

## **TODS ELIGIBILITY FOR PROGRAM**

(a) An attraction is eligible to participate in the Program if it meets the criteria in G.S. 136-140-16.

(b) The maximum distance that an attraction shall be located from the intersection containing TODS panels is five miles. Said distance shall be measured from the center of the intersection coincident with the centerline of a non-controlled access highway route or its median, along the roadways to the respective attraction. The point to be measured to for each attraction is a point on the roadway that leads to the main entrance to the attraction that is perpendicular to the corner of the nearest wall of the attraction to the intersection. The wall to be measured to shall be that of the main building or office. Walls of sheds (concession stands, storage buildings, separate restrooms,) whether or not attached to the main building shall not be used for the purposes of measuring. If the office (main building) of an attraction is located more than two-tenths (0.2) mile from a public road on a private road or drive, the distance to the office along the said drive or road shall be included in the overall distance measured to determine whether or not the attraction qualifies for TODS signing. The office shall be presumed to be at the place where the services are provided.

(c) Interested parties may show that they meet the definition of "tourist-oriented business" or tourist oriented facility" in either of two ways:

- (1) An applicant shall certify, through the use of scientific independent surveys, business records, bank records, tax returns, or any other documents which would be admissible in a court proceeding that the applicant or facility meets each aspect of the definition of "tourist oriented business" or the definition of "tourist oriented facility." The applicant has an affirmative burden to provide documentation in support of its showing; or
- (2) An applicant may show that it is one of the following, which are presumed to be "tourist oriented businesses" or "tourist oriented facilities:"
  - (A) Amusement Park: a permanent area open to the general public including at least three of the following activities: roller coasters, entertainment rides, games, swimming, concerts, and exhibitions;
  - (B) Cultural Center: a facility for cultural events including museums, outdoor theaters, or facilities that exhibit antiques or items painted or crafted by local artists;

- (C) Facility Tour Location: a facility such as a factory, institution or a plant which conducts tours at least four times daily on a regularly scheduled year-round basis;
- (D) Historic Site or District: a structure or area listed on the national or state historic register. An historic site must be open to the public at least three months out of each year. Historic districts shall provide the public with a single, central location, such as a self-serve kiosk, welcome center or history museum where motorists can obtain information regarding the district;
- (E) Recreation area: an attraction which provides tourists with opportunities such as golfing (excluding miniature golf, driving ranges, chip and putt areas, and indoor golf) horseback riding, surfing, bicycling, boating, fishing, picnicking, hiking or rafting and where, either at the attraction or within 10 miles, all necessary equipment can be rented;
- (F) Natural Phenomenon: a naturally occurring area which is of interest to the general public, such as a waterfall or cavern;
- (G) Zoological/Botanical Parks and Farms: a facility in which living animals or plants are kept and exhibited to the public; and
- (H) Agricultural Facility: a facility that provides tours, on-site samples of agricultural products, or produce stands.

(d) "Tourist oriented businesses" or "tourist oriented facilities" shall be businesses or facilities that are a destination for tourists and must provide products or services that meet tourists' primary needs or interests. Shopping malls, furniture stores, drug stores, movie theaters, community business districts, appliance stores, automobile or truck dealerships or garages, houses of worship, real estate offices, livestock sales facilities, sand and gravel facilities, grocery stores, gas or vehicle service stations, bars, lounges, adult establishments, adult video, book, or novelty stores, medical facilities, and restaurants are not considered either "tourist oriented businesses" or "tourist oriented facilities."