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CHAPTER ~~7~~ 6.

OUTDOOR ADVERTISING IN SIGHT OF PUBLIC HIGHWAYS.

Article 1.

General Policies and Regulations.

§ ~~33.1-351~~ 33.2-600. Policy; definitions.

A. In order to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within ~~this~~ the Commonwealth, to attract tourists and promote the prosperity, economic well-being, and general welfare of the Commonwealth, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, the General Assembly declares it to be the policy of the Commonwealth that the erection and maintenance of outdoor advertising in areas adjacent to the rights-of-way of the highways within the Commonwealth shall be regulated in accordance with the terms of this article and regulations promulgated by the ~~Commonwealth Transportation~~ Board pursuant thereto.

~~The following terms, wherever used or referred to in this article, shall have the following meanings unless a different meaning clearly appears from the context~~ B. As used in this article, unless the context requires a different meaning:

"Advertisement" means any writing, printing, picture, painting, display, emblem, drawing, sign, or similar device ~~which~~ that is posted or displayed outdoors on real property and is intended to invite or to draw the attention or to solicit the patronage or support of the public to any goods, merchandise, real or personal property, business, services, entertainment, or amusement manufactured, produced, bought, sold, conducted, furnished, or dealt in by any person; ~~the term shall also include.~~ "Advertisement" includes any part of an advertisement recognizable as such.

"Advertising structure" means any rigid or semirigid material, with or without any advertisement displayed thereon, situated upon or attached to real property outdoors, primarily

27 or principally for the purpose of furnishing a background or base or support upon which an
28 advertisement may be posted or displayed.

29 "Area of an advertising structure" means the area determined from its outside
30 measurements, excluding as a part thereof the height and overall width of supports and
31 supporting structure and any other portion or portions thereof beneath the normal area upon
32 which an advertisement is posted or intended to be posted.

33 "Billboard sign" means any sign, advertisement, or advertising structure as defined in
34 this section owned by a person, firm, or corporation in the business of outdoor advertising.

35 "Business of outdoor advertising" means the erection, use, or maintenance of advertising
36 structures or the posting or display of outdoor advertisements by any person who receives profit
37 gained from rentals or any other compensation from any other person for the use or maintenance
38 of such advertising structures or the posting or display of such advertisements, except
39 reasonable compensation for materials and labor used or furnished in the actual erection of
40 advertising structures or the actual posting of advertisements. The "business of outdoor
41 advertising" ~~shall~~ does not include the leasing or rental of advertising structures or
42 advertisements used to advertise products, services, or entertainment sold or provided on the
43 premises where the advertising structures or advertisement is located.

44 "Centerline of the highway" means a line equidistant from the edges of the median
45 separating the main traveled ways of a divided highway, or the centerline of the main traveled
46 way of a nondivided highway.

47 "Distance from edge of a right-of-way" ~~shall be~~ means the horizontal distance measured
48 along a line normal or perpendicular to the centerline of the highway.

49 "Federal-aid primary highway" means any highway within that portion of the ~~State~~
50 ~~Highway System~~ primary state highway system as established and maintained under ~~Article 2 (§~~
51 ~~33.1-25 et seq.) of Chapter 1 of Title 33.1 XXX,~~ including extensions of such system within
52 municipalities, ~~which~~ that has been approved by the Secretary of Transportation pursuant to

53 ~~subsection (b) of § 103 of Title 23, United States Code 23 U.S.C. § 103(b)~~, as that system
54 existed on June 1, 1991.

55 "Highway" means every way or place of whatever nature open to the use of the public
56 for purposes of vehicular travel in ~~this~~ the Commonwealth.

57 "Historic place, museum, or shrine" includes only places that are maintained wholly at
58 public expense or by a nonprofit organization.

59 "Information center" means an area or site established and maintained at rest areas for
60 the purpose of informing the public of places of interest within the Commonwealth and
61 providing such other information as the Commonwealth may consider desirable.

62 "Interchange" means a grade separated intersection with one or more turning roadways
63 for travel between intersection legs, or an intersection at grade, where two or more highways
64 join or cross.

65 "Lawfully erected" means any sign that was erected pursuant to the issuance of a permit
66 from the Commissioner of Highways under ~~§ 33.1-360~~ 33.2-XXX unless the local governing
67 body has evidence of noncompliance with ordinances in effect at the time the sign was erected.

68 "Legible" means capable of being read without visual aid by a person of normal visual
69 acuity.

70 "Main traveled way" means the traveled way of a highway on which through traffic is
71 carried. In the case of a divided highway, the traveled way of each of the separated roadways for
72 traffic in opposite directions is a main traveled way. ~~It~~ "Main traveled way" does not include
73 such facilities as frontage roads, turning roadways, or parking areas.

74 "Maintain" means to allow to exist.

75 "Municipalities" means cities and ~~incorporated~~ towns.

76 ~~"National highway system~~ Highway System" means the federal-aid highway system
77 described in ~~subsection (b) of § 103 of Title 23, United States Code, 23 U.S.C. § 103(b)~~ and
78 regulations adopted pursuant thereto. For the purpose of this article, outdoor advertising controls
79 on the ~~national highway system~~ National Highway System shall be implemented as those

80 highways are designated and approved by congressional action, and such designation and
81 approval shall be kept on file in the central office of the Department of Transportation and
82 placed in the minutes of the ~~Commonwealth Transportation~~ Board by the Commissioner of
83 Highways. Prior to congressional approval, highways classified as National System of Interstate
84 and Defense Highways, Dwight D. Eisenhower National System of Interstate and Defense
85 Highways, Interstate System, or federal-aid primary as defined ~~herein~~ in this section shall be
86 considered as the ~~national highway system~~ National Highway System.

87 "National System of Interstate and Defense Highways," "Dwight D. Eisenhower
88 National System of Interstate and Defense Highways," and "Interstate System" means the
89 system presently defined in ~~subsection (e) of § 103 of Title 23, United States Code~~ 23 U.S.C. §
90 103(c).

91 A ~~"nonconforming"~~ "Nonconforming sign," "nonconforming advertisement," or
92 "nonconforming advertising structure" is means one ~~which that~~ was lawfully erected adjacent to
93 any highway in the Commonwealth, but ~~which that~~ does not comply with the provisions of state
94 law, state regulations, or ordinances adopted by local governing bodies passed at a later date or
95 ~~which that~~ later fails to comply with state law, state regulations, or ordinances adopted by local
96 governing bodies due to changed conditions.

97 "Person" includes an individual, partnership, association, or corporation.

98 "Post" means post, display, print, paint, burn, nail, paste, or otherwise attach.

99 "Real property" includes any property physically attached or annexed to real property in
100 any manner whatsoever.

101 "Rest area" means an area or site established and maintained within or adjacent to the
102 right-of-way or under public supervision or control, for the convenience of the traveling public.

103 "Scenic area" means any public park, or area of particular scenic beauty or historical
104 significance designated as a scenic area by the ~~Commonwealth Transportation~~ Board.

105 "Sign" means any outdoor sign, display, device, figure, painting, drawing, message,
106 placard, poster, billboard, or other thing ~~which that~~ is designed, intended, or used to advertise or

107 inform, any part of the advertising or informative contents of which is visible from any
108 highway.

109 ~~"Town" means an incorporated town.~~

110 "Trade name" ~~shall include~~ includes a brand name, trademark, distinctive symbol, or
111 other similar device or thing used to identify particular products or services.

112 "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive
113 of shoulders.

114 "Turning roadway" means a connecting roadway for traffic turning between two
115 intersection legs of an interchange.

116 "Urban area" means an urbanized area or, in the case of an urbanized area encompassing
117 more than one state, that part of the "urbanized area" within the Commonwealth, or an urban
118 place.

119 "Urban place" means an area so designated by the ~~United States~~ U.S. Census Bureau ~~of~~
120 ~~the Census~~ having a population of 5,000 or more and not within any urbanized area, within
121 boundaries fixed by the Commissioner of Highways, in his discretion, in cooperation with the
122 governing bodies of the several ~~counties, towns or cities~~ localities affected and the appropriate
123 federal authority. Such boundaries shall, ~~as~~ at a minimum, encompass the entire urban place
124 designated by the ~~United States~~ U.S. Census Bureau ~~of the Census~~.

125 "Urbanized area" means an area so designated by the ~~United States~~ U.S. Census Bureau
126 ~~of the Census~~, within boundaries fixed by the Commissioner of Highways, in his discretion, in
127 cooperation with the governing bodies of the several ~~counties, towns or cities~~ localities affected
128 and the appropriate federal authority. Such boundaries shall, ~~as~~ at a minimum, encompass the
129 entire urbanized area within a state as designated by the ~~United States~~ U.S. Census Bureau ~~of~~
130 ~~the Census~~.

