

TITLE 105 INDIANA DEPARTMENT OF TRANSPORTATION

Notice of Public Comment Period For Interim Rule

LSA Document #24-319

RELOCATION PERMITS

PURPOSE OF NOTICE

The Indiana Department of Transportation (INDOT) is soliciting public comment on rules to be temporarily superseded regarding permits for relocating outdoor advertising signs. INDOT seeks comment on the affected citations listed and any other provisions of Title 105 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Governor's Approval dated August 14, 2024: 20240904-IR-105240319GAA

Regulatory Analysis: 20240904-IR-105240319RAA

CITATIONS AFFECTED: 105 IAC 7-4-2; 105 IAC 7-4-13; 105 IAC 7-4-15; 105 IAC 7-4-24

AUTHORITY: IC 8-23-2-6; IC 8-23-20-25; IC 8-23-20-25.7; IC 8-23-20.5-6

OVERVIEW

Basic Purpose and Background

The proposed interim rule adds definitions related to relocating outdoor signs required due to an INDOT project, clarifies the activities not considered an alteration to a nonconforming sign, and outlines permit procedures for relocating the signs.

After June 19, 2022, INDOT met with stakeholders regarding proposed emergency rules and accepted comments. INDOT filed an emergency rule August 2, 2022, amending 105 IAC 7-4-2, 105 IAC 7-4-13, and 105 IAC 7-4-15, and adding 105 IAC 7-4-24, effective August 15, 2022.

Statement Justifying Requirement or Cost

The proposed interim rule augments the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, at the state level. The proposed interim rule benefits the outdoor advertising industry by ensuring that procedures will be in place so members of the industry can efficiently seek benefits they may be entitled to receive under House Enrolled Act 1262-2022 whenever an outdoor advertising sign is impacted by a state project, while also ensuring that INDOT will not violate the Uniform Relocation Act. The proposed interim rule does not add or increase any fees, fines, or civil penalties.

REQUEST FOR PUBLIC COMMENT

INDOT is soliciting public comment on the proposed interim rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #24-319 Relocation Permits
Kirstie Andersen
Indiana Department of Transportation
100 North Senate Avenue, Room N758—Legal Services
Indianapolis, IN 46204

(2) By email to kiandersen@indot.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than October 4, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis and Statement Justifying Requirement or Cost, and materials incorporated by reference (if applicable) are on file at the Indiana Department of Transportation, 100 North Senate Avenue, Room N758, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis and Statement Justifying Requirement or Cost are available at the Indiana Department of Transportation office.

PROPOSED INTERIM RULE

SECTION 1. (a) This SECTION supersedes 105 IAC 7-4-2.

(b) The definitions in this SECTION apply throughout this document.

- (1) "Abandoned" means using a sign face on a nonconforming sign has stopped for at least twelve (12) continuous months.
- (2) "Adjacent area" means any area:
 - (A) next to and within six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route; or
 - (B) more than six hundred sixty (660) feet of the nearest edge of the right-of-way of a control route, if a sign would be:
 - (i) outside an incorporated municipality;
 - (ii) visible from the main-traveled way of the control route; and
 - (iii) erected with the purpose of being read from the main-traveled way.
- (3) "Applicant" means a person or an entity submitting an application to receive a permit for a sign.
- (4) "Back-to-back sign" means a sign with two (2) sign faces, attached on each side of the structure and facing opposite directions of travel at a single location.
- (5) "Changeable message sign" has the meaning set forth in IC 8-23-1-14.3.
- (6) "Commissioner" means the commissioner of the department or the commissioner's designee.
- (7) "Comprehensive zoning plan" means a zoning plan or ordinance adopted by a local governmental entity under state law that covers the entire area under that entity's jurisdiction.
- (8) "Conforming sign" means a sign that meets all the current criteria in 23 U.S.C. 131* effective July 1, 2018, 23 CFR 750.708* effective July 1, 2018, IC 8-23-20, and this document for erecting a new sign.
- (9) "Control route" means any road in Indiana that is:
 - (A) part of the interstate system;
 - (B) part of the federal-aid primary system as of June 1, 1991;
 - (C) a scenic byway; or
 - (D) part of the national highway system to include intermodal connectors.

The list of control routes is set forth in 105 IAC 7-4-9(a).

- (10) "Customary maintenance or repair on a nonconforming sign" means any activity or maintenance for not more than twenty-five percent (25%) of the nonconforming sign performed within twelve (12) months, for the purpose of the nonconforming sign remaining in its existing approved physical configuration and size dimensions at the specific location in the records of the department, but only if the activity is not intended to extend the nonconforming sign's normal life.
- (11) "Damaged" means a nonconforming sign that, to be structurally restored to its existing approved physical configuration and size dimensions, requires substantial repair beyond customary maintenance or repair on a nonconforming sign, but the sign is not destroyed.
- (12) "Department" refers to the Indiana department of transportation established by IC 8-23-2-1.
- (13) "Destroyed" means a nonconforming sign is physically damaged to the point that, to be structurally restored to its existing physical configuration and size dimensions, requires the following:
 - (A) For wooden supports, replacement or structural repair using normal repair practices of at least fifty percent (50%) by item count of the supports during the repair period. Wooden supports must be replaced with wooden supports.
 - (B) For metal supports, repair or replacement under normal repair practices during the repair period of:
 - (i) at least fifty percent (50%) of the supports by item count; or
 - (ii) replacing at least thirty percent (30%) of the total length above ground of each broken, bent, or twisted support being repaired or replaced;or both items (i) and (ii). Replacing a metal support with a larger or thicker metal support is prohibited.
 - (C) For the face or structure, repair or replacement under normal repair practices during the repair period of at least fifty percent (50%) of the face or structure by area. The repaired sign must remain at the original location.
- (14) "Directional and other official signs and notices" has the meaning set forth in IC 8-23-1-20.
- (15) "Discontinued" means the lack of advertising, other than obsolete or blank advertising, or advertising of the permittee or indicating the sign is for rent, on a sign face of a nonconforming sign for at least twelve (12) continuous months.

