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CHAPTER ~~7~~ XX.

OUTDOOR ADVERTISING IN SIGHT OF PUBLIC HIGHWAYS.

Drafting note: Existing Chapter 7 of Title 33.1 is retained and relocated as a chapter in Subtitle II of proposed Title 33.2.

Article 1.

General Policies and Regulations.

Drafting note: An existing article on General Regulations is retained and renamed General Policies and Regulations.

§ ~~33.1-351~~ 33.2-XXX. 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

27 person; ~~the term shall also include.~~ "Advertisement" includes any part of an advertisement
28 recognizable as such.

29 "Advertising structure" means any rigid or semirigid material, with or without any
30 advertisement displayed thereon, situated upon or attached to real property outdoors, primarily
31 or principally for the purpose of furnishing a background or base or support upon which an
32 advertisement may be posted or displayed.

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

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

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

48 "Centerline of the highway" means a line equidistant from the edges of the median
49 separating the main traveled ways of a divided highway, or the centerline of the main traveled
50 way of a nondivided highway.

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

53 "Federal-aid primary highway" means any highway within that portion of the ~~State~~
54 ~~Highway System primary state highway system~~ as established and maintained under ~~Article 2 (§~~
55 ~~33.1-25 et seq.) of Chapter 1 of Title 33.1 XXX~~, including extensions of such system within
56 municipalities, ~~which that~~ has been approved by the Secretary of Transportation pursuant to ~~§~~
57 ~~103 of Title 23, United States Code 23 U.S.C. § 103(b)~~, as that system existed on June 1, 1991.

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

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

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

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

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

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

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

77 "Maintain" means to allow to exist.

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

79 "National Highway System" means the federal-aid highway system referenced in ~~§ 103~~
80 ~~of Title 23, United States Code 23 U.S.C. § 103(b)~~, and regulations adopted pursuant thereto.
81 For the purpose of this article, outdoor advertising controls on the National Highway System
82 shall be implemented as those highways are designated and approved by congressional action or
83 designation by the U.S. Secretary of Transportation and such designation and approval shall be
84 kept on file in the central office of the Department of Transportation and placed in the minutes
85 of the Commonwealth Transportation Board by the Commissioner of Highways. Prior to
86 congressional approval or designation by the U.S. Secretary of Transportation, highways
87 classified as National System of Interstate and Defense Highways, Dwight D. Eisenhower
88 National System of Interstate and Defense Highways, Interstate System, or federal-aid primary
89 as defined ~~herein in this section~~ shall be considered as the National Highway System.

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

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

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

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

101 "Real property" includes any property physically attached or annexed to real property in
102 any manner whatsoever.

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

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

107 "Sign" means any outdoor sign, display, device, figure, painting, drawing, message,
108 placard, poster, billboard, or other thing ~~which~~ that is designed, intended, or used to advertise or
109 inform, any part of the advertising or informative contents of which is visible from any
110 highway.

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

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

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

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

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

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

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

131 entire urbanized area within a state as designated by the ~~United States~~ U.S. Census Bureau ~~of~~
132 ~~the Census~~.

133 "Virginia byway" and "scenic highway" mean those highways designated by the
134 ~~Commonwealth Transportation~~ Board pursuant to ~~Article 5 (§ 33.1-62 et seq.) of Chapter 1 of~~
135 ~~this title XXX~~. For the purposes of ~~the this~~ article, a Virginia byway ~~shall mean~~ means a scenic
136 byway as referenced in ~~Title 23, United States Code, § 131 (s)~~ 23 U.S.C. § 131(s).

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

139 **Drafting note: The definition of "town" is removed as unnecessary, and incorrect**
140 **citations to the United States Code are corrected. This section was amended by Chapter**
141 **127 of the Acts of Assembly of 2013 and those changes are reflected in the existing**
142 **language. Technical changes are also made.**

143 § ~~33.1-352~~ 33.2-XXX. Enforcement of provisions by Commissioner of Highways.

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

148 **Drafting note: Technical changes.**

149 § ~~33.1-353~~ 33.2-XXX. Territory to which article applies.

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

157 **Drafting note: Technical changes.**

158 § ~~33.1-354~~ 33.2-XXX. Entry upon lands; hindering Commissioner of Highways or
159 agent.

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

165 **Drafting note: Technical change.**

166 § ~~33.1-355~~ 33.2-XXX. Excepted signs, advertisements, and advertising structures.

