

CHAPTER 117
OUTDOOR ADVERTISING

[Prior to 6/3/87, Transportation Department[820]—(06,O) Ch 5]

761—117.1(306B,306C) Definitions. The definitions in Iowa Code section 306C.10 are adopted. In addition:

“Abandoned sign” means an advertising device for which the owner has failed to timely apply for the required outdoor advertising permit(s) or has failed to timely pay the required fee(s).

“Area zoned and used for commercial or industrial purposes” means an area zoned for commercial or industrial purposes in accordance with Iowa Code chapter 414, in the case of city zoning, or in accordance with Iowa Code chapter 335, in the case of county zoning, in which one or more commercial or industrial activities, as defined under the city or county zoning ordinance, are located.

“Billboard control Act” means Iowa Code chapter 306C, division II.

“Bonus Act” means Iowa Code chapter 306B.

“Daylight area” means a triangular area formed by a line connecting two points each back (50 feet in city, 100 feet in unincorporated area) from the point where the right-of-way lines of the main traveled way and an intersecting street meet or would meet if extended.

“Destroyed” means that at least 60 percent of the supports are broken, if wooden, or broken, bent or twisted, if metal, such that normal repair practices would call for the replacement of the damaged supports.

“Development directory sign” means the same as defined in rule 761—117.15(306C).

“Directional and official signs and notices” means official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

“Directional sign” means a sign governed by 761—Chapter 120.

“Face” means that part of an advertising device that is devoted to the display of advertising and that is visible to traffic proceeding in any one direction.

“Interchange” means the entire area constructed for a junction of two or more public streets or highways by a system of separate levels that permit traffic to pass from one level to another without the crossing of traffic streams. This includes all acceleration and deceleration lanes constructed to accommodate this movement of traffic.

“Lease” means an agreement, oral or written, by which possession or use of land or interests therein are given by the owner or other person to another person for a specified purpose.

“LED display” means a face, as defined herein, displaying a message that is formed by light emitting diodes and that is changed by an electronic process. An LED display is a single face.

“Modification” means any addition to or change in dimensions, lighting, structure or advertising face, except as incidental to the customary maintenance of an advertising device.

1. A change in the number or type of support posts is a modification. A change in dimensions is a modification. However, the addition of extensions or cutouts, including forward projecting, is not a modification if the extensions or cutouts are added for a period of 90 days or less and if they are illuminated only by existing sign lighting and do not contain internal lighting.

2. A lawful change in advertising message is not a modification. The use of a vinyl overlay or wrap on either a poster panel or paint unit is a change in advertising message, not a modification.

3. On an advertising device that conforms to all current requirements, the replacement of one metal-framed face with another metal-framed face of the same size, using dissimilar component parts or assembly methods, or both, is not a modification.

4. The addition of LED display capabilities to an advertising device is a modification.

5. The elimination of trim surrounding the area used for advertising copy is not a modification, provided the advertising copy retains the same dimensions as the original advertising copy.

“Nonconforming sign” means an advertising device that was lawfully erected and continues to be lawfully maintained, but that does not comply with current requirements due to changed conditions, such as a change in zoning, establishment of a new highway, or a similar change that affects compliance.

“Obsolete sign” means an advertising device displaying information pertaining to activities that are no longer conducted or products or services that are no longer available at the advertised location.

“Official sign or notice” means a sign or notice lawfully erected and maintained by a city, county or public agency within its territorial or zoning jurisdiction for the purpose of carrying out an official duty or responsibility.

“On-premises sign” or *“on-property sign”* means an advertising device advertising the sale or lease of, or activities being conducted upon, the property where the sign is located. The criteria to be used to determine if an advertising device qualifies as on-premises signing, excluding development directory signing, include but are not limited to the following:

1. A sign that consists solely of the name of the establishment or that identifies the establishment’s principal or accessory products or services offered on the property is an on-premises sign.

2. An on-premises sign must be located on the same property as the advertised activity or the same property as that advertised for sale or lease. A subdivided property may be considered to be one property if all lots remain under common ownership and all lots share a common, private access to public roads. However, if any lot in the subdivided property is sold or disposed of in any manner, that lot will be considered to be separate property.

