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DECORATIVE COMMUNITY GATEWAY SIGNING AND/OR LANDSCAPING
ON STATE HIGHWAY RIGHT OF WAY

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11B.1 BACKGROUND, TERMINOLOGY, AND GENERAL INFORMATION

11B.1.1 Background

In 1995, the New York State Department of Transportation (NYSDOT) began to reconsider its formal policy regarding municipal gateway signing. Prior to this time, the Department standard was a white (text) on green (background) guide sign which simply stated the name of the community and was compliant with the New York State Manual of Uniform Traffic Control Devices. A number of communities were interested in installing decorative gateway signs that welcomed visitors to their community. These alternative designs were more colorful and tended to express the community’s sense of identity. As a number of signs started to appear along freeways and other high speed facilities, the Federal Highway Administration (FHWA) became concerned and initiated discussions with the Department. Eventually, a short memo was issued with guidelines for the use of the gateway signs.

At that time, no consideration was given to landscaping that surrounded the gateway signs. Unless the landscaping was of a commercial nature (e.g. displayed the logo of a commercial enterprise), no action was taken to regulate the landscaping.

While there was a general understanding among Regional Traffic Engineers that the FHWA regulations were not tolerant of gateway signs and/or landscaping in the right of way on the Interstate system, this message was not always adequately conveyed or understood throughout the Regions.

In the past few years, the number of landscaped sites involving text or logo messages has begun to proliferate. Most of these are of a “reasonable size” and are “aesthetically pleasing”. However, some have been developed that cover a significant area and therefore are distracting. In addition, some of the landscaped areas have encroached onto the Interstate ROW, next to travel lanes. After one such egregious incident, the Department decided that a more formal policy was necessary to regulate the use of gateway signing and landscaping.

The purpose of the policy is not to prevent the use of such signing and landscaping, but rather to define how, when and where it is appropriate. By setting a policy that addresses these issues, NYSDOT still allows the communities to be creative while ensuring a safe highway environment that adheres to both State and Federal laws/regulations. Therefore, this document provides guidance regarding the use of what shall be known as “Decorative Community Gateway Signs and/or Landscaping” within the NYSDOT highway right-of-way.

Before delving into the specifics of the policy, it is central to the understanding and implementation of this policy to define certain key terms. Some of the terms have a definitive legal meaning as defined in the New York State Vehicle & Traffic Law, the National Manual on Uniform Traffic Control Devices, and the New York State Supplement to the National Manual on Uniform Traffic Control Devices. When used, the term “Manual of Uniform Traffic Control Devices” (MUTCD) refers to the combined legal document consisting of the National Manual on Uniform Traffic Control Devices and the New York State Supplement to the National Manual on Uniform Traffic Control Devices.
11B.1.2 Terminology

The Vehicle & Traffic Law defines HIGHWAY, ROADWAY, and CONTROLLED ACCESS HIGHWAY as follows:

- **HIGHWAY** – The entire width of the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Section 118)

- **ROADWAY** – That portion of a highway improved, designed, marked or ordinarily used for vehicular travel, exclusive of the shoulder and slope. (Section 140)

- **CONTROLLED ACCESS HIGHWAY** - Every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway. (Section 109)

The National MUTCD (Introduction, pages I-1 through I-3) defines STANDARD, GUIDANCE, and OPTION utilizing SHALL, SHOULD, and MAY as follows:

- **STANDARD** – A statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. The verb **SHALL** is typically used.

- **GUIDANCE** – A statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. The verb **SHOULD** is typically used.

- **OPTION** – A statement of practice that is a permissive condition and carries no requirement or recommendation. The verb **MAY** is typically used.

The National MUTCD (Section 2A.01) defines CONVENTIONAL ROAD, EXPRESSWAY, and FREEWAY as follows:

- **CONVENTIONAL ROAD** – A street or highway other than a low-volume road (as defined in Section 5A.01 of the National MUTCD), a freeway, or an expressway.

- **EXPRESSWAY** – A divided highway with partial control of access.