131 "Virginia byway" and "scenic highway" mean those highways designated by the
132 ~~Commonwealth Transportation Board pursuant to Article 5 (§ 33.1-62 et seq.) of Chapter 1 of~~

133 ~~this title XXX.~~ For the purposes of ~~the this~~ article, a Virginia byway ~~shall mean~~ means a scenic
134 byway as referenced in ~~Title 23, United States Code, § 131 (s)~~ 23 U.S.C. § 131(s).

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

137 **Drafting note: The definition of "town" is removed because it is unnecessary.**

138 **Technical changes are also made.**

139 ~~§ 33.1-352~~ 33.2-601. Enforcement of provisions by Commissioner of Highways.

140 The Commissioner of Highways shall administer and enforce the provisions of this
141 article. He may, ~~in the performance of his duties hereunder,~~ assign to division engineers and
142 other employees in the Department ~~of Transportation~~ such duties other than ~~discretionary~~
143 discretionary powers as he may ~~think~~ deem appropriate.

144 **Drafting note: Technical changes.**

145 ~~§ 33.1-353~~ 33.2-602. Territory to which article applies.

146 The territory under the jurisdiction of the Commissioner of Highways for the purposes of
147 this article shall include all of the Commonwealth, exclusive of that portion thereof ~~which~~ that
148 lies within the corporate limits of municipalities, except the jurisdiction of the Commissioner of
149 Highways shall apply to all the territory within municipalities on which signs, advertisements,
150 or advertising structures are visible from the main traveled way of any ~~interstate~~ Interstate
151 System highway, federal-aid primary highway as that system existed on June 1, 1991, or
152 ~~national highway system~~ National Highway System highway.

153 **Drafting note: Technical changes.**

154 ~~§ 33.1-354~~ 33.2-603. Entry upon lands; hindering Commissioner of Highways or agent.

155 The Commissioner of Highways and all employees under his direction may enter upon
156 such lands as may be necessary in the performance of their functions and duties as prescribed by
157 this article. Any person who ~~shall hinder~~ hinders or ~~obstruct~~ obstructs the Commissioner of
158 Highways or any assistant or agent of the Commissioner of Highways in carrying out such
159 functions and duties ~~shall be~~ is guilty of a Class 1 misdemeanor.

160 **Drafting note: Technical change.**

161 ~~§ 33.1-355~~ 33.2-604. Excepted signs, advertisements, and advertising structures.

162 The following signs and advertisements, if securely attached to real property or
163 advertising structures, and the advertising structures, or parts thereof, upon which they are
164 posted or displayed are excepted from all the provisions of this article ~~save~~ except those
165 enumerated in §§ ~~33.1-353~~ 33.2-XXX, ~~33.1-356~~ 33.2-XXX, ~~33.1-360~~ and 33.2-XXX,
166 subdivisions ~~(2)~~ 2 through ~~(13)~~ 12 of § ~~33.1-369~~ 33.2-XXX and §§ ~~33.1-370~~ 33.2-XXX and
167 ~~33.1-375~~ 33.2-XXX:

168 (1) 1. Advertisements securely attached to a place of business or residence, and ~~not to~~
169 ~~exceed~~ no more than 10 advertising structures, with a combined total area of such
170 advertisements and advertising structures, exclusive of the area occupied by the name of the
171 business, owner, or lessee, of ~~advertisements and advertising structures not to exceed~~ no more
172 than 500 square feet, erected or maintained, or caused to be erected or maintained, by the owner
173 or lessee of such place of business or residence, within 250 feet of such place of business or
174 residence or located on the real property of such place of business or residence and relating
175 solely to merchandise, services, or entertainment sold, produced, manufactured, or furnished at
176 such place of business or residence;

177 (2) 2. Signs erected or maintained, or caused to be erected or maintained, on any farm by
178 the owner or lessee of such farm and relating solely to farm produce, merchandise, services, or
179 entertainment sold, produced, manufactured, or furnished on such farm;

180 (3) 3. Signs upon real property posted or displayed by the owner, or by the authority of
181 the owner, stating that the property, upon which the sign is located, or a part of such property, is
182 for sale or rent or stating any data pertaining to such property and its appurtenances, and the
183 name and address of the owner and the agent of such owner;

184 (4) 4. Official notices or advertisements posted or displayed by or under the direction of
185 any public or court officer in the performance of his official or directed duties, or by trustees
186 under deeds of trust, deeds of assignment, or other similar instruments;

187 ~~(5)~~5. Danger or precautionary signs relating to the premises or signs warning of the
188 condition of or dangers of travel on a highway; erected or authorized by the Commissioner of
189 Highways; ~~or~~ forest fire warning signs erected under authority of the State Forester; and forest
190 fire warning signs, notices, or symbols erected by the United States government under the
191 direction of the ~~United States Forestry~~ U.S. Forest Service;

192 ~~(6)~~6. Notices of any telephone company, telegraph company, railroad, bridges, ferries,
193 or other transportation company necessary in the discretion of the Commissioner of Highways
194 for the safety of the public or for the direction of the public to such utility or to any place to be
195 reached by it;

196 ~~(7)~~7. Signs, notices, or symbols for the information of aviators as to location, direction,
197 and landings and conditions affecting safety in aviation erected or authorized by the
198 Commissioner of Highways;

199 ~~(8)~~8. Signs ~~containing~~ of 16 square feet or less and bearing an announcement of any
200 ~~county, town, village or city~~ locality, or historic place or shrine; situated in ~~this~~ the
201 Commonwealth; advertising itself or local industries, meetings, buildings, or attractions,
202 ~~provided the same is~~ such signs are maintained wholly at public expense; or at the expense of
203 such historic place or shrine;

204 ~~(9)~~9. Signs or notices ~~containing~~ of two square feet or less; placed at a junction of two
205 or more roads in the ~~State Highway System~~ primary state highway system denoting only the
206 distance or direction of a church, residence, or place of business, provided such signs or notices
207 do not exceed a reasonable number in the discretion of the Commissioner of Highways;

208 ~~(10)~~10. Signs or notices erected or maintained upon property giving the name of the
209 owner, lessee, or occupant of the premises;

210 ~~(11)~~11. Advertisements and advertising structures within the corporate limits of cities
211 and towns, except as specified in ~~§ 33.1-353~~ 33.2-XXX;

212 ~~(12)~~12. Historical markers erected by duly constituted and authorized public authorities;

213 ~~(13)~~13. Highway markers and signs erected, or caused to be erected, by the
214 Commissioner of Highways or the ~~Commonwealth Transportation~~ Board or other authorities in
215 accordance with law;

216 ~~(14)~~14. Signs erected upon property warning the public against hunting, fishing, or
217 trespassing thereon;

218 ~~(15)~~15. Signs erected by Red Cross authorities relating to Red Cross Emergency
219 Stations. ~~And, with~~ authority is hereby expressly given for the erection and maintenance of such
220 signs upon the right-of-way of all highways in ~~this~~ the Commonwealth at such locations as may
221 be approved by the Commissioner of Highways;

222 ~~(16)~~16. Signs advertising agricultural products and horticultural products, or either,
223 when such products are produced by the person who erects and maintains the signs; ~~provided,~~
224 ~~however,~~ that restriction of the location and number of such signs shall be in the sole discretion
225 of the Commissioner of Highways;

226 ~~(17)~~17. Signs advertising only the name, time, and place of bona fide agricultural,
227 county, district, or state fairs, together with announcements of related special events ~~in~~
228 ~~connection therewith which that~~ do not consume more than 50 percent of the display area of
229 such signs, provided the person who posts the signs or causes them to be posted will post a cash
230 bond as may be prescribed by the Commissioner of Highways; adequate to reimburse the
231 Commonwealth for the actual cost of removing such signs ~~as that~~ are not removed within 30
232 days after the last day of the fair so advertised;

233 ~~(18)~~18. Signs of eight square feet or less, or one sign structure containing more than one
234 sign of eight square feet or less, ~~which that~~ denote only the name of a civic service club or
235 church, location and directions for reaching same, and time of meeting of such organization,
236 provided such signs or notices do not exceed a reasonable number as determined by the
237 Commissioner of Highways;

238 ~~(19)~~19. Notwithstanding the provisions of ~~§ 33.1-373~~ 33.2-XXX, signs containing
239 advertisements or notices that have been authorized by a county and that are securely affixed to

240 a public transit passenger shelter that is owned by that county, provided, ~~however,~~ that no
241 advertisement shall be placed within the right-of-way of the ~~federal interstate system~~ Interstate
242 System, National Highway System, or ~~the~~ federal-aid primary system of highways in violation
243 of federal law. The prohibition in subdivision ~~8~~ 7 of ~~§ 33.1-369~~ 33.2-XXX against placing signs
244 within 15 feet of the nearest edge of the pavement of any highway shall not apply to such signs.
245 The Commissioner of Highways may require the removal of any particular sign located on such
246 a shelter as provided in this subdivision if, in his ~~judgement~~ judgment, such sign constitutes a
247 safety hazard.