3. Contiguous lots or parcels of land may be considered to be one property for outdoor advertising control purposes provided they are owned or leased by the same party. To be considered one property, all contiguous lots or parcels of land must also be used for a purpose related to the advertised activity other than signing.

4. An on-premises sign shall not be located on a narrow strip of land that cannot reasonably be used for a purpose related to the advertised activity other than signing.

5. An on-premises sign is limited to advertising the property’s sale or lease, or identifying the activities located on or products or services available on the property.

6. An advertising device is not an on-premises sign if it consists principally of brand- or trade-name advertising and either the product or service advertised is only incidental to the establishment’s principal products or services or the advertising brings rental income to the property owner. “Principally” means 50 percent or more of the display area of the sign.

7. An on-premises sign concerning the sale or lease of property shall not display the legend “sold” or “leased” or a similar message.

“Public utility sign” means a warning or informational sign, notice or marker that is customarily erected and maintained by a publicly or privately owned utility to mark the location of a utility facility.

“Regularly used” means open for business and staffed by an owner or employee for at least 20 hours per week, on property assessed as commercial or industrial by the jurisdiction having authority; the hours of operation must be visibly posted on the premises. The department may delay action on the permit application for up to 180 days from the date of the application in order to conduct periodic checks on the site as necessary to determine whether the purported commercial or industrial activity meets this definition. A rental storage business is excepted from the staffing requirement if it has 24-hour access for customers and a minimum of 50 units, each occupying at least 50 square feet, individually separated, and enclosed by walls.

“Scenic area” means any area of particular scenic beauty or historical significance, as determined by the federal, state or local officials having jurisdiction of the area. It includes real property interests that have been acquired for the restoration, preservation and enhancement of scenic beauty.

“Service club or religious notice” means a sign displaying a message that is limited to the name of a nonprofit service club, charitable association, church or religious group or cemetery, the location and hours of its meetings or services or the hours it is open to the public, and an appropriate emblem.

“Tri-face device” means an advertising device with three singular faces attached to one common structure in a triangular configuration. The maximum area of any face is 750 square feet. The inside angle formed by any two faces may not exceed 60 degrees.

“Tri-vision device” means an advertising device that has an advertising face with a mechanical device that allows three advertising messages to be alternately visible to traffic proceeding in any one

direction. Each message is attached to individual vertical or horizontal louvers, which are mechanically rotated to change the message.

“*Widening*” means the point at which it is detectable that a deceleration or exit ramp is beginning to form alongside the main traveled way, or an acceleration or merging ramp has tapered to a close alongside the main traveled way. In the case where an entrance ramp becomes an auxiliary lane and the auxiliary lane becomes an exit ramp at the adjacent interchange, the widening shall be the point at which a deceleration ramp completely separates from the main traveled way as evidenced by the inside lane marking of such ramp, or an acceleration ramp joins with the main traveled way as evidenced by the inside lane marking of the ramp intersecting with the outside lane marking of the main traveled way.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.2(306B,306C) General provisions.

117.2(1) Scope. This chapter of rules pertains to all advertising devices which are visible from the main traveled way of any primary highway, with the following exceptions:

a. Within incorporated areas, this chapter does not apply to advertising devices which are beyond 660 feet from the nearest edge of the right-of-way.

b. Except where specified otherwise, this chapter does not apply to official traffic control devices, logo signing, tourist-oriented directional signing, or private directional signing.

117.2(2) Contact information. Inquiries, requests for forms, and applications regarding this chapter shall be directed to the Advertising Management Section, Traffic and Safety Bureau, Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

117.2(3) Unauthorized signs, signals, or markings. Any sign, signal, marking or device prohibited by Iowa Code section 321.259 is a public nuisance and shall be removed by the department if it is within the department’s jurisdiction.

117.2(4) Advertising devices obstructing the view of a highway or railway. Any advertising device that obstructs the view of any portion of a public highway or railway track in violation of Iowa Code subsection 318.11(2) or 657.2(7) is a public nuisance, which shall be abated as provided in Iowa Code chapter 657.