- **FREEWAY** – A divided highway with full control of access.

For the purposes of this policy, the following terms have been developed and defined as follows:

- **COMMUNITY BYPASS** - A controlled access, undivided highway with at-grade or grade separated intersections. These highways generally have one lane in each direction and share common attributes of a freeway, an expressway, and/or a conventional highway. These highways are often built as a high speed facility to bypass a community.
DECORATIVE COMMUNITY GATEWAY SIGN - A non-commercial, civic oriented sign that may contain a salutation (e.g. “WELCOME TO …”), the name of a community (e.g. “UTOPIA”) and/or a short slogan (e.g. “A GREAT PLACE TO LIVE, WORK, AND PLAY”).

This type of sign is usually found at the entrance or gateway to a community and is considered an alternative to the MUTCD approved municipal boundary signs (Section 2D.110 of the New York State Supplement). In instances where the signs deviate from the MUTCD and take on a more decorative appearance in shape, color, font, text, etc., the signs are not considered to be traffic control devices, and therefore not regulated by the MUTCD.

DECORATIVE COMMUNITY GATEWAY LANDSCAPING – There are generally two types of landscaping considered in this category. Both are non-commercial and civic in nature. The most common type supplements a Decorative Community Gateway Sign and usually consists of plantings such as flowers, shrubbery, mulchings, etc. adjacent to the sign. The other type is stand-alone landscaping that may reveal a salutation (e.g. “WELCOME TO …”), the name of a community (e.g. “UTOPIA”) and/or a recognizable logo (e.g. a buffalo to identify the City of Buffalo). In order to be compliant with the beautification laws, these signs must meet the definition of “official sign”, given below.

Decorative Community Gateway Landscaping is not considered to be a MUTCD issue, but it is subject to other State and Federal laws and regulations. Previously, FHWA ruled against (landscaped) logos on highway right-of-ways, because such logos were usually of a commercial advertising nature. “All real property, including air space, within the right-of-way boundaries of a project shall be devoted exclusively to public highway purposes.” (23 CFR 1.23(b)). Exceptions can be made for “…the temporary or permanent occupancy or use of right-of-way, including air space, for non-highway purposes...if... such occupancy, use or reservation is in the public interest and will not impair the highway or interfere with the free and safe flow of traffic thereon.” (23 CFR 1.23 (c)).

INTERSTATE – A highway which is part of the national system of interstate and defense highways (definition from former 2005 New York State MUTCD).

OFFICIAL SIGN - A sign or notice erected and maintained by public officers, departments, or agencies within their territorial or zoning jurisdiction, and pursuant to and in accordance with direction or authorization contained in New York State or Federal law, for the purpose of carrying out an official duty or responsibility.

PARKWAY – A freeway or expressway for non-commercial traffic usually located within, or providing access to a park (definition from former 2005 New York State MUTCD).
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11B.1.3 General Information

Ideally, it is not desirable from a traffic safety standpoint to distract motorists from their primary task of driving. However, an aesthetically pleasing Decorative Community Gateway Sign and/or Landscaping can enhance the roadside setting while providing minimum distraction. As a result, consideration has been given to allow Decorative Community Gateway Signing and/or Landscaping on certain NYSDOT right-of-way subject to the provisions within this policy. All requests are subject to review and approval by the Department. For external requests, review and approval shall be made by the Resident Engineer, Regional Traffic Engineer and the Regional Landscape Architecture/Environmental Manager. For requests involving a capital project, the review and approval shall also include the Regional Design Engineer.

As part of this policy, Decorative Community Gateway Signing & Gateway Landscaping may be allowed on all non-controlled access highway facilities (i.e. most Conventional Roads) and on certain controlled access highways (i.e. Community Bypasses and Expressways). Decorative Community Gateway Signing & Landscaping shall not be used on controlled access highways such as Interstates, Freeways and Parkways.