248 **Drafting note: In subdivision 5, the reference to the "Forestry" Service is corrected**
249 **to the U.S. Forest Service. In subdivision 8, the term "village" is removed as an inaccurate**
250 **term. Technical changes are also made.**

251 ~~§ 33.1-356~~ 33.2-605. License required of outdoor ~~advertiser~~ advertisers.

252 No person shall engage or continue in the business of outdoor advertising in ~~this~~ the
253 Commonwealth outside ~~of~~ the corporate limits of municipalities or within the corporate limits of
254 municipalities if their off-premises sign, advertisement, or advertising structure is visible from
255 the main traveled way of any ~~interstate~~ Interstate System, federal-aid primary, or ~~national~~
256 ~~highway system~~ National Highway System highway without first obtaining a license therefor
257 from the Commissioner of Highways. ~~Persons engaged in the business of outdoor advertising~~
258 ~~who~~ that own signs, advertisements, or advertising structures visible from the main traveled way
259 of any ~~interstate~~ Interstate System, federal-aid primary, or ~~national highway system~~ National
260 Highway System highway within municipalities shall have until October 1, 1993, to obtain a
261 license from the Commissioner of Highways or remove such sign, advertisement, or advertising
262 structure from the view from the main traveled way of any ~~interstate~~ Interstate System, federal-
263 aid primary, or ~~national highway system~~ National Highway System highway. The
264 Commissioner of Highways shall notify persons known to be engaged in the business of outdoor
265 advertising within municipalities by August 1, 1993, of the need to obtain a license. The fee for
266 such license, hereby imposed for revenue for the use of the Commonwealth, shall be \$500 per

267 year, payable annually in advance. Applications for licenses, or renewal of licenses, shall be
268 made on forms furnished by the Commissioner of Highways, shall contain such information as
269 the Commissioner of Highways may require, and shall be accompanied by the annual fee.
270 Licenses granted under this section shall expire on December 31 of each year and shall not be
271 prorated. Applications for renewal of licenses shall be made not less than ~~thirty~~ 30 days prior to
272 the date of expiration. Nothing in this section shall be construed to require any person ~~who~~ that
273 advertises upon a structure or fixture on ~~his~~ its property or a licensed advertiser's structure or
274 other space to obtain a license.

275 **Drafting note: Obsolete language regarding those engaged in outdoor advertising**
276 **prior to 1993 is deleted. Technical changes are also made.**

277 ~~§ 33.1-357~~ 33.2-606. Revocation of license and judicial review.

278 A. The Commissioner of Highways ~~shall have the right~~ may, after ~~thirty~~ 30 days' notice
279 in writing to the licensee, ~~to~~ revoke any license granted by him upon repayment of a
280 proportionate part of the license fee, in any case in which he ~~shall find~~ finds that any of the
281 information required to be given in the application for the license is knowingly false or
282 misleading or that the licensee has violated any of the provisions of this article, unless such
283 licensee ~~shall~~, before the expiration of such ~~thirty~~ 30 days, ~~correct~~ corrects such false or
284 misleading information and ~~comply~~ complies with the provisions of this article.

285 ~~§ 33.1-358. Judicial review of revocation.~~

286 B. Any person whose license is so revoked is entitled to judicial review of such
287 revocation in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et
288 seq.). Any person aggrieved by ~~the~~ such judgment ~~of such court~~ shall have the right of appeal to
289 the Court of Appeals.

290 **Drafting note: Two related sections regarding revocation of licenses are combined.**
291 **Technical changes are also made.**

292 ~~§ 33.1-359~~ 33.2-608. Bond required from out-of-state licensee.

293 No license to engage or continue in the business of outdoor advertising shall be granted
294 to any person having ~~his~~ its principal place of business outside the Commonwealth or ~~which that~~
295 is incorporated outside the Commonwealth for the posting or display of any advertisement or
296 the erection, use, or maintenance of any advertising structure, until such person ~~shall have~~ has
297 furnished and filed with the Commissioner of Highways a bond payable to the Commonwealth,
298 with surety approved by the Commissioner of Highways and in a form approved by the
299 Attorney General, in the sum of \$1,000, conditioned that such licensee ~~shall fulfill~~ fulfills all
300 requirements of law and the regulations and orders of the Commissioner, of Highways relating
301 to the display of advertisements or the erection of advertising structures. Such bond ~~shall remain~~
302 remains in full force and effect so long as any obligations of such licensee to the
303 Commonwealth ~~shall~~ remain unsatisfied.

304 **Drafting note: Technical changes.**

305 § ~~33.1-360~~ 33.2-609. Permits required.

306 Except as ~~in this article~~ otherwise provided in this article, no person, whether engaged in
307 the business of outdoor advertising or not, shall erect, use, maintain, post, or display any
308 advertisement or advertising structure outside municipalities in this the Commonwealth, ~~outside~~
309 ~~of municipalities~~, without first obtaining a permit therefor from the Commissioner of Highways
310 and paying the annual fee therefor, as provided in this article. A permit ~~shall be~~ is required for
311 an off-premises sign, advertisement, or advertising structure authorized by § ~~33.1-370~~ 33.2-
312 XXX if it is located within a municipality and is visible from the main traveled way of any
313 ~~interstate~~ Interstate System, federal-aid primary, or ~~national highway system~~ National Highway
314 System highway.

315 No bond or permit ~~shall be~~ is required for the posting or display of any advertisement
316 posted or displayed on any advertising structure or space for which a permit has been issued or
317 renewed for the ~~then-current~~ then-current calendar year under the provisions of this article
318 unless such permit has been revoked.

319 **Drafting note: Technical changes.**

320 ~~§ 33.1-361~~ 33.2-610. Applications for permits; fees.

321 A. A separate application for a permit shall be made for each separate advertisement or
322 advertising structure, on a form furnished by the Commissioner of Highways, which application
323 shall be signed by the applicant or his representative duly authorized in writing to act for him
324 and shall describe and set forth the size, shape, and ~~the~~ nature of the advertisement or
325 advertising structure it is proposed to post, display, erect, or maintain and its actual or proposed
326 location with sufficient accuracy to enable the Commissioner of Highways to identify such
327 advertisement or advertising structure and to find its actual or proposed location.

328 B. Each application shall be accompanied by an application fee in an amount determined
329 ~~as follows~~ on the basis of the area of the advertisement or advertising structure for which the
330 permit is sought, according to the following schedule:

- 331 1. ~~Fifteen dollars~~ \$15 if such area does not exceed 74 square feet;
- 332 2. ~~Thirty dollars~~ \$30 if such area exceeds 74 square feet but does not exceed 1,824
333 square feet; and
- 334 3. ~~One hundred sixty five dollars~~ \$165 if such area exceeds 1,824 square feet.

335 In the computation of fees under this ~~section~~ subsection, each side of the advertisement
336 or advertising structure used or constructed to be used shall be separately considered. If the
337 applicant elects to use an electronic application, the fee shall be reduced by \$5 per application.

338 The fee shall be retained by the Commissioner of Highways if the permit is issued. If the
339 permit is refused, the Commissioner of Highways shall refund one-half of the application fee to
340 the applicant.

341 C. In addition to the ~~above~~ fees required by subsection B, on any original application for
342 an advertisement or advertising structure there shall be imposed an inspection charge of \$50 for
343 any advertisement or advertising structure to be located on an ~~interstate~~ Interstate System,
344 federal-aid primary, or ~~national highway system~~ National Highway System highway and \$25 for
345 any advertisement or advertising structure to be located on any other highway.

346 D. Each application shall be accompanied by the written consent, or in lieu thereof a
347 copy certified by an officer authorized to take acknowledgments to deeds in ~~this~~ the
348 Commonwealth, of the owner of the real property upon which such advertisement or advertising
349 structure is to be erected, used, maintained, posted, or displayed, or of such other person having
350 the legal right to grant such consent, or of the duly authorized agent of such owner, or other
351 person; ~~provided,~~ except that in the marsh or meadowland owned by the Commonwealth along
352 either side of the causeway leading from the mainland to the ~~town~~ Town of Chincoteague, the
353 legal right to grant such consent shall be vested in the local governing body of such town.