167 The following signs and advertisements, if securely attached to real property or
168 advertising structures, and the advertising structures, or parts thereof, upon which they are
169 posted or displayed are excepted from all the provisions of this article ~~save~~ except those
170 enumerated in §§ ~~33.1-353~~ 33.2-XXX, ~~33.1-356~~ 33.2-XXX, ~~33.1-360~~ and 33.2-XXX,
171 subdivisions ~~(2)~~ 2 through ~~(13)~~ 12 of § ~~33.1-369~~ 33.2-XXX and §§ ~~33.1-370~~ 33.2-XXX and
172 33.1-375 33 2-XXX:

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

182 ~~(2)~~ 2. Signs erected or maintained, or caused to be erected or maintained, on any farm by
183 the owner or lessee of such farm and relating solely to farm produce, merchandise, services, or
184 entertainment sold, produced, manufactured, or furnished on such farm;

185 ~~(3)~~ 3. Signs upon real property posted or displayed by the owner, or by the authority of
186 the owner, stating that the property, upon which the sign is located, or a part of such property, is
187 for sale or rent or stating any data pertaining to such property and its appurtenances, and the
188 name and address of the owner and the agent of such owner;

189 ~~(4)~~ 4. Official notices or advertisements posted or displayed by or under the direction of
190 any public or court officer in the performance of his official or directed duties, or by trustees
191 under deeds of trust, deeds of assignment, or other similar instruments;

192 ~~(5)~~ 5. Danger or precautionary signs relating to the premises or signs warning of the
193 condition of or dangers of travel on a highway, erected or authorized by the Commissioner of
194 Highways; ~~or~~ forest fire warning signs erected under authority of the State Forester; and forest
195 fire warning signs, notices, or symbols erected by the United States government under the
196 direction of the ~~United States Forestry~~ U.S. Forest Service;

197 ~~(6)~~ 6. Notices of any telephone company, telegraph company, railroad, bridges, ferries,
198 or other transportation company necessary in the discretion of the Commissioner of Highways
199 for the safety of the public or for the direction of the public to such utility or to any place to be
200 reached by it;

201 ~~(7)~~ 7. Signs, notices, or symbols for the information of aviators as to location, direction,
202 and landings and conditions affecting safety in aviation erected or authorized by the
203 Commissioner of Highways;

204 ~~(8)~~ 8. Signs ~~containing of~~ 16 square feet or less and bearing an announcement of any
205 ~~county, town, village or city~~ locality, or historic place or shrine, situated in ~~this~~ the
206 Commonwealth, advertising itself or local industries, meetings, buildings, or attractions,
207 provided ~~the same is such signs are~~ maintained wholly at public expense, or at the expense of
208 such historic place or shrine;

209 ~~(9)~~ 9. Signs or notices ~~containing of~~ two square feet or less, placed at a junction of two
210 or more roads in the ~~State Highway System~~ primary state highway system denoting only the

211 distance or direction of a church, residence, or place of business, provided such signs or notices
212 do not exceed a reasonable number in the discretion of the Commissioner of Highways;

213 ~~(10)~~ 10. Signs or notices erected or maintained upon property giving the name of the
214 owner, lessee, or occupant of the premises;

215 ~~(11)~~ 11. Advertisements and advertising structures within the corporate limits of cities
216 and towns, except as specified in § ~~33.1-353~~ 33.2-XXX;

217 ~~(12)~~ 12. Historical markers erected by duly constituted and authorized public authorities;

218 ~~(13)~~ 13. Highway markers and signs erected, or caused to be erected, by the
219 Commissioner of Highways or the ~~Commonwealth Transportation~~ Board or other authorities in
220 accordance with law;

221 ~~(14)~~ 14. Signs erected upon property warning the public against hunting, fishing, or
222 trespassing thereon;

223 ~~(15)~~ 15. Signs erected by Red Cross authorities relating to Red Cross Emergency
224 Stations. ~~And, with~~ authority ~~is~~ hereby expressly given for the erection and maintenance of such
225 signs upon the right-of-way of all highways in ~~this the~~ Commonwealth at such locations as may
226 be approved by the Commissioner of Highways;

227 ~~(16)~~ 16. Signs advertising agricultural products and horticultural products, or either,
228 when such products are produced by the person who erects and maintains the signs, provided,
229 ~~however,~~ that restriction of the location and number of such signs shall be in the sole discretion
230 of the Commissioner of Highways;

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

238 ~~(18)~~18. Signs of eight square feet or less, or one sign structure containing more than one
239 sign of eight square feet or less, ~~which that~~ denote only the name of a civic service club or
240 church, location and directions for reaching same, and time of meeting of such organization,
241 provided such signs or notices do not exceed a reasonable number as determined by the
242 Commissioner of Highways;

243 ~~(19)~~19. Notwithstanding the provisions of § ~~33.1-373~~ 33.2-XXX, signs containing
244 advertisements or notices that have been authorized by a county and that are securely affixed to
245 a public transit passenger shelter that is owned by that county, provided, ~~however,~~ that no
246 advertisement shall be placed within the right-of-way of the ~~federal interstate system~~ Interstate
247 System, National Highway System, or ~~the~~ federal-aid primary system of highways in violation
248 of federal law. The prohibition in subdivision ~~8.7~~ of § ~~33.1-369~~ 33.2-XXX against placing signs
249 within 15 feet of the nearest edge of the pavement of any highway shall not apply to such signs.
250 The Commissioner of Highways may require the removal of any particular sign located on such
251 a shelter as provided in this subdivision if, in his ~~judgement~~ judgment, such sign constitutes a
252 safety hazard.

