

## 711 CMR: OUTDOOR ADVERTISING BOARD

### 711 CMR 3.00: CONTROL AND RESTRICTION OF BILLBOARDS, SIGNS AND OTHER ADVERTISING DEVICES

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#### 3.01: Definitions

As used in 711 CMR 3.00, the following words shall have the following meanings:

Abandon: to neglect or fail to perform maintenance upon a sign or to fail to obtain all necessary licenses and permits to erect and maintain a sign.

Assessors Map: a map or plan prepared by or for the municipality to locate and identify properties for tax assessment purposes.

Director: director of the office of outdoor advertising within the Massachusetts Department of Transportation.

Erect: to construct, reconstruct, alter, modify, build, raise, assemble, place, fix, affix, attach, create, paint, draw, post, display or in any way bring in to being or establish. The term shall not include ordinary maintenance.

Maintain: to perpetuate, repair and preserve.

Modify: to alter or change a sign in any manner including, but not limited to the following:

- (a) to raise or lower a sign;
- (b) to change the location;
- (c) to materials of a sign;
- (d) to change the dimensions of a sign (length, width, height, depth, number of faces, or clearance between the bottom of the sign and ground or roof 011 which it is standing);
- (e) to add lighting to a sign;
- (f) to replace a dismantled sign;

The term shall not include ordinary maintenance.

Non-conforming "Grandfathered" Sign: a sign that was lawfully and continuously permitted and that has been in existence prior to and since December 31, 1971 shall be granted "grandfathered" status, note:

- (a) These signs may not be altered in any way (not to include ordinary maintenance)
- (b) If such signs are removed, no "grandfathered" status shall remain

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Office of Outdoor Advertising: the office of outdoor advertising within the Massachusetts Department of Transportation.

Ordinary Maintenance: any maintenance that does not effect the structure including and not limited to the following:

- (a) to change a message
- (b) to repair deteriorating elements of a sign; and (c) to repair any existing electrical wiring, component or bulb.

The term shall not include erection or modification of any sign.

Outdoor Advertising: the act of erecting or maintaining any sign which advertises, promotes or calls attention to any business, article, substance, idea or any other thing or concept on any public way or on any private property within public view of any public way, public park or reservation.

Person: any individual, partnership, corporation, firm, trustee, group, association, city, town, authority, county, agency or other governmental unit, excluding the Massachusetts Department of Transportation.

Public Park or Reservation: any park, conservation, reservation, playground parcel or other land, regardless of ownership, which is available for public use and is in excess of 30,000 square feet in aggregate.

Public Way: as defined by the law of Massachusetts.

Sign: any billboard, sign, display, light, figure, painting, drawing, poster, object or device, whether fixed or movable, which advertises, promotes or calls attention to any business, article, substance, idea or any other thing or concept, including both the supporting structure, fixtures and informative contents thereof; provided that each sign face or message shall be considered a separate sign for purposes of permit and renewal applications, fees and permit numbers.

3.02: Licenses: Permits: Exemptions

(1) Licenses.

(a) No person shall engage in the business of outdoor advertising in this Commonwealth by means of any sign or signs without first obtaining a license therefore from the Director.

(b) Notwithstanding the requirements of 711 CMR 3.02(1)(a), no license shall be required for any person whose outdoor advertising activities are limited to:

1. erecting and maintaining signs in conformity with law and which advertise or indicates:
  - a. either the entity which primarily occupies the premises in question or a principal activity taking place on the property where the sign is located.
  - b. the property itself or any part thereof as for the sale or to let, and which contain no other matter;
2. erecting or maintaining signs relating solely to the person or to the goods or services the person offers;
3. erecting or maintaining a sign painted on or attached to the surface of any vehicle provided said vehicle is used primarily for purposes other than advertising; or 4. conducting activities exempted by M.G.L. c. 93, § 32.

(c) Licenses issued by the Director are non-transferable.

(2) Permits.

(a) No person shall erect or maintain any sign unless a permit for such sign has been granted pursuant to 711 CMR 3.00.