117.2(5) Advertising devices within the right-of-way. Any advertising device placed or erected within the right-of-way of any primary highway in violation of Iowa Code chapter 318 is subject to removal in the manner specified in Iowa Code chapter 318.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.3(306B,306C,306D) General criteria. The department shall control the erection and maintenance of advertising devices, subject to the provisions of these rules, in accord with the following criteria:

117.3(1) Prohibition. Advertising devices shall not be erected, maintained or illuminated unless they comply with the following:

a. No advertising device shall attempt or appear to attempt to direct the movement of traffic.

b. No advertising device shall interfere with, imitate or resemble any official sign, signal or device.

c. No advertising device subject to the more restrictive controls of the bonus Act shall move or have any animated or moving parts.

d. No advertising device shall be erected or maintained upon trees, painted or drawn upon rocks or other natural features.

e. No off-premises advertising device shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. No on-premises sign located within the adjacent area of an interstate highway but outside an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C), shall include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, weather and news. Any variation or addition to the stated service information is subject to department approval. This paragraph does not prohibit an LED display, provided:

(1) Each change of message is accomplished in one second or less.

(2) Each message remains in a fixed position for at least eight seconds.

(3) No traveling messages (e.g., moving messages, animated messages, full-motion video, scrolling text messages) or segmented messages are presented.

f. No lighting shall be used in any way in connection with any advertising device unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of any highway, or is of such low intensity or brilliance as to not 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. This paragraph does not prohibit an LED display provided the light intensity presented does not exceed that allowed for other illuminated displays.

g. No advertising device subject to the more restrictive controls of the bonus Act shall be obsolete.

h. No advertising device shall be in a state of disrepair or illegible for a period of time exceeding 90 days.

i. Advertising devices shall be securely affixed to a substantial structure.

j. No advertising device subject to the more restrictive controls of the bonus Act shall advertise activities which are illegal under federal or state laws in effect at the location of those activities or at the location of the sign.

k. An advertising device shall comply with all applicable state and local laws, regulations and ordinances, including but not limited to zoning, building and sign codes as locally interpreted and applied and enforced, which may be stricter than this chapter.

l. No off-premises advertising device may be erected within the adjacent area of any primary highway that has been designated a scenic highway or scenic byway if the advertising device will be visible from the highway. However, if the off-premises advertising device was in existence at the time of the designation, subsequent permitting may occur in accordance with Iowa Code section 306C.18.

m. An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if the advertising device is visible from the main traveled way of any primary highway except for on-premises signs and official signs and notices.

117.3(2) *Measurements of distance.* Distance from the edge of a right-of-way shall be measured horizontally along a line normal or perpendicular to the centerline of the highway. All other measurements of distance shall be measured horizontally between points on a line parallel to the highway centerline.

117.3(3) *Measurement of area.* The area of an advertising device shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire display area including border and trim, but excluding temporary cutouts and extensions, base, apron, support, and other structural members.

117.3(4) *Zoning exclusions.*

a. A zone in which limited commercial or industrial activities are permitted incidental to other primary land uses is not a commercial or industrial zone for advertising control purposes.

b. Action which is not a part of comprehensive zoning in accordance with Iowa Code chapter 335 or Iowa Code chapter 414 is not a commercial or industrial zone for advertising control purposes.

c. Action taken primarily to permit advertising devices is not a commercial or industrial zone for advertising control purposes.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.4(306B,306C) Interstate special provisions for on-premises signs. This rule applies to on-premises signs located within the adjacent area of any interstate highway, except those areas exempt from control under Iowa Code section 306B.2(4).

117.4(1) *Interstate on-premises signs (restricted).* Within the adjacent area of any interstate highway not more than one on-premises sign, visible to traffic proceeding in any one direction on any one interstate highway, advertising activities conducted upon the real property where the sign is located, may be erected or maintained more than 50 feet from the advertised activity. Such on-premises signs more than said 50 feet shall be subject to the permit provisions of rule 117.6(306C).

117.4(2) *Interstate on-premises signs (for sale or lease).* Within the adjacent area of any interstate highway, not more than one on-premises sign advertising the sale or lease of the same property upon which the sign is located may be permitted in such a manner as to be visible to traffic proceeding in any one direction on any one interstate highway.