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

256 § ~~33.1-356~~ 33.2-XXX. License required of outdoor ~~advertiser~~ advertisers.

257 No person shall engage or continue in the business of outdoor advertising in ~~this the~~
258 Commonwealth outside ~~of~~ the corporate limits of municipalities or within the corporate limits of
259 municipalities if their off-premises sign, advertisement, or advertising structure is visible from
260 the main traveled way of any ~~interstate~~ Interstate System, federal-aid primary, or ~~national~~
261 ~~highway system~~ National Highway System highway without first obtaining a license therefor
262 from the Commissioner of Highways. ~~Persons engaged in the business of outdoor advertising~~
263 ~~who own signs, advertisements, or advertising structures visible from the main traveled way of~~
264 ~~any interstate, federal-aid primary, or national highway system highway within municipalities~~

265 ~~shall have until October 1, 1993, to obtain a license from the Commissioner of Highways or~~
266 ~~remove such sign, advertisement, or advertising structure from the view from the main traveled~~
267 ~~way of any interstate, federal aid primary, or national highway system highway. The~~
268 ~~Commissioner of Highways shall notify persons known to be engaged in the business of outdoor~~
269 ~~advertising within municipalities by August 1, 1993, of the need to obtain a license.~~ The fee for
270 such license, hereby imposed for revenue for the use of the Commonwealth, shall be \$500 per
271 year, payable annually in advance. Applications for licenses, or renewal of licenses, shall be
272 made on forms furnished by the Commissioner of Highways, shall contain such information as
273 the Commissioner of Highways may require, and shall be accompanied by the annual fee.
274 Licenses granted under this section shall expire on December 31 of each year and shall not be
275 prorated. Applications for renewal of licenses shall be made not less than ~~thirty~~ 30 days prior to
276 the date of expiration. Nothing in this section shall be construed to require any person ~~who~~ that
277 advertises upon a structure or fixture on ~~his~~ its property or a licensed advertiser's structure or
278 other space to obtain a license.

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

281 ~~§ 33.1-357.33.2-XXX.~~ Revocation of license and judicial review.

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

289 **Drafting note: Technical changes.**

290 ~~§ 33.1-358. Judicial review of revocation.~~

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

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

297 § ~~33.1-359~~ 33.2-XXX. Bond required from out-of-state licensee.

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

309 **Drafting note: Technical changes.**

310 § ~~33.1-360~~ 33.2-XXX. Permits required.

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

318 ~~interstate Interstate System~~, federal-aid primary, or ~~national highway system National Highway~~
319 ~~System~~ highway.

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

324 **Drafting note: Technical changes.**

325 § ~~33.1-361~~ 33.2-XXX. Applications for permits; fees.

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

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

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

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

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

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

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

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

361 **Drafting note: Technical changes.**

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

363 Except as provided in § ~~33.1-365~~ 33.2-XXX, permits issued ~~hereunder~~ in accordance
364 with this article shall run for the calendar year, and may be renewed upon application made
365 upon forms furnished by the Commissioner of Highways and the payment of the same fee
366 required to be paid upon application for a permit. Fees for renewal of permits using the ~~Virginia~~
367 Department of Transportation's Department's electronic application renewal process shall be
368 reduced by \$5 per permit being renewed. Permits ~~will~~ shall not be extended or renewed in cases
369 where the permittee has not exercised the privilege of erecting such advertising structure or

370 displayed such advertisement during the period for which the permit was issued. Annual permits
371 issued after December ~~fifteenth will~~ 15 shall cover the following calendar year.

372 **Drafting note: Technical changes.**

373 ~~§ 33.1-363. Area of advertising structure.~~

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

378 **Drafting note: This section is moved to the definitions section for this article**
379 **because so much of this article uses the area of the advertising structure.**

380 ~~§ 33.1-364~~ 33.2-XXX. Revocation of permit.

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

397 | revoked. ~~But~~ However one-half of the application fee shall be deemed to have accrued upon the
398 | erection of an advertising structure or the display of an advertisement followed by an inspection
399 | by the Commissioner of Highways or his representative.

400 | **Drafting note: Technical changes.**

401 | § ~~33.1-365~~ 33.2-XXX. Temporary permit.