(b) Notwithstanding the requirements of 711 CMR 3.02(2)(a), no permit shall be required for any sign which is:

1. erected or maintained in conformity with law and which advertises or indicates:
  - a. either the entity which primarily occupies the premises in question or a principal activity taking place on the property where the sign is located.

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- b. the property itself or any part thereof as for the sale or to let, and which contain no other matter;
  - 2. painted on or attached to the surface of any vehicle provided said vehicle is used primarily for purposes other than outdoor advertising; or 3. exempted by M.G.L. c. 93, § 32.
- (c) No permit for any sign shall be transferred without the prior approval of the Director following written application by both parties to such transfer.
- (d) A permit must specify the height, illumination, construction and area of a sign. A permittee shall be entitled to allocate the permitted sign area of a single structure among multiple or single sign faces on the same structure as it from time to time sees fit. Cutouts, extensions or other temporary creative displays associated with particular advertising messages are allowed within the permitted area.
- (e) A permit shall be granted for a single year and must be renewed annually pursuant to 711 CMR 3.08(1).
- (f) No permit shall be granted for a sign intended to be erected and maintained on a vehicle or attached to a vehicle used primarily for the purpose of outdoor advertising, and the use of any such sign is prohibited.

3.03: Fees for. Expiration of and Revocation of Licenses and Permits

(1) Licenses.

(a) Each initial application for a license shall be made on a form furnished by the Director and accompanied by a nonrefundable fee of \$1,000.00. Licenses shall expire of December 31 st of each year, unless sooner revoked or further extended by the Director. Applications for the renewal of licenses shall be made not later than the last business day of October of each year on a form furnished by the Director and accompanied by a nonrefundable fee based upon the number of permits then granted to the licensee as follows:

0- 200 permits	\$1,000.00
In excess of 200 permits	\$1,500.00

(b) The Director reserves the right, after notice and opportunity for hearing, to revoke for cause any license at any time. Without limitation, any of the following shall constitute grounds for revocation of any license as well as for imposition of any other penalty provided by law:

- 1. any pattern of noncompliance with the requirements of 711 CMR 3.00, the Massachusetts General Laws, or any permit or license issued by the Director;
- 2. any willful violation of any requirement of 711 CMR, the Massachusetts General Laws or any permit or license issued by the Director;
- 3. any action relating to signs or outdoor advertising resulting in adverse impact to the public health, safety, welfare or the environment; or
- 4. any submission of false, misleading or deceptive information in any application or in response to any information request by the Director.

(c) If a license is not renewed by the Director or is revoked by the Director, all signs formerly authorized by permit to the licensee shall be removed by the licensee within 60 days of the date of notification of such final action of non-renewal or revocation, except any sign the permit for which has been duly transferred to a licensee in good standing pursuant to 711 CMR 3.02(2)(c).

(d) If a licensee fails to remove a sign as required by 711 CMR 3.03(1)(c), the Director or its agents may cause the sign to be removed and disposed of in accordance with applicable law without liability of the Director or its agents to the licensee or the owner of the sign in connection with said removal, and said licensee or owner shall be liable for the costs of such removal pursuant to M.G.L. c. 93, § 30A, and M.G.L. c. 11 I, §§ 123 through 125.

(2) Permits.

(a) Each initial application for a permit, each application of the renewal of a permit, each application for the transfer of permit, and each application for a temporary permit, each application for amending a permit shall be accompanied by a nonrefundable fee which shall be calculated as follows:

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1. 0 - 100 sq. ft.	\$60.00/per permit
2. 101- 672 sq. ft.	\$100.00/per permit
3. 673 or larger sq. ft.	\$160.00/per permit
4. Tri-vision	\$250.00/per permit
5. Bus Shelters	\$60.00/per shelter
6. Transfer Fee	\$25.00/per permit
7. Amendment Fee	\$25.00/per permit

(b) Signs permitted for alternating messages on a single face pursuant to 711 CMR 3.09 shall be accompanied by a nonrefundable yearly fee of \$250.00.

