which is an access-controlled highway. The five hundred (500) feet shall be measured from the beginning or ending of the pavement widening at the exit from the entrance to the main-traveled way. The minimum spacing requirement provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one (1) sign located within the minimum spacing requirement distance of this subsection is visible from the highway system at a time.

[18.21.5.19 NMAC - Rp, 18 NMAC 21.5.15 & 16, 02/14/14]

18.21.5.20 UNZONED COMMERCIAL OR INDUSTRIAL AREAS:

A. Measurements. An unzoned commercial or industrial area shall be measured from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and not from the property line of the activity, unless the property line and outer edge of the building, parking lots, storage or processing areas

of the activities coincide. Such measurements shall be along or parallel to the edge of the right-of-way on the same side of the highway as the sign site.

B. Temporary unzoned commercial or industrial areas. Buildings or open sales areas actively used for commercial or industrial activities for six (6) or more consecutive months shall qualify an area as an unzoned commercial or industrial area, provided a twelve (12) month business license for that activity is obtained from the local governing authority.

C. Simulated commercial activity. Buildings or activities constructed or initiated to simulate legitimate commercial or industrial activity but not constituting commercial or industrial activity, shall not be used as a basis for determining unzoned commercial or industrial areas.

D. Farming-agriculture and related activities. The following shall not constitute an unzoned commercial or industrial area:

- (1) use of feeder pens and dairy activities; and
- (2) roping arenas, rodeo grounds, or fair grounds, unless the activities are open to the public and are conducted continuously for six (6) consecutive months or more during each calendar year.

E. Municipal land ownership. Municipal property located in an area governed by these rules that is not zoned, whether within or outside city, town or village limits, must conform to these rules in every respect concerning the unzoned commercial or industrial area. This requirement also applies to signs intended to advertise the local community or local community services.

[18.21.5.20 NMAC - Rp, 18 NMAC 21.5.17, 18, 19, 40 & 41, 02/14/14]

18.21.5.21 LIGHTING RESTRICTIONS: Signs shall not be placed with illumination that interferes with the effectiveness of any official traffic sign or device. Signs shall not contain, include or be illuminated by flashing, intermittent or moving light or lights (except that part necessary to give public service information such as time, date, temperature, weather or similar information). The term flashing lights is not limited to actual lighting, and includes stationary and moving reflective disks and rotating slats that reflect light in a flashing or moving manner, and that create the effect of flashing or moving light. No sign shall cause beams or rays of light of such intensity or brilliance to be mistaken for a warning or danger signal as to cause glare or impair the vision of any driver's operation of a motor vehicle.

[18.21.5.21 NMAC - Rp, 18 NMAC 21.5.21, 02/14/14]

18.21.5.22 APPLICATION FOR SIGN PERMIT:

A. Permit required. No outdoor advertising device or face allowed under Subsections A, D, E, F and G of 18.21.5.8 NMAC may be erected or maintained unless the owner of the outdoor advertising device or face first obtains a permit for the device or face from the department. Exceptions to this requirement are:

- (1) signs on a piece of property giving notice that said specific land or improvements alone are offered for sale; generalized real estate signs are not excepted; and
- (2) on-premise signs that are in compliance with 18.21.5.12 NMAC.

B. Change in size, location or materials. Any change, reconfiguration, conversion to CEVMS, addition of lighting, or change in location or upgrade in size or materials of the outdoor advertising device shall require a new application. The outdoor advertising device shall match the permit description.

C. New highway construction. A permit will not be issued for a sign to be located along a new interstate system, NHS or primary system, until the system is accepted by the department and is open to traffic in accordance with federal and state law.

D. Application form. To obtain a permit for an outdoor advertising device a person shall first file an application with the department. A person may obtain an application by contacting the department at 505-827-5460 or accessing the department's website at www.dot.state.nm.us.

E. Contents of application and fee. An application for an outdoor advertising device permit shall contain:

- (1) the applicant's name, mailing address, telephone number, fax number and e-mail address;
- (2) a description and location of the outdoor advertising device;
- (3) documentation that the applicant has the legal right to possess and occupy the site upon which the outdoor advertising device will be located or currently resides; and
- (4) a non-refundable application fee of seven hundred fifty dollars (\$750) for changeable electronic variable message signs, or four hundred dollars (\$400) for all other outdoor advertising devices, except that directional sign applications need not be accompanied by a fee.

F. Completeness. When the department receives an application for an outdoor advertising device permit, the department shall check the application for completeness.

(1) If the application is not complete, the department shall contact the applicant for additional information. The applicant shall then have thirty (30) days from the date of contact to complete the application. If the applicant fails to complete the application within the thirty (30) days, the application shall be deemed denied.

(2) If the application is complete, the department shall review the application.