354 E. Application shall be made in like manner for a permit to use, maintain, or display an
355 existing advertisement or advertising structure.

356 **Drafting note: Technical changes.**

357 ~~§ 33.1-362~~ 33.2-611. Duration and renewal of permit.

358 Except as provided in ~~§ 33.1-365~~ 33.2-XXX, permits issued ~~hereunder~~ in accordance
359 with this article shall run for the calendar year, and may be renewed upon application made
360 upon forms furnished by the Commissioner of Highways and the payment of the same fee
361 required to be paid upon application for a permit. Fees for renewal of permits using the ~~Virginia~~
362 ~~Department of Transportation's~~ Department's electronic application renewal process shall be
363 reduced by \$5 per permit being renewed. Permits ~~will~~ shall not be extended or renewed in cases
364 where the permittee has not exercised the privilege of erecting such advertising structure or
365 displayed such advertisement during the period for which the permit was issued. Annual permits
366 issued after December ~~fifteenth~~ 15 ~~will~~ shall cover the following calendar year.

367 **Drafting note: Technical changes.**

368 ~~§ 33.1-363~~. Area of advertising structure.

369 ~~The area of an advertising structure shall be determined from its outside measurements,~~
370 ~~excluding as a part thereof, the height and overall width of supports and supporting structure~~
371 ~~and any other portion or portions thereof beneath the normal area upon which an advertisement~~
372 ~~is posted or intended to be posted.~~

373 **Drafting note: This section is included in the definitions section for this article,**
374 **because so much of this article uses the area of the advertising structure.**

375 §~~33.1-364~~ 33.2-613. Revocation of permit.

376 The Commissioner of Highways may, after ~~thirty~~ 30 days' notice in writing to the
377 permittee, revoke any permit issued by him under §~~33.1-360~~ 33.2-XXX upon repayment of a
378 proportionate part of the fee in any case in which it ~~shall appear~~ appears to the Commissioner of
379 Highways that the application for the permit contains knowingly false or misleading
380 information, that the permittee has failed to keep in a good general condition and in a reasonable
381 state of repair the advertisement or advertising structure for which such permit was issued, or
382 that the permittee has violated any of the provisions of this article, unless such permittee ~~shall~~,
383 before the expiration of such ~~thirty~~ 30 days, ~~correct~~ corrects such false or misleading
384 information, or ~~make~~ makes the necessary repairs or improvement in the general condition of
385 such advertisement or advertising structure or ~~comply~~ complies with the provisions of this
386 article, as the case may be. If the erection, maintenance, and display of any advertisement or
387 advertising structure for which a permit is issued by the Commissioner of Highways and the
388 permit fee has been paid as above provided, ~~shall be~~ is prevented by any zoning board,
389 commission, or other public agency ~~which~~ that also has jurisdiction over the proposed
390 advertisement or advertising structure or its site, the application fee for such advertisement or
391 advertising structure shall be returned by the Commissioner of Highways and the permit
392 revoked. ~~But~~ However one-half of the application fee shall be deemed to have accrued upon the
393 erection of an advertising structure or the display of an advertisement followed by an inspection
394 by the Commissioner of Highways or his representative.

395 **Drafting note: Technical changes.**

396 §~~33.1-365~~ 33.2-614. Temporary permit.

397 In any case ~~if in which~~ an applicant for a permit ~~shall certify~~ certifies in his application
398 that he is unable to state the actual or proposed location of the advertisement or advertising
399 structure or to file the written consent of the landowner or other person having the legal right to

400 the real estate upon which the advertisement or advertising structure is to be erected, used,
401 maintained, posted, or displayed, the Commissioner of Highways shall issue to such applicant a
402 temporary permit, which shall expire 60 days from the date of issue, together with the proper
403 identification number to be attached to such advertisement or advertising structure, ~~which~~
404 ~~temporary permit shall expire sixty days from the date of its issue~~. Applications for temporary
405 permits must indicate the county and route on which the advertisement or advertising structure
406 is to be located and must be accompanied by a fee of ~~two dollars~~ \$2 to cover the cost of issuance
407 of the temporary permit. If within such ~~sixty~~ 60 days, the applicant ~~shall file~~ files with the
408 Commissioner of Highways an application setting forth all of the information required in § ~~33.1-~~
409 ~~364~~ 33.2-XXX, together with the required fees, the Commissioner of Highways shall issue to
410 such applicant a permit. In the event that the permit is not issued, the fees submitted shall be
411 returned, except the ~~two dollars~~ \$2 for the temporary permit.

412 **Drafting note: Technical changes.**

413 § ~~33.1-366~~ 33.2-615. Appeal from refusal or revocation of permit.

414 Any person aggrieved by any action of the Commissioner of Highways in refusing to
415 grant or in revoking a permit under § ~~33.1-364~~ 33.2-XXX or § ~~33.1-364~~ 33.2-XXX may appeal
416 from the decision of the Commissioner of Highways in accordance with the provisions of the
417 Administrative Process Act (§ 2.2-4000 et seq.).

418 **Drafting note: Technical changes.**

419 § ~~33.1-367~~ 33.2-616. Transfer of licenses and permits to successor concerns.

420 Any license or permit issued pursuant to this article may be transferred to any person
421 ~~who~~ that acquires as a successor the business of the person for whom such license or permit was
422 issued.

423 **Drafting note: Technical change.**

424 § ~~33.1-368~~ 33.2-617. Identification of advertising structure or advertisement.

425 The Commissioner of Highways shall require that each advertising structure and each
426 advertisement not posted or displayed on an advertising structure ~~shall~~ bear an identification

427 number; furnished by the Commissioner, of Highways and, if erected, maintained, or displayed
428 by a licensed outdoor advertiser ~~shall~~, also bear ~~his~~ its name. The Commissioner of Highways
429 shall make suitable provisions for the details thereof.

430 **Drafting note: Technical changes.**

431 ~~§ 33.1-369~~ 33.2-618. Certain advertisements or structures prohibited.

432 No advertisement or advertising structure shall be erected, maintained, or operated:

433 ~~(1)~~ 1. Within 660 feet of the nearest edge of the right-of-way of the Blue Ridge Parkway,
434 the Colonial National Parkway, the Mount Vernon Boulevard, or any other parkway within ~~this~~
435 the Commonwealth or within 660 feet of any public cemetery, public park reservation, public
436 playground, national forest, or state forest, outside the limits of any municipality; however, any
437 advertisement or advertising structure ~~which~~ that is lawfully in place on April 6, 1966, and
438 ~~which~~ that does not conform to the 660-foot distance requirement may be maintained for the life
439 of ~~such~~ the advertisement or advertising structure;

440 ~~(2) Which~~ 2. That involves motion or rotation of any part of the structure, moving
441 reflective disks, or running animation, or that displays an intermittent light or lights visible from
442 any highway. The prohibition of this ~~subsection~~ subdivision shall not apply to: ~~(a)~~ (i) an
443 advertisement or advertisement structure with messages that change no more than once every
444 four seconds and that is consistent with agreements entered into between the Commissioner of
445 Highways and the ~~United States~~ U.S. Department of Transportation or ~~(b)~~ (ii) an on-premises
446 advertisement or advertising structure with messages displayed as scrolling words ~~and/or~~ or
447 numbers;

448 ~~(3) Which~~ 3. That uses the words "stop" or "danger" prominently displayed or presents
449 or implies the need or requirement of stopping or the existence of danger on any highway; or
450 ~~which~~ that is a copy or imitation of official highway signs;

451 ~~(4)~~ [Reserved.]