402 | In any case ~~if in which~~ an applicant for a permit ~~shall certify~~ certifies in his application
403 | that he is unable to state the actual or proposed location of the advertisement or advertising
404 | structure or to file the written consent of the landowner or other person having the legal right to
405 | the real estate upon which the advertisement or advertising structure is to be erected, used,
406 | maintained, posted, or displayed, the Commissioner of Highways shall issue to such applicant a
407 | temporary permit, which shall expire 60 days from the date of issue, together with the proper
408 | identification number to be attached to such advertisement or advertising structure, ~~which~~
409 | ~~temporary permit shall expire sixty days from the date of its issue~~. Applications for temporary
410 | permits must indicate the county and route on which the advertisement or advertising structure
411 | is to be located and must be accompanied by a fee of ~~two dollars~~ \$2 to cover the cost of issuance
412 | of the temporary permit. If within such ~~sixty~~ 60 days, the applicant ~~shall file~~ files with the
413 | Commissioner of Highways an application setting forth all of the information required in § ~~33.1-~~
414 | ~~364~~ 33.2-XXX, together with the required fees, the Commissioner of Highways shall issue to
415 | such applicant a permit. In the event that the permit is not issued, the fees submitted shall be
416 | returned, except the ~~two dollars~~ \$2 for the temporary permit.

417 | **Drafting note: Technical changes.**

418 | § ~~33.1-366~~ 33.2-XXX. Appeal from refusal or revocation of permit.

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

423 | **Drafting note: Technical changes.**

424 § ~~33.1-367~~ 33.2-XXX. Transfer of licenses and permits to successor concerns.

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

428 **Drafting note: Technical change.**

429 § ~~33.1-368~~ 33.2-XXX. Identification of advertising structure or advertisement.

430 The Commissioner of Highways shall require that each advertising structure and each
431 advertisement not posted or displayed on an advertising structure ~~shall~~ bear an identification
432 number, furnished by the Commissioner, of Highways and, if erected, maintained, or displayed
433 by a licensed outdoor advertiser ~~shall~~, also bear ~~his its~~ name. The Commissioner of Highways
434 shall make suitable provisions for the details thereof.

435 **Drafting note: Technical changes.**

436 § ~~33.1-369~~ 33.2-XXX. Certain advertisements or structures prohibited.

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

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

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

451 advertisement or advertising structure with messages displayed as scrolling words ~~and/or~~ or
452 numbers;

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

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

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

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

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

466 ~~(8) 7. Within fifteen 15~~ feet of the nearest edge of the pavement of any highway;
467 however, the Commissioner of Highways may waive this restriction whenever the
468 advertisement or advertising structure is actually anchored outside of the right-of-way; and,
469 within his discretion, does not constitute a safety hazard or conflict with any other restriction
470 contained in this section;

471 ~~(9) 8.~~ At any public road intersection in such a manner as would obstruct the clear vision
472 in either direction between a point on the center line of the side road 20 feet from the nearest
473 edge of the pavement of the main road and points on the main road 400 feet distant, measured
474 along the nearest edge of the pavement of the main road;

475 ~~(10) 9.~~ At any grade intersection of a public road and a railroad in such a manner as
476 would obstruct the clear vision in either direction within triangular areas formed by ~~(a) (i)~~ a
477 point at the center of the railroad-public road intersection, ~~(b) (ii)~~ a point on the public road 400

478 feet from the center of the railroad-public road intersection as measured along the center of the
479 public road, and ~~(e)~~ (iii) a point on the railroad 500 feet from the center of the railroad-public
480 road intersection as measured along the center of the railroad;

481 ~~(11)~~ 10. At or near any curve in a road in such a manner as to obstruct the clear vision of
482 traffic from any one point on such curve to any other point not more than 400 feet apart, as
483 measured between each point from the nearest edge of the pavement;

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

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

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

495 **Drafting note: Technical changes.**

496 § ~~33.1-370~~ 33.2-XXX. Special provisions pertaining to ~~interstate~~ Interstate System,
497 ~~national highway system~~ National Highway System, and federal-aid primary highways.

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

505 primary highway ~~which that~~ is visible from the main traveled way shall be erected, maintained,
506 or displayed with the purpose of its message being read from the main traveled way, except as
507 set forth in subsection C.

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

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

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

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

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

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

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

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

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

554 2. All other signs, advertisements, or advertising structures erected, maintained, or
555 displayed more than 660 feet from the nearest edge of the right-of-way of an ~~interstate Interstate~~
556 ~~System, national-highway-system National Highway System,~~ or federal-aid primary highway.:

557 unless ~~said such~~ sign or advertisement is visible from the main traveled way of ~~said such~~

558 highways and erected, maintained₂ or displayed with the purpose of its message being read from
559 the main traveled way of ~~said~~ such highways.

560 In determining whether a sign, advertisement₂ or advertising structure is "erected,
561 maintained₂ or displayed with the purpose of its message being read₂" the Commissioner ~~is not~~
562 ~~limited to, but will of Highways shall~~ consider, at a minimum, the nature of the business or
563 product advertised thereon, the availability of such business or product to users of the controlled
564 highway, and the visibility of the sign, advertisement₂ or advertising structure from the main
565 traveled way of the controlled highway ~~(such. Such~~ visibility may be measured by considering
566 the size or height of the sign, advertisement₂ or advertising structure; the configuration, size, and
567 height of recognizable emblems, images, and lettering thereon; the angle of the sign,
568 advertisement₂ or advertising structure to the main traveled way of the controlled highway; the
569 degree to which physical obstructions hinder the view of the sign, advertisement₂ or advertising
570 structure from the main traveled way of the controlled highway; and the time during which such
571 sign, advertisement₂ or advertising structure is exposed to view by travelers on the main traveled
572 way of the controlled highway traveling at the maximum and minimum speeds posted).