[18.21.5.22 NMAC - Rp, 18 NMAC 21.5.22, 23 & 29, 02/14/14]

18.21.5.23 ISSUANCE OF SIGN PERMIT:

A. Site review. In reviewing an application for an outdoor advertising device permit, the department shall conduct a site review and inspection to ensure that the description, location and other information contained in the application are in compliance with this rule.

B. Permit. If the site review and inspection results are satisfactory to the department, and all other applicable requirements, standards and specifications have been met, the department shall issue a permit and send an approval letter to the applicant. The department shall otherwise issue a denial letter stating the reasons for denial of the permit.

C. Term. The department shall issue a sign permit on a calendar year basis, January 1 through December 31; sign permits shall be valid from the date of their issuance until the following December 31.

D. Transfer permitted. A holder of a sign permit may transfer the permit to a new holder, upon filing with the department a transfer form signed by the current and future permit holders within ninety (90) days of the transfer of legal interest in the outdoor advertising device that is subject to the permit. The transfer form shall include any change of address and contact information, and a photocopy of any lease or sale agreement pursuant to such transfer. Any change in size, location, or materials of the outdoor advertising device shall require a new application.

[18.21.5.23 NMAC - N, 02/14/14]

18.21.5.24 RENEWAL OF SIGN PERMIT: Every permit shall be renewed annually and accompanied by a renewal fee in the amount of twenty-five dollars (\$25.00) for the calendar year. Effective January 1, 2015, the annual renewal fee for every permit shall be forty dollars (\$40.00). The department shall issue renewal invoices, which shall be paid within thirty (30) days of receipt. The failure to timely renew a permit shall render the permit invalid and subject to revocation. In that event, the sign shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

[18.21.5.24 NMAC - Rp, 18 NMAC 21.5.25, 02/14/14]

18.21.5.25 SIGN PERMIT TAGS:

A. Upon the approval of an application for a permit, the department shall issue a sign permit tag for the specific sign at a given location.

B. A sign permit tag shall be valid from the date of its issuance until the following December 31 unless otherwise notified by the department. Upon annual renewal of the permit pursuant to the provisions of 18.21.5.24 NMAC, the validity of the sign permit tag shall continue for that calendar year.

C. Permit tags are transferable with the ownership of signs, but shall not be relocated from one (1) site to another. A permit tag shall be issued to a specific sign at a specific location and shall not be transferred from one (1) location to another. Any change in size, location, or materials of the outdoor advertising device shall require a new permit tag.

D. Permit tags shall be displayed, legible and visible at all times. If a permit tag is lost or stolen, the sign owner shall contact the department for a replacement. There shall be a twenty-five (\$25) charge for each replacement.

E. Within thirty (30) days of issuance of the sign permit tag (one hundred twenty (120) days should the sign not be constructed at the date of such issuance), the sign permit tag shall be affixed to the sign on its face in the lower corner nearest the highway right-of-way line, or to the surface of the upright leg or pole of the sign nearest the right-of-way line.

[18.21.5.25 NMAC - Rp, 18 NMAC 21.5.24 & 27, 02/14/14]

18.21.5.26 SIGN OWNER NAME PLATES: All signs must have affixed the sign owner's name on a separate name panel of durable material fastened to the sign. A commercial sign company shall limit the name plate

to its trade name only, provided that the trade name is as indicated on all the company's outdoor advertising permit applications.

[18.21.5.26 NMAC - Rp, 18 NMAC 21.5.30, 02/14/14]

18.21.5.27 SIGN CONSTRUCTION TIME LIMITS: When a sign which is the subject of the issuance of a permit and tag is not erected at the date of such issuance, such sign must be erected within one hundred twenty (120) days after such issuance, with the tag properly affixed, or the permit and tag shall be void. Upon written request to the department, a one-time sixty (60) day extension to erect a previously permitted sign may be granted.

[18.21.5.27 NMAC - Rp, 18 NMAC 21.5.26, 02/14/14]

18.21.5.28 LOCAL ZONING AUTHORITIES: Local political subdivisions shall have authority under their own zoning laws to create zoned commercial or industrial areas, and the valid action of such local political subdivision in this regard will be accepted for the purposes of these rules. The department will not issue permits for the erection of new signs in areas where county and municipal zoning ordinances are in effect and which require a permit to be issued for such signs by the county or municipal authority, unless the applicant has received a local permit for the sign from the governmental authority promulgating such ordinances, and a photocopy of the approved local permit application or a letter granting approval is attached to the department's sign permit application. If the department determines that the local zoning does not amount to or come within a comprehensive zoning plan, or that it is created primarily to permit outdoor advertising devices, a permit for the erection of the outdoor advertising device shall be denied. In determining whether a zoning action is created primarily to permit outdoor advertising devices, the department may consider various factors, such as, but not limited to, the expressed reasons for the zoning change; the zoning for the surrounding area; the actual land uses nearby; the existence of plans for commercial or industrial development; the availability of utilities (such as water, electricity and sewage) in the newly zoned area; and the existence of access roads or dedicated access to the newly zoned area.