117.4(3) *Interstate on-premises size limitations.* An on-premises sign within the adjacent area of an interstate shall be no larger than 20 feet in length, width or height and 150 square feet in area. However, an on-premises sign advertising activities conducted within 50 feet of the sign is exempt from these size limitations. This exemption does not apply to a sign advertising the sale or lease of property where the sign is located.

117.4(4) *Interstate on-premises signs (unrestricted).* Within the adjacent area of any interstate highway, on-premises signs advertising activities conducted within 50 feet of the sign, located upon the same real property where the sign is located, are not subject to regulations as to number of signs, size, or spacing; however, for the purpose of determining the 50-foot distance, the limits of the advertised activity shall be determined as follows:

a. When the advertised activity is a business, commercial or industrial land use, the distance shall 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.

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance shall be measured from the major structures or areas used in furtherance of the advertised activities.

117.4(5) *Interstate advertising devices not subject to control until July 1, 1972.* Rescinded IAB 8/4/04, effective 9/8/04.

761—117.5(306B,306C) Location, size and spacing requirements. This rule does not apply to on-premises signs.

117.5(1) *Advertising devices lawfully in existence prior to July 1, 1972.*

a. An advertising device that was lawfully in existence prior to July 1, 1972, and is visible from any primary highway, including a device located beyond the adjacent area in unincorporated areas, may remain in existence without conforming to subrule 117.5(5) as long as the device otherwise conforms to all other applicable statutory and regulatory requirements. The permit provisions of rule 761—117.6(306C) apply.

b. If the advertising device is located in an adjacent area which is neither a zoned nor an unzoned commercial or industrial area, the device may remain in existence as described in paragraph “a” of this subrule only until such time as the device is acquired by the department. The permit issued for the device will be a provisional permit. See subrule 117.6(3) and rule 761—117.9(306B,306C).

117.5(2) *Advertising devices lawfully in existence prior to July 1, 1972, beyond 660 feet from the right-of-way.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(3) *Abandoned signs.* Abandoned signs which do not comply with these rules shall be removed by the department without compensation regardless of when erected.

117.5(4) *Advertising devices lawfully in existence prior to July 1, 1972, within adjacent areas neither zoned nor unzoned commercial or industrial.* Rescinded IAB 11/27/02, effective 1/1/03.

117.5(5) *Advertising devices erected after July 1, 1972.* Except as otherwise provided in this chapter, an advertising device which is visible from the main traveled way of any primary highway shall not be erected after July 1, 1972, or subsequently maintained within the adjacent area unless the advertising device complies with the following:

a. Permit required. A current permit from the department is required for the erection or subsequent maintenance of the advertising device.

b. Commercial or industrial area.

(1) An advertising device visible from the main traveled way of an interstate highway must be located within an area zoned and used for commercial or industrial purposes, as defined in rule 761—117.1(306B,306C); within 750 feet of the regularly used portion of a commercial or industrial activity visible from the main traveled way; and on the same, individual, platted parcel of land as that

commercial or industrial activity. The commercial or industrial activity must be one defined under the city's or county's, as applicable, zoning ordinance.

(2) An advertising device visible from the main traveled way of a noninterstate primary highway must be located within a commercial or industrial zone or an unzoned commercial or industrial area, as defined in Iowa Code section 306C.10.

c. Spacing within city—interstate and freeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 250 feet of another advertising device when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway in, or within 250 feet of an interchange or rest area. The 250 feet shall be measured from the nearest point of widening for a lane constructed for the purpose of acceleration or deceleration of traffic movement to or from the main traveled way to the advertising device. The measurement shall be taken parallel to the centerline of the main traveled way and shall be taken from whichever point of widening extends the furthest from the interchange.

d. Spacing outside city—interstate and freeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from an interstate or a freeway-primary highway:

(1) The advertising device shall not be located within 500 feet of another advertising device when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the adjacent area on either side of the highway in, or within 250 feet of an interchange or rest area. The 250 feet shall be measured from the nearest point of widening for a lane constructed for the purpose of acceleration or deceleration of traffic movement to or from the main traveled way to the advertising device. The measurement shall be taken parallel to the centerline of the main traveled way and shall be taken from whichever point of widening extends the furthest from the interchange.

e. Spacing within city—nonfreeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 100 feet of another advertising device when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches, exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right-of-way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

f. Spacing outside city—nonfreeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from a nonfreeway-primary highway:

(1) The advertising device shall not be located within 300 feet of another advertising device when both are visible to traffic proceeding in any one direction.

