

DEPARTMENT OF TRANSPORTATION

Transportation Commission and Office of Transportation Safety

ROADSIDE ADVERTISING RULES AND REGULATIONS

2 CCR 601-3

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

I. BASIS AND PURPOSE

The basis and purpose of these rules and regulations is to establish rules, regulations and standards necessary to carry out the provisions and intent of C.R.S. 1973, 43-1-401 et seq., as amended, which requires regulation and control of the present and future use of advertising devices adjacent to the State Highway System. These rules and regulations establish under what circumstances outdoor advertising devices may be erected and maintained and that no advertising device adjacent to the State Highway System may be erected or maintained unless in compliance with the Act and these Rules and Regulations promulgated thereunder. It is the intent of the Department in enacting these Rules and Regulations to establish a statewide uniform program controlling the erection and maintenance of advertising devices. The purpose and intent of these Rules and Regulations is to protect and promote the public investment in the State Highway System; promote highway safety and the recreational value of public travel; promote public pride and spirit; preserve and enhance the natural scenic beauty of the economic well being of the state by attracting tourists, assisting the local tourist-related businesses; and to insure that Colorado receives its full share of funds to be apportioned by Congress for federal-aid highways by compliance with federal law, regulations and agreements entered into with the federal government. The purpose of these Rules and Regulations is also to set forth acquisition and appraisal procedures for the remaining non-conforming advertising devices in the state that are compensable upon removal pursuant to the Act and to allow for the exemption from purchase of tourist—related non-conforming devices by the Secretary of Transportation under 23 U.S.