(16) "Electronic permitting system" means the electronic means for submitting and evaluating a permit application used by the department.

(17) "Federal-aid primary system as of June 1, 1991" has the meaning set forth in 23 CFR 658.5* effective July 1, 2018.

(18) "Historic Michigan Road Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins in Jefferson County at the Madison-Milton Street, West Street, and Michigan Road, proceeding left off West Street onto Michigan Road, then north through the S.R. 62 intersection to the U.S. 421 intersection and turn left (north) onto U.S. 421 and continue north to Ripley County. In Ripley County, there is a divergence of original Michigan Road route and early 1900s Michigan Road "auto trail" route - both part of the state designation. To follow the original route, at the intersection with Old Michigan Road turn left, straight through New Marion, straight through at U.S. 50, straight through at Dabney until route ends at County Road 850 N. and then turn right and then immediately left onto U.S. 421, proceeding until at Napoleon cross S.R. 229 continuing straight through. To follow the "auto trail" route, at S.R. 129 go straight through, then in Versailles at U.S. 50 turn left to stay on U.S. 421 and where U.S. 50 and U.S. 421 diverge, stay on U.S. 421, then at Osgood continue straight through and at Napoleon and S.R. 229 continue straight through until, in either case, reaching Decatur County. In Decatur County, turn left where road ends at S.R. 46, then in Greensburg at the courthouse square, turn right onto Franklin Street, then at North Street, turn left, then at Jackson Street turn right and then immediately make a slight left onto Michigan Street where U.S. 421 rejoins the route, then at S.R. 3 continue straight through, then U.S. 421 exits to follow I-74, stay on Michigan Street, then at St. Omer continue straight through, then at Middletown continue straight through until reaching Shelby County. In Shelby County, at E. County Road 425 S., slight right onto this original one-lane alignment of the road, then Old U.S. 421, slight left, then turn left when road ends at S.R. 44, then in Shelbyville at S.R. 9 turn right and drive around the Public Square, staying on S.R. 9, then at Michigan Road turn left and pass over I-74 and then turn left on Michigan Road, then turn left when road ends at London Road (County Road 700 West), and immediately left again onto I-74 West (I-74 was built on top of Michigan Road for a few miles starting here) until reaching Marion County. In Marion County, at Acton Road exit, follow it and turn left onto Acton Road, then at Southeastern Avenue, turn right, then at Wanamaker go straight through and then pass over I-465, then turn left when road ends to stay on Southeastern Avenue, then at Washington Street turn left and continue west past Meridian Street and at West Street turn right, then at Indiana Avenue, West Street becomes Dr. Martin Luther King, Jr. Street and continue through, then follow left-hand exit to stay on Dr. Martin Luther King, Jr. Street and at 38th Street it becomes Michigan Road, so continue on Michigan Road straight through, then at Augusta continue straight through, pass under I-465 and roadway becomes U.S. 421 until reaching Hamilton County. In Hamilton County, continue on U.S. 421 through Hamilton County for less than two (2) miles and then enter Boone County. In Boone County, at former S.R. 334 and 116th Street continue through on U.S. 421, then at S.R. 32 continue through on U.S. 421, then at S.R. 47 continue through on U.S. 421 until reaching Clinton County. In Clinton County, in Kirklin at S.R. 38 continue straight through on U.S. 421, then at S.R. 28 continue straight through, then at S.R. 29 continue north on S.R. 29, which follows Michigan Road alignment, then at Boyleston continue straight through, at Michigantown continue straight through, at Middlefork cross S.R. 26 and continue straight through on S.R. 29 until reaching Carroll County. In Carroll County, from Burlington at S.R. 22 continue straight through on S.R. 29, then in Wheeling at S.R. 18 continue straight through, then at Sycamore Row the original alignment is on the left of S.R. 29, so continue straight through on S.R. 29 at S.R. 218, then at Deer Creek continue straight through until reaching Cass County. In Cass County, S.R. 29 exits left and continue straight onto Burlington Avenue, then in Logansport, Third Street at S.R. 25 (Market Street) turn right, then at Sixth Street turn left, then at Michigan Avenue (S.R. 25), immediately following bridge over Eel River turn right, then at Metea continue straight through on S.R. 25 until reaching Fulton County. In Fulton County, in Fulton at S.R. 114 continue straight through and pass under U.S. 31, then at S.R. 14 continue straight through on S.R. 25, then in Rochester, at courthouse, Main Street (Old U.S. 31) at Ninth Street, S.R. 25 turns right, then continue straight onto Main Street and continue north on Old U.S. 31 until reaching Marshall County. In Marshall County, at S.R. 110 continue straight through, then in Argos at S.R. 10 continue straight through until road ends at U.S. 31, then turn right onto U.S. 31, then at Michigan Road turn left off of U.S. 31, then at S.R. 17 continue straight through, then in Plymouth on Michigan Street at Jefferson Street continue straight through on Michigan Street (S.R. 17) and follow ramp onto U.S. 31 North, then at LaPaz continue straight through on U.S. 31 until reaching St. Joseph County. In St. Joseph County, at Quinn Trail (original road alignment) turn left off of U.S. 31, then continue until road ends at Magnus Drive and turn right and then immediately left onto U.S. 31, then in Lakeville continue straight through on U.S. 31, then at S.R. 4 continue straight through and U.S. 31 exits

