2018 AASHTO Committee on Right of Way, Utilities, and Outdoor Advertising Control

AND THE

National Alliance of Highway Beautification Agencies Conference

Sunday, April 22–Thursday, April 26
Sheraton Inner Harbor Hotel
Baltimore, Maryland
SHAM BUSINESS & ADVERTISING

Moderator:  Tim Hoesli- Illinois

Speakers:  Joyce Musick- Missouri
          Jeff Ingram- Arkansas
          Joi Singh- FHWA
What is a sham?

sham

/jæm/

noun
1. anything that is not what it purports or appears to be
2. something false, fake, or fictitious that purports to be genuine
3. a person who pretends to be something other than he is

adjective
4. counterfeit or false; simulated

verb shams, shamming, shammed
5. to falsely assume the appearance of (something); counterfeit: to sham illness

"On-Premise"

- Claimed that trailer was the booking office/headquarters for the "specialty live entertainment Strip-o-Gram service"

Sign on door stated:
Open Monday & Wednesday 8:30-10:30 a.m. Other hours by appointment. Just leave your name & number in mailbox and we’ll get back to you within 24 hours.
MADE THE LOCAL NEWSPAPER

IDOT conducted surveillance during business hours every day for a month. No activity was found at the “office”. Owner finally agreed to paint over the sign.
Rural Residential/Ag location.

On-Premise signs as of 2013.

As of 2018 owner is retired and Saloon and Strip-o-Gram service are closed.
Another “On-Premise”

- 2200 s.f. digital back to back billboard.
- Nearly a 70,000 S.F. facility in which advertiser only leases 2,367 S.F. of floor space.
- Primary use of facility is fieldhouse.
Approximately 3% of facility is used for advertised activity.
“On-Premise”

Only “on-premise” activity is a kiosk with information about the business advertised.
On-Premise?

A kiosk with information is not an on-premise activity.
Unzoned Commercial & Industrial Area

In order to qualify as an unzoned commercial or industrial area, the property on which the qualifying business is located must satisfy a primary use test.
KEEP CALM AND PREPARE FOR A TEST
Primary Use Test

• Primary use of property must be commercial or industrial
• Does not allow for activities incidental to the primary use of the property
Visible

- The activity must be visible from the main traveled way by a motorist of normal visual acuity traveling at the maximum posted speed limit.
Recognizable

• The activity must be recognizable as commercial or industrial as viewed from both directions of the travelway
Structure & Ground Requirements

- Enclosed area of 200 square feet or more
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• Enclosed area of 200 square feet or more
• Affixed on a slab, piers, or foundation
Structure & Ground Requirements

• Enclosed area of 200 square feet or more
• Affixed on a slab, piers, or foundation
• Approved access from a roadway and readily accessible by the motorist to a defined parking lot adjacent to the business
Why would I drive through these fields to buy hay that is located right here????
Structure & Ground Requirements

• Enclosed area of 200 square feet or more
• Affixed on a slab, piers, or foundation
• Approved access from a roadway and readily accessible by the motorist to a defined parking lot adjacent to the business
• Normal utilities including business phone, electricity, restroom, water service and waste water disposal
Water Service - Livestock Tank

Waste Water Service - Ground
Structure & Ground Requirements

- Enclosed area of 200 square feet or more
- Affixed on a slab, piers, or foundation
- Approved access from a roadway and readily accessible by the motorist to a defined parking lot adjacent to the business
- Normal utilities including business phone, electricity, restroom, water service and waste water disposal
- Identified as a commercial or industrial activity- on premise signing or visible display of product
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• Used exclusively for the purported commercial or industrial activity
Structure & Ground Requirements

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- Normal utilities including business phone, electricity, restroom, water service and waste water disposal
- Identified as a commercial or industrial activity- on premise signing or visible display of product
- Used exclusively for the purported commercial or industrial activity
- All wheels, axles and springs must be removed for mobile home and recreational vehicles
Qualifying Business Checklist

Unzoned Qualifying Business Checklist

Name of Business: Lanoff Properties LLC

Rt: 41 County: Laclede Zoning Classification: Unzoned

Visible: (both directions) Yes X No ___ Recognizable: Yes ___ No X

Identification (circle) On premise Sign Display of product None

Area (min. 200 sq ft) Yes X No ___

Foundation: (circle) Slab Foundation Pier None

Access: Approved access: Yes ___ No X
Readily accessible: Yes ___ No X
Parking lot: Yes ___ No X

Utilities: Telephone: Yes X No ___ Cell phone # rings to
Electric: Yes X No ___ Lantz Employee has
Water: Yes X No ___ another cell #.
Waste Water Disposal: (circle) Sewer Septic Tank Lagoon None

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Qualifying Business Checklist

Use Exclusive: Yes [X] No [Y] Non-CI Activity: agriculture

Lantz Farms

Licenses: County: Yes [Y] No [X] NA [X]
Liquor: Yes [X] No [Y] NA [NA]
Sec. Of State: Yes [X] No [NA] NA [X]
Sales Tax: Yes [Y] No [X] NA [X]
City: Yes [X] No [X] NA [X]
Auto Dealer: Yes [X] No [X] NA [X]
Junkyard: Yes [Y] No [X] NA [X]
Others: [_____]

Sales & Service Available on premise: Yes [X] No [Y] Mr. Lantz stated not using consignment lot as qualifying business; No items on consignment.

Sufficient Inventory: Yes [X] No [Y] not required (service only)

Active Operation for 180 days: Yes [X] No [Y] Date Opened: Nov 1, 2008 (App)
Employee on 6/15 stated 4 months

Mobile Home/RV used as office: Meets: [_____]
Anchored with mobile home anchors [_____]
Does not meet: unlevel [_____]
Business Hours Posted: Yes [X] No [Y]

Inspector: Jenny Hall [_____] Date: [_____] Passes [X] Fails [Y]
Qualifying Business Checklist

Use Exclusive: Yes ___ No X
Non-CI Activity: agriculture residential Other
Lantz Farms

Licenses: County: Yes ___ No ___ NA X
Liquor: Yes ___ No X NA __
Sec. Of State: Yes X No ___ NA __
Sales Tax: Yes ___ No ___ NA X
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Auto Dealer: Yes ___ No ___ NA X
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Mobile Home/RV used as office: Meets: Anchered with mobile home anchors
Does not meet: unlevel flat condition
No door knob
Business Hours Posted: Yes X No ___

Inspector: Jenny Hall Date: ___________ Passes ___ Fails X

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SHAM BUSINESSES

MoDOT

06/14/2008

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“Izard County Propane”
U.S. 167, Sharp County, AR
“Izard County Propane”

- Old residence, made to appear as a qualifying business
- No workers present
- Unfurnished interior
- All doors locked and/or secured
- Outside propane tank removed
“Lacy Leasing LLC”
U.S. 67, Lawrence County, AR
“Lacy Leasing LLC”

- Farm property with no commercial activity
- No trucks present, no workers to operate a trucking business
- Research proved the actual business was located in a neighboring county
“Southwest Fence”
Interstate 40, Pulaski County, AR
“Southwest Fence”

- Landowner had been denied permits for lack of commercial/industrial development
- Actual business was located approximately 20 miles away
- Building construction was never completed
- Building was not built in conformance with building codes and lacked utilities
“Newman Trucking”
Interstate 40, Faulkner County, AR
“Newman Trucking”

- Billboard was destroyed by a tornado
- Original qualifying business no longer existed
- No evidence of “Newman Trucking” at the site.
- “Newman Trucking” was located 50 miles away
QUESTIONS-COMMENTS?

Take a Number