STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 165 By: Loveless

COMMITTEE SUBSTITUTE

An Act relating to outdoor advertising; amending 69 O.S. 2011, Section 1273, as amended by Section 1, Chapter 269, O.S.L. 2013 (69 O.S. Supp. 2014, Section 1273) which relates to definitions for signs; modifying method of measuring right-of-way for signs; adding certain areas where signs shall not be located; amending 69 O.S. 2011, Section 1275, as amended by Section 13, Chapter 372, O.S.L. 2013 (69 O.S. Supp. 2014, Section 1275) which relates to standards for signs; modifying minimum distance between certain signs; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 2011, Section 1273, as last amended by Section 1, Chapter 269, O.S.L. 2014 (69 O.S. Supp. 2014, Section 1273), is amended to read as follows:

Section 1273. As used in this act:

(a) "Sign", "outdoor advertising" or "outdoor advertising device" means any outdoor sign, display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform,

but shall not include surface markers showing the location or route of underground utility facilities or pipelines or public telephone coin stations installed for emergency use.

(b) "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.

(c) "To erect" and its variants means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish. But these shall not include any of the foregoing activities when performed as incident to the change of advertising message or customary maintenance of the sign structure.

(d) "Unzoned commercial or industrial areas" means those areas which are not zoned by state or local law, regulation or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward six hundred (600) feet from and beyond the edge of such activity on both sides of the highway. Provided however, the unzoned area shall not include land on the opposite

side of an interstate or dual-laned limited access primary highway from the commercial or industrial activity establishing the unzoned commercial or industrial area or land on the opposite side of other federal-aid primary highways, which land is deemed scenic by an appropriate agency of the state.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of pavement of the highway. Such an area shall not include any area which is beyond six hundred sixty (660) feet from the nearest edge of the right-of-way. In unzoned commercial or industrial areas signs shall not be located:

(1) Within three hundred (300) feet of any building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use or uses to be made of such lands;

(2) Within five hundred (500) feet of any of the following: public park, garden, recreation area or forest preserve, church, school and officially designated historical battlefield~~; or~~

~~(3) Beyond six hundred sixty (660) feet from the nearest edge of the right-of-way~~.

(e) "Commercial and industrial activities" means those activities, clearly visible from the main traveled way, generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(1) Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands;

(2) Outdoor advertising structures;

(3) Transient or temporary activities;

(4) Activities more than six hundred sixty (660) feet from the nearest edge of the right-of-way;

(5) Activities conducted in a building principally used as a residence; and

(6) Railroad tracks and minor sidings.

(f) "Official signs" means signs and notices erected and maintained by public officers or public agencies within their territorial jurisdiction and pursuant to and in accordance with direction or authorization contained in federal or state law for the purposes of carrying out an official duty or responsibility.

(g) "Informational signs" means signs containing directions or information about public places owned or operated by federal, state or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, 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.

(h) "On-premise activities signs" means signs advertising activities conducted upon the property on which the signs are located.

(i) "On-premise-sale or lease signs" means signs advertising the sale or lease of property on which they are located.

(j) "Interstate highway" means any highway at any time officially designated a part of the National System of Interstate and Defense Highways by the Department and approved by the appropriate authority of the federal government.

(k) "Primary highway" means the Federal-aid Primary System in existence on June 1, 1991, and any highway which is not on that system but is on the National Highway System.

(l) "Centerline of the highway" means a line equidistant from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a nondivided highway.

(m) "Adjacent area" or "control area" means the area which is adjacent to and within six hundred sixty (660) feet of the nearest edge of the right-of-way on any interstate or primary highway within urban areas, which six hundred sixty-foot distance shall be measured horizontally along a line perpendicular to, or ninety (90) degrees

to, the centerline of the highway. Outside of urban areas, adjacent area or control area means the area which is visible from the main traveled way on any interstate or primary highway.

(n) "Business area" means any part of a control area which is:

(1) Within six hundred sixty (660) feet of the nearest edge of the right-of-way and zoned for business, industrial or commercial activities under the authority of any state zoning law, or city or county zoning ordinance of this state; or

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

(o) "Department" means the Department of Transportation of the State of Oklahoma.