right under St. Joseph Valley Parkway (U.S. 31 and U.S. 20) so continue north into South Bend, then at S.R. 23 and S.R. 933 continue straight through, then at Western Avenue, where Michigan Street curves and becomes St. Joseph Avenue, turn left and immediately right back onto Michigan Street, then at Michigan Street and Washington Street continue straight through on Michigan Street, then at Colfax Avenue, turn right and then immediately left onto St. Joseph Street and then left again onto LaSalle Avenue, then bear right onto Lincolnway West, then at the roundabout follow it and stay on Lincolnway West, then at the second roundabout bear right onto S.R. 123 (Mayflower Road) which becomes Lincolnway West, then pass under the St. Joseph Valley Parkway and the roadway then becomes U.S. 20, then at New Carlisle continue straight through on U.S. 20 until reaching LaPorte County. In LaPorte County, at the fork follow Boot Jack Road on the right leaving U.S. 20 behind, then road ends at Wiley Road so turn right, then road ends at Michigan Street so turn left, then in Rolling Prairie continue straight through, then road ends at U.S. 20 so turn right onto U.S. 20, then pass over the Indiana Toll Road (I-80 and I-90), then at Wilhelm Road turn left and follow the original alignment, then at fork follow Springville Road on the right, then Springville Road ends at U.S. 20 so turn left onto U.S. 20, then U.S. 35 enters from the left, so continue straight through on U.S. 20 and pass under I-94, then U.S. 20 exits at S.R. 212, so pass under and continue on Michigan Boulevard (former U.S. 35) into Michigan City, then at U.S. 12 turn left onto U.S. 12, until the end of Historic Michigan Road at Fourth Street and Willard Avenue.

(19) "Historic National Road" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Ohio border on U.S. 40 and continuing to the Indiana-Illinois border. In Indianapolis, the Historic National Road is called Washington Street.

(20) "Illegal sign" means a sign that was erected, repaired, or maintained in violation of any federal or state law. A sign that is an illegal sign because of erection, repair, or maintenance may not be classified as a nonconforming sign.

(21) "Indiana's Historic Pathways" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Illinois border on U.S. 50/U.S. 150, proceeding east through Shoals and continuing northeast on U.S. 50 through Lawrenceburg to the Indiana-Ohio border. This term also refers to the series of highways within Indiana that begins at the U.S. 50/U.S. 150 at Shoals, proceeding southeast on U.S. 150 into New Albany, then proceeding east on local roads to the Falls of the Ohio State Park in Clarksville, Indiana.

(22) "Interchange" means a junction of at least two (2) roads that allows for the movement of traffic between those roads, typically through at least one (1) entrance or exit ramp.

(23) "Interstate system" has the meaning set forth in 23 CFR 750.101(a)(1)* effective July 1, 2018.

(24) "Lincoln Highway Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that includes the original 1913 route, as well as the alternate 1924 and 1928 route, and that begins, for the 1913 route, in Allen County from the Indiana/Ohio state line and then west on U.S. 30, then exit north onto Lincoln Highway East (east of Simmer Road), then reconnect with U.S. 30 West, just west of Girard Road, then U.S. 30 becomes S.R. 930 beyond I-469/U.S. 24/U.S. 30, then north (right) on Green Street, then west (left) on Lincoln Highway East in New Haven, which becomes Lincoln Highway West/S.R. 930 and then becomes East Washington Boulevard, then north (right) on Harrison Street. At this intersection the 1928 route continues west on Washington Boulevard, right on Van Buren Street, right on Sherman Boulevard, left on Goshen Avenue (original route), then west (left) on Putnam, then north (right) on North Wells Street, then west (left) on West State Boulevard, then right on Goshen Avenue/Road/U.S. 33 to the intersection of Goshen Road/U.S. 33/and West Washington Center Road is 1928 Alignment until reaching Whitley County. In Whitley County, continue northwest on U.S. 33 (Note: Pony truss bridge east side of road (north of Chase Road), and old road alignment north of Churubusco, at E. 600 N. partially abandoned) until reaching Noble County. In Noble County, continue northwest on U.S. 33/Lincolnway South (Merriam), then right on County Road S. 50 W., then left on South Oak Street and reconnect with U.S. 33/Lincolnway South (Wolf Lake), then right on North Clark Street/North 650 W. (Kimmel), then reconnect with U.S. 33/Lincolnway South, then U.S. 33 joins with S.R. 5, then north (right) on Old U.S. 33 (original brick section/old road alignment) until reconnect with U.S. 33/S.R. 5/Lincolnway South, then continue north on S.R. 5/Lincolnway South (Note: Abandoned alignment at S.R. 5/U.S. 33 at Stone's Trace), then continue north on S.R. 5/U.S. 33, leaving U.S. 33 north of U.S. 6 (Ligonier), then S.R. 5/Lincolnway South becomes South Cavin Street, then left on Lincolnway West until reaching Elkhart County. In Elkhart County, Lincolnway West becomes County Road 50 at the Elkhart County Line, then west to the intersection of County Road 50/S.R. 13, then west to S.R. 13/U.S. 33, then right (north) on U.S. 33, then right on Old U.S. 33 (old road alignment), then left on County Road 148 (old road alignment), then right on U.S. 33 (Benton and Goshen), then U.S. 33 becomes Lincolnway East, then U.S.