Any Decorative Community Gateway Signing and/or Landscaping installed with the approval of the Regional Office prior to the adoption of the policies contained within, that are not deemed to be a safety hazard by the NYSDOT Resident Engineer, and that are devoid of any references to any commercial entity shall be considered “grandfathered” and allowed to be retained. Pre-existing installations erected without the approval of the Region shall be subject to review at the discretion of the Regional Director. Illegal signing containing advertising will not be “grandfathered.”
11B.2 INFORMATION RELATED TO BOTH GATEWAY SIGNS & LANDSCAPING

The following conditions apply for both decorative community gateway signing and landscaping projects:

A. There shall be no advertising or sponsorship information of any kind contained on or near these signs.

B. Decorative Community Gateway Signing and Landscaping Permit – A use and occupancy permit shall be required for the resulting occupancy of the State’s right-of-way. The request for the occupancy is to be submitted to the appropriate Regional Property Management Group and issued in accordance with Real Estate Instruction A02-5-2, PERMIT PROCEDURE FOR SUBSEQUENT AND AIRSPACE OCCUPANTS,


and Real Estate Instruction A02-5-3, PERMIT PROCEDURE FOR ONE DOLLAR PAYMENT WAIVED PERMITS,

http://axim22.nysdot.private:7779/pls/portal/docs/PAGE/WCC_PG/INTRADOT_REALDIV/REALDIV_REPOSITORY/5-03.html

The permit shall be issued for a one-dollar payment waived and should clearly state that it is only for the sign and/or landscaping occupancy and that installation and all maintenance shall require a highway work permit in accordance with Section C below. Multiple signs and/or landscaping at various locations within a single municipality should, where possible, be combined into a single use and occupancy permit.

C. Highway Work Permit - A highway work permit shall be required for the construction of Decorative Community Gateway Signs and/or Landscaping on the right-of-way in accordance with Highway Law Section 52. Prior to the issuance of a permit, the layout shall be approved by the Regional Traffic Engineer, after the necessary consultation with the Regional Transportation Maintenance and the Landscape/Environmental Group. The municipality shall apply for the permit and become the permittee. Site-specific construction concerns, including Work Zone Traffic Control, shall be incorporated into the conditions of the permit, along with the applicable conditions of the policy contained herein. Construction and installation of the Decorative Community Gateway Signs and/or Landscaping shall not be performed under a municipality’s Annual Maintenance Permit.

When the Department is responsible for the installation of the decorative community gateway sign and/or landscaping as part of a capital project, a Highway Work Permit is not required. As part of the capital project design process, the layout shall be approved by the Regional Design Engineer after the necessary consultation with Regional Traffic Engineering & Safety Group, Regional Transportation Maintenance and the Landscape/Environmental Group. Upon completion of the project, the responsibility for post-construction maintenance of the Decorative Community Gateway Signs and/or Landscaping will be given to the affected municipality.
D. **Lateral Offset** – Signs and landscaping within the highway right-of-way shall be placed so that any text message is viewable in one direction only and shall not create an obstruction to sight distance for highway users. Such signs and landscaping should also be placed at the furthest edge of the right-of-way when possible or at the furthest practical distance from the roadway. Generally, the latter would have a minimum lateral placement as follows:

**Rural highways**

- Outside the lesser of the prevailing cleared width or the “clear zone” width as specified in Chapter 10 of the Highway Design Manual.
- Outside the deflection distance of any guide rail or concrete median barrier as directed by the NYSDOT Resident Engineer.

**Urban highways**

- 12 feet (3.7 m) minimum from edge of roadway to sign or landscaping on highways with shoulders up to 6 feet (1.8 m);
- 6 feet (1.8 m) minimum from edge of shoulder to sign or landscaping on highways with a shoulder wider than 6 feet (1.8 m);
- 2 feet (0.6 m) minimum from face of curb to sign or landscaping on curbed road;
- Outside the deflection distance of any guide rail or concrete median barrier as directed by the NYSDOT Resident Engineer (installations via highway work permit), or as approved by the Regional Design Engineer (installations via capital project).

E. **NYSDOT Resident Engineer Notification** - Notification of the NYSDOT Resident Engineer three days prior to the commencement of construction shall be required.

