

Chapter Hy 19

CONTROL OF OUTDOOR ADVERTISING ALONG AND VISIBLE FROM HIGHWAYS ON THE INTERSTATE AND FEDERAL-AID PRIMARY SYSTEMS

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History: Chapter Hy 19 as it existed on September 30, 1972 was repealed, and a new chapter Hy 19 was created, Register, September, 1972, No. 201, effective October 1, 1972.

Hy 19.001 General. Pursuant to authority contained in sections 84.30 and 86.19, Wis. Stats., the highway commission adopts the following rules to apply to signs along and visible from the controlled highways in Wisconsin. Section 84.30, Wis. Stats., and these rules apply to the interstate and federal aid primary systems and the Great River Road established under 23 U.S.C. 148, which are referred to herein as "controlled highways". These rules are so closely associated with the Wisconsin Statutes, and make such extensive reference to section 84.30, Wis. Stats., that it is essential to refer to both these rules and the law in order to apply the controls.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. Register, October, 1976, No. 250, eff. 11-1-76; am. Register, May, 1977, No. 257, eff. 6-1-77.

Hy 19.005 Definitions. (1) "Back-to-back", "side-by-side", "bottom-on-top" and "V-shaped" signs means signs which are physically contiguous and which share a common structure, in whole or in part, or are located not more than 15 feet apart at their nearest point in cases of "back-to-back" or "V-shaped" signs.

(2) "Commission" means the highway commission.

(3) A sign shall be presumed to be designed, erected or intended to be read from the main-traveled way if an advertising message on the sign is readable from the main-traveled way by a person having normal visual acuity traveling at the speed limit.

(4) "Zoned" includes the establishment of districts without restrictions on use.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.006 Licensing. The licensing requirement under section 84.30 (10), Wis. Stats., applies to persons who erect or maintain on-property signage as well as to persons who erect or maintain off-premise advertising signs. Persons who erect or maintain signs for the purpose of advertising their own business are not subject to the licensing requirement. The licensing requirement does not apply to

persons who erect 2 or less signs during the calendar year. Any person who violates the licensing requirement shall be required to forfeit not less than \$500 nor more than \$1000. Violations shall be referred to the proper district attorney for prosecution.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.01 Effective date of rules. Pursuant to section 227.023 [227.026], Wis. Stats., these rules are effective the first day of the month following publication.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Hy 19.02 Clear vision areas. Requirements for the preservation of unobstructed driver vision are established by sections 86.191, 84.30 (4) (b), Wis. Stats., and by these rules. No sign shall exist or remain in non-conformance with those requirements.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Hy 19.03 Directional and official signs. The following standards apply to directional and official signs and notices which are visible from the main traveled way of a controlled highway. These standards do not apply to directional and official signs erected on the highway right-of-way.

(1) **DEFINITIONS.** (a) "Scenic area" means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(b) "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

(c) "Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(d) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.

(e) "Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

(f) "Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs do not exceed 8 square feet in area.

(g) "Public service signs" means signs located on school bus stop shelters, which signs:

1. Identify the donor, sponsor, or contributor of said shelters;

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2. Contain public service messages, which shall occupy not less than 50% of the area of the signs;

3. Contain no other message;

4. Are located on school bus shelters which are authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and

5. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.

(h) "Directional signs" means signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.

(2) CRITERIA FOR DIRECTIONAL AND OTHER OFFICIAL SIGNS. (a) *Prohibited signs.* 1. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities.

2. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

3. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

4. Obsolete signs.

5. Signs which are structurally unsafe or in disrepair.

6. Signs which move or have any animated or moving parts.

7. Signs located in rest areas, parklands or scenic areas.

(b) *Size.* 1. No sign shall exceed the following limits:

a. Maximum area—150 square feet.

b. Maximum height—20 feet.

c. Maximum length—20 feet.

All dimensions include border and trim, but exclude supports.

(c) *Lighting.* Signs may be illuminated, subject to the following:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.

2. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of a controlled highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

3. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.

(d) *Spacing.* 1. Each location of a directional sign must be approved by the state highway department.

2. No directional sign may be located within 2,000 feet of an interchange, or intersection at grade along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

3. No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area.

4. a. No 2 directional signs facing the same direction of travel shall be spaced less than 1 mile apart;

b. Not more than 3 directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;

c. Signs located adjacent to the interstate system shall be within 75 air miles of the activity; and

d. Signs located adjacent to the primary system or Great River Road shall be within 50 air miles of the activity.

(e) *Message content.* The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(f) *Selection methods and criteria.* 1. Privately owned activities or attractions eligible for directional signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites; and outdoor recreational areas.

2. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. intro. and (1) (g) 2, Register, October, 1976, No. 250, eff. 11-1-76; am. (intro.), (2) (c) 2 and (d) 4, Register, May, 1977, No. 257, eff. 6-1-77.