33/Lincolnway East becomes East Madison Street, then west (right) on U.S. 33/S.R. 15, then left on U.S. 33/West at Pike Street. For the Alternate Route, turn right on 1st Street, then left on River Avenue, then left on Indiana Avenue, then right on Chicago Avenue to connect with U.S. 33, then right on Beaver Lane, then left on Wilden Avenue, then left on County Road 28 (Kundred Road), then right on U.S. 33/Elkhart Road (Dunlap and Elkhart), then U.S. 33 becomes South Main Street, then left on East Indiana Avenue. For the Alternate 1924 Route, continue on South Main Street, then left on Jackson Boulevard, then left on Vistula Street, then right on Franklin Street, then north on 26111 Street, then left on LaRue Street to reconnect with Old U.S. 33/Lincolnway East, then right at St. Joseph county line, it becomes S.R. 933. In St. Joseph County, continue west on S.R. 933/Lincolnway (Osceola), then continue on S.R. 933/Lincolnway East/West (Mishawaka and South Bend), then S.R. 933/Lincolnway becomes East Monroe Street, then right on S.R. 933 northbound (Michigan Street becomes St. Joseph Street), then left on West LaSalle Avenue, then right on Lincolnway West, then continue through roundabout (becomes Lynn Street), then right on Mayflower on roundabout, then left on Lincolnway West/U.S. 20 (New Carlisle) until reaching LaPorte County. In LaPorte County, continue west on U.S. 20, then right on East Oak Knoll Road (Note: Old road alignments abandoned) (Rolling Prairie), then left on County Road N. 450 E., then right on S.R. 2, then S.R. 2 becomes East Lincolnway (LaPorte), then East Lincolnway/S.R. 2 combines with S.R. 39 Northbound, then left on Colfax Avenue, then right on Eggebrecht Road, then right on 4th Street, then left on S.R. 39/S.R. 2, then S.R. 39 departs, so continue west/south on S.R. 2 (Pinhook), then S.R. 2 combines with U.S. 421, then left (south) (Westville), then continue south on U.S. 421 (S.R. 2 departs), becomes N. Flynn Road, then right on West Main Street, then left on S.R. 2, then right on Coulter Road, then left on Old S.R. 2 (original alignment) to reconnect with S.R. 2, then right on Old S.R. 2 (original alignment) until reaching Porter County. In Porter County, continue on Old S.R. 2, then south, crossing S.R. 2, then continue on Old S.R. 2 until reconnecting with S.R. 2, then left on Old S.R. 2 to reconnect with S.R. 2 (which becomes LaPorte Avenue) (Valparaiso), then north on Garfield Avenue, then left on Lincolnway/S.R. 2/S.R. 130. The original (1913) and 1928 routes rejoin at this intersection, then continue west on S.R. 130, then left on Joliet Road, then right on U.S. 30 (westbound), then right on Joliet Road until reaching Lake County. In Lake County, Joliet Road becomes Old Lincoln Highway/E. 73rd Avenue (Deep River and Merrillville), then becomes W. Old Lincoln Highway/E. Highway 330 at Burr Street, then Lincoln Highway becomes East Joliet Street at Edison Street (Schererville), then right on U.S. 30/Joliet Street/W. Lincoln Highway (Note: Interrupted section of highway (Old Lincoln Highway) south of U.S. 30), then left on U.S. 41, then right on Old Lincoln Highway, then reconnect with U.S. 30/Joliet Street/W. Lincoln Highway, then turn left (Dyer) and finish at the Indiana/Illinois state line. For the 1928 route, in Allen County, begin at the intersection of U.S. 33/Goshen Road (original 1913 route) and West Washington Center Road (1928 route), then continue west on West Washington Center Road, then right on Lake Center Road/East Lincolnway until reaching Whitley County. In Whitley County, Lake Center Road becomes East Lincolnway (Note: Old Road alignment through Coesse Corners), then left on East Business 30 (Columbia City), then right on East Business 30, which combines with Chicago Street, then right on S.R. 205/S.R. 9, then left on Business 30/Van Buren Street, then right on North Walnut Street, then left on Jolly Street, which becomes Park Street, then right on North Lincolnway, then left on Schuman Road, then right on Lincolnway Road until reaching Kosciusko County. In Kosciusko County, Lincolnway Road becomes West Lincolnway/Old Road 30 (Warsaw), then right on East Kosciusko Drive, then left on East Center Street, then right on North Lake Street, which becomes W. Old Road 30 and then becomes East Main Street (Atwood), then W. Old Road 30 becomes East State Street/West State Street/Lincoln Highway (Etna Green) until reaching Marshall County. In Marshall County, Old U.S. Highway 30 becomes E. Lincoln Highway and then becomes Old U.S. Highway 30 East/becomes E. Center Street/W. Center Street (Bourbon), then right on Lincoln Highway (Inwood) and continue on Lincoln Highway/Plymouth Street (Plymouth) and Lincolnway East becomes Jefferson Street, then left until W. Jefferson Street becomes West Lincoln Highway, then left to remain on Lincoln Highway (before U.S. 30) becomes Lincoln Highway/Old U.S. Highway 30 (Donaldson), then left on U.S. 30 until reaching Starke County. In Starke County, continue west on U.S. 30 (Grovertown) (Note: old road alignments on north side of U.S. 30, interrupted), then left at Old U.S. Hwy 30/Frontage Road, then Old U.S. 30 becomes Plymouth Street (Hamlet), then Old U.S. Highway 30 reconnects with U.S. 30, left/west until reaching LaPorte County. In LaPorte County, continue on U.S. 30, then west (left) on U.S. 30 Alternate Route (Hanna), then right on County Road S. 700 W., then left on U.S. 30 (Wanatah) until reaching Porter County. In Porter County, continue on U.S. 30, then west (left) on Comeford Road, then right on County Road 150 (Valparaiso), then County Road 150 becomes S.R. 2/S.R. 130 and S.R. 2/S.R. 130 becomes East Lincolnway. At the intersection of Lincolnway and Garfield Avenue, the 1928 and original (1913) routes join.

(25) "Main-traveled way" means the traveled way of the highway on which through traffic is carried. For a

divided highway, the traveled way of each of the separate roads for traffic in opposite directions is a main-traveled way. This term does not include frontage roads, turning roadways, parking areas, or shoulders.

(26) "Market area" means a point within the same county as the prior location of a sign.

(27) "National highway system" has the meaning set forth in 23 CFR 470.107(b)* effective July 1, 2018.

(28) "Nonconforming sign" means a sign that was lawfully erected, but does not comply with federal or state law adopted at a later date, or which later does not comply with federal or state law due to changed conditions.

(29) "Obsolete" means a sign face of a nonconforming sign for a period of twelve (12) continuous months that:

(A) does not contain advertising matter;

(B) contains an available for lease or similar message that concerns the availability of the sign itself; or

(C) needs substantial repair.

