

Notice of Proposed Rule

DEPARTMENT OF TRANSPORTATION

RULE NOS.: RULE TITLES:

14-10.003 Licenses

14-10.004 Permit

14-10.0041 Annual Renewal Billing - Licenses and Permits

14-10.007 Maintenance of Nonconforming Signs

PURPOSE AND EFFECT: To clarify language and update requirements for outdoor advertising licenses and permits.

SUMMARY: These amendments update forms to be used for licensing and permitting of outdoor advertising signs. The rules reflect statutory changes to allow reduced spacing for signs along the interstate with local government authorization and the ability to suspend, instead of revoke outdoor advertising licenses for violations. Rule provisions have been reorganized and edited for clarity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: License costs are established by statute and have not been increased within these rule provisions.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 120.60, 215.34, 334.044(28), 339.05, 479.02, 479.04, 479.05, 479.07, 479.106, 479.11, 479.24 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Schwartz, Assistant General Counsel, Florida Department of Transportation, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458, (850)414-5392, susan.schwartz@dot.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

14-10.003 Licenses.

(1) Outdoor Advertising License Required.

(a) A person or entity is considered to be in the business of outdoor advertising and is required to have an outdoor advertising license if that person or entity ~~is receives compensation from constructing, erecting, operating, using,~~ maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements.

(b) Persons or entities solely engaged in the following advertising their own businesses and contractors who construct signs under contract to outdoor advertising licensees or permittees, are exempt from the licensing requirement :

1. Advertising their own business or businesses; or

2. Erecting or constructing signs.

(2) Application Form. An application for a license to engage in the business of outdoor advertising shall be made on an Outdoor Advertising License Application, Form 575-070-02, Rev. 08/15 ~~10/06~~, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05974>.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 120.60, 215.34(2), 334.044(28), 339.05, 479.02, 479.04, 479.05, 479.07 FS. History—(Formerly part of Rule 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.03, Amended 6-28-98, 8-19-01, 1-25-04, 12-31-06, 10-3-10, _____.

14-10.004 Outdoor Advertising Permit Applications, Criteria , and Permit Issuance.

(1) Applications. An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 6/15 ~~02/09~~, incorporated herein by reference at

<https://www.flrules.org/Gateway/reference.asp?No=Ref-05475> to the address listed in paragraph 14-10.0011(2)(a), F.A.C. Each application for a sign permit shall meet the requirements of Chapter 479, F.S., this rule chapter, and the 1972 Federal-State Agreement, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05479>. In the event of a conflict between a provision in the 1972 Federal-State Agreement and a provision of Chapter 479, F.S., the more restrictive provision shall apply.

(a) through (c) No change.

2. Applications submitted with payment that will become void within 30 days from the Department receipt will be returned as incomplete.

3.2- Applications containing incorrect information will be denied.

4.3- Incomplete sign permit applications will be returned to the applicant along with any sign permit fees submitted with the application.

5.4- Completion of, or corrections to, the original submitted document must be initialed by the applicant on the original application.

6. 5- Pursuant to Section 479.07(3)(b), F.S., the written statement from the landowner must have been issued to the applicant, or on behalf of the applicant. If a lease document is submitted as the statement from the landowner, the applicant must be the named lessee, or the document must be accompanied by a properly executed transfer of the leasehold rights to the applicant. The written statement must:

a. through d. No change.

(2) Application status. Complete applications will be either approved or denied within 30 calendar days of receipt by the Department unless an earlier application for that site or a competing site is under review, the applicant is seeking a vegetation management permit, or removal of a conflicting sign is pending.

(a) No change.

(b) No change.

(c) When a permit application is received for a new sign site where vegetation management is required pursuant to Section 479.106, F.S., the permit will not be issued until the applicant has been issued a vegetation management permit by the Department in accordance with Rule ~~14-40.030~~, 14-10.057, F.A.C., ~~and has removed two nonconforming signs~~. A permit shall not be issued to an applicant for a location at which unpermitted cutting, removal, or trimming of vegetation has occurred until such time as payment of the administrative penalty and mitigation as required by Rule ~~14-40.030~~, 14-10.057, F.A.C., and Section 479.106(7), F.S., respectively, have been ~~collected~~ accomplished and the applicant has surrendered two nonconforming signs ~~for surrender~~ in accordance with Section 479.106(5), F.S. ~~If a permit is granted where the applicant has stated that no cutting, removal, or trimming of vegetation is required to create a view zone for the sign, the permittee may only maintain the view existing at the time the sign permit is issued.~~

(d) No change.