Hy 19.04 Sign criteria. Signs within the adjacent area shall conform to the requirements of section 84.30 (4), Wis. Stats., and to these rules. On non-freeway federal-aid primary highways outside of cities and villages, no sign may be adjacent to or within 300 feet of an interchange, intersection at grade, safety rest area, or wayside. Said 300 feet shall be measured along the highway from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way of the primary highway.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Hy 19.07 Sign permit requirements. Requests may be submitted to the commission for permits to erect or maintain specific signs at defined locations in a manner to be visible from a travel lane of a controlled highway. A separate application shall be presented to describe each such sign proposed, shall be presented on forms

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furnished by the commission, and shall include all information and exhibits which the application form requires.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. Register, May, 1977, No. 257, eff. 6-1-77.

Hy 19.08 Changes in permitted signs. State permitted signs may be changed in size, lighting, shape, color scheme or copy subject to compliance with the following criteria:

(1) No change shall result in signing which violates section 84.30, Wis. Stats., or these rules. Any sign which is found to be in non-compliance will be required to be altered to conform, or removed, at the expense of the owner thereof.

(2) Any proposal to change the location of any state permitted sign must be approved by the commission in advance of the physical accomplishment of the change. To propose a change of this kind, the applicant shall submit a complete new permit application together with a request that the prior permit (identified by its number) be cancelled and superseded by the new application.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. (1), Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.09 Removal of illegal signs. Any sign erected after October 1, 1972, without a permit having been granted therefor, and any nonconforming sign which subsequently violates section 84.30, Wis. Stats., or these rules, shall be subject to removal as an illegal sign. Upon removal of an illegal sign, the owner of the sign shall be given 30 days in which to salvage the sign upon payment of actual reasonable costs incurred in removing the sign. If not salvaged, the sign may be disposed of as the commission deems appropriate.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; r. and recr. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.10 Removal of nonconforming signs. (1) Nonconforming signs, as defined by section 84.30 (5), Wis. Stats., shall be eliminated in accordance with section 84.30, Wis. Stats., and these rules. Compensation for removal of a nonconforming sign shall be paid in accordance with sections 84.30 (6) to (8), Wis. Stats., provided the sign has complied with the conditions in subsection (2).

(2) In order to lawfully maintain and continue a nonconforming sign, or a so-called grandfathered sign under section 84.30 (3) (d), Wis. Stats., the following conditions apply:

(a) The sign must have been actually in existence at the time the applicable state law became effective, except where a permit for the construction of a sign was granted by the state prior to the effective date of the state law and the sign owner acted in good faith and expended sums in reliance thereon. This exception shall not apply in instances where large numbers of permits were applied for and issued to a single sign owner, obviously in anticipation of the passage of a state control law.

(b) There must be existing property rights in the sign affected by the state law.

(c) The sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed. A nonconforming sign removed as a result to a right-of-way taking or for

any other reason may be relocated to a conforming area but cannot be re-established at a new location as a nonconforming use.

(d) The sign must have been lawful on the effective date of the state law and must continue to be lawfully maintained.

(e) The sign must remain substantially the same as it was on the effective date of the state law, and may not be enlarged. Reasonable repair and maintenance of the sign, including a change of advertising message, is not a change which would terminate nonconforming rights. Customary maintenance ceases and a substantial change occurs if repairs or maintenance, excluding message changes, on a sign exceeds 50% of the replacement costs of the sign.

(f) The sign may continue as long as it is not destroyed, abandoned or discontinued. A sign shall be considered destroyed if it is damaged in excess of 50% of its replacement cost. Any sign destroyed by criminal or tortious acts may be replaced upon a showing by the sign owner that the sign was so destroyed and upon written approval from the district office. Applications for replacement signs shall be submitted to the district office. If the district office fails to send notice of its decision within 10 days after it receives an application, the sign owner may assume that replacement has been approved. As an alternative to replacement, the district office and sign owner may negotiate for the acquisition of the sign which was so destroyed. Approvals of replacements shall contain such terms and conditions as are necessary to ensure that the replacement sign is essentially the same as the sign destroyed. A sign is abandoned or discontinued if for a period of 12 months or longer it is composed of obsolete advertising matter or is without advertising matter or is in need of substantial repair, provided that any period of involuntary discontinuance which occurs during the period a highway is closed shall not be considered. A sign is abandoned if the name of the owner does not appear thereon and if the name and address of the current owner are not readily ascertainable from records on file with the commission.

(3) Since the provisions of subsection (2) reflect the law of this state with respect to the treatment of nonconforming uses and the derivative policy of the commission with respect to nonconforming signs, the adoption of subsection (2) shall not be construed to affect the applicability or validity of such state law or derivative policy prior to the adoption of subsection (2).

