



03/07/2016

Clarena I.W. Tolson
Deputy Managing Director for Infrastructure and Transportation
Municipal Services Building
1401 JFK Boulevard
Philadelphia, PA 19102

Reference is made to the April 13, 2015 letter from the Department to the City cancelling the certification for control of outdoor advertising devices in zoned commercial or industrial areas along certain highways in the City. The cancellation did not include the Market Street East Advertising District (District) (Philadelphia Zoning Code, Title 14, § 14-906). This determination has been left in place by the Federal Highway Administration in the attached letter dated December 3, 2015. Please note that the letter contains conditions to be met by the Department in view of the cancellation of the general certification.

Due to the continued certification of the Market Street East Advertising District, the City still controls the permitting of outdoor advertising devices in the District. However, the certification is conditioned upon the following:

1. The location, size, spacing, and lighting of outdoor advertising devices must be consistent with the ordinance, as it existed when approved by the Department in October 2012.
2. Any changes to the Philadelphia Code with respect to the location, size, spacing, and lighting of outdoor advertising devices in the District must be reviewed and approved by the Department to determine whether they are consistent with customary use.
3. Variances may not be granted for outdoor advertising devices in the District as it relates to zoning, location, size, spacing, and lighting.

The Department plans to regularly assure itself that the City is in compliance with these requirements. Failure to comply may result in decertification of the District.

Please provide us information on any permits/approvals already issued or applications/requests pending for signs within the District. We also request that you provide us with notice when new applications/requests for permits/approvals are filed or made in the future. And, of course, we should be notified of any proposed changes to the ordinance that you become aware of as noted in number 2 above.

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We look forward to working with you on these issues. Please contact Matt Kulpa, District Right of Way Administrator at (610)-205-6510 if you have any questions or concerns.

Sincerely,



Louis Belmonte, P.E.
Acting Assistant District Executive for Services

cc: William Cressler, Chief Counsel
cc: Eric Jackson, Assistant Counsel
cc: Andrew Ross, Chief Deputy City Solicitor
cc: Jack Clark, Chief, Right of Way Administration Unit



U. S. DEPARTMENT
OF TRANSPORTATION

Federal Highway
Administration

Pennsylvania Division

DEC - 3 2015

228 Walnut Street, Room 508
Harrisburg, PA 17101-1720

In reply refer to:
HPD-PA

City of Philadelphia
Outdoor Advertising Program
Device Certification Plan

Ms. Melissa J. Batula, P.E.
Pennsylvania Department of Transportation
Bureau of Project Delivery – Administration
400 North Street -7th Floor
Harrisburg, Pennsylvania 17120
Attention Mr. Mark Chappell

Dear Ms. Batula:

Pennsylvania DOT (PennDOT) presented a proposal to the Federal Highway Administration (FHWA) on March 27, 2015, concerning the transition of signs in Philadelphia to direct PennDOT control. FHWA has reviewed the elements of that proposal and agrees in large part. The following transition plan is approved:

1. The City of Philadelphia's Outdoor Advertising certification was terminated on April 13, 2015.
2. PennDOT has notified all sign companies operating in the City that the certification has been cancelled, and permits will be required from PennDOT for all future signs, as well as existing signs. Under the notices, applications requesting permits for existing signs must be filed with PennDOT by December 24, 2015.
3. In control areas where zoning changes or zoning variances have been implemented by the City following its certification on June 10, 1974, any non-accessory (off-premise advertising) sign located in areas not zoned commercial or industrial must be removed. This includes instances where the City issued a permit or variance, unless otherwise subject to an existing agreement executed by the Department recognizing the sign as currently located within a zoned commercial or industrial area.
4. As of the April 13, 2015 end of the certification, the sign permitting process in the City will be the same as in any other non-certified municipality in that a proposed sign must be consistent with the requirements of the Federal/State Agreement, and must obtain a City permit pursuant to local ordinances, and a PennDOT permit under the Pennsylvania Outdoor Advertising Control (OAC) Act.
5. PennDOT will establish a baseline of signs existing at the April 13, 2015 end of the certification. This will be completed prior to July 1, 2016. Appropriate action will be taken against illegal signs within 30 days of discovery.