(3) Reduced Spacing on Interstates. For applications to be considered for a sign with between 1000 feet and 1500 feet of spacing from the nearest outdoor advertising sign along an interstate in accordance with Section 479.07(9)(c), F.S., in addition to the requirements of subsection (1) of this section, the applicant must submit:

(a) A copy of the local government adopted policy, ordinance, or other official document authorizing the placement of a new outdoor advertising sign along an interstate highway, in exchange for the removal of an existing sign from areas specifically designated by the local government; and

(b) A copy of the agreement between the local government and the sign owner allowing such removal and replacement.

(4) Size. Each sign facing shall not exceed 30 feet in height. Each sign facing shall not exceed 60 feet in length. Advertising copy shall not exceed 950 square feet for all sign faces. Embellishments shall not extend more than five feet beyond the permanent sign face, and are included in any measurement of the height, width, or area of the sign facing.

(5) Number of Sign Faces. There shall be no more than two faces showing at one time for each sign facing.

(6) Location. Signs shall not located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device.

(7) Spacing. The distance between a proposed sign and the nearest permitted sign shall be measured along the edge of pavement of the main-traveled way from the location marked by the applicant to the location of the permitted sign. For signs that are permitted, but not constructed, the milepost location reflected in the permitted sign's application shall be used. Measurement along the edge of pavement shall be from a point perpendicular to a tangent on the edge of the main-traveled way nearest the location of the sign.

(a) For V-type, or back-to-back signs, to be considered one sign for spacing purposes, the sign facings must either be connected by the same sign structure or cross-bracing, or the sign structures must be not more than fifteen feet apart at their nearest point.

(b) Official signs, signs exempt from permitting under Section 479.16, F.S., and structures that are not permitted signs shall not be considered in determining compliance with spacing requirements.

(c) The width of any intersections will be included in the measured distance between signs. This distance is measured in a direct line from the points of intersection of the edges of the main-traveled way.

(d) No sign permit shall be issued for a sign to be located on the interstate highway system, which is outside the boundaries of an incorporated municipality and within 500 feet of an interchange, intersection at grade, or rest area. The distance shall be measured along the interstate in the direction leading away from the interchange, intersection at grade, or rest area beginning at the pavement widening of the exit from the main-traveled way, or at the end of pavement widening of the entrance to the main-traveled way. For the purpose of this subsection, all portions of an interchange between the points of pavement widening of the entrance and exit ramps of the same interchange shall be considered part of that interchange.

(e) When a sign or proposed sign is, or would be located within the controlled area and visible from any portion of the main-traveled way of more than one highway subject to the jurisdiction of the Department, pursuant to Section 479.07(1), F.S., the sign shall meet the permitting requirements of all highways, and be permitted to the roadway with the stricter controls.

(8) Sign Structure Height. The height of a sign structure shall be measured from the elevation of the crown of the main-traveled way to which the sign is permitted to the top of the highest sign face, excluding embellishments.

(9) Lighting. Signs shall not be illuminated by flashing, intermittent, or moving lights. Signs shall not be illuminated so that it interferes with the effectiveness of or obscures, an official traffic sign, device, or signal.

(10)(3) Changeable messages – Signs may have A permit shall be granted for an automatic changeable facing provided:

(a) The static display time for each message is at least six seconds;

(b) The time to completely change from one message to the next is a maximum of two seconds or, if messages are displayed digitally, the message must change instantaneously.

(c) The change of message occurs simultaneously for the entire sign face; and

(d) The application meets all other permitting requirements.

(d)(e) All signs with changeable messages shall contain a default design that will ensure no flashing, intermittent message, or any other apparent movement is displayed should a malfunction occur.