(c) Except for temporary permits issued pursuant to 711 CMR 3.05 or 711 CMR 3.07, all permits shall expire on December 31<sup>st</sup> of each year (unless sooner revoked or further extended by the Director). Application for renewal of permits (including those in which administrative or judicial action has been taken but no final administrative or judicial decision has been rendered adverse to the applicant) shall be made on or before the last business day of September preceding the month of expiration unless extensions are ordered by the Director. Applications shall be made on a form furnished by the Director and shall be accompanied by the required fee.

(d) The Director reserves the right, after notice and opportunity for hearing, to revoke for cause any permit at any time. Without limitation, any violation of any provision of 711 CMR 3.00, any violation of any provision of any permit or license, and any submission of false, misleading or deceptive information in any application or in response to any information request by the Director shall constitute grounds for revocation of any permit as well as for imposition of any other penalty provided by law.

(e) If a permit is not renewed by the Director or is revoked by the Director, the sign formerly authorized by the permit shall be removed by the permittee within 30 days of the date of notification of such final action of non-renewal or revocation.

(f) If a sign is abandoned or if a permit is surrendered, cancelled, or otherwise relinquished by a permittee, or if a permittee fails to file a timely or complete application for renewal, the sign formerly authorized by the permit shall be removed by that person within 30 days of the abandonment, surrender, cancellation, relinquishment, or expiration of such permit, whichever occurs first.

(g) If a permittee fails to remove a sign as required by 711 CMR 3.03(2)(e), the Director or its agents may cause the sign to be removed and disposed of in accordance with applicable law without liability of the Director or its agents to the Licensee or the owner of the sign in connection with said removal, and said licensee or owner shall be liable for the costs of such removal pursuant to M.G.L. c. 93, § 30A, and M.G.L. c. 111, §§ 123 through 125.

(3) Fees. All fees shall be paid by check or money order payable to the Commonwealth of Massachusetts.

(4) Each application for a license, license renewal, initial permit, permit renewal, permit transfer and temporary permit shall be made upon a form furnished by the Director and shall be accompanied by the prescribed fee.

3.04: Procedure for Processing and Requirements for Application for a License and License Renewal

(1) Upon receipt of a completed application issued by the Director and all other necessary documents along with the required fee for a license or license renewal, the Director shall consider the application at a meeting of the Director. In determining whether to grant or deny the application, the Director shall consider whether the applicant is fit to engage in the business of outdoor advertising in the Commonwealth based on the record, character, business reputation, actions or omissions of the applicant, or of any person specified in the application. If the Director denies the application, it shall issue a concise statement of the reasons for the denial.

(2) Any person aggrieved by the determination of the Director to deny a license may initiate an adjudicatory proceeding before the Director pursuant to 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure* within the time set forth in 801 CMR 1.00.

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- (3) A determination to grant or deny a license shall become final if no hearing is requested within the time allowed by law;
- (4) Pursuant to 711 CMR 3.02(1), the application requirements for an Initial License are as follows:
  - (a) A completed license application issued by the Director.
  - (b) Certification that the applicant has paid all local taxes and all state taxes due and payable as required by M.G.L. c. 62C, § 49A.
  - (c) A Certificate of Good Standing issued by the Massachusetts Department of Revenue (This applies to Corporations and Limited Liability Companies only)
  - (d) The required license fee.
- (5) Pursuant to 711 CMR 3.02(1), the application requirements for renewal of license are as follows:
  - (a) A completed license renewal application issued by the Director.
  - (b) Certification that the applicant has paid all local taxes and all state taxes due and payable as required by M.G.L. c. 62C, § 49A.
  - (c) The required license fee.