(30) "Ohio River Scenic Byway" means the designated national scenic byway consisting of the series of highways within Indiana that begins at the Indiana-Ohio border, then U.S. 50 west to Oberting Road, then follow Oberting Road to Greendale, then turn left onto Ridge Avenue, which becomes Main Street in Lawrenceburg, then turn right on U.S. 50 to Aurora, then turn left on George Street, then left on Second Street, then south on S.R. 56 to S.R. 156, then southwest on S.R. 156 to S.R. 56, then west on S.R. 56 to S.R. 62, west on S.R. 62 to Allison Lane in Jeffersonville, then right onto Market Street, then left on Walnut Street, then right on Riverside Drive, then right on Sherwood, then left on South Clark Boulevard, then right on Harrison Avenue, then left on Randolph Avenue, then west on S.R. 62 (Spring Street in New Albany), then follow S.R. 62 and turn left onto Vincennes Street, then right onto Main Street in New Albany, which turns into the Corydon Pike, then when the Corydon Pike dead-ends at S.R. 62, turn left and follow S.R. 62 west to Sulphur, then turn west on S.R. 66, follow S.R. 66 west to S.R. 662 in Newburgh, take S.R. 662 west to I-69 west, which turns into Veterans Memorial Parkway and then Riverside Drive in Evansville, then turn left (west) on S.R. 62 (Lloyd Expressway) in Evansville and proceed west through Mt. Vernon to the Indiana-Illinois border.

(31) "Permittee" means the applicant or any subsequent transferee listed in the department's records as being the owner of the permit to erect and maintain a specific sign.

(32) "Property owner" means, as the context requires, the fee simple owner of the real estate where the sign is or would be located, or the lessee or other person with an appropriate real property interest, such as an easement, in control of possessing and using that real estate. For purposes of this document, the property owner is the person with enough real estate ownership interest to validly contract with the permittee for erecting or maintaining a particular sign on that real estate.

(33) "Reerect" means erecting or rebuilding any sign in a vertical position after its initial erection.

(34) "Relocation addendum" means a modified permit issued for a sign in a conforming location to be elevated, angled, or modified under IC 8-23-20-25.6(f).

(35) "Relocation permit" means a new permit issued for a sign to be relocated within the market area due to any of the transportation purposes listed in IC 8-23-20-25.6(e) and complies with the requirements in 105 IAC 7-4-3(a).

(36) "Repair date" means the earliest of:

(A) the date a weather-related occurrence or other specific action caused the nonconforming sign to become damaged or destroyed;

(B) the date the permittee submitted the modification request to the department under SECTION 2(b)(5) of this document for an addendum to allow the activities for the sign that might exceed customary maintenance or repair on a nonconforming sign; or

(C) the date the department sent the written notice to the permittee that the sign appears to be damaged or destroyed.

(37) "Repair period" means the twenty-four (24) month period immediately preceding the repair date.

(38) "Scenic byway" means any highway that has been nominated and designated under the state of Indiana's procedures as a scenic byway, as referred to in 23 U.S.C. 131(s)*, effective July 1, 2018.

(39) "Side-by-side sign" means two (2) sign faces on the same supporting structure and facing one (1) direction. A single pipe, beam, conduit, or pole between two (2) adjacent sign faces is not considered a supporting structure.

(40) "Sign" has the meaning set forth in IC 8-23-1-38, and also includes a changeable message sign. This term does not include directional and other official signs and notices.

(41) "Sign face" means the portion of the total surface area of the sign that contains an advertising message viewable by the motoring public, and which portion may not exceed an area of one thousand (1,000) square feet, regardless of the type of sign. A sign face for a changeable message sign may display only one (1) advertisement at any one (1) time, but a sign face for any other sign may display up to two (2) advertisements

at any one (1) time.

(42) "Sign type" means a back-to-back, changeable message, side-by-side, single face, stacked, or V-shaped sign, as the context requires.

(43) "Single face sign" means a sign with one (1) sign face, facing one (1) direction of travel at a single location.

(44) "Spot zoning" means:

(A) the process of singling out a parcel of land or portion thereof, through a rezoning of the parcel of land or portion thereof, from a noncommercial or nonindustrial zoning classification for the express reason of making the use different from, and less restrictive than, the actual use of parcels in the surrounding area;

(B) the parcel of land or portion thereof was created solely for the erection and permitting of a sign;

(C) using the parcel of land or portion thereof is not part of the plans for a commercial and industrial development, as found in the comprehensive zoning plan, including any amendments or variances approved by the local unit of government; or

(D) the parcel of land or portion thereof is not appropriate for commerce, industry, or trade to take place.

(45) "Stacked sign" means at least two (2) sign faces stacked above and below each other on the same supporting structure and facing one (1) direction of travel, or at least two (2) sign faces on two (2) structures side-by-side or otherwise immediately next to one another facing one (1) direction of travel at a single location.

(46) "Strip zoning" means:

(A) the process of singling out a narrow strip of land not more than five hundred (500) feet wide, measured perpendicular to the right-of-way, consisting of either a single parcel or contiguous parcels, through a rezoning of the parcel of land or portion thereof from a noncommercial or nonindustrial zoning classification for the express reason for making use different from, and less restrictive than, the actual use of parcels in the surrounding area;

(B) the parcel of land or portion thereof was created solely for erecting and permitting of a sign;

(C) the use of the parcel of land or portion thereof is not part of the plans for commercial and industrial development, as found in the comprehensive zoning plan, including any amendments or variances approved by the local unit of government; or

(D) the parcel of land or portion thereof is not appropriate for commerce, industry, or trade to take place.

(47) "Visible" means capable of being seen (whether or not legibly) without visual aid by a person of normal visual acuity.

(48) "V-shaped sign" means a sign with a single structure having two (2) sign faces in the shape of the letter "V" when viewed from above, with the sign faces oriented in different directions.

(49) "Wabash River Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins, for Section 1, at Ross Hills County Park and traveling north on Tippecanoe C.R. 875 West to the intersection with Division Road and then proceeding east to South River Road and following South River Road to its intersection with State Street. For Section 2, begin at the intersection of South River Road at State Street and proceeding on North River Road (former S.R. 43) to the interchange with I-65 and S.R. 43 North where it will terminate.