(11) Outside an incorporated area, signs will not be permitted within 100 feet of the property line of a cemetery, public park, public reservation, public playground, or state or national forest. For schools and churches outside an incorporated areas, signs will not be permitted within 100 feet of the outer edges of the primary building or primary building complex when the individual units of the complex are connected by covered walkways.

(12)(4) Changes to Roadway Designations.

(a) A sign existing at a location which was not previously subject to the permitting requirements of Chapter 479, F.S., and this rule chapter, but has subsequently become subject to the requirements due to changes in the jurisdictional designation of highways, shall be granted a conforming or non-conforming state permit in accordance with the process outlined below:

1. through 3. No change.

4. The Department shall issue an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, to the sign owner shall submit a completed application as provided in above subparagraph (1) upon receipt of a complete Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, together with all items required pursuant to Section 479.07(3)(b), F.S. The For existing signs, the written statement required by Section 479.07(3)(b), F.S., shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in the application writing that the local government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed. If land use information is not provided in accordance with Section 479.024, F.S., but all other permit requirements are met, the Department shall classify the sign as non-conforming upon permit issuance.

(b) through (c) No change.

(13) Upon Department verification that an application meets the requirements of Chapter 479 and this rule chapter, the Department will issue an Outdoor Advertising Permit and a permit tag to the applicant.

~~(14)(5) Posting of Tags. The permanent metal permit tag issued by the Department must be posted at the sign site within 30 calendar days of issuing the sign permit and must remain in place at all times, whether or not a sign has been erected, or a previously erected sign has been removed. If a permit tag is lost, stolen, or destroyed, the permittee must apply to the Department for a replacement tag on Outdoor Advertising Permit Tag Replacement Request, Form 575-070-01, Rev. 06/15 06/09, incorporated herein by reference at <https://www.flrules.org/Gateway/reference.asp?No=Ref-05477> and shall include a replacement fee of \$12.00 per tag. Alternatively, the permittee may provide its own replacement tags pursuant to Section 479.07(5)(b), F.S., provided all of the fabrication specifications listed below are met.~~

~~(a) 6 inch x 12 inch constructed of durable material;~~

~~(b) Coated with 5-year white reflective sheeting;~~

~~(c) Embossed black text as follows:~~

~~1. The left vertical edge of the tag shall read FLA SIGN PERMIT in 5/8 inch characters;~~

~~2. The top horizontal alpha characters shall be embossed toward the FLA text and will be in 2 and 15/16 inch characters;~~

~~3. The vertical legend of three numbers located under the alpha characters shall be 2 and 15/16 inch characters.~~

~~(d) The letters and numbers of the replacement tag must be identical to the tag being replaced.~~

~~(e) When a permittee elects to provide its own tag, the permittee shall notify the Department that they will replace the tag within 30 days of notification that the tag is not properly displayed. The new tag shall be posted at the permitted location within 60 days of the department's notification.~~

~~(6) Transfer of Permits. Requests to transfer a permit pursuant to Section 479.07(6), F.S., shall be submitted on an Outdoor Advertising Permit Transfer Request, Form 575-070-25, Rev. 10/06, incorporated herein by reference.~~

~~(a) The recipient of the transferred permit shall certify that written permission from the landowner, or other person in lawful control of the sign site, to maintain the sign on the site pursuant to Section 479.07(2), F.S., has been secured.~~

~~(b) If a transfer of permit is made when the permit has been determined to be in violation of Chapter 479, F.S., or this rule chapter, or if a revocation proceeding is pending, the permit is subject to conditions existing at the time of transfer. The Department's approval of a permit transfer shall not constitute a waiver of rights on the part of the Department, nor shall a permit transfer in any way prohibit the issuance of notices of violation, or preclude the Department from revoking the transferee's permit pursuant to Section 479.08, F.S., or this rule chapter.~~

~~(c) If a transfer of sign permit is made during the initial 270 days from the date of permit issuance, the permit transferee receives the sign permit subject to all conditions which were applicable to the original applicant.~~

~~(7) Cancellation of Permits. Permit cancellation notification must be submitted on Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 10/06, incorporated herein by reference. All canceled tags must be returned to the Department with the certification, or otherwise be accounted for in writing.~~