452 ~~(5) Which 4.~~ That, within visible distance of any highway, advertises any county, city,
453 town, ~~village~~, historic place, or shrine without the consent, in writing of such county, city, or
454 town or ~~village~~ or of the owner of such historic place or shrine;

455 ~~(6) Which 5.~~ That is mobile and is designed to and effectively does distract the attention
456 of passing motorists on any highway by flashing lights, loud and blatant noises, or movable
457 objects;

458 ~~(7) Which involve 6.~~ That involves red, green, or amber lights or reflectorized material
459 and ~~which resemble~~ resembles traffic signal lights or traffic control signs and ~~are~~ is within
460 visible distance of any highway;

461 ~~(8) 7.~~ Within ~~fifteen~~ 15 feet of the nearest edge of the pavement of any highway;
462 however, the Commissioner of Highways may waive this restriction whenever the
463 advertisement or advertising structure is actually anchored outside of the right-of-way, and,
464 within his discretion, does not constitute a safety hazard or conflict with any other restriction
465 contained in this section;

466 ~~(9) 8.~~ At any public road intersection in such a manner as would obstruct the clear vision
467 in either direction between a point on the center line of the side road 20 feet from the nearest
468 edge of the pavement of the main road and points on the main road 400 feet distant, measured
469 along the nearest edge of the pavement of the main road;

470 ~~(10) 9.~~ At any grade intersection of a public road and a railroad in such a manner as
471 would obstruct the clear vision in either direction within triangular areas formed by ~~(a)~~ (i) a
472 point at the center of the railroad-public road intersection, ~~(b)~~ (ii) a point on the public road 400
473 feet from the center of the railroad-public road intersection as measured along the center of the
474 public road, and ~~(c)~~ (iii) a point on the railroad 500 feet from the center of the railroad-public
475 road intersection as measured along the center of the railroad;

476 ~~(11) 10.~~ At or near any curve in a road in such a manner as to obstruct the clear vision of
477 traffic from any one point on such curve to any other point not more than 400 feet apart, as
478 measured between each point from the nearest edge of the pavement;

479 ~~(12) Which~~ 11. That advertises activities ~~which that~~ are illegal under state or federal
480 laws or regulations in effect at the location of such sign or advertisement or at the location of
481 such activities;

482 ~~(13) Which~~ 12. That is obsolete or inconsistent with this article or regulations adopted by
483 the ~~Commonwealth Transportation~~ Board pursuant to this article; or

484 ~~(14)~~ 13. After December 18, 1991, adjacent to any ~~interstate~~ Interstate System, federal-
485 aid primary, or ~~national highway system~~ National Highway System highway in the
486 Commonwealth ~~which that~~ has been designated as a Virginia byway or scenic highway, except
487 directional and official signs and notices defined in this article and regulations adopted ~~under~~
488 pursuant to this article, on-premises signs, and signs advertising the sale or lease of property
489 upon which they are located.

490 **Drafting note: Technical changes.**

491 ~~§ 33.1-370~~ 33.2-619. Special provisions pertaining to ~~interstate~~ Interstate System,
492 ~~national highway system~~ National Highway System, and federal-aid primary highways.

493 A. Notwithstanding the territorial limitation set out in ~~§ 33.1-353~~ 33.2-XXX, no sign or
494 advertisement adjacent to any ~~interstate~~ Interstate System, ~~national highway system~~ National
495 Highway System, or federal-aid primary highway shall be erected, maintained, or displayed
496 ~~which that~~ is visible from the main traveled way within 660 feet of the nearest edge of the right-
497 of-way, except as provided in subsections B and D ~~of this section~~, and outside of an urban area,
498 no sign or advertisement beyond 660 feet of the nearest edge of the right-of-way of any
499 ~~interstate~~ Interstate System, ~~national highway system~~ National Highway System, or federal-aid
500 primary highway ~~which that~~ is visible from the main traveled way shall be erected, maintained,
501 or displayed with the purpose of its message being read from the main traveled way, except as
502 set forth in subsection C.

503 B. The following signs, advertisements, or advertising structures may be erected,
504 maintained, and displayed within 660 feet of the right-of-way of any ~~interstate~~ Interstate
505 System, ~~national highway system~~ National Highway System, or federal-aid primary highway:

506 Class 1—: Official signs. —Directional and official signs and notices, ~~which signs and~~
507 ~~notices shall include, but not be limited to,~~ including signs and notices pertaining to the
508 availability of food, lodging, vehicle service and tourist information, natural wonders, scenic
509 areas, museums, and historic attractions, as authorized or required by law; however, where such
510 signs or notices pertain to facilities or attractions ~~which that~~ are barrier free, such signs or
511 notices shall contain the International ~~Barrier Free~~ Symbol of Access. The ~~Commonwealth~~
512 ~~Transportation~~ Board shall determine the type, lighting, size, location, number, and other
513 requirements of signs of this class.

514 Class 2—: On-premises signs. —Signs not prohibited by other parts of this article ~~which~~
515 that are consistent with the applicable provisions of this section and ~~which that~~ advertise the sale
516 or lease of, or activities being conducted upon, the real property where the signs are located; ~~2~~
517 provided, that any such signs, ~~which that~~ are located adjacent to and within 660 feet of any
518 ~~interstate~~ Interstate System highway and do not lie in commercial or industrial zones within the
519 boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959,
520 wherein the use of real property adjacent to the Interstate System is subject to municipal
521 regulation or control, or in areas where land use as of September 21, 1959, was clearly
522 established by state law as industrial or commercial, shall comply with the following
523 requirements:

524 1. Not more than one sign advertising the sale or lease of the same property may be
525 erected or maintained in such manner as to be visible to traffic proceeding in any one direction
526 on any one ~~interstate~~ Interstate System highway;

527 2. Not more than one sign, visible to traffic proceeding in any one direction on any one
528 ~~interstate~~ Interstate System highway and advertising activities being conducted upon the real
529 property where the sign is located, may be erected or maintained more than ~~fifty~~ 50 feet from
530 the advertised activity, and no such sign may be located more than 250 feet from the center of
531 the advertised activity; and

532 3. No sign, except one ~~which~~ that is not more than ~~fifty~~ 50 feet from the advertised
533 activity, that displays any trade name ~~which~~ that refers to or identifies any service rendered or
534 product sold, ~~shall~~ may be erected or maintained unless the name of the advertised activity is
535 displayed as conspicuously as such trade name.

536 Class 3—: Other signs. —Any signs or advertisements ~~which~~ that are located within areas
537 adjacent to any ~~interstate~~ Interstate System, ~~national highway system~~ National Highway System,
538 or federal-aid primary highway ~~which~~ that are zoned industrial or commercial under authority of
539 state law; or in unzoned commercial or industrial areas as determined by the ~~Commonwealth~~
540 ~~Transportation~~ Board from actual land uses. The ~~Commonwealth~~ ~~Transportation~~ Board shall
541 determine the size, lighting, and spacing of signs of this class, provided that such determination
542 shall be no more restrictive than valid federal requirements on the same subject.

543 C. The following signs, advertisements, or advertising structures may be erected,
544 maintained, and displayed beyond 660 feet of the right-of-way of any ~~interstate~~ Interstate
545 System, ~~national highway system~~ National Highway System, or federal-aid primary highway
546 outside of urban areas:

547 1. Class 1 and Class 2 signs, advertisements, or advertising structures set forth in
548 subsection B ~~of this section~~.

549 2. All other signs, advertisements, or advertising structures erected, maintained, or
550 displayed more than 660 feet from the nearest edge of the right-of-way of an ~~interstate~~ Interstate
551 System, ~~national highway system~~ National Highway System, or federal-aid primary highway,
552 unless ~~said~~ such sign or advertisement is visible from the main traveled way of ~~said~~ such
553 highways and erected, maintained, or displayed with the purpose of its message being read from
554 the main traveled way of ~~said~~ such highways.

555 In determining whether a sign, advertisement, or advertising structure is "erected,
556 maintained, or displayed with the purpose of its message being read," the Commissioner ~~is not~~
557 ~~limited to, but will~~ of Highways shall consider, at a minimum, the nature of the business or
558 product advertised thereon, the availability of such business or product to users of the controlled

559 highway, and the visibility of the sign, advertisement₂ or advertising structure from the main
560 traveled way of the controlled highway ~~(such~~. Such visibility may be measured by considering
561 the size or height of the sign, advertisement₂ or advertising structure; the configuration, size, and
562 height of recognizable emblems, images, and lettering thereon; the angle of the sign,
563 advertisement₂ or advertising structure to the main traveled way of the controlled highway; the
564 degree to which physical obstructions hinder the view of the sign, advertisement₂ or advertising
565 structure from the main traveled way of the controlled highway; and the time during which such
566 sign, advertisement₂ or advertising structure is exposed to view by travelers on the main traveled
567 way of the controlled highway traveling at the maximum and minimum speeds posted).

568 D. In order to provide information in the specific interest of the traveling public, the
569 ~~Commonwealth Transportation Board is hereby~~ authorized to maintain maps ~~and to~~₂ permit
570 informational directories and advertising pamphlets to be made available at rest areas, and ~~to~~
571 establish information centers at rest areas for the purpose of informing the public of places of
572 interest within the Commonwealth and providing such other information as may be considered
573 desirable.

574 E. Notwithstanding any other provision of law, lawfully erected and maintained
575 nonconforming signs, advertisements, and advertising structures shall not be removed or
576 eliminated by amortization under state law or local ordinances without compensation as
577 described in subsection F ~~of this section~~.