(50) "Whitewater Canal Scenic Byway" means the designated state scenic byway consisting of the series of highways within Indiana that begins in Wayne County on S.R. 38 at the stone monument in Hagerstown and proceeding east on S.R. 38 to S.R. 1 before continuing south on S.R. 1 to Delaware Street in Cambridge City, then traveling west Delaware Street to Green Street before turning south on Green Street to meet U.S. 40, then east on U.S. 40 in Cambridge City to the intersection with Boyd Road before proceeding south on Boyd Road to meet S.R. 1 between Cambridge City and Milton, then south on S.R. 1 through Milton and Connersville in Fayette County to Western Avenue, then proceeding south on Western Avenue to meet S.R. 121 at the south edge of Connersville, then south on S.R. 121 through Nulltown and Alpine before entering Franklin County, then south through Laurel and continuing south to the intersection of S.R. 121 and U.S. 52 west of Metamora, then east on U.S. 52 from the intersection with S.R. 121 and proceeding southeast through Brookville passing S.R. 252 and proceeding southeast on U.S. 52 through Cedar Grove and New Trenton to meet I-74 before proceeding onto Old U.S. 52 to the Indiana-Ohio state line. In addition, from the Indiana-Ohio state line on U.S. 50 entering Dearborn County and traveling on U.S. 50 and a small section of S.R. 1 through Greendale and on U.S. 50 to Lawrenceburg and ending at Walnut Street in Lawrenceburg.

(51) "Whitewater Canal Scenic Byway Loop Routes" means the state national scenic byway consisting of the series of highways within Indiana that are three (3) loops added to the designated Whitewater Canal Scenic

Byway, and begins for Loop One (East Fork Loop) at the intersection of U.S. 40 and S.R. 1 and continues east of U.S. 40 to Richmond, Indiana and the intersection of U.S. 40 and U.S. 27, then Loop One continues south on U.S. 27 to Liberty, Indiana and the intersection of U.S. 27 and S.R. 101, then south of S.R. 101 to Brookville and to U.S. 52 where Loop One ends. Loop Two (Oldenburg - Batesville Loop) begins near the west edge of Metamora, at the intersection of U.S. 52 and S.R. 229 and then travels south on S.R. 229 to Batesville and the intersection with S.R. 46, then east on S.R. 46 to St. Leon and the intersection of S.R. 1, then north on S.R. 1 to U.S. 52 where Loop Two ends. Loop Three (Dearborn - Ripley Loop) begins in Lawrenceburg at the intersection of U.S. 50 and Walnut Street, then southwest on U.S. 50 to Aurora and the intersection of U.S. 50 and S.R. 350, then west on S.R. 350 to Milan and the intersection with S.R. 101, then north on S.R. 101 to Sunman and the intersection of S.R. 101 and Eastern Avenue/East County Road 1100 North, then east on Eastern Avenue to County Line Road, then south on County Line Road to North Dearborn Road, then east on North Dearborn Road to Dover and the intersection with S.R. 1, then travels south on S.R. 1 to Lawrenceburg at U.S. 50 where Loop Three ends.

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SECTION 2. (a) This SECTION supersedes 105 IAC 7-4-13.

(b) A conditional permit may be granted to any nonconforming sign, if the sign has not been substantially changed after the date it became a nonconforming sign, as follows:

(1) A nonconforming sign with a conditional permit must remain substantially the same as it was on the date that its status became nonconforming. A permittee may make customary maintenance or repair on a nonconforming sign. However, a nonconforming sign may not be the object of any activity after which the sign did not remain substantially the same as it was on the date that its status initially became a nonconforming sign, except for activities performed after an event described in subdivision (7)(A) through (7)(C) occurs. An activity prohibited by this subdivision automatically and permanently transforms the nonconforming sign's status to that of an illegal sign, with the permit for the sign subject to revocation, and the sign subject to removal by the department.

(2) Customary maintenance or repair on a nonconforming sign includes any of the following permissible activities, which do not require an addendum to a permit for the sign:

- (A) Nailing, cleaning, and painting.
- (B) Replacement of nuts and bolts.
- (C) Replacement of structural components, including vertical supports and sign faces, with the same material so long as the sign is not destroyed.
- (D) Changes in the advertising message.
- (E) Upgrading existing lighting for energy efficiency or worker safety.
- (F) Addition of catwalks, safety cables, or handrails when required to resolve safety concerns by the Occupational Safety and Health Administration or the Indiana department of labor.
- (G) The sale, lease, or transfer of the sign or its permit.

(3) Customary maintenance or repair on a nonconforming sign does not include any of the following prohibited activities, which are each considered a substantial change that automatically and permanently transforms the nonconforming sign into an illegal sign:

- (A) Increasing the number of vertical supports or changing the vertical support materials, such as replacing wooden supports with metal, or replacing I-beams with a monopole.
- (B) Increasing the height of the sign.
- (C) Changing the physical location.
- (D) Changing the configuration of a sign structure, including changing a V-shaped sign to a stacked, side-by-side, or back-to-back sign, or changing a single face sign to a V-shaped, stacked, side-by-side, or back-to-back sign.
- (E) Increasing the overall size or dimensions of the sign face, or any other addition of a sign face.
- (F) Adding bracing, whether temporary or permanent, guy wires, concrete, or other reinforcing devices.
- (G) Adding variable or changeable message capability.

(H) Adding lighting, either attached or unattached, to a sign that previously did not have lights, or adding more intense lighting to an illuminated sign, except if done as set forth in subdivision (2)(E).

(I) Rebuilding, repairing, other than customary maintenance or repair on a nonconforming sign, or reerecting a sign structure after substantial damage from wear and tear, or other natural causes, unless the department has given its approval to do so by granting an addendum to the sign's permit under subdivision (5).