(2) The advertising device shall not be located within the daylight area. However, if a building is located within the daylight area, a wall advertising device may be attached to the building provided the device does not protrude more than 12 inches exclusive of catwalk and lights. No part of a catwalk or lights may overhang the right-of-way. The permit for the advertising device shall be revoked if the building the device is attached to is removed.

g. Spacing—signs separated by a building. The distance and spacing requirements of subparagraphs “c”(1), “d”(1), “e”(1), and “f”(1), above, shall not apply to advertising devices which are separated by a building in such a manner that only one advertising device located within the minimum spacing distance is visible from a highway at any one time.

h. Spacing—measurement of distance. The minimum distance between two advertising devices visible to traffic proceeding in the same direction shall apply without regard to the side of the highway on which the advertising devices may be located and shall be measured along a line parallel to the centerline of the highway between points directly opposite the advertising devices. When a sign is visible and subject to control from more than one primary highway, it must meet spacing requirements along each route.

i. Spacing—rural area next to incorporated area.

(1) In a rural area next to an incorporated area, the first rural sign placement shall be no closer than the rural spacing requirement measured from the point where the corporation line intersects the centerline or from the point where a line normal or perpendicular to the centerline of the highway intersects the first unincorporated area within the adjacent area to a point directly opposite the first potential sign location.

(2) In those areas where the adjacent area on one side of the highway is incorporated and on the opposite side of the highway all or part of the adjacent area is not, the spacing on both sides of the highway, except for daylight spacing, shall be regulated by the rural or unincorporated area spacing requirements.

j. Signs not considered when determining spacing. Directional and other official signs and notices and on-premises advertising devices shall not be taken into consideration in determining compliance with spacing requirements.

k. Sizes and types. Only the following types of advertising devices are permitted: single-face, side-by-side, double-deck, tri-vision, back-to-back, v-type, and tri-face.

(1) The multiple faces or panels of an advertising device must be contiguous or on a common structure. Side-by-side configurations are contiguous if the faces are not more than two feet apart and they are owned by the same permit holder. Side-by-side configurations must be on the same vertical and horizontal planes.

(2) A maximum of one face of an advertising device may be visible to traffic proceeding in any one direction. An advertising device other than a tri-face device may have no more than two faces.

(3) For an advertising device with one face, the maximum display area of the face is 1200 square feet. This applies to single-face, side-by-side, double-deck and tri-vision devices. For permit purposes, side-by-side and double-deck configurations are considered one face with the surface areas combined into one square footage.

(4) For an advertising device with two or more faces, the maximum display area of each face is 750 square feet. This applies to back-to-back and v-type devices (which have two faces) and tri-face devices (which have three faces).

(5) Each message on a tri-vision device must be displayed for a minimum of four seconds and the transition between messages must be completed in two seconds.

l. Spacing—transition to freeway-primary highway. As a segment of a noninterstate primary highway changes to a freeway-primary highway, the first freeway-primary highway sign placement shall be no closer than the freeway-primary highway spacing requirements measured along a line parallel to the centerline from a point opposite the point where the centerline of the highway and centerline of the at-grade crossing intersect to a point opposite the first potential sign location. See the appendix for an illustration of this spacing requirement.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.6(306C) Outdoor advertising permits and fees required. The owner of an advertising device must apply to the department for an outdoor advertising permit if the device is visible from the main traveled way of any primary highway and the device is regulated by subrule 117.4(1) or rule 761—117.5(306B,306C).

1. If an advertising device was in existence on July 1, 1972, application for a permit must have been made on or before July 31, 1972.

2. After July 1, 1972, the owner of an advertising device must obtain a permit from the department prior to the erection of the advertising device.

