

Certification of

Local Government Ordinance for Comprehensive Zoning

LEGAL REQUIREMENTS:

23 U.S.C. § 131 (d). In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. **Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.** Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

23 C.F.R. § 750.706. Sign Control in Zoned and Unzoned Commercial and Industrial Areas.

The following requirements apply to signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way adjacent to the Interstate and Federal-aid primary highways.

(c) Where the agreement and State law permits **control by local zoning authorities, these controls may govern in lieu of the size, lighting, and spacing controls set forth in the agreement, subject to the following:**

(1) **The local zoning authority's controls must include the regulation of size, of lighting and of spacing of outdoor advertising signs, in all commercial and industrial zones.**

(2) The regulations established by local zoning authority **may be either more restrictive or less restrictive than the criteria contained in the agreement,** unless State law or regulations require equivalent or more restrictive local controls.

(3) If the zoning authority has been delegated, extraterritorial, jurisdiction under State law, and exercises control of outdoor advertising in commercial and industrial zones within this extraterritorial jurisdiction, control by the zoning authority may be accepted in lieu of agreement controls in such areas.

(4) **The State shall notify the FHWA in writing of those zoning jurisdictions wherein local control applies.** It will not be necessary to furnish a copy of the zoning ordinance. **The State shall periodically assure itself that the size, lighting, and spacing control provisions of zoning ordinances accepted under this section are actually being enforced by the local authorities.**

(5) **Nothing contained herein shall relieve the State of the responsibility of limiting signs within controlled areas to commercial and industrial zones.**

Most Federal – State Agreements contain language similar to the language contained in Virginia’s agreement:

A. In zoned commercial and industrial areas where the locality has regulations governing the size, spacing and lighting of signs, such regulations shall control and govern when so certified to the appropriate federal authority by the commissioner.

B. In all other zoned and unzoned commercial and industrial areas, the criteria set forth in this part shall apply.

PROCEDURES Used in Virginia:

A. A request for certification of the outdoor advertising sections of a local zoning ordinance may be made by the local government, a sign owner, or any other interested party. The request must be in writing.

1. The **Central Office** will ask the district **Agent** to contact the zoning office and obtain a copy of the zoning ordinance and zoning maps.
2. The **Central Office** will review the ordinance and maps to ensure that all areas of the locality are zoned and that the ordinance contains size, lighting, and spacing requirements in all commercial and industrial areas. The reviewer will also ensure that the ordinance prohibits off-premises sign in all areas not zoned for commercial or industrial use.
3. Once the **Central Office** review is complete the ordinance will be sent to the **Office of the Attorney General** for review and discussion of the findings with the Central Office reviewer.
4. If the ordinance does prohibit off-premises signs in all areas not zoned commercial or industrial and does regulate size, lighting, and spacing in all commercial and industrial areas the **Central Office** will notify the local government and the person requesting the review that the ordinance has been approved as comprehensive under § 33.1-371 and 24 VAC 30-120-20.
5. The **Central Office** will notify the local office of the **Federal Highway Administration** and the affected **district office** of the results of the review.

B. Once approved, the locality will govern the size, lighting, and spacing of all signs in all commercial or industrial areas within their jurisdiction regardless of whether the local ordinance is more or less restrictive than state law and regulations. State will continue

to issue permits and monitor signs. The comprehensive zoning approval prohibits the locality from issuing a variance to their ordinance for size, lighting, or spacing of signs.