573 D. In order to provide information in the specific interest of the traveling public, the
574 Department is ~~hereby~~ authorized to maintain maps ~~and to~~ permit informational directories and
575 advertising pamphlets to be made available at rest areas, and ~~to~~ establish information centers at
576 rest areas for the purpose of informing the public of places of interest within the Commonwealth
577 and providing such other information as may be considered desirable.

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

582 F. The Commissioner of Highways is authorized to acquire by purchase, gift₂ or the
583 power of eminent domain and to pay just compensation upon the removal of nonconforming
584 signs, advertisements₂ or advertising structures lawfully erected and maintained under state law

585 or state regulations. ~~Provided, however,~~ provided that subsequent to November 6, 1978,
586 whenever any local ordinance ~~which that~~ is more restrictive than state law requires the removal
587 of such signs, advertisements, or advertising structures, the local governing body shall initiate
588 the removal of such signs, advertisements, or advertising structures with the Commissioner of
589 Highways, who shall have complete authority to administer the removal of such signs,
590 advertisements, or advertising structures. Upon proof of payment presented to the local
591 governing bodies, the local governing bodies shall reimburse the Commissioner of Highways
592 the funds expended ~~which that~~ are associated with the removal of such signs, advertisements, or
593 advertising structures required by local ordinances, less any federal funds received for such
594 purposes. Notwithstanding the ~~above provisions of this subsection~~, nothing shall prohibit the
595 local governing bodies from removing signs, advertisements, or advertising structures ~~which~~
596 that are made nonconforming solely by local ordinances so long as those ordinances require the
597 local governing bodies to pay 100 percent of the cost of removing them and just compensation
598 upon their removal.

599 Such compensation is authorized to be paid only for the taking from the owner of such
600 sign or advertisement of all right, title, leasehold, and interest in such sign or advertisement; and
601 the taking from the owner of the real property on which the sign or advertisement is located; of
602 the right to erect and maintain such sign or advertisement thereon.

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

605 **Drafting note: Technical changes are made, including removing the phrase "but**
606 **not limited to" based on § 1-218. In subsection B, the "International Barrier Free Symbol"**
607 **name is updated to the "International Symbol of Access." This section was amended by**
608 **Chapters 585 and 646 of the Acts of Assembly of 2013 and that change is reflected in the**
609 **existing language here.**

610 § ~~33.1-370.1~~ 33.2-XXX. Removal of billboard signs under this chapter prohibited
611 without just compensation.

612 Notwithstanding any other provision of law, no billboard sign subject to this chapter
613 may be removed by action of a county, city, or town under Chapter 22 (§ 15.2-2200 et seq.) of
614 Title 15.2 without the payment of just compensation by the county, city, or town unless the
615 billboard sign cannot remain on the property due to the site constraints of the property and
616 removal of the billboard sign is therefore necessary for development on the property. The
617 property owner may terminate the leasehold or other right of the billboard sign to remain on the
618 property in accordance with the terms and conditions of the contract between the property
619 owner and the billboard sign owner, but may not be required to do so by the county, city, or
620 town as a condition of obtaining development approval for the property; unless removal of the
621 billboard sign is necessary for development of the property or the billboard sign is
622 nonconforming and is the principal use on the property and the zoning ordinance permits only
623 one principal use on the property.

624 **Drafting note: Technical change.**

625 § ~~33.1-370.2~~ 33.2-XXX. Maintenance and repair of nonconforming billboard signs.

626 Notwithstanding any other provision of law, maintenance of and repairs to
627 nonconforming billboard signs shall be governed by this section and any applicable regulations
628 promulgated by the Commissioner of Highways, known as the "Control and Continuance of
629 Nonconforming Signs, Advertisements, and Advertising ~~Structure~~ Structures." Nonconforming
630 billboard signs shall be maintained in a good state of repair and shall be subject to removal for
631 failure to do so, in accordance with § ~~33.1-375~~ 33.2-XXX. In order to make repairs to a
632 nonconforming billboard sign, the owner shall make a written request to the Commissioner of
633 Highways and submit the documentation required by 24 VAC 30-120-170. The Commissioner
634 of Highways shall review the written request, and if the Commissioner of Highways determines
635 that the cost of requested repairs does not exceed a dollar amount greater than 50 percent of the
636 current replacement cost of the entire billboard sign or structure, the Commissioner of
637 Highways shall provide the owner of the billboard sign with a letter approving the billboard sign
638 repairs. However, in no case shall a nonconforming billboard sign be replaced or rebuilt if the