3. If an advertising device that was lawfully erected later becomes subject to these rules due to an event such as, but not limited to, a change in zoning, the establishment of a new highway or a change in the designation of a highway, the owner of the advertising device shall apply to the department for an outdoor advertising permit within 30 days after the event that made the device nonconforming. A nonconforming advertising device that complies with the permit provisions of rule 117.6(306C) may remain in existence without being in compliance with subrule 117.5(5) as long as the device otherwise complies with all other applicable statutory and regulatory requirements.

117.6(1) Application. Application for a permit shall be made in accordance with Iowa Code section 306C.18.

a. A permit is required for each face of an advertising device; thus, a permit application must be submitted for each face. Three permits are required for a tri-face device if all three faces are visible from the main traveled way of a primary highway.

b. A copy of the current lease shall be submitted upon application for a permit.

c. Any intentional falsification or misrepresentation of information in the application or renewal process shall result in immediate denial or revocation of the permit.

117.6(2) Fees. Fees are applicable to all advertising devices measuring over 32 square feet in size.

a. The initial fee, payable at the time of application, is \$100 per permit. This fee is not refundable unless the application is withdrawn prior to the department's field review of the proposed location.

b. The annual renewal fee for each permit, due on or before June 30 of each year, is as follows:

<u>Area of Sign</u>	<u>Annual Renewal Fee</u>
33 to 375 square feet	\$15
376 to 999 square feet	\$25
1000 square feet or more	\$50

For tri-vision signs, the area shall be calculated by multiplying the area of the face by three.

(1) The renewal fee is not refundable.

(2) Failure to timely pay the annual renewal fee when due shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device as an abandoned sign.

c. Fees shall not be prorated.

d. If an outdoor advertising permit is revoked, any permit fee paid is forfeited.

117.6(3) Permits to be issued.

a. The department shall issue an outdoor advertising permit in accordance with Iowa Code section 306C.18. Permits shall not be transferrable to other advertising devices or to other locations.

b. An advertising device that was lawfully in existence prior to July 1, 1972, and is located within an adjacent area which is neither a zoned nor an unzoned commercial or industrial area shall be issued a provisional permit and annual renewals thereof upon timely application and payment of the required fees, until such time as the department acquires the advertising device. See rule 761—117.9(306B,306C).

c. The department shall not prevent nor unnecessarily delay the issuance of a permit for the reason of a proposed future highway improvement project, except under any of the following conditions:

(1) The property upon which the advertising device is proposed has been appraised for the purposes of acquisition.

(2) Contact by department staff has been made with the property owner regarding compensation for the affected area.

(3) The placement of the advertising device would fail to meet the requirements of an existing corridor preservation plan in effect for the proposed location.

(4) A construction contract for the project has been initiated by the department.

117.6(4) Permit plate.

a. Upon approval of the application, the department shall issue a metal permit plate for the advertising face.

b. The owner of the advertising device shall securely attach the plate to the advertising face at the bottom corner nearest the main traveled way or to the support structure immediately below the bottom corner. If these locations do not permit unobscured display of the permit number, the permit plate shall be attached to another prominent area of the advertising device. The permit number shall not be obscured when viewed from the main traveled way.

c. The owner of an advertising device is responsible for replacing a permit plate that is missing or illegible. To obtain a replacement, the owner shall apply to the department and pay a \$10 fee.

d. If the department notifies the owner of the advertising device that a permit plate is not properly displayed, the owner shall within 90 days of notification either correct the situation or secure and display a replacement permit plate. Failure to properly display a permit plate after the 90-day period has expired shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1).

117.6(5) *New permit required for reconstruction or modification.* A new permit is required from the department prior to the reconstruction or modification of an advertising device subject to the permit provisions of this rule.

a. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee.

b. A reconstructed or modified advertising device is subject to the provisions of this chapter as if it were a new advertising device.

c. Reconstruction or modification of an advertising device prior to the issuance of the required permit shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1).

d. Rescinded IAB 4/7/99, effective 5/12/99.

117.6(6) *One year to erect advertising device.* The permit for an advertising device that has not been erected within one year after the date the permit was issued shall be revoked. After revocation, a new permit is required. To obtain a new permit, the owner of the advertising device shall submit a new application to the department, accompanied by the initial application fee and a copy of the current lease.