### 3.05: Procedure for Processing Applications for Initial Permits, Temporary Permits, Permit Renewals and Permit Transfers

- (1) Each application for any initial permit, temporary permit, permit renewal or permit transfer shall be processed in accordance with the procedure set forth in 711 CMR 3.05; provided, however, that in case of an application for a temporary permit, the Director may selectively waive any procedure set forth in 711 CMR 3.05 not specifically required by statute.
- (2) Within 60 days upon the filing of a completed application, the Director shall make a preliminary determination in writing on whether to grant or deny the application. If the preliminary determination is to deny, the Director shall set forth a brief summary of reasons therefore, including citations of the provisions of 711 CMR 3.00 relied upon.
- (3) Within 15 days from the making of any preliminary determination by the Director as set forth in 711 CMR 3.05, the Director shall send, by mail, written notification to the applicant of that preliminary determination. Within 15 days from the Director's ordering of a hearing, the Director shall notify the applicant and the city or town thereof.
- (4) If the preliminary determination is to deny, the applicant may request a hearing before the Director. The applicant shall, at the time they file their request, send a complete copy thereof by certified mail to the counsel for the Outdoor Advertising Division designated by the Director in the notice. After such hearing or pursuant to 711 CMR 3.05, the Director may order such preliminary determination to be affirmed~ modified or annulled.
- (5) All hearings referred to in 711 CMR 3.05 shall be conducted as adjudicatory proceedings pursuant to the State Administrative Procedure Act, M.G.L. c. 30A, and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.
- (6) A preliminary determination shall become final as follows:
  - (a) If no hearing is requested by the applicant within the time allowed after receipt of notification of issuance of the preliminary determination;
  - (b) Upon the decision by the Director to grant or deny after a hearing;
- (7) On its own motion or at the request of the Director or an applicant made before a deadline, the Director in his discretion, may, without hearing, extend any deadline prescribed in 711 CMR 3.05.
- (8) If the Director decides to revoke an existing permit the determination shall become final as follows:

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- (a) If no hearing is requested by the permit holder within the time allowed after receipt of notification of revocation;
- (b) If the Director, upon receipt of a hearing request decides to deny the hearing the prior determination shall become final effective on the day the Director decides to deny the hearing.

(9) Where the provisions of 711 CMR 3.05 provide for deadlines after the "receipt" of notification 711 CMR 3.05(6) and (7), the date of the receipt shall be established by the date of certified mail delivery or other competent evidence. If the Director mails a notice to the latest address of a person on record with the Director and if delivery is refused or cannot be made to that address, the date of receipt shall be presumed to be ten days after the date the notice was mailed.

### 3.06: Specific Information to be Submitted with Initial and Temporary Permit Applications

(1) Pursuant to 711 CMR 3.02(2), the application requirements for an initial permit and a temporary permit are as follows:

- (a) A completed permit application issued by the Director with the required signatures;
- (b) plans and specifications showing the proposed dimensions, materials, location, number of faces, anchorage and other construction details of the sign sufficient to satisfy 780 CMR 1401.0 of the Massachusetts State Building Code;
- (c) a copy of the most recent city or town assessors map showing the area within a 500 foot radius of the proposed sign and including therein all public parks, reservations, public ways, businesses, water bodies or waterways, residential properties, historic properties or districts, and any other buildings, signs, and other natural features and structural improvements viewable from the principal highways which the sign is intended to face and within 500 feet of the proposed location of the sign as measured along all public ways within 500 feet of the sign location;
- (d) a certified plot plan showing the exact location of the proposed sign;
- (e) a list identifying by name and address the two separate businesses, industrial or commercial activities relied on by the applicant to satisfy 711 CMR 3.07(3);
- (f) a set of photographs of adequate size and viewing angles to depict fairly and accurately the proposed location of the sign and the surrounding area;
- (g) certification by the applicant that the property owner or authorized agent thereof has assented to the erection and maintaining of the sign at the location shown in the application;
- (h) the certification set forth in 711 CMR 3.00: Appendix] signed by a duly authorized official of the city or town where the proposed sign is to be located executed no earlier than 60 days before the filing of the application showing the proposed location is in conformity with the ordinance/bylaws of the city or town;
- (i) the certification set forth in 711 CMR 3.00: Appendix II signed by a duly authorized official of the Massachusetts Highway Department executed no earlier than 30 days before the filing of the completed application showing the proposed location to be in compliance with M.G.L. c. 93D; and
- (j) the required permit fee.