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; r and recr. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.11 Access to permitted signs. No person shall gain access to any permitted sign from the travel lane, interchange ramp, or right of way of any interstate highway or freeway on the federal-aid primary system.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Hy 19.12 Signs on federal-aid urban system exempted. Signs which are along and visible from highways which are on the specific system designated as the "federal-aid urban system" are exempted provided such signs are not also visible from a controlled highway not on the "federal-aid urban system."

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. Register, May, 1977, No. 257, eff. 6-1-77.

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Hy 19.13 Severability. If any provision or clause of these rules is held invalid or inapplicable to any person or circumstance, such invalidity shall not affect other provisions or applications of these rules which can be given effect without such invalid provision or application, and to this end the provisions of this section are declared to be severable.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72.

Hy 19.14 Permit fees. Signs erected after March 18, 1972 and found to comply with section 84.30, Wis. Stats., and with these rules, will be permitted upon payment of a permit issuance fee. This permit issuance fee schedule may be adjusted by the commission as necessary to offset administrative costs, but is initially established as follows:

- | | |
|--|--------|
| (1) Signs 8 square feet & less ----- | \$ 5. |
| (2) Signs 9 to 32 square feet, Inclusive ----- | \$ 10. |
| (3) Signs 33 to 150 square feet, Inclusive ----- | \$ 20. |
| (4) Signs 151 to 1200 square feet, Inclusive ----- | \$ 50. |
| (5) Signs over 1200 square feet ----- | \$100. |

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; am. intro. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.20 Hearings; transcripts. Hearings concerning sign removal notices under section 84.30 (11), Wis. Stats., or the denial or revocation of a sign permit or license shall be conducted as are hearings in contested cases under chapter 227, Wis. Stats. The decision of the hearing examiner in such matters shall be considered the decision of the highway commission, and is subject to judicial review under chapter 227, Wis. Stats. Any person requesting a transcript of the proceedings from the commission shall pay \$1.00 per page for the transcript.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76.

Hy 19.25 Sign removal. (1) **DEFINITIONS.** In this section: (a) "Non-tourist oriented directional advertising sign" means any sign which is not covered by the definition in paragraph (b) or (c).

(b) "Tourist oriented directional advertising sign" means any sign giving directional information related to any of the following types of businesses or activities:

1. Places of public lodging.
2. Places where food is served to the public on a regular basis.
3. Places where automotive fuel or emergency automotive repair services are regularly available to the public.
4. Educational institutions.
5. Places of religious worship.
6. Public or private recreation areas, including campgrounds, wildlife and waterfowl refuges, and nature trails.
7. Plays, concerts and fairs.
8. Antique and gift shops.
9. Agricultural products in a natural state, including vegetables and fruit.

(c) "Signs advertising products" means signs advertising only products.

(2) **PRIORITIES.** (a) Nonconforming signs shall be removed or relocated in the order listed below:

1. First, signs advertising products of general availability in commercial channels.

2. Second, nontourist oriented directional advertising signs.

3. Last, tourist oriented directional advertising signs.

(b) The priority system shall be implemented on a district by district basis. The commission shall coordinate the priority system program to accomplish an equitable statewide progression from one priority category to the next; provided that signs in paragraph (a) 3 may not be removed or relocated until all signs in paragraphs (a) 1 and 2 are removed or relocated.

(3) **SPECIAL CASES.** Notwithstanding the general provisions in subsection (2):

(a) The priority system applies only to nonconforming signs. Top priority shall continue to be given to the removal of illegal and abandoned signs.

(b) Signs may be acquired regardless of priority category in hardship and other cases where acquisition of the signs is voluntarily negotiated between the sign owner and the commission.

(c) The priority system does not apply to sign removals necessitated by a highway improvement project.

(d) The priority system does not apply to signs removed in accordance with a scenic easement or preservation project.

(e) If the removal or relocation of a sign is delayed because of a pending lawsuit or contested case under chapter 227, Wis. Stats., that sign shall not be considered in determining whether the removal or relocation of signs in a priority category has been completed.

(4) **REPORTS.** (a) The commission shall make reports to the assembly committee on tourism and the senate committee on commerce at the completion of each priority category and before progressing from one priority category to the next, as provided in subsection (2) (b).

(b) The commission shall make reports to the assembly committee on tourism and the senate committee on commerce on June 1 and November 1 of each year until all signs have been removed under section 84.30, Wis. Stats.

(5) **GENERAL PROVISIONS.** The advertising message on signs may be changed so as to move a sign from one priority category to another; however, once an acquisition order for a sign project is approved by the commission, signs covered by the order will be removed regardless of changes made in the advertising message after the acquisition order is approved.

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77.