(J) Relocating all or a portion of a sign, unless relocating under IC 8-23-20-25.6(c)(2) and SECTION 4 of this document.

(K) Turning the direction of a sign face.

(L) Any repair, maintenance, or improvement that causes the sign to be erected or maintained in a manner contrary to its conditional permit.

(4) The list of permitted activities in subdivision (2) and the list of prohibited activities in subdivision (3) are not exclusive lists of those respective activities, and the department shall determine in each other situation whether:

(A) the sign remained substantially the same as it was on the date the sign became a nonconforming sign after the completion of any specific activity performed for the nonconforming sign; and

(B) the specific activity performed had the effect of substantially changing the nonconforming sign or materially extending the life of the nonconforming sign beyond its normal life.

It shall be presumed that any additional activities otherwise permitted involving the replacement of materials will materially extend the life of a nonconforming sign beyond its normal life, if the sign was destroyed when that activity was performed.

(5) If a permittee wishes to perform activities on a nonconforming sign in a manner that might exceed customary maintenance or repair on a nonconforming sign, the permittee shall submit a completed modification request for an addendum to the sign permit on a form to be provided by the department, or through the electronic permitting system, together with an addendum fee of one hundred dollars (\$100). If a sign is damaged or destroyed, the modification request must contain at least the following:

(A) An explanation of the extent of the damage to the sign and the scope of repairs needed.

(B) Whether the sign was damaged by normal wear and tear, weather, or by other natural causes, or whether the sign was damaged or destroyed by some act covered by subdivision (7)(A) through (7)(C).

(C) Clear color on-site photographs of the sign and all salvageable parts thereof.

(D) A specific description of the work to be undertaken on the nonconforming sign.

After receiving the modification request, the department will promptly consider the modification request and determine, under the standards in this SECTION, whether the requested activity should be permitted or prohibited, and within sixty (60) days give a written notice of its decision to the permittee. If the permittee or their representative performs activities not specifically listed in subdivision (2) on a nonconforming sign without submitting a modification request under this subdivision and receiving an authorization for the addendum from the department, or if the permittee or their representative performs that activity after the department issued its decision that the activity was prohibited, the performance of that activity automatically and permanently transforms the nonconforming sign into an illegal sign subject to revocation of its permit and removal under subdivision (1).

(6) A modification approved by the addendum under this SECTION must be completed within three hundred sixty-five (365) days after the date of issuance of the addendum, or the department's approval under the addendum expires without further action needed on the part of the department. An extension of time may not be granted by the department.

(7) A conditional permit for a nonconforming sign may be revoked by the department if the sign is destroyed, abandoned, obsolete, or discontinued, if the sign may be reerected or otherwise fixed if the department so approves and the sign was destroyed by:

(A) vandalism;

(B) another criminal act; or

(C) a tortious act.

(8) Proof of an act described in subdivision (7)(A) through (7)(C) can be shown by timely reports or complaints to the appropriate county sheriff or police department. An act, for purposes of this document, must:

(A) not involve the carelessness or negligence of the permittee, property owner, or business advertised on the sign (sign parties), or an owner, officer, employee, agent, representative, or independent contractor of any of the sign parties; and

(B) involve the damage or destruction by at least one (1) person not connected, directly or indirectly, to any of the sign parties.

(9) The permittee has the burden of proof that:

(A) the nonconforming sign was damaged or destroyed by an act described in subdivision (7)(A) through (7)(C); and

(B) each of the conditions precedent in subdivision (8) are true.

(10) If a nonconforming sign was destroyed or the sign was damaged to the extent that the sign is illegal and subject to removal, the permittee has the obligation to perform any repair or other activity on the sign that will preserve the safety of persons that might otherwise be subject to injury or damage to their property from the remnants of the sign before the sign's removal. The repair or other activity will not change the illegal status of the nonconforming sign.

SECTION 3. (a) This SECTION supersedes 105 IAC 7-4-15.

(b) A permit for a sign may be revoked for the following:

(1) Pursuant to this document.

(2) If the sign has been altered so that it is no longer in compliance with:

(A) the size and configuration restrictions in 105 IAC 7-4-16;

(B) the spacing criteria in 105 IAC 7-4-17;

(C) the lighting criteria in 105 IAC 7-4-18; or

(D) the miscellaneous criteria in 105 IAC 7-4-19.

(3) Mistake of material facts by the issuing authority for which had the correct facts been made known, the outdoor advertising permit in question would not have been issued.

(4) Misrepresentation of material facts made by the permit holder or sign owner and on which the issuing authority was found to have relied on in approving the outdoor advertising permit application.

(5) Misrepresentation of facts made by the applicant to any regulatory authority with jurisdiction over the sign by the permit holder or sign owner.

(6) Failure to complete construction of a structure within three hundred sixty-five (365) days after the date of issuance of the outdoor advertising permit.

(7) Altering an outdoor advertising structure for which a permit has previously been issued that would cause the outdoor advertising structure to fail to comply with 23 U.S.C. 131*, effective July 1, 2018.

(8) A determination on initial inspection of a newly erected outdoor advertising structure that fails to comply with 23 U.S.C. 131*, effective July 1, 2018, or this SECTION.

(9) Alterations to a nonconforming sign that would cause it to be other than substantially the same as it was on the date the sign became nonconforming. For purposes of this subsection, alterations include:

(A) enlarging a dimension of the sign facing, or raising the height of the sign;

(B) changing the material of the sign structure's support;

(C) adding a pole or poles;

(D) adding illumination; or

(E) moving a sign, unless the sign is relocated under IC 8-23-20-25.6(c)(2) and SECTION 4 of this document.

(10) Failure to affix a permanent plate within sixty (60) days after erecting the outdoor advertising structure that must be visible and readable from the main-traveled way or control route.

(11) Unlawful destruction or cutting of trees, shrubs, or other vegetation located on the state owned or controlled right-of-way to increase the visibility of an outdoor advertising structure.