[18.21.5.28 NMAC - Rp, 18 NMAC 21.5.28, 02/14/14]

18.21.5.29 CUSTOMARY MAINTENANCE OF SIGNS:

A. Customary maintenance shall be performed on all permitted signs. For the purpose of this section, a sign owner shall be allotted six (6) months to restore and replace copy, at which time the department may give a thirty (30) day notice to the owner to revitalize the sign or remove it as an abandoned sign. If the owner fails to revitalize the sign or remove it as an abandoned sign within thirty (30) days, the permit shall be revoked and the sign shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

B. No sign owner shall erect, maintain, dismantle or remove any outdoor advertising device from or in the right-of-way of any interstate system, NHS or primary system. Any sign owner violating this subsection shall have the sign permit revoked whether or not the sign is conforming and such action shall render the sign illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

[18.21.5.29 NMAC - Rp, 18 NMAC 21.5.35, 02/14/14]

18.21.5.30 CUSTOMARY MAINTENANCE OF NON-CONFORMING SIGNS:

A. Customary maintenance of non-conforming signs may only include the following:

- (1) changing existing non-structural external light fixtures for energy efficiency;
- (2) replacing structural components with the same materials consistent with this rule, including replacement of poles, but only if not more than 1/2 of the total number of poles of the sign are replaced in any twelve (12) month period and the same material is used for the replacement poles;
- (3) nailing, cleaning and painting, and replacement of nuts and bolts;
- (4) changes in the advertisement; and
- (5) plumbing or leveling the structure.

B. Customary maintenance of non-conforming signs shall not include the following:

- (1) any increase in the size of the sign from the date of its non-conformance, or increasing the size or dimension of the sign face, or adding a face;
- (2) any structural change resulting in an increase in the sign's value; any such increase in value shall be deemed non-compensable should the sign be acquired by the department through the condemnation process;
- (3) adding CEVMS or other changeable message capability, except that gas price, lottery and other add-ons utilizing changeable message technology may be allowed where the use of that technology would not result

in a change to the physical structure of the outdoor advertising device, such as the addition of electrical or other power, including solar power, guy wires and bracing where the structure did not have such features at the time of its non-conformance, and where the gas price, lottery and other add-ons are included within the structure's copy;

- (4) adding lighting, attached or unattached, to a sign that previously did not have lights;
- (5) adding bracing, guy wires or other reinforcing devices;
- (6) changing the vertical support materials, such as replacing wooden supports with metal, or replacing I-beams with a monopole;
- (7) changing the configuration of the sign structure, such as changing a "V" sign to a stacked or back-to-back sign, or a single-face sign to a double face or back-to-back sign;
- (8) merging or consolidating multiple faces into a single face, whether on the same or separate outdoor advertising devices; and
- (9) except at the request of a governmental authority, removing and erecting the structure, or changing the physical location of the sign or the direction of the sign face.

C. A non-conforming sign destroyed by natural causes, such as, but not limited to, wear and tear, deterioration and weather, may not be reconstructed and its permit shall be revoked. Reconstruction shall render the sign a new structure and result in revocation of its permit and the sign shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

D. Non-conforming signs which have been destroyed due to vandalism and other criminal or tortious acts may be re-erected in kind.

E. For purposes of this section, "destroyed" means completely down, or where more than 50% of the upright supports of a sign structure are physically damaged such that normal repair practices of the industry would, in the case of wooden sign structures, require replacement of the broken supports, and, in the case of metal sign structures, require replacement of at least 25% of the length above ground of each broken, bent or twisted support. [18.21.5.30 NMAC - Rp, 18 NMAC 21.5.36, 02/14/14]

18.21.5.31 RIGHT-OF-WAY:

A. It is unlawful for any sign owner or his agents to damage the landscape of any right-of-way. These damages are more specifically described as follows:

- (1) cutting trees or vegetation on the right-of-way for the purpose of facilitating the readability of an outdoor advertising device;
- (2) damage to any landscaping, such as grass, shrubs, rocks, gravel or cement; or
- (3) damage to any improvements in the right-of-way such as fences, ditches and structures.

B. Access gates shall not be installed in any right-of-way or access control fencing, nor shall right-of-way or access control fencing be cut, altered or damaged in any way.

C. The sign owner shall reimburse the state for the costs of replacing any damaged improvements or features or for returning all features to their original condition, and the sign owner's permits shall be revoked for any signs involved in such acts and the involved signs shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

D. Any outdoor advertising device which has been erected in such a manner that all or part of the device encroaches into or upon the right-of-way of any interstate system, NHS or primary system, as defined by the Beautification Act, shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

E. Stopping or parking on the right-of-way of any access-controlled highway, or violation of the access control line to service any outdoor advertising device, is unlawful and may constitute grounds for revocation of the permit as to such outdoor advertising device. In the event of such revocation the outdoor advertising device which is the subject of the revoked permit shall be deemed illegal and non-compensable and subject to removal at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC.