6. Signs erected prior to the highway becoming subject to control must be proven to have been erected prior to the date control became effective.
 - a. PennDOT will recognize zoning permits, sign permits, variances, building permits, leases or other property records, and photographs or other objective documentation to establish that a sign existed prior to the highway becoming a controlled highway and is therefore a legal non-conforming sign.
 - b. Such a sign will be considered a legal non-conforming sign regardless of whether a zoning permit, sign permit, variance or building permit exists for the sign if objective documentation is provided that the sign existed prior to the highway becoming subject to control.
 - c. Signs may also be shown to be legal conforming signs based on the requirements of the OAC Act and Federal/State Agreement.
7. Any signs subject to a final court ruling overturning the issuance of a variance or affirming the non-issuance of a variance that have not yet been removed, are to be removed regardless of permit status or variance, unless otherwise subject to an existing agreement executed by the Department recognizing the sign as currently located within a zoned commercial or industrial area.
8. Subject to paragraphs 3 and 7, signs erected after the highway became subject to control will be reviewed for legality based on available zoning permits, sign permits, variances or building permits; and the zoning of the area at the time of erection.
 - a. Signs for which no zoning permit, sign permit, variance or building permit can be produced will be considered illegal and subject to removal.
 - b. Signs erected in areas allowing non-accessory signs and consistent with their zoning permit, sign permit, or building permit issued without the necessity of a variance will be considered legal conforming signs.
 - c. Signs erected in areas allowing non-accessory signs that required a variance and are consistent with their zoning permit, sign permit, or building permit will be considered legal non-conforming signs.
 - d. Signs erected pursuant to variances in zoning districts in which non-accessory signs were not allowed at the time of erection will be considered illegal signs and subject to removal.
 - e. If the zoning district in which the sign is located has changed to one not allowing signs under the OAC Act, the sign will be considered a legal non-conforming sign.
 - f. Signs erected in areas zoned for non-accessory signs, but inconsistent with their zoning permit, sign permit, variance or building permit will be considered illegal signs and subject to removal. This removal should be followed only after a 90 day period in which the sign owner may make the sign conforming.
9. The provisions of the OAC Act and regulations promulgated thereunder, enacted and promulgated pursuant to the Highway Beautification Act of 1965 (HBA), as amended, and

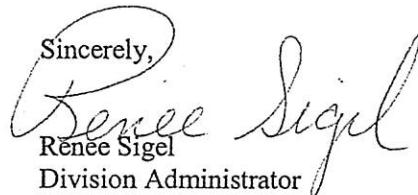
approved by FHWA under 23 CFR 750.705, and the Federal/State Agreement, will apply to all legal non-conforming signs.

10. Disputes concerning permitting signs will be resolved consistent with the OAC Act, the Federal/State Agreement, the HBA, and the terms of this letter, through existing PennDOT procedures under the Pennsylvania Administrative Agency Law.
11. If a sign owner does not file an application with PennDOT for an existing sign identified in the baseline inventory, PennDOT will issue a notice of illegal sign.
12. PennDOT will remove existing signs determined to be illegal signs if not removed by the sign owner in an expeditious manner. PennDOT will notify FHWA of any sign that will not be removed within 180 days of determining removal is required with explanation and anticipated removal date.
13. PennDOT will provide progress reports to FHWA every six months beginning April 1, 2016.

Items associated with the original PennDOT proposal related to the Market East Sign District and customary use will be addressed separately by PennDOT and FHWA.

FHWA believes that these elements of this transition are appropriate, and recognize the reality of producing historic records while preserving the effective control of signs along controlled highways.

If you have further questions, please contact Melissa Corder at 717-221-4406 or melissa.corder@dot.gov. Thank you.

Sincerely,

Renée Sigel
Division Administrator

cc: Keith Lynch, FHWA
Melissa Corder, FHWA
William Cressler, PennDOT OCC
Mark Chappell, PennDOT
Jack Clarke, PennDOT