578 F. The Commissioner of Highways is authorized to acquire by purchase, gift₂ or the
579 power of eminent domain and to pay just compensation upon the removal of nonconforming
580 signs, advertisements₂ or advertising structures lawfully erected and maintained under state law
581 or state regulations. ~~Provided, however,~~ provided that subsequent to November 6, 1978,
582 whenever any local ordinance ~~which~~ that is more restrictive than state law requires the removal
583 of such signs, advertisements, or advertising structures, the local governing body shall initiate
584 the removal of such signs, advertisements, or advertising structures with the Commissioner of
585 Highways, who shall have complete authority to administer the removal of such signs,

586 advertisements, or advertising structures. Upon proof of payment presented to the local
587 governing bodies, the local governing bodies shall reimburse the Commissioner of Highways
588 the funds expended ~~which~~ that are associated with the removal of such signs, advertisements, or
589 advertising structures required by local ordinances, less any federal funds received for such
590 purposes. Notwithstanding the ~~above~~ provisions of this subsection, nothing shall prohibit the
591 local governing bodies from removing signs, advertisements, or advertising structures ~~which~~
592 that are made nonconforming solely by local ordinances so long as those ordinances require the
593 local governing bodies to pay 100 percent of the cost of removing them and just compensation
594 upon their removal.

595 Such compensation is authorized to be paid only for the taking from the owner of such
596 sign or advertisement of all right, title, leasehold, and interest in such sign or advertisement, and
597 the taking from the owner of the real property on which the sign or advertisement is located, of
598 the right to erect and maintain such sign or advertisement thereon.

599 The Commissioner of Highways shall not be required to expend any funds under this
600 section unless and until federal-aid matching funds are made available for this purpose.

601 **Drafting note: Technical changes are made, including removing the phrase "but**
602 **not limited to" based on § 1-218. In subsection B, the "International Barrier Free Symbol"**
603 **name is updated to the "International Symbol of Access."**

604 ~~§ 33.1-370.1~~ 33.2-620. Removal of billboard signs under this chapter prohibited without
605 just compensation.

606 Notwithstanding any other provision of law, no billboard sign subject to this chapter
607 may be removed by action of a county, city, or town under Chapter 22 (§ 15.2-2200 et seq.) of
608 Title 15.2 without the payment of just compensation by the county, city, or town unless the
609 billboard sign cannot remain on the property due to the site constraints of the property and
610 removal of the billboard sign is therefore necessary for development on the property. The
611 property owner may terminate the leasehold or other right of the billboard sign to remain on the
612 property in accordance with the terms and conditions of the contract between the property

613 owner and the billboard sign owner, but may not be required to do so by the county, city, or
614 town as a condition of obtaining development approval for the property; unless removal of the
615 billboard sign is necessary for development of the property or the billboard sign is
616 nonconforming and is the principal use on the property and the zoning ordinance permits only
617 one principal use on the property.

618 **Drafting note: Technical change.**

619 § ~~33.1-370.2~~ 33.2-621. Maintenance and repair of nonconforming billboard signs.

620 Notwithstanding any other provision of law, maintenance of and repairs to
621 nonconforming billboard signs shall be governed by this section and any applicable regulations
622 promulgated by the Commissioner of Highways, known as the "Control and Continuance of
623 Nonconforming Signs, Advertisements, and Advertising ~~Structure Structures~~." Nonconforming
624 billboard signs shall be maintained in a good state of repair and shall be subject to removal for
625 failure to do so, in accordance with § ~~33.1-375~~ 33.2-XXX. In order to make repairs to a
626 nonconforming billboard sign, the owner shall make a written request to the Commissioner of
627 Highways and submit the documentation required by 24 VAC 30-120-170. The Commissioner
628 of Highways shall review the written request, and if the Commissioner of Highways determines
629 that the cost of requested repairs does not exceed a dollar amount greater than 50 percent of the
630 current replacement cost of the entire billboard sign or structure, the Commissioner of
631 Highways shall provide the owner of the billboard sign with a letter approving the billboard sign
632 repairs. However, in no case shall a nonconforming billboard sign be replaced or rebuilt if the
633 cost of the replacement or rebuilding exceeds 50 percent of the current replacement cost. The
634 owner of the billboard sign shall apply for a building permit from the locality in which the
635 billboard sign is located and provide a copy of the approval letter from the Commissioner of
636 Highways as part of the application for the building permit. The Commissioner's determination
637 as to whether the owner of the billboard sign has complied with this section shall be binding
638 upon the locality; unless the building official, for good cause shown, submits to the
639 Commissioner of Highways documentation objecting to the Commissioner's determination;

640 within 30 days of the building permit application, with a copy of such documentation being
641 provided to the billboard sign owner. The Commissioner of Highways shall consider any
642 documentation submitted by the building official and shall reissue a determination in
643 accordance with this section, which determination shall be binding upon the locality.

644 **Drafting note: Technical changes. VDOT may want to suggest more generic**
645 **language to replace the VAC reference.**

646 § ~~33.1-371~~ 33.2-622. Regulations and agreements with United States implementing §
647 ~~33.1-370~~ 33.2-XXX.

648 The ~~Commonwealth Transportation~~ Board may issue regulations, and is authorized to
649 enter into agreements with the United States as provided in ~~23-United States Code~~ U.S.C. § 131,
650 with respect to the regulation and control of signs, advertisements, and advertising structures in
651 conformity with § ~~33.1-370~~; 33.2-XXX, provided that such agreements shall not prevent the
652 General Assembly of Virginia from amending or repealing § ~~33.1-370~~ 33.2-XXX at any time,
653 and provided further, that in the event the federal law is amended to lessen the special
654 restrictions applicable to signs, advertisements, and advertising structures adjacent to ~~interstate~~
655 Interstate System or federal-aid primary highways, the ~~Commonwealth Transportation~~ Board is
656 authorized to adopt regulations to conform to such change in federal law and to amend any
657 agreement with the United States relating to such control.

658 **Drafting note: Technical changes.**

659 § ~~33.1-371.1~~ 33.2-623. Selective pruning permits; fees; penalty.

660 A. As used in this section "local beautification project" means any project in a locality
661 that includes installation of plant materials, using public or other funds, in any public right-of-
662 way within a city or town or on a highway or street in a county with the county manager form of
663 government.

664 B. Notwithstanding the provisions of § ~~33.1-353~~ 33.2-XXX or any other provision of
665 law:

666 1. The Commissioner of Highways shall by permit authorize the selective pruning,
667 within highway rights-of-way, as highways are defined in ~~§ 33.1-354~~ 33.2-XXX, including
668 within corporate limits of municipalities, of vegetation that obstructs motorists' view of signs
669 displayed on outdoor advertising structures legally erected and properly maintained along the
670 highways. Permits authorizing such pruning shall be issued in accordance with this section.

671 ~~(a)~~ a. All work performed under the permit shall be (i) subject to the direction of the
672 Commissioner ~~or his designee~~ of Highways, (ii) supervised on-site by a certified arborist
673 approved by the Commissioner of Highways, (iii) completed to the satisfaction of the
674 Commissioner ~~or his designee~~ of Highways, and (iv) performed solely at the expense of the
675 permittee.

676 ~~(b)~~ b. All pruning shall be performed in a manner that (i) creates a picture frame effect
677 around the sign and (ii) beautifies the area surrounding the advertising structure. All cutting
678 shall be limited to vegetation with trunk base diameters of less than six inches. Pruning cuts of
679 limbs or branches or other vegetation with diameters greater than four inches and clear cutting
680 shall not be authorized and shall be strictly prohibited. Pruning of vegetation in a highway
681 median shall not be permitted where the locality within which the pruning is to be done has a
682 local beautification project, as defined in this section, in the area within the scope of the
683 selective pruning application; however, relocation or replanting of such vegetation shall be
684 permitted in accordance with a landscaping plan as provided in this section.

685 ~~(e)~~ c. Any diseased or unsightly vegetation or any vegetation that endangers the health or
686 retards the growth of desirable vegetation may be removed at the discretion of the certified
687 arborist supervising the work. Any such removed vegetation shall be replaced at the permittee's
688 expense with desirable vegetation.

689 2. The requirements of this section shall not apply to the owner or authorized agent of
690 the owner of any sign, advertisement, or advertising structure exempted from the provisions of
691 this article by ~~§ 33.1-355~~ 33.2-XXX.

692 3. The Commissioner of Highways shall promulgate such regulations as he deems
693 necessary or desirable to carry out the provisions of this section. Such regulations shall include
694 ~~but not necessarily be limited to~~ the following requirements:

695 ~~(a)~~-a. Every application for a permit submitted under this section shall be accompanied
696 by photographs of the affected site and a detailed description of work proposed to be performed.