F. **Work Zone Traffic Control** – Work Zone Traffic Control shall be required, as applicable to the site-specific conditions, as approved by the Regional Traffic Engineer (installations via highway work permit), or as approved by the Regional Design Engineer (installations via capital project), after the necessary consultation with the Resident Engineer.
G. **Post-Construction Maintenance** - Maintenance of Decorative Community Gateway Signs and/or Landscaping should be performed under an annual maintenance highway work permit rather than a use-and-occupancy permit. The permittee shall be responsible for the maintenance of the Decorative Community Gateway Signs and/or Landscaping. For installations made via a capital project, during the capital project design process, a maintenance agreement shall be obtained by the Regional Design Engineer from the municipality (in accordance with Chapter 14 of the Highway Design Manual). Documentation relating to the appropriate insurance, indemnification agreement, deposit, bond and/or fee, Work Zone Traffic Control, and safety apparel language shall be provided in association with the highway work permit, as determined by NYSDOT Regional Permit staff. All items listed herein, as applicable, shall be understood and addressed by the permit applicant/permittee as part of the highway work permit process. A permit may be revoked for failure to properly maintain the sign and/or landscaped site. Permit revocation may result in removal of the sign and landscaping by the Department. The costs associated with the removal should be the responsibility of the permittee.

Signs constructed off of the State highway right-of-way must be constructed and maintained by the municipality in order to meet the criteria of an official sign as defined in 17 NYCRR Part 150. Part 150.1 (cc) reads "Official sign means a sign or notice erected and maintained by public officers, departments, or agencies within their territorial or zoning jurisdiction, and pursuant to and in accordance with direction or authorization contained in New York State or Federal law, for the purpose of carrying out an official duty or responsibility . . ."

If this sign is erected outside the NYS right-of-way and maintained by any entity other than the municipality (i.e., civic group), this sign must be registered in accordance with the provisions of Part 150 and would be subject to all of its terms and provisions.
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11B.3 INFORMATION RELATED TO GATEWAY SIGNS

The preferred option for decorative community gateway signing is for the municipality to find a location which is outside of the NYS highway right-of-way.

If this is not possible, Decorative Community Gateway Signs for counties, towns, villages, cities, and hamlets may be erected within their jurisdictional boundaries on certain NYS rights of way, provided that they shall abide by all of the conditions outlined in Sections 11B.2 and 11B.3 of this Appendix:

A. **Design** - The designs should be simple and dignified, and shall be devoid of any advertising or sponsorship. Directional or destination type signing information shall not be included in the decorative municipal gateway sign. All signs shall be reflective or suitably illuminated if the gateway sign serves as the primary means of denoting the municipal boundary.

B. **Size** – The maximum size shall not exceed 32 square feet (3 square meters) and the sign shall not resemble in shape and color any regulatory or warning sign. In addition, the sign shall be sized and located so that it does not obscure the view of any other sign.

C. **Mounting Height** - Height is the vertical distance between the near edge of the roadway and the bottom of the sign. If the gateway sign serves as the primary means of denoting the municipal boundary, then the sign shall be mounted at a height of at least seven feet (2.1 m). At locations where it is considered unlikely that the signs will interfere with pedestrians, or be obscured by parked vehicles, the minimum height may be reduced to five feet (1.5 m). In instances where an official, MUTCD-compliant municipal boundary sign exists and the gateway sign is simply used as a supplemental sign, then the gateway sign may be mounted at a lesser height. However, it should be noted that even if the sign is beyond the clear zone and in an area unlikely to interfere with pedestrians, a mounting height that will place a potentially heavy sign near the windshield height should be discouraged.

D. **Letter Height** – Where practical, letter sizes specified in the MUTCD should be considered. For example, on State highways, letters should be a minimum of six inches (150 mm) high to be readily legible to passing motorists.
E. **Posts** - All metal posts installed in the New York State highway right-of-way shall conform to the requirements of Section 645 of the NYSDOT Standard Specifications, and shall appear on the Department's list of approved materials [https://www.dot.ny.gov/divisions/engineering/technical-services/materials-bureau](https://www.dot.ny.gov/divisions/engineering/technical-services/materials-bureau). These supports have been tested to demonstrate that they are likely to break away in a controlled manner when hit, which is unlikely to cause injury to the occupants of the vehicle.