117.6(7) *Access.* Access to the private property upon which an advertising device is located shall be gained from highway right-of-way only at access points designated or allowed by the department in accordance with 761—Chapter 112. An initial violation of this requirement by or on behalf of the permit holder shall result in the department sending a written warning by certified mail to the permit holder. A second violation of this requirement shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1). If a permit is revoked for an access violation, the permit holder is ineligible to apply for a permit for at least 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(8) *Destruction of vegetation.* Without the written authorization of the department, vegetation growing on the highway right-of-way shall not be cut, trimmed, removed, or in any manner altered or damaged to improve the visibility of an advertising device. Violation of this prohibition by or on behalf of the permit holder shall result in revocation of any permit that has been issued for the advertising device and removal of the advertising device in the manner specified in subrule 117.8(1). If a permit is revoked for destruction of vegetation, the permit holder is ineligible to apply for a permit for 12 months after revocation for any location within 500 feet of the revoked permit's sign location.

117.6(9) *Blank sign.*

a. A blank sign is:

(1) An advertising device that has had a face physically removed.

(2) An advertising device that does not display copy. "This space for rent" or a similar message is not copy.

(3) An advertising device that qualifies as an obsolete sign.

b. A blank sign shall not remain in blank status for a period of time exceeding six months.

c. If the department determines that an advertising device has been blank for a period of time exceeding six months, the department shall issue a notice pursuant to rule 761—117.8(306B,306C) in which the owner has 30 days to either cause it to conform or to remove it.

117.6(10) Destroyed sign.

a. The permit for an advertising device which has been destroyed shall be revoked.

b. An advertising device which has been destroyed is in a condition which, if repaired, would meet the definition of reconstruction in Iowa Code section 306C.10 and is subject to subrule 117.6(5).

c. An advertising device which has been damaged, but not destroyed, may be repaired. The repair shall not be deemed an act of reconstruction.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.7(306C) Official signs and notices, public utility signs, and service club and religious notices.

117.7(1) Official signs and notices. Official signs and notices shall comply with applicable state law, local ordinance or administrative authority.

117.7(2) Public utility signs. Public utility signs shall be erected no larger than required to adequately convey the necessary message and only at such places as are required to adequately mark the location of the utility.

117.7(3) Service club and religious notices. Service club and religious notices may be placed upon private property with the permission of the land owner provided the notice complies with the definition of “service club or religious notice” in rule 761—117.1(306B,306C), complies with the general criteria of rule 761—117.3(306B,306C,306D), and does not exceed eight square feet in area.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.8(306B,306C) Removal procedures. The department shall cause to be removed every advertising device illegally erected or maintained and every abandoned sign.

117.8(1) Removal of illegal and abandoned advertising devices. In accordance with Iowa Code sections 306B.5 and 306C.19, an advertising device erected or maintained in violation of Iowa Code chapter 306B or 306C or these rules is a public nuisance and may be removed by the department upon 30 days’ notice, by certified mail, to the owner of the advertising device and to the owner of the land on which the advertising device is located.

a. The notice shall require the owner of the advertising device to remove the advertising device if it is prohibited, or to cause it to conform to the provisions of these rules if it is not. The department may revoke a permit issued for the advertising device as part of the same notice, in which case, the notice shall be served by restricted certified mail or by personal service.

b. If the advertising device has not been removed or made to conform with the provisions of these rules, the advertising device is deemed to be forfeited and the department may enter upon the land and remove the advertising device, aided by injunction to abate the nuisance and to ensure peaceful entry, if necessary.

c. Costs of removal, including fees and costs or expenses as may arise out of any action brought by the department to ensure peaceful entry and removal, shall be assessed against the owner of the advertising device. Should the owner of the advertising device fail to pay such fees, costs, or expenses within 30 days after assessment, the department may commence an action to collect them.

d. The advertising device may be used, scrapped, dismantled, or otherwise destroyed or disposed of by the department as it sees fit.

e. No compensation shall be paid to the owner of any advertising device which is illegally erected or maintained.

117.8(2) Removal from right-of-way and other state-owned property. The department shall remove advertising devices erected upon the right-of-way of any primary highway; see subrule 117.2(5). Unauthorized advertising devices erected upon other property owned by the state of Iowa are subject to removal by the agency, board, commission or department having control or jurisdiction of the property.