~~(8) Conditional Permit Cancellation. When an applicant requests cancellation of one permit in order to obtain a new permit, the existing permit shall be canceled simultaneously with the issuance of the new permit. Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 10/06, incorporated herein by reference, and Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, shall be submitted simultaneously to the Department. If a new permit does not meet current permitting requirements and cannot be issued, the existing permit will not be canceled.~~

~~(9) Permits Canceled, or Not Renewed, in Error — Petition for Reinstatement. Pursuant to Section 479.07(8)(b), F.S., a petition for reinstatement of permits canceled, or not renewed, in error shall be submitted to the State Outdoor Advertising License and Permit Office. The petition must be in writing, list the affected permit(s), and shall certify that:~~

~~(a) The permit was canceled, or not renewed, in error by the permittee;~~

~~(b) The permit tag for the canceled or expired permit was returned to the Department or otherwise accounted for;~~

~~(c) The sign has not been disassembled; and~~

~~(d) The local government has not declared the sign illegal or taken any other action to have it removed.~~

~~If the Reinstatement Petition is denied by the Department, a new permit may be issued for a sign only if the sign meets all current permitting requirements. The reinstatement fee is \$200.00 for a sign facing of 200 square feet or less, and \$300.00 for a sign facing greater than 200 square feet.~~

~~(10) Reestablishment. Where the expansion or relocation of a transportation facility causes a sign to be located in the right of way, or within fifteen feet of the right of way, and the permittee desires to reestablish the sign at a conforming location, the Department shall allow the reestablishment of the sign in conformance with the following:~~

~~(a) The permittee must submit a completed application for the reestablished sign site pursuant to Section 479.07(3), F.S.~~

~~(b) The reestablished sign site shall meet all current requirements for permitting.~~

~~(11) Relocation. Where a Department project causes a nonconforming sign to be located in the right of way, the Department shall allow the relocation of the sign provided all requirements of Sections 479.15(3), (4), (5), (6), F.S., are met. The relocated sign must be of the same materials, size and configuration as the original.~~

(15) Changes made to the Department's inventory, maintained in accordance with Section 479.02(8), F.S., to reflect physical characteristics of a sign or sign facing existing at the time of an inventory update shall not create a waiver or constitute forgiveness of any violation of Chapter 479, F.S.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented ~~215.34~~, 334.044(28), 339.05, ~~479.01(14)~~, 479.02, 479.04, 479.07, 479.106(5), 479.11, 479.24 FS. History--(Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, 8-19-01, 1-25-04, 3-15-05, 12-31-06, 4-2-09, 10-3-10, _____.

14-10.0041 Annual Renewal Billing – Licenses and Permits.

(1) All licenses and sign permits expire annually and shall be renewed pursuant to Section 479.07(8), F.S.

(2) Annual renewal of a license shall include the annual license fee, and the fees for all sign permits being renewed by the licensee. Acceptance by the Department of renewal fees for a suspended license or a sign permit against which a violation notice has been issued, or which may be issued, shall not constitute waiver by the Department of any right to pursue remedies for the violation.

(a) Any of the following shall result in the return of submitted fees to the applicant, and shall constitute nonpayment:

1.-2. No change

3. Failure to submit complete transfer forms affidavits and transfer fees for any sign permits being transferred. (b) No change.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 479.02, 479.07 FS. History--New 6-28-98, Amended 8-19-01, 10-3-10, _____.

14-10.007 Maintenance of Nonconforming Signs.

(1) through (3) No change.

(4) A nonconforming sign may not be disassembled, or in a state of being no longer erect and then re-erected at the same location except as provided in paragraph ~~(5)~~ ~~(6)~~(a), below.

~~(5) A nonconforming sign may not be relocated, except to a conforming location.~~

~~(5)~~~~(6)~~ A nonconforming sign may continue to exist so long as it is not destroyed, abandoned, or discontinued. "Destroyed," "abandoned," and "discontinued" have the following meanings:

(a) through (b) No change.

Rulemaking Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9) FS. History--New 3-28-77, Amended 12-18-77, 1-1-86, Formerly 14-10.07, Amended 6-28-98, 8-10-99, 8-19-01, 11-27-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Jessee, Manager, Outdoor Advertising

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jim Boxold, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 25, 2014