### 3.07: Requirements for New Permits

(1) Based on the requirements of Article 50 of the Amendments to the Massachusetts Constitution and the provisions of M.G.L. c. 93, 711 CMR 3.07 contains standards applicable to the issuance of permits for new signs. Pending further analysis of the impact of applying certain of these standards to existing signs, the Director has determined to apply them prospectively. The Director affirms that permits issued by the Director for any sign are fragile, revocable, and of limited duration. Such permits do not create property rights. Nothing in 711 CMR 3.00 is intended and nothing should be construed to create vested property rights of any kind. Without limitation, in applying certain standards prospectively, the Director does not intend and should not be deemed to grant any vested rights to any permit holder.

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(2) The requirements of 711 CMR 3.07 shall apply to the initial issuance and subsequent renewal of any permit which is subject to M.G.L. c. 93D, § 1 through 7 for a sign for which a complete application was first filed on or after November, 2009.

(3) No permit shall be granted or renewed for a sign that is not located in an area of a business character. An area shall be deemed to be of business character only if, when viewed from the principal highway upon which the sign is to face, both of the following requirements are met:

(a) At least two separate business, industrial or commercial activities are being conducted within a distance of 500 feet from the proposed location of the sign, measuring from such proposed location to the buildings or parking lots or other places of actual business, industrial or commercial activity. The term "business, industrial, or commercial activities" as used in 711 CMR 3.07 shall not include residential trailer parks, railroad tracks and minor sidings;

dumps, gravel pits and landfill operations, nor any agricultural, horticultural, or floricultural activities, nor any activity not visible from the principal highway upon which the sign is to face.

(b) The area in which the sign is to be located is not predominantly residential, agricultural or open space or natural area.

(4) No permit shall be granted for a sign which the Director, in its discretion, determines would not be in harmony with or suitable for the surrounding area or would do significant damage to the visual environment. In making this determination, the Director may consider, among other factors, the health, safety and general welfare of the public; the scenic beauty of the area; the physical, environmental, cultural, historical or architectural characteristics of the location and the area; the structure, height and size of the sign; and the number of signs, including on premises and accessory use signs, which are in the area wherein the sign is to be located. The existence of any sign or signs in an area shall not require a finding that the erection of another sign will be in harmony with the area.

(5) No permit shall be granted for a sign:

(a) Which is within the limits of any public way except as provided in M.G.L. c. 85;

(b) which is visible from the main traveled way of an Interstate or Federal Primary Highway except as provided by Federal statutes and by M.G.L. c. 93D; or ( c ) whose erection or maintenance constitutes trespass. The Director may order in writing an applicant or permittee to submit within 14 days of the date of such order a copy of the lease, license, agreement, or easement, or an affidavit describing same for the property on which is located the sign that is the subject of a particular application or permit. Failure to comply within said time, or within such additional time as the Director may allow, shall constitute grounds for denial of the application or for the revocation of the permit.

(6) No permit shall be granted for a sign (constructed after December 31, 1971) that is within 300 feet of a public park., playground, cemetery, forest, reservation and or any other scenic or recreational area, regardless of ownership, which is available for public use, or reserved for the public, for recreation or conservation purposes if within view from an accessible point of park for public use (measured from the middle point of an existing sign or the middle point of a proposed sign's supporting pole) ; provided, however, that the following types of signs located within street furniture that is installed or maintained by or under contract with an agency, municipality, authority or political subdivision of the Commonwealth may be permitted if otherwise in conformity with 711 CMR 3.07(4) and M.G.L. c. 93 and M.G.L. c. 93D.

(a) a sign located within one end panel of a bus shelter located at a permanent, dedicated "bus stop with one or two faces not exceeding 25 square feet per face;

(b) a sign located within a public information panel with one or two faces not exceeding 25 square feet per face that devotes at least one face to public information; and ( c ) a sign contained within other types of street furniture that serve a public purpose, such as benches, public toilets, telephone booths, bicycle terminals and newspaper kiosks, with one or two faces not exceeding 50 square feet per face and 100 square feet in total.