[ARC 2645C, IAB 8/3/16, effective 9/7/16]

761—117.9(306B,306C) Acquisition of advertising devices that have been issued provisional permits.

117.9(1) The department will acquire an advertising device for which a provisional permit has been issued only if all of the following conditions are met:

- a. Acquisition is required by federal law.
- b. All necessary federal and state funding is available for the purpose.
- c. The permit has not been revoked.

117.9(2) If the advertising device will be acquired, the department will use the following procedure:

a. The department shall mail or deliver to the owner of the advertising device and to the owner of the land upon which the device is located a written notice of the department's intent to revoke the provisional permit and acquire the device. The notice shall include an offer to purchase the advertising device. If good-faith negotiations with the owner of the device and the owner of the land upon which the device is located do not result in a mutually agreeable sale price, the department shall revoke the provisional permit and initiate condemnation proceedings as provided in Iowa Code chapter 6B.

b. In the event of condemnation, the department will take possession of the advertising device as soon as the award has been deposited with the sheriff.

761—117.10(17A,306C) Contested cases.

117.10(1) An applicant who has been denied an outdoor advertising permit by the department may contest the decision in accordance with 761—Chapter 13. The request for a contested case hearing shall be submitted in writing to the director of the traffic and safety bureau at the address in subrule 117.2(2). The request shall be deemed timely submitted if it is delivered or postmarked within 30 days of the department's mailing of the letter denying the application.

117.10(2) The owner of an outdoor advertising permit which has been revoked or canceled by the department may contest the decision in accordance with 761—Chapter 13. The request for a contested case hearing shall be submitted in writing to the director of the traffic and safety bureau at the address in subrule 117.2(2). The request shall be deemed timely submitted if it is delivered or postmarked within 30 days of the owner's receipt of the revocation notice issued by the department.

117.10(3) Failure to timely request a hearing on the denial, revocation, or cancellation of a permit is a waiver of the right to a hearing and a failure to exhaust administrative remedies.

[ARC 2645C, IAB 8/3/16, effective 9/7/16; ARC 4984C, IAB 3/11/20, effective 4/15/20]

761—117.11 to 117.14 Reserved.

761—117.15(306C) Development directory signing.

117.15(1) Definition. "Development directory sign" means a type of on-premises sign displaying a message that is limited to the names of two or more businesses located within a commercial or industrial development. The sign may also display the name of the development. The sign must be located within the limits of the development but may be located anywhere within the development regardless of land ownership.

117.15(2) Limitation. Each business within the development is limited to its name appearing on not more than two development directory signs visible to traffic proceeding in any one direction on any primary highway.

117.15(3) Commercial or industrial development. A development directory sign must be located within a commercial or industrial development. For the purposes of this rule, a commercial or industrial development is a single premises that meets all of the following requirements:

- a. All of the lots, regardless of whether they are individually owned, are contiguous, except for roadways or driveways providing access to lots or common areas within the development.
- b. No part of the development is separated from another part by a primary highway.
- c. The development is approved for the establishment of commercial or industrial activities by an authorized governing authority, and is occupied by commercial or industrial activities. The term "commercial or industrial activities" is defined in Iowa Code section 306C.10.

d. The development is subject to a common development and common use plan that provides for common areas such as sidewalks, roadways, parking, storage, and service areas, to which all businesses within the development have irrevocable shared use and shared property rights, and for which they have irrevocable shared obligations.

e. The development operates through an association or other entity, actively managed and maintained, through which all lot owners have irrevocable rights and obligations with respect to the development and its common areas.

f. The development and the businesses within the development present themselves to the public as a common development through signage or other marketing efforts.

g. The common areas of the development have necessary and true value to the regular operations of the businesses within the development, and were created for purposes other than establishing eligibility for development directory signing.

[ARC 2645C, IAB 8/3/16, effective 9/7/16]

These rules are intended to implement Iowa Code chapters 306B and 306C and section 306D.4, 23 U.S.C. 131, and 23 CFR 750.705(h).

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¹ Two or more ARCs

² Spacing—Transition to Freeway-Primary Highway diagram replaced with a clearer image.

Spacing--Transition To Freeway-Primary Highway