F. If vegetation on the right-of-way must be cut or otherwise maintained for the purpose of facilitating the readability of an outdoor advertising device, the owner of the outdoor advertising device, or the permit holder or landowner shall contact the department's office of the district engineer for the district where the device is located and request cutting or other maintenance of the vegetation.

[18.21.5.31 NMAC - Rp, 18 NMAC 21.5.32, 37, 38 & 43, 02/14/14]

18.21.5.32 LOCATION VIOLATIONS: Any outdoor advertising device which has been erected and maintained under permit, but is at variance from the location set forth in the permit application, and which location

variation has not resulted from department's actions, may have its permit revoked and the sign deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of 18.21.5.33 NMAC. Where a location variation results from department's actions, the department's permit file may be amended to reflect the actual location of the outdoor advertising device.
[18.21.5.32 NMAC - Rp, 18 NMAC 21.5.32, 02/14/14]

18.21.5.33 REMOVAL OF SIGNS:

A. Compensable signs. Any outdoor advertising device that meets the requirements of Subsection A of Section 67-12-6 NMSA 1978 may be acquired by the commission by agreement or condemnation in the manner provided by law, with just compensation paid pursuant to Subsection B of Section 67-12-6 NMSA 1978.

B. Non-compensable signs. Any outdoor advertising device, which has been erected or maintained:
(1) in violation of the permit and permit fee requirements of the Beautification Act or this rule; or
(2) in accordance with all permit and permit fee requirements of the Beautification Act and this rule, but which violates the standards, specifications and requirements of the Beautification Act and this rule; shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of this section.

C. Notice. Any such removal under Subsection B of this section shall be preceded by notice via certified mail, to the owner of the outdoor advertising device and to the owner of the land upon which the device is located, if known, of the failure to conform and that if the device is not brought into conformity within thirty (30) days, the device must be removed within thirty (30) days or will be subject to removal by the department at the owner's expense. If the defects are not corrected and the outdoor advertising device is not removed within thirty (30) days after the date of notice, the department shall revoke the permit and the sign shall be deemed illegal and non-compensable and subject to removal by the department at the expense of the sign owner pursuant to the provisions of this section.

D. State immunity. Agents or employees of the department who remove illegal outdoor advertising devices in compliance with the Beautification Act and these rules shall be immune from criminal prosecution or civil liability for the injury, loss or destruction of any property which occurs in connection with the removal.

E. Interference. Landowners who interfere with the removal of signs from their property, preventing either the sign owner or the department from removing same, may be liable for the additional costs of removal associated with the landowner's interference.

[18.21.5.33 NMAC - Rp, 18 NMAC 21.5.31, 32, 33 & 34, 02/14/14]

18.21.5.34 PENALTIES FOR REPEATED VIOLATIONS:

A. In addition to the specific penalties set forth in this rule, the department may suspend permitting privileges if repeated violations by a permit holder, sign owner or landowner establish a pattern or practice of disregard for these rules, as determined by the department. A notification of such intent to suspend permitting privileges will be sent to the permit holder, sign owner or landowner stating the grounds upon which the proposed suspension is based.

B. Upon receipt of a notice of intent to suspend, the permit holder, sign owner or landowner shall have a right to a hearing before the department on whether the suspension should be imposed. To request a hearing, the permit holder, sign owner or landowner shall submit a written request within fourteen (14) days from the date of receipt of the notice.

C. The department shall assign a hearing officer within fifteen (15) days of receipt of the hearing request, and the hearing officer shall schedule a hearing within thirty (30) days of being assigned as hearing officer, and shall notify the requesting party of the time, date and place of the hearing.

D. The requesting party may present information orally and in writing at the hearing. The requesting party may at their own expense be represented by legal counsel.

E. After considering all written and oral views presented at the hearing, the hearing officer shall within thirty (30) days after the date of the hearing make a written explanation and determination and submit it to the department's chief engineer for consideration and final decision. Within thirty (30) days from the hearing officer's determination, the department's chief engineer shall make a final decision and the department shall furnish the requesting party with the final decision in writing.

F. A party aggrieved by the chief engineer's decision shall have the right to seek judicial review through the appropriate court system.

[18.21.5.34 NMAC - Rp, 18 NMAC 21.5.44, 02/14/14]

HISTORY OF 18.21.5 NMAC:

History of Repealed Material: 18 NMAC 21.5, Outdoor Advertising Requirements, filed 9/16/98 - Repealed effective 02/14/14.