697 ~~(b)~~-b. A fee of \$400 shall accompany every application made to the Commissioner, of
698 Highways or, if applicable, to the locality within which the pruning is to be performed. All such
699 fees collected by the Commissioner of Highways shall be paid by the Commissioner of
700 Highways into the state treasury, and allocated to the ~~Commonwealth Transportation Board~~.

701 ~~(c)~~-c. Every applicant shall post a bond payable to the Commonwealth, with surety
702 approved by the Commissioner of Highways and in a form approved by the Attorney General,
703 in the sum of \$2,500, conditioned on the permittee's fulfillment of all requirements of the
704 permit.

705 ~~(d)~~-d. No permit shall be issued under this section in order to create a new site for an
706 outdoor advertising structure.

707 4. Where the applicant is seeking a vegetation control permit in a locality where the
708 public right-of-way is within the jurisdictional limits of a city or town on a highway or street not
709 within the jurisdiction of the Commissioner of Highways under ~~§ 33.1-353~~ 33.2-XXX or on a
710 highway or street in a county having the county manager form of government, the
711 Commissioner of Highways shall delegate the administration of this section to that locality, and,
712 if so delegated, the locality shall apply the provisions of this section.

713 5. If there are plant materials in the public right-of-way that are part of a local
714 beautification project, the Commissioner of Highways or the locality, as the case may be, may
715 include a requirement, in accordance with the provisions of subdivisions 4 through 7, that, as a
716 condition of the issuance of a vegetation control permit for selective pruning, the applicant must
717 submit a landscaping plan, showing how the applicant will relocate or replant the vegetation
718 obstructing the motorists' view from the main traveled way of the highway or street of signs

719 displayed on outdoor advertising structures, in lieu of the selective pruning of such plant
720 materials. ~~For purposes of this section, "local beautification project" means any project in a~~
721 ~~locality that includes installation of plant materials, using public or other funds, in any public~~
722 ~~right of way within a city or town or on a highway or street in a county with the county~~
723 ~~manager form of government.~~ In the absence of the existence of a local beautification project in
724 the area within the scope of the selective pruning application, no landscaping plan requirement
725 shall be imposed on the applicant.

726 6. If subdivision 5 is applicable, the applicant shall pay the reasonable costs of
727 implementing the landscaping plan, which may include ~~but not be limited to~~, relocating existing
728 plant materials, purchasing new replacement plant materials, and planting vegetation that will
729 not grow to a height or position in the future so as to obstruct motorists' view from the main
730 traveled way of the highway or street of signs displayed on outdoor advertising structures, as
731 otherwise set out in the landscaping plan.

732 7. The provisions of subdivisions 4 through ~~7~~ 6 shall apply to any local beautification
733 project installed prior to July 1, 2006. On and after July 1, 2006, the locality shall not plant
734 materials that obstruct motorists' view from the main traveled way of the highway or street of
735 signs displayed on outdoor advertising structures.

736 8. Any application for vegetation control in compliance with this section submitted to
737 the Commissioner of Highways shall be ~~approved~~ acted upon within 60 days of submission or
738 shall be deemed approved. Any application for vegetation control in compliance with this
739 section submitted to any city or town or on a highway or street in a county with the county
740 manager form of government shall be ~~approved~~ acted upon within 60 days of submission or
741 shall be deemed approved. The locality may impose conditions in approval of the landscaping
742 plan consistent with this section and the regulations promulgated thereto. If the locality is not
743 satisfied that the landscaping plan submitted by the applicant complies with this section, the
744 locality may appeal to the Commissioner of Highways prior to the expiration of the 60-day
745 period from the date of submission. If the applicant objects to the conditions imposed by the

746 locality as part of the approval of the landscaping plan, the applicant may appeal to the
747 Commissioner of Highways within 10 days after the final action by the locality. The appealing
748 party shall submit a written appeal to the Commissioner of Highways, stating the reasons for
749 such appeal, along with a fee of \$400. The Commissioner of Highways shall review the
750 landscaping plan and the reasons for the appeal and shall issue a determination in accordance
751 with this section within 30 days after filing of the appeal, which determination shall be binding
752 upon the applicant and the locality.

753 9. Upon issuance of a vegetation control permit in accordance with this section, the
754 applicant shall give written notice, at least seven days in advance of any site work, as authorized
755 by the permit, of the date and time of the commencement of the site work as approved by the
756 permit. Such written notice shall be given to the Commissioner of Highways unless the public
757 right-of-way is within the jurisdictional limits of a city or town on a highway or street not within
758 the jurisdiction of the Commissioner of Highways under ~~§ 33.1-353~~ 33.2-XXX, in which case,
759 the written notice shall be given to the local government official who approved the permit.

760 10. Any person found by a court of competent jurisdiction to have violated any provision
761 of this section, any regulation adopted pursuant to this section, or any permit issued under this
762 section; shall; in addition to the penalties provided in ~~§ 33.1-377.1,~~ 33.2-XXX be prohibited by
763 the court from applying for any other permit under this section for a period of not more than five
764 years.

765 **Drafting note: Technical changes are made, including removing the phrase "but**
766 **not limited to" in subdivisions 3 and 6 based on § 1-218 of the Code of Virginia.**

767 ~~§ 33.1-372~~ 33.2-624. Pasting advertisements prohibited in certain instances.

768 No advertisement shall be pasted or glued on any building, fence, wall, tree, rock, or
769 other similar structure or object; unless the ~~same be~~ structure or object is an advertising structure
770 for which a permit has been issued and is in effect.

771 **Drafting note: Technical changes.**

772 | § ~~33.1-373~~ 33.2-625. Signs or advertising on rocks, poles, etc., within limits of highway;
773 | civil penalty.

774 | Any person who in any manner (i) paints, prints, places, puts₂ or affixes any sign or
775 | advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone,
776 | danger-sign, guide-sign, guidepost, highway sign, historical marker, building₂ or other object
777 | lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any
778 | sign or advertisement within the limits of any highway ~~shall be assessed~~ is subject to a civil
779 | penalty of \$100. Each occurrence shall be subject to a separate penalty. All civil penalties
780 | collected under this section shall be paid into the Highway Maintenance and Operating Fund.
781 | Signs or advertisements placed within the limits of the highway are hereby declared a public and
782 | private nuisance and may be forthwith removed, obliterated, or abated by the Commissioner of
783 | Highways ~~or his representatives~~ without notice. The Commissioner of Highways may collect the
784 | cost of such removal, obliteration, or abatement from the person erecting, painting, printing,
785 | placing, putting, affixing₂ or using such sign or advertisement. When no one is observed
786 | erecting, painting, printing, placing, putting, or affixing such sign or advertisement, the person,
787 | firm₂ or corporation being advertised shall be presumed to have placed the sign or advertisement
788 | and shall be punished accordingly. Such presumption, however, shall be rebuttable by
789 | competent evidence. In addition, the Commissioner of Highways ~~or his representative~~ may seek
790 | to enjoin any recurring violator of this section. The Commissioner of Highways may enter into
791 | agreements with any local governing body authorizing local law-enforcement agencies or other
792 | local governmental entities to act as agents of the Commissioner of Highways for the purpose of
793 | (i) enforcing the provisions of this section and (ii) collecting the penalties and costs provided for
794 | in this section.

795 | The provisions of this section shall not apply to signs or ~~other~~ outdoor advertising
796 | regulated under other provisions of Chapter 7 (§ 33.1-351 et seq.) of this ~~title~~ chapter.

797 | **Drafting note: Technical changes. The last sentence of this section was added in SB**
798 | **572 (1994) and does not make sense as it is written.**

799 § ~~33.1-375.1~~ 33.2-628. Commissioner of Highways may enter into certain agreements;
800 civil penalties.

801 A. The Commissioner of Highways may enter into agreements with the local governing
802 body of Fairfax County authorizing local law-enforcement agencies or other local governmental
803 entities to act as agents of the Commissioner of Highways for the purpose of (i) enforcing the
804 provisions of § ~~33.1-373~~ 33.2-XXX and (ii) collecting the civil penalties and costs provided for
805 in that section. However, ~~no~~ the local governing body of Fairfax County shall not enter into any
806 such agreement until it has held a public hearing thereon.

807 B. Notwithstanding the provisions of § ~~33.1-373~~ 33.2-XXX, the penalties and costs
808 collected under this section shall be paid to ~~the affected locality~~ Fairfax County.

809 C. Notwithstanding ~~the foregoing provisions of this section~~ subsections A and B, signs
810 and advertising promoting ~~and/or~~ or providing directions to a special event erected from
811 Saturday through the following Monday shall not be subject to an agreement provided for in
812 subsection A.