639 cost of the replacement or rebuilding exceeds 50 percent of the current replacement cost. The
640 owner of the billboard sign shall apply for a building permit from the locality in which the
641 billboard sign is located and provide a copy of the approval letter from the Commissioner of
642 Highways as part of the application for the building permit. The Commissioner's determination
643 as to whether the owner of the billboard sign has complied with this section shall be binding
644 upon the locality; unless the building official, for good cause shown, submits to the
645 Commissioner of Highways documentation objecting to the Commissioner's determination;
646 within 30 days of the building permit application, with a copy of such documentation being
647 provided to the billboard sign owner. The Commissioner of Highways shall consider any
648 documentation submitted by the building official and shall reissue a determination in
649 accordance with this section, which determination shall be binding upon the locality.

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

652 § ~~33.1-371~~ 33.2-XXX. Regulations and agreements with United States implementing §
653 ~~33.1-370~~ 33.2-XXX.

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

664 **Drafting note: Technical changes.**

665 § ~~33.1-371.1~~ 33.2-XXX. Selective pruning permits; fees; penalty.

666 A. As used in this section "local beautification project" means any project in a locality
667 that includes installation of plant materials, using public or other funds, in any public right-of-
668 way within a county, city, or town.

669 B. Notwithstanding the provisions of § ~~33.1-353~~ 33.2-XXX or any other provision of
670 law, ~~general or special~~:

671 1. The Commissioner of Highways shall by permit authorize the selective pruning,
672 within highway rights-of-way, as highways are defined in § ~~33.1-351~~ 33.2-XXX, including
673 within corporate limits of municipalities, of vegetation that obstructs motorists' view of signs
674 displayed on outdoor advertising structures legally erected and properly maintained along the
675 highways. Permits authorizing such pruning shall be issued in accordance with this section.

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

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

690 ~~(e)~~ c. Any diseased or unsightly vegetation or any vegetation that endangers the health or
691 retards the growth of desirable vegetation may be removed at the discretion of the certified

692 arborist supervising the work. Any such removed vegetation shall be replaced at the permittee's
693 expense with desirable vegetation.

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

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

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

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

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

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

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

718 5. If there are plant materials in the public right-of-way that are part of a local
719 beautification project, the Commissioner of Highways or the locality, as the case may be, may
720 include a requirement, in accordance with the provisions of subdivisions 4 through 7, that, as a
721 condition of the issuance of a vegetation control permit for selective pruning, the applicant must
722 submit a landscaping plan, showing how the applicant will relocate or replant the vegetation
723 obstructing the motorists' view from the main traveled way of the highway or street of signs
724 displayed on outdoor advertising structures, in lieu of the selective pruning of such plant
725 materials. ~~For purposes of this section, "local beautification project" means any project in a~~
726 ~~locality that includes installation of plant materials, using public or other funds, in any public~~
727 ~~right of way within a county, city, or town.~~ In the absence of the existence of a local
728 beautification project in the area within the scope of the selective pruning application, no
729 landscaping plan requirement shall be imposed on the applicant.

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

736 7. The provisions of subdivisions 4 through ~~7.6~~ shall apply to any local beautification
737 project installed prior to July 1, 2006. On and after July 1, 2006, the locality shall not plant
738 materials that obstruct motorists' view from the main traveled way of the highway or street of
739 signs displayed on outdoor advertising structures. If the local beautification project violates this
740 section, in addition to other applicable penalties, the locality shall bear the costs to bring such
741 beautification project into compliance with this section.

742 8. The locality shall provide a 30-day written notice to the Commissioner of Highways
743 prior to installation of a local beautification project within the right-of-way of a ~~Virginia~~
744 ~~Department of Transportation~~ maintained highway that may obstruct the motorists' view of

745 signs displayed on outdoor advertising structures. Such notice shall include a description of the
746 plant materials to be used in, and a copy of the plans for, such beautification project.

747 9. Any application for vegetation control in compliance with this section submitted to
748 the Commissioner of Highways shall be ~~approved~~ acted upon within 60 days of submission or
749 shall be deemed approved. Any application for vegetation control in compliance with this
750 section submitted to any city or town or on a highway or street in a county with the county
751 manager form of government shall be ~~approved~~ acted upon within 60 days of submission or
752 shall be deemed approved. The locality may impose conditions in approval of the landscaping
753 plan consistent with this section and the regulations promulgated thereto. If the locality is not
754 satisfied that the landscaping plan submitted by the applicant complies with this section, the
755 locality may appeal to the Commissioner of Highways prior to the expiration of the 60-day
756 period from the date of submission. If the applicant objects to the conditions imposed by the
757 locality as part of the approval of the landscaping plan, the applicant may appeal to the
758 Commissioner of Highways within 30 days after the final action on the landscaping plan. The
759 appealing party shall submit a written appeal to the Commissioner of Highways, stating the
760 reasons for such appeal, along with a fee of \$400. The Commissioner of Highways shall review
761 the landscaping plan and the reasons for the appeal and shall issue a determination in
762 accordance with this section within 30 days after filing of the appeal, which determination shall
763 be binding upon the applicant and the locality.