(d) a sign not to exceed 25 square feet per face with one or two faces, a sign not to exceed 25 square feet per face with one or two faces contained within a public information panel or any type of street furniture that serve a public purpose, such as benches, public toilets, telephone booths, bicycle terminals and newspaper kiosks, with one or two faces shall not be subject to spacing requirements

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- (7) No permit shall be granted for a sign:
- (a) painted on or in any way attached to a tree, rock or other natural feature;
  - (b) painted on a bridge or wall;
  - (c) attached to a bridge;
  - (d) attached to a roof of a building used wholly or predominantly for residential purposes;
- (8) No permit shall be granted for a sign which will obstruct the visibility of another sign under permit issued by the Director, a sign legally erected and maintained without the need for a permit from the Director (e.g. "on premises" signs), or a highway or street sign.
- (9) No permit shall be granted for a sign within a city or town where the sign is not in conformity with applicable and lawful city and town ordinances and by-laws. No such ordinance or by-law shall be deemed inconsistent with 711 CMR 3.00 on the ground that such ordinance or by-law prohibits the location or maintaining of a sign which in the absence of said ordinance or by-law would be in conformity with 711 CMR 3.00.
- (10) After notice and opportunity for public hearing before the Director, the Director may designate areas of historical, architectural, scenic or environmental significance as Sign Free Areas, or Sign Free Corridors. No permit shall be granted or renewed for a sign in such Sign Free Areas or Sign Free Corridors.
- (11) The following are specifically designated as Sign Free Areas in which no permits shall be issued:
- (a) the Town of Lexington;
  - (b) the Town of Lincoln;
  - (c) the Town of Concord, and (d) The Charlestown district of the City of Boston, from the Southeast corner of Bunker Hill Street and Lowney Way, thence westward along the southern edge of Lowney Way to the southern edge of Adams Street, thence westward along the southern edge of Adams Street to the southern edge of Common Street, thence westward along the southern edge of Common Street to the southeastern edge of Park Street, thence southwestward along the southeastern edge of Park Street to the western edge of Warren Street to the western edge of Main Street, thence northward along the western edge of Main Street to the northern edge of School Street, thence eastward along the northern edge of School Street to the eastern edge of Bunker Hill Street, thence southward along the eastern edge of Bunker Hill Street to the northwestern edge of Elm Street, thence northeastward along the northeastern edge of Elm Street to the eastern edge of Medford Street to the southeastern edge of Polk Street, thence southwestward along the southeastern edge of Polk Street to the eastern edge of Bunker Hill Street, thence southward along the eastern edge of Bunker Hill Street to the starting point.
- (12) Subject to the provision of 711 CMR 3.07(3), (5), (6), (7), (9) and (11), a permit may be granted and renewed at the Director's discretion as a non-conforming "grandfathered" sign in existence on December 31, 1971 and lawfully maintained thereafter or if a sign is determined by the Director after nomination or designation by the Massachusetts Highway Department under M.G.L. c. 93D or its own motion to be a landmark sign, including a sign on a farm structure or natural surface, of historic or artistic significance, the preservation of which would be suitable for and in harmony with the surrounding area and which would not damage the visual environment. This determination may be rescinded by the Director after notice and opportunity for comment if changes to the area or other factors render the sign unsuitable therefore.
- (13) Additional Requirements for Temporary Permits: Temporary permits shall only be granted with respect to signs which are readily movable, do not exceed 32 square feet and are on a location for which a temporary permit has not been granted during the preceding 12 months. Temporary permits may be allowed for a maximum of 90 days; and the sign permitted thereby, including the supporting structure, shall be removed by the permittee within 14 days of the date of expiration or revocation of the permit.