813 D. If ~~a county~~ Fairfax County acts as an agent of the Commissioner of Highways under
814 this section, ~~the county~~ then it shall require each of its employees and any volunteers who are
815 authorized to act on behalf of the ~~county~~ County to comply with the provisions of this section
816 and any other applicable law. If a lawfully placed sign is confiscated by an employee or
817 volunteer authorized to act for the ~~county~~ County in violation of the authority granted under this
818 section, the sign owner shall have the right to reclaim the sign within five business days of the
819 date of such confiscation.

820 **Drafting note: References to a county are changed to Fairfax County to maintain**
821 **consistency with the first reference, because Fairfax is the only county to which this section**
822 **applies. Technical changes are also made, including replacing "and/or" with "or."**

823 § ~~33.1-374~~ 33.2-626. Harmony of regulations.

824 No zoning board or commission or any other public officer or agency shall permit any
825 sign, advertisement, or advertising structure ~~which that~~ is prohibited under the provisions of this

826 article, nor shall the Commissioner of Highways permit any sign, advertisement₂ or advertising
827 structure ~~which~~ that is prohibited by any other public board, officer₂ or agency in the lawful
828 exercise of its ~~or their~~ powers.

829 **Drafting note: Technical changes.**

830 § ~~33.1-375~~ 33.2-627. Violation a nuisance; abatement.

831 Any sign, advertisement₂ or advertising structure ~~which~~ that is erected, used, maintained,
832 operated, posted₂ or displayed for which no permit has been obtained where such is required, or
833 after revocation or more than 30 days after expiration of a permit, is hereby declared to be a
834 public and private nuisance and may be forthwith removed, obliterated₂ or abated by the
835 Commissioner of Highways ~~or his representatives~~. The Commissioner of Highways may collect
836 the cost of such removal, obliteration₂ or abatement from the person erecting, using,
837 maintaining, operating, posting₂ or displaying such sign, advertisement₂ or advertising structure.

838 **Drafting note: Technical changes.**

839 § ~~33.1-376~~ 33.2-629. Disposition of fees.

840 All moneys received by the Commissioner of Highways under the provisions of this
841 article shall be paid by him into the state treasury, except as provided in 33.2-xxx and 33.2-xxx
842 (existing 33.1-373 and 33.1-377.1), and allocated to the ~~Commonwealth Transportation~~ Board
843 for use in the regulation and control of outdoor advertising and landscaping of highways.

844 **Drafting note: Technical changes.**

845 § ~~33.1-377~~.

846 **Drafting note: Repealed by Acts 2012, cc. 760 and 818, cl. 2, effective April 18,**
847 **2012.**

848 § ~~33.1-377.1~~ 33.2-630. Penalties for violation.

849 A. Notwithstanding any other provision of law, any person, firm, or corporation that
850 violates any provision of this article or applicable regulations that fails to take corrective action
851 within 30 days as specified in a written notice from the Commissioner of Highways shall be
852 subject to any or all of the following penalties:

853 1. A civil penalty of not more than \$250 per violation. Each day during which the
854 violation continues after a final determination by the Commissioner of Highways of such
855 violation shall be deemed a separate violation;

856 2. Revocation by the Commissioner of Highways of any permit for the sign; or

857 3. Removal of the sign by the Commissioner ~~or his designee~~ of Highways. The
858 Commissioner of Highways may collect the costs of the removal from the owner of the sign.

859 B. Any person aggrieved by the action of the Commissioner of Highways in enforcing
860 the provisions of subsection A may appeal the decision of the Commissioner of Highways in
861 accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

862 C. The Commissioner of Highways may remove signs without giving a corrective action
863 notice as provided in subsection A (i) for any violation of subdivision 3, 6, 7, 8, 9, or 10 of §
864 ~~33.1-369 (3), (7), (8), (9), (10), or (11), 33.2-XXX~~ or of §-33.1-372, 33.2-XXX or (ii) if the
865 Commissioner of Highways determines that the sign poses a risk to highway safety.

866 D. The Commissioner ~~or his designee~~ of Highways may recover all civil penalties
867 authorized in subsection A in any manner permitted by law, including (i) the placement of a tax
868 lien on the owner's real property upon which the sign is located and (ii) the use of the Setoff
869 Debt Collection Act (§ 58.1-520 et seq.).

870 E. All civil penalties collected under this section shall be paid into the Highway
871 Maintenance and Operating Fund.

872 **Drafting note: Technical changes.**

873 ~~§-33.1-378~~ 33.2-631. Construction of article.

874 This article shall be liberally construed with a view to the effective accomplishment of
875 its purposes.

876 **Drafting note: No change.**

877 Article 2.

878 False and Misleading Signs.

879 ~~§-33.1-379~~ 33.2-632. Prohibition of ~~such~~ false and misleading signs.

880 It shall be unlawful for any person to erect or maintain alongside, or in plain view of,
881 any public highway any false or misleading sign of any kind or character purporting to furnish
882 travel information relating to place or direction. It shall be unlawful for any person to erect or
883 maintain alongside, or in plain view of, any public highway any sign of any kind or character
884 purporting to furnish travel information relating to merchandise or services unless the design of
885 such sign, the information thereon, and the location thereof, be approved in writing by the
886 Commissioner of Highways; ~~provided, however,~~ that the provisions of this section as to
887 merchandise and service shall not:

888 ~~(1)~~1. Apply to or restrict the right of any person to post, display, erect, or maintain on
889 any store, dwelling house, or other building, together with so much land therewith as shall be
890 necessary for the convenience, use, and enjoyment thereof, or on any mercantile appliances,
891 contrivances, or machinery annexed or immediately adjacent thereto, any sign advertising
892 goods, merchandise, real or personal property, ~~real or personal~~, business services, entertainment,
893 or amusements actually and in good faith manufactured, produced, bought, sold, conducted,
894 furnished, or dealt in on the premises;

895 ~~(2)~~2. Limit or restrict the publication of official notices by or under the direction of any
896 public or court officer in the performance of his official or directed duties;

897 ~~(3)~~3. Limit or restrict notice of sale by a trustee under a deed of trust, deed of
898 assignment, or other similar instrument; or

899 ~~(4)~~4. Apply to or restrict the right of any property owner, or his agent, lessee, or tenant
900 to maintain any sign offering to the public farm products, including livestock of every kind, or
901 board or lodging or similar entertainment, ~~or~~ of the sale, rental, or lease of the property.

902 Nothing in this section shall limit the right of any person, firm, or corporation to erect
903 signs ~~which~~ that advertise natural scenic attractions in the Commonwealth.

904 **Drafting note: Technical changes.**

905 ~~§ 33.1-380~~ 33.2-633. Penalty for violation of ~~preceding section; existing signs~~ § 33.2-

906 XXX.

907 Any person who ~~shall violate~~ violates any of the provisions of § ~~33.1-379~~ 33.2-XXX
908 ~~shall, upon conviction thereof, be punished by~~ subject to a fine not to exceed ~~ten dollars~~ \$10 for
909 each offense, and it shall be deemed a separate offense for the same person to erect, or permit to
910 be erected, a similar sign at each of two or more places; ~~provided, however, as to any such sign~~
911 ~~erected before June 19, 1936, if it be satisfactorily proven that the information thereon given is~~
912 ~~correct, the person who erected the same, as well as the person who permitted the same to be~~
913 ~~erected, shall not be deemed guilty of such violation.~~

914 **Drafting note: Language regarding signs erected before June 19, 1936, is removed**
915 **as obsolete.**

916 § ~~33.1-381~~ 33.2-634. Removal of ~~such~~ false or misleading signs by Commissioner of
917 Highways.

918 ~~The~~ Whenever the Commissioner of Highways, ~~whenever he shall ascertain~~ determines
919 ~~that any such~~ a sign gives incorrect information in violation of this article, he shall notify the
920 person who erected ~~the same, such sign~~ and the person on whose property it is located, in
921 writing, to remove it ~~forthwith~~ immediately, and if it ~~be~~ is not removed within ~~ten~~ 10 days after
922 receipt of such notice, the Commissioner of Highways shall remove and destroy ~~the same such~~
923 sign, or cause it to be removed and destroyed, without liability for damages therefor; ~~and, if any~~
924 person convicted of erecting or maintaining any such sign, or of permitting the same to be
925 erected or maintained, as ~~hereinabove~~ provided, in this article shall fail or refuse to remove ~~the~~
926 same such sign within ~~ten~~ 10 days after such judgment of conviction, the Commissioner of
927 Highways shall remove and destroy such sign, ~~or cause the same to be removed and destroyed,~~
928 without liability for damages ~~therefor~~.

929 **Drafting note: Technical changes.**