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

771 11. Any person, firm, or corporation found by a court of competent jurisdiction to have
772 violated any provision of this section, any regulation adopted pursuant to this section, or any
773 permit issued under this section, shall be subject to the penalties provided in § ~~33.1-377.1~~ 33.2-
774 XXX.

775 **Drafting note: Technical changes are made, including removing the phrase "but**
776 **not limited to" in subdivisions 3 and 6 based on § 1-218 of the Code of Virginia. Existing §**
777 **33.1-371.1 was amended by Chapter 737 of the Acts of Assembly of 2013 and those**
778 **changes are reflected in the existing language here.**

779 § ~~33.1-372~~ 33.2-XXX. Pasting advertisements prohibited in certain instances.

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

783 **Drafting note: Technical changes.**

784 § ~~33.1-373~~ 33.2-XXX. Signs or advertising on rocks, poles, etc., within limits of
785 highway; civil penalty.

786 Any person who in any manner (i) paints, prints, places, puts, or affixes any sign or
787 advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone,
788 danger-sign, guide-sign, guidepost, highway sign, historical marker, building, or other object
789 lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any
790 sign or advertisement within the limits of any highway ~~shall be assessed~~ is subject to a civil
791 penalty of \$100. Each occurrence shall be subject to a separate penalty. All civil penalties
792 collected under this section shall be paid into the Highway Maintenance and Operating Fund.
793 Signs or advertisements placed within the limits of the highway are hereby declared a public and
794 private nuisance and may be forthwith removed, obliterated, or abated by the Commissioner of
795 Highways or his representatives without notice. The Commissioner of Highways may collect the
796 cost of such removal, obliteration, or abatement from the person erecting, painting, printing,
797 placing, putting, affixing, or using such sign or advertisement. When no one is observed

798 erecting, painting, printing, placing, putting, or affixing such sign or advertisement, the person,
799 firm, or corporation being advertised shall be presumed to have placed the sign or advertisement
800 and shall be punished accordingly. Such presumption, however, shall be rebuttable by
801 competent evidence. In addition, the Commissioner of Highways or his representative may seek
802 to enjoin any recurring violator of this section. The Commissioner of Highways may enter into
803 agreements with any local governing body authorizing local law-enforcement agencies or other
804 local governmental entities to act as agents of the Commissioner of Highways for the purpose of
805 (i) enforcing the provisions of this section and (ii) collecting the penalties and costs provided for
806 in this section. Any such agreement may provide that penalties and costs collected pursuant to
807 such agreement shall be paid as agreed.

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

810 **Drafting note: Technical changes. The last sentence of this section was added in SB**
811 **572 (1994) and does not make sense as it is written. Existing § 33.1-373 was amended by**
812 **Chapter 457 of the 2013 Acts of Assembly and those changes are reflected in the existing**
813 **language here.**

814 § ~~33.1-375.1 33.2-XXX~~. Commissioner of Highways may enter into certain agreements;
815 civil penalties.

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

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

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

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

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

838 § ~~33.1-374~~ 33.2-XXX. Harmony of regulations.

839 No zoning board or commission or any other public officer or agency shall permit any
840 sign, advertisement, or advertising structure ~~which that~~ is prohibited under the provisions of this
841 article, nor shall the Commissioner of Highways permit any sign, advertisement, or advertising
842 structure ~~which that~~ is prohibited by any other public board, officer, or agency in the lawful
843 exercise of its ~~or their~~ powers.

844 **Drafting note: Technical changes.**

845 § ~~33.1-375~~ 33.2-XXX. Violation a nuisance; abatement.

846 Any sign, advertisement, or advertising structure ~~which that~~ is erected, used, maintained,
847 operated, posted, or displayed for which no permit has been obtained where such is required, or
848 after revocation or more than 30 days after expiration of a permit, is hereby declared to be a
849 public and private nuisance and may be forthwith removed, obliterated, or abated by the
850 Commissioner ~~or his representatives~~ of Highways. The Commissioner of Highways may collect

851 the cost of such removal, obliteration, or abatement from the person erecting, using,
852 maintaining, operating, posting, or displaying such sign, advertisement, or advertising structure.

853 **Drafting note: Technical changes.**

854 § ~~33.1-376~~ 33.2-XXX. Disposition of fees.

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

859 **Drafting note: Technical changes.**

860 § ~~33.1-377~~.

861 **Drafting note: Repealed by Acts 2012, cc. 760 and 818, cl. 2, effective April 18,**
862 **2012.**

863 § ~~33.1-377.1~~ 33.2-XXX. Penalties for violation.