(p) "Maintain" means to hold or keep in a state of efficiency or validity, to support or sustain, by cleaning or repairing the sign or changing the message on its face.

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

(r) "License" means the privilege to do business in the State of Oklahoma having been granted by an official agency.

(s) "Permit" means the privilege to erect a sign or signs in an individual location within the State of Oklahoma having been granted by an official agency.

(t) "License fee" means the monetary consideration paid for the privilege of doing business in the State of Oklahoma.

(u) "Permit fee" means the monetary consideration paid for the privilege of erecting a sign or signs in a specific location within the State of Oklahoma.

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

(w) "Relocation permit" means a permit issued pursuant to the provisions of subparagraph (d) of paragraph (3) of Section 1275 of this title. A relocation permit shall have precedence over any municipal or county restriction that interferes with the intended purpose of providing a method and opportunity to minimize the cost of acquiring legally erected outdoor advertising signs by the Department.

SECTION 2. AMENDATORY 69 O.S. 2011, Section 1275, as last amended by Section 13, Chapter 372, O.S.L. 2013 (69 O.S. Supp. 2014, Section 1275), is amended to read as follows:

Section 1275. After April 15, 1968, signs which are to be erected in a business area shall comply with the following standards:

1. General. Signs shall not be erected or maintained which:

   a. imitate or resemble any official traffic sign, signal or device, or

   b. are erected or maintained upon trees or painted or drawn upon rocks or other natural features;

2. Size.

   a. Signs shall not be erected which exceed one thousand two hundred (1,200) square feet in area, per facing, including border and trim, nor shall signs be erected which exceed twenty-five (25) feet in height nor sixty (60) feet in length, excluding apron, supports and other structural members.

   b. The maximum size limitations shall apply to each sign facing. Two signs not exceeding six hundred (600) square feet each may be erected in a facing, side by side or "doubledecked". Back-to-back and/or V-type signs will be permitted, and shall be treated as one structure with one thousand two hundred (1,200) square feet permitted for each, if the sign structures or facings are physically contiguous, or connected by the same structure or cross bracing, or located not more

than fifteen (15) feet apart at their nearest point nor more than thirty (30) feet apart at their widest point in the case of back-to-back or V-type signs. However, nothing in this section shall be construed to allow tri-faced signs;

3. Spacing.

a. Signs shall conform to all applicable building codes and ordinances of the municipality, county or state, whichever has jurisdiction as set forth in Section 1272 of this title, except as provided for in subparagraph d of this paragraph.

b. Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.

c. Signs visible from a nonfreeway primary highway shall not be erected within the limits of an incorporated municipality less than one hundred (100) feet on the opposite side of the highway and three hundred (300) feet on the same side of the highway, and outside the limits of an incorporated municipality less than three hundred (300) feet, from another such sign, other than signs described in subsections (a), (b) and (c) of

Section 1274 of this title, unless separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time; provided, however, that this shall not prevent the erection of double-faced, back-to-back, or V-type signs with a maximum of two signs per facing, as permitted by paragraph 2 of this section. Signs visible and intended to be read from interstate and freeway primary facilities shall not be erected less than one thousand (1,000) feet from another such sign on the same side of such facilities, other than signs described in subsections (a), (b) and (c) of Section 1274 of this title. Outside incorporated municipalities, signs visible and intended to be read from interstate and freeway primary facilities shall not be erected adjacent to or within five hundred (500) feet of an interchange, intersection at grade, or rest area, on the same side of such facilities such distance to be measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way. Signs may not be located within five hundred (500) feet of any

of the following which are adjacent to any interstate or federal-aid primary highway: public parks; public forests; playgrounds; or cemeteries. Provided, however, the Transportation Commission shall promulgate rules pursuant to the Administrative Procedures Act governing the measurement methodology to be prospectively utilized by the Department when determining spacing between outdoor advertising signs, displays and devices and public parks, public forests, playgrounds and cemeteries. Provided further, any measurement methodology heretofore utilized by the Department, including but not limited to the straight-line method, shall be accepted by the Department without prejudice. Provided further, the Department shall be prohibited from altering a permit classification or revoking any outdoor advertising license, which was properly obtained at the time of issuance, based upon a change of internal agency policy, agency interpretation of law or promulgation of rules. Provided further, a sign location that was permitted in compliance with the spacing requirements of this section in effect prior to the effective date of this act, but which does not comply with the spacing requirements of this section as amended after

the effective date of this act, shall maintain its current legal status; provided it complies with all other permitting requirements as set forth by the Transportation Commission.