(12) Failure to possess lawful access to repair, construct, maintain, or service an outdoor advertising sign on an interstate, a state highway, or other controlled access facilities. Direct access to a sign from a state highway, an interstate, or a limited access control route is strictly prohibited.

(13) Failure to maintain a nonconforming sign so that it remains blank for a period of twelve (12) consecutive months.

(14) Maintaining an abandoned, a damaged, or a discontinued nonconforming sign.

(15) Failure to notify the department of transfer of ownership within one hundred eighty (180) days after the effective date of transfer.

(16) Failure to obtain and maintain the required permits from a federal, state, or local agency.

(17) Altering an outdoor advertising structure for which a permit has previously been issued that alters the structure (e.g., size, material, supports, lighting, or modification to a changeable message sign) without having an approved addendum by the department.

(18) Failure to erect, maintain, or alter an outdoor advertising sign structure under the permit.

(19) If inconsistent with other federal or state law.

(b) If revocation of the permit is appropriate, the department shall issue a written notice of revocation, accompanied by an explanation of the rationale for the revocation, which shall be sent to the permittee and the property owner by U.S. certified mail. The permittee or the property owner may appeal this revocation by delivering a written notice of the appeal to the department, and the notice is received by the department under the applicable period set forth in IC 4-21.5. If the appellant's appeal letter is timely received by the department and complies with the requirements in 105 IAC 7-4-12(c), the permittee or the property owner so appealing shall be afforded the opportunity for a hearing under IC 4-21.5 and IC 8-23-20.

(c) A conforming sign issued a permit under this document may have the permit modified to a conditional permit for a nonconforming sign, if the department determines that changed circumstances would preclude issuing a permit for a conforming sign under SECTION 2(b)(1) of this document. Notice of this modification shall be given as provided in subsection (b). If the permit is so modified, the requirements of SECTION 2 of this document thereafter apply to that sign.

(d) Signs that were erected, repaired, maintained, or exist in violation of any federal or state law or this document are illegal signs and public nuisances. The permit for an illegal sign may be revoked at any time by the department under this document and state law.

(e) If the permit for a sign is revoked by the department, that sign must thereafter be removed under this document and state law without payment of any compensation to the permittee, property owner, or any other party, except as provided in IC 8-23-20-26.

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SECTION 4. (a) This SECTION supersedes 105 IAC 7-4-24.

(b) A sign may be relocated within the market area if the new location meets all state and federal requirements, is established as a conforming use, and erected in compliance with the relocation permit or addendum in the electronic permitting system.

(c) A relocation permit application must be submitted when a sign is to be relocated within the market area. An application fee may not be assessed for a relocation permit. The relocation permit application must be verified and include the information required in 105 IAC 7-4-3(a).

(d) A complete relocation permit application shall be processed by the department within fifteen (15) business days after submission. An incomplete relocation application will not be considered by the department, but minor deficiencies may be cured promptly after the department requires the applicant to provide additional information or documentation within five (5) business days. Otherwise, the documents included with an incomplete relocation application shall be returned to the applicant, but not earlier than ten (10) days after the date it was submitted, without being processed, along with a written explanation of the reason for its return. If a relocation application is canceled for any reason, and the applicant chooses to resubmit the relocation application, the later filed relocation application is processed as a new relocation application beginning the date it is received by the department with a new relocation application number.

(e) If a conforming sign is to be elevated or angled, or the size or material is modified under IC 8-23-20-25.6(f), but the sign is not moving to a new location, the permittee shall apply for a relocation addendum. The relocation addendum application must be verified and include the information required in 105 IAC 7-4-3(a). An application fee may not be assessed for the relocation addendum. The permittee may include a request to modify or alter the sign, the sign face, or the sign type at the time of its submission for a relocation addendum. If a sign is moving more than one (1) foot from its original location, but within the market area, the sign is not eligible for a relocation addendum and the applicant shall file a relocation permit application.

(f) Documentation of actions taken to relocate a sign in good faith shall be provided to the department at the

department's request. The documentation must discuss the relevant details about the process taken for the search for relocation options, and may include the following:

- (1) Zoning requirements of unzoned and zoned commercial and industrial areas under 23 U.S.C. 131(d)*, effective July 1, 2018, IC 8-23-20-5, and IC 8-23-1-47.
- (2) Access requirements under SECTION 3(b)(12) of this document.
- (3) Spacing requirements as outlined in 105 IAC 7-4-17.
- (4) The inability to obtain a property interest or agreement from property owners inside the market area under 105 IAC 7-4-3(a).

The information in subdivisions (1) through (4) may be provided to the department through a written statement, if available supporting documentation would not sufficiently explain actions taken. The permittee shall also provide supporting documentation of searching expenses as provided in 49 CFR 24.301(g)(17)*, effective July 1, 2018, at the department's request.

(g) If a sign is relocating for reasons listed in IC 8-23-20-25.6(c), and the permittee chooses to relocate the sign outside the market area within less than one (1) year after an action is filed under IC 32-24, or relocates without an action being filed under IC 32-24, the permittee shall sign an affidavit that they do not intend to seek damages under IC 8-23-20-27 for the application to be considered complete. If the permittee chooses to relocate the sign outside the market area, the permittee shall submit a new permit application, advise it is a relocation, identify the permit number for the previous sign location, and include the information required in 105 IAC 7-4-3, accompanied by the one hundred dollar (\$100) application fee. If the permittee fails to include in the application that it is a relocation and provide the affidavit, the permit may be revoked.

(h) If a permittee chooses to relocate a sign to a location where a new construction project is programmed in the future, which may affect the spacing or location requirements for an outdoor advertising sign, the application shall not be approved unless the permittee and the department enter into an agreement allowing a permit to be issued.

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SECTION 5. This document expires four hundred twenty-five (425) days after the publisher accepts the Interim Final Rule for filing.

LSA Document #24-319

Approved by Governor: August 14, 2024

Documents Incorporated by Reference: 23 U.S.C. 131, effective July 1, 2018