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

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

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

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

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

877 C. The Commissioner of Highways may remove signs without giving a corrective action
878 notice as provided in subsection A (i) for any violation of subdivision 3, 6, 7, 8, 9, or 10 of §
879 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
880 Commissioner of Highways determines that the sign poses a risk to highway safety.

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

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

887 **Drafting note: Technical changes.**

888 § ~~33.1-378~~ 33.2-XXX. Construction of article.

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

891 **Drafting note: No change.**

892 Article 2.

893 False and Misleading Signs.

894 **Drafting note: An existing article on false and misleading signs is retained in**
895 **proposed Chapter XX of Title 33.2.**

896 § ~~33.1-379~~ 33.2-XXX. Prohibition of ~~such~~ false and misleading signs.

897 It shall be unlawful for any person to erect or maintain alongside, or in plain view of,
898 any public highway any false or misleading sign of any kind or character purporting to furnish
899 travel information relating to place or direction. It shall be unlawful for any person to erect or
900 maintain alongside, or in plain view of, any public highway any sign of any kind or character
901 purporting to furnish travel information relating to merchandise or services unless the design of
902 such sign, the information thereon, and the location thereof, be approved in writing by the

903 Commissioner of Highways; provided, ~~however,~~ that the provisions of this section as to
904 merchandise and service shall not:

905 ~~(1)~~ 1. Apply to or restrict the right of any person to post, display, erect, or maintain on
906 any store, dwelling house, or other building, together with so much land therewith as shall be
907 necessary for the convenience, use, and enjoyment thereof, or on any mercantile appliances,
908 contrivances, or machinery annexed or immediately adjacent thereto, any sign advertising
909 goods, merchandise, real or personal property, ~~real or personal~~, business services, entertainment,
910 or amusements actually and in good faith manufactured, produced, bought, sold, conducted,
911 furnished, or dealt in on the premises;

912 ~~(2)~~ 2. Limit or restrict the publication of official notices by or under the direction of any
913 public or court officer in the performance of his official or directed duties;

914 ~~(3)~~ 3. Limit or restrict notice of sale by a trustee under a deed of trust, deed of
915 assignment, or other similar instrument; or

916 ~~(4)~~ 4. Apply to or restrict the right of any property owner, or his agent, lessee, or tenant
917 to maintain any sign offering to the public farm products, including livestock of every kind, or
918 board or lodging or similar entertainment, ~~or of~~ the sale, rental, or lease of the property.

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

921 **Drafting note: Technical changes.**

922 § ~~33.1-380~~ 33.2-XXX. Penalty for violation of ~~preceding section; existing signs~~ § 33.2-
923 XXX.

924 Any person who ~~shall violate~~ violates any of the provisions of § ~~33.1-379~~ 33.2-XXX
925 shall, ~~upon conviction thereof,~~ be ~~punished by~~ subject to a fine not to exceed ~~ten dollars~~ \$10 for
926 each offense, and it shall be deemed a separate offense for the same person to erect, or permit to
927 be erected, a similar sign at each of two or more places; ~~provided, however, as to any such sign~~
928 ~~erected before June 19, 1936, if it be satisfactorily proven that the information thereon given is~~

929 ~~correct, the person who erected the same, as well as the person who permitted the same to be~~
930 ~~erected, shall not be deemed guilty of such violation.~~

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

933 § ~~33.1-381~~ 33.2-XXX. Removal of ~~such false or misleading~~ signs by Commissioner of
934 Highways.

935 ~~The Whenever the~~ Commissioner of Highways, ~~whenever he shall ascertain determines~~
936 that ~~any such a~~ sign gives incorrect information in violation of this article, he shall notify the
937 person who erected ~~the same, such sign~~ and the person on whose property it is located, in
938 writing, to remove it ~~forthwith~~ immediately, and if it ~~be is~~ not removed within ~~ten~~ 10 days after
939 receipt of such notice, the Commissioner of Highways shall remove and destroy ~~the same such~~
940 sign, or cause it to be removed and destroyed, without liability for damages therefor; ~~and,~~ if any
941 person convicted of erecting or maintaining any such sign, or of permitting the same to be
942 erected or maintained, as ~~hereinabove~~ provided, in this article shall fail or refuse to remove ~~the~~
943 same such sign within ~~ten~~ 10 days after such judgment of conviction, the Commissioner of
944 Highways shall remove and destroy such sign, ~~or cause the same to be removed and destroyed,~~
945 without liability for damages ~~therefor~~.

946 **Drafting note: Technical changes.**

947 ~~CHAPTER 8.~~

948 ~~ADJUSTMENT OF CLAIMS RESULTING FROM CONTRACTS ENTERED INTO PRIOR~~
949 ~~TO JULY 1, 1976, FOR CONSTRUCTION OF STATE HIGHWAYS.~~

950 ~~§§ 33.1-382. through 33.1-385.~~

951 **Drafting note: Repealed by Acts 2006, c. 81, cl. 1.**

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