d. For the purpose of providing a method and opportunity to minimize the cost of acquiring legally erected outdoor advertising signs, the Director of the Department of Transportation shall have the option to approve the issuance of permits for outdoor advertising signs visible from a roadway subject to the regulatory control of the Department of Transportation which ~~are to~~ may be erected less than ~~one thousand (1,000) feet~~ current spacing distances from another such sign. Permits issued pursuant to this option shall be only for the purpose of providing a relocation site for a sign being taken by the state and shall not violate federal spacing regulations. Provided, when the Department issues a permit pursuant to this subsection to accommodate the relocation of a structure:

(1) if the structure to be removed is visible from a roadway subject to the regulatory control of the Department inside an incorporated area, the relocation site shall be inside the same

incorporated area and shall be visible from a roadway subject to the regulatory control of the Department, and

(2) if there are not suitable relocation sites meeting the provisions of division 1 of this subparagraph and the structure to be removed is visible from a roadway subject to the regulatory control of the Department, notwithstanding the provisions of division 1 of this subparagraph, the Department may issue a permit for a relocation site outside of the incorporated area, provided the relocation site is either in a contiguous county thereto or the same Transportation Commission District, which shall be visible from a roadway subject to the regulatory control of the Department.

Provided further, the square footage of display face on the relocated sign shall not exceed the square footage of display face of the taken sign. The relocated sign shall maintain the same legal status as existed prior to relocation; provided it complies with all other permitting requirements set forth by the Transportation Commission and no other permits shall be required. The Transportation Commission shall have

the authority to promulgate rules necessary to implement the use of the permit option provided for in this subsection and to request the cooperation of municipalities where local permits are required.

e. Notwithstanding any other provision of law, the Department of Transportation shall, after determining the need to acquire property upon which outdoor advertising structures are located, have the authority to negotiate directly with the owner of the outdoor advertising structure the terms for maintaining such structures in their current position or for the relocation of such structures. Such negotiations may begin prior to the Department's initiation of formal condemnation proceedings and shall be completed prior to a jury award in a condemnation proceeding. The Department of Transportation retains its right to require the removal of the sign structure improvement effective as of the payment by the Department in the amount awarded by the court-appointed commissioners pursuant to applicable law. Nothing in this section shall be construed to prevent the owner of the land from pursuing a claim of interest in any lease existing between the landowner and the outdoor advertising structure owner, or to prevent the outdoor

advertising structure owner from pursuing a claim for fair market value of the owner's interest if negotiations with the Department for a lease or structure relocation arrangement are not successful;

4. Lighting.

a. Signs shall not be erected which contain, include, or are illuminated by any flashing, intermittent, revolving or moving light, except on-premise signs and those giving public service information such as, but not limited to, time, date, temperature, weather or news. Steadily burning lights in configuration of letters or pictures are not prohibited.

b. Signs shall not be erected or maintained which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle.

c. Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device, or signal, or imitate or may be confused with any such official traffic sign, device or signal.

d. Provided, however, nothing in this section shall be construed to prohibit the erection or maintenance of signs which include the steady illumination of sign faces, panels or slats that rotate to different messages in a fixed position, commonly known as tri-vision faces or multiple message signs; provided, the rotation of one sign face to another is no more frequent than every eight (8) seconds and the actual rotation process is accomplished in four (4) seconds or less; and

5. Vegetation Management.

a. For the purpose of minimizing costs to the Department for the removal, cutting, or trimming of trees or vegetation on a public right-of-way to make visible or ensure future visibility of the facing of a permitted outdoor advertising sign, the Department is authorized to establish a process for an outdoor advertising permit holder to conduct vegetation management activities within a specific area surrounding the permit holders' outdoor advertising device.

b. The Department shall promulgate rules prescribing the scope of such vegetation management activities and any requirements it deems necessary to monitor such activities.

SECTION 3. This act shall become effective November 1, 2015.

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