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### 3.08: Requirements for Renewal of Permits

- (1) Each application for a permit renewal shall be processed in accordance with the procedure set forth in 711 CMR. 3.05..
- (2) Upon the filing of a completed application, the Director shall make a preliminary determination in writing on whether to grant or deny the application. If the preliminary determination is to grant, the Director will automatically renew the permits unless a substantial change, as determined by the Director, occurs in the surrounding environment. If the preliminary determination is to deny, the Director shall set forth a brief summary of reasons therefore, including citations of the provisions of 711 CMR. 3.00 relied upon.
- (3) No renewal of permit shall be granted for a sign which the Director, in his discretion, determines would not be in harmony with or suitable for the surrounding area or would continue to significantly damage the visual environment. In making this determination, the Director may consider, among other factors, the health, safety and general welfare of the public; the scenic beauty of the area; the physical, environmental, cultural, historical or architectural characteristics of the location and the area; the structure, height and size of the sign; and the number of signs, including on premises and accessory use signs, which are in the area wherein the sign is located. The existence of any sign or signs in an area shall not require a finding that the renewal of the sign would be in harmony with the area.

### 3.09: Permit Amendment

- (1) A permit may be amended by the Director at any time after issuance, upon the application of the permittee, including as to location, height, area, illumination, materials and means of support unless subject to compensation under M.G.L. c. 93D.
- (2) The Director may amend a permit as to height, illumination, area or materials upon the sole application of the permittee unless subject to compensation under M.G.L. c. 93D.
- (3) Non-conforming Grandfathered signs shall not be eligible for any permit amendments effective August 13,2009. No material changes may be granted so its useful life may be extended.
- (4) The required application fee.

### 3.10: Rotating or Alternate Faces

Upon appropriate application and payment pursuant to 711 CMR 3.03(2)(b), a permit may allow the display of not more than three alternate or rotating messages upon a single sign.

### 3.11: Permit Transfer

- (1) A permit may only be transferred upon the joint request of the transferor and transferee and any application shall be approved provided both the transferor and transferee are licensees in good standing. Any transfer of a permit shall not cure any deficiencies or delinquencies in the transferred permit.
- (2) The required application fee.

### 3.12: Maintenance of Signs

It shall be a condition of the granting or renewal of a permit that the sign authorized thereby shall:

- (1) Not be modified other than as authorized in a permit from the Director;
- (2) Have no cut-outs, projections or extensions beyond the dimensions specified in the permit, except for five feet on top and two feet on the side;

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(3) Have no moving or movable parts, or flashing, animated, intermittent or other illumination, other than as authorized by a permit from the Director.

(4) Kept reasonably clean and neat and in proper condition, that an necessary ordinary maintenance be performed and that the sign and the ground about it shall be kept free from all rubbish and other objectional material; and

(5) Bear the name of the permittee and the most recent permit number of the sign assigned by the Director, both of which shall be identical in height and clearly visible from the principal highway on which the sign faces. An signs under permit to the same permittee or licensed advertiser shall bear the name and number in the same relative location on each sign.

### 3.13: Duty of Compliance

(1) No grant of any license, renewal, transfer, or other action or inaction by the Director or its agents shall relieve any person from the duty to comply with 711 CMR 3.00 or estop or prevent the Director from enforcing 711 CMR 3.00 in any manner provided by law.

(2) All new sign structures approved by the Director must be erected within one year from date of issue or permits shall become null and void unless a written extension for not more than six months is approved by the Director.

(3) All permits that are subject to a lease agreement are considered to be expired upon expiration of the lease. The permit holder has 60 days to remove sign from premise. If an ownership dispute transpires all advertising shall seize immediately. No permit will be granted until a settlement is reached by the interested parties.

### 3.14: Severability

If any provisions of 711 CMR 3.00 of the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions hereof or applications thereof which can be given effect without the invalid provision or application.

### 3.15: Repair or Restoration of Signs

(1) A permittee shall repair or restore to a safe condition any part of an existing sign when damaged by storm or other accidental emergency; provided however, that no such repair or restoration in excess of 40% of the original sign structure shall be allowed unless the repaired or restored sign fully complies with the requirements of 711 CMR 3.00 applicable to new signs except any sign designated as non-conforming under M.G.L. c. 93D.

(2) In the event that any non-conforming "Grandfathered" sign is deemed structurally unsafe by any municipal inspectional service department the subject sign shall be removed at the permit holder's expense.