For aesthetic purposes, it may be desirable to use wooden posts to provide a consistent look when the sign is made of wood. In these cases, 4” x 4” (100 mm x 100 mm) wood posts are generally considered adequately breakaway. For crashworthy terminals, 6” x 6” (150 mm x 150 mm) wooden posts crippled by 2” (50 mm) holes at the ground line are also considered breakaway.

All posts, regardless whether they are made of metal, wood, or some other product, shall be of a breakaway capability unless they are adequately shielded behind a protective device such as guide rail. Other non-breakaway sign mounting systems may be used only if the installation is shielded behind a protective device such as guide rail. Signs behind barrier or rail shall be offset beyond the maximum design deflection distance of the barrier or rail system being used.
11B.4 INFORMATION RELATED TO GATEWAY LANDSCAPING

The preferred option for Decorative Community Gateway Landscaping is for the municipality to find a location which is outside of the NYS highway right-of-way.

If this is not possible, Decorative Community Gateway Landscaping may be erected within certain NYS right-of-way, provided that it shall abide by all of the conditions outlined in Sections 11B.2 and 11B.4 of this Appendix.

A. Integrated Vegetative Management (IVM) – IVM is a term prescribing preventative maintenance measures for the control of vegetative growth. NYSDOT is responsible for the control of vegetation growing along its highways, for highway safety and operation reasons, as well as for aesthetic reasons. Vegetation management is necessary to maintain the visibility of highway signage, adequate sight distance and safety clear zones, to keep drainage-ways flowing, and for maintaining the visual appearance of the highway corridor.

The key words here are “integrated” and “management”. A fundamental aspect of IVM is to use appropriate management methods in a coordinated fashion, to manage the growth of that vegetation. The basic concept is to focus on long-term management with minimal impact on human health and the environment through the use of cultural, physical, biological, or chemical methods to achieve established vegetation management objectives.

B. Policy Adherence - The applicant shall work with the Landscape Architecture/Environmental Manager in order to ensure that any landscaping project located in the State’s right-of-way meets the intent of Departmental policies such as IVM, plus any other State or Federal beautification and environmental policies.

C. Size - When Decorative Community Gateway Landscaping is used to supplement a decorative municipal gateway sign, the landscaping should not occupy an area footprint larger than 144 square feet (13 square meters). When the landscaping imparts a message (e.g., WELCOME or the name of a municipality), then the decorative municipal gateway landscaping should not exceed a footprint of more than 500 square feet (46.5 square meters).
D. **Roadside Obstacles and Fixed Objects** - Decorative Community Gateway Landscaping should consist of crashworthy objects, preferably organic matter such as flowers or other herbaceous plants, low-growing shrubbery, and mulching material. Obstacles or fixed objects, including walls, boulders, trees, or other vegetation that will mature to over 4” (100 mm) in diameter, signs, buildings, etc., **shall not** be allowed unprotected within the clear zone. Planting of trees or other vegetation that will mature to exceed 4” (100 mm) in diameter **may** be considered only when they will be located outside the established clear zone or protected by a pre-existing guide rail system.

As each site along the roadside has individual characteristics, all proposed plant material locations and species **shall** be reviewed and approved by the Regional Traffic Engineer (installations via highway work permit), or as approved by the Regional Design Engineer (installations via capital project), after the necessary consultation with the Resident Engineer and Regional Landscape Architecture/Environmental Manager. Potential historic features such as walls, fences, sidewalks, markers, monuments, or landscaping associated with an historic property/district **shall not** be removed without prior consultation with the Regional Landscape Architecture/Environmental Manager.

E. **Removal** - All decorative community landscape plantings **should** be capable of being readily removed as determined by the Regional Landscape Architecture/Environmental Manager.