(3) In the event that a sign is damaged or destroyed in excess of 40% and a repaired or restored sign would not fully comply with the requirements of 711 CMR 3.00 applicable to new signs, the damaged or destroyed sign shall be forthwith removed and the area made safe by the owner or permittee. In such a case, the permit for the sign shall be null and void and no sign may be re-erected at the location without a new permit from the Director.

(4) In the event the owner or permittee fails to restore or remove the sign, as set forth in 711 CMR 3.15(2) and (3), the permit shall be deemed abandoned and subject to removal pursuant to 711 CMR3.03(2)(g).

(5) In the event that any non-conforming sign "grandfathered" or otherwise is dismantled or taken down for any reason, left abandoned or in dilapidation for a period of more that 30 days sign shall lose its "grandfathered" status. Any new structure will need to adhere to current 711 CMR 3.00.

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(6) 711 CMR 3.15 shall not apply to ordinary maintenance.

### 3.16: Required Notifications

The holder of any license or any permit shall notify the Director in writing within ten days of any of the following, setting forth the details thereof:

- (1) Any change of business addresses, primary phone number, email or other pertinent contact information of the license and/or permit holder;
- (2) The erection, repair, restoration or removal of any sign by the license or permit holder. In the case of the erection of a sign, the notice shall include a set of photographs of adequate size and viewing angles to depict fairly and accurately the location of the sign and the surrounding area;
- (3) Any surrender, cancellation, or relinquishment of any license or permit by the license and/or permit holder;
- (4) Any abandonment of any sign;
- (5) Any revocation, denial or other final refusal by the owner of the property where the sign is located to continue to permit the presence of the sign.
- (6) Upon completion of any permit issued for construction of a new sign,
- (7) Any adoption or amendment of a municipal ordinance or by-law applicable to signs covered by the license or permit as soon as the licensee or permittee has knowledge thereof.
- (8) Any material change in the area where the sign is located relevant to 711 CMR 3.00 including, without limitation, any reduction from the required number of businesses within 500 feet of the sign or any establishment of a public park or reservation within 300 feet of the sign, as soon as the permittee has knowledge thereof;
- (9) Any posting of a sign by a person other than the permit holder, setting forth the identity of that person and the provision made for compliance with 711 CMR 3.12.

### 3.17: Savings Clause

For purposes of any ongoing judicial or administrative proceedings, regulations adopted, determinations made and orders issued by the Director in effect prior to November 2009 shall continue in full force and effect following November 2009. No suit, action, cause of action or other administrative or judicial proceedings arising under the provisions of 711 CMR 3.00 or orders shall abate or be impaired by reason of the passage of 711 CMR 3.00.

## REGULATORY AUTHORITY

711 CMR 3.00: M.G.L. c. 6C; c. 93; c. 93D and 81. 2009, c. 25.

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APPENDIX I

Each application shall contain the following certification which must be signed by a duly authorized official of the city or town wherein the sign is located.

"I hereby certify that the proposed sign is (check applicable box)

- Not in conformity with
- in conformity with
- not subject to
- authorized by a special permit or variance from
- protected by specific provisions "which grandfathers" off-premises signs in the applicable Ordinances/By-Laws of the City/Town (strike one) of \_\_\_\_\_.

The location of the sign is an area zoned \_\_\_\_\_.

The subject sign is as of this date standing at the location stated in the application \_\_\_\_\_(yes or no)".

\_\_\_\_\_  
Name and Title of duly authorized City/Town Official

\_\_\_\_\_  
Date

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3.00: continued

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APPENDIX II

Each application shall contain the following certification which must be signed by a duly authorized official of the Office of Outdoor Advertising.

"I hereby certify that the proposed sign is: (Check applicable box)

- not in conformity with
- in conformity with
- not subject to the provisions of M.G.L. c. 93D.

If subject to M.G.L. c. 93D, subject sign is:

- in conformity with applicable municipal ordinances or by-laws.
  - not in conformity with applicable municipal ordinances or by-laws.
- It has been maintained in violation since \_\_\_\_\_(date)."

\_\_\_\_\_  
Name and Title of duly authorized Official

\_\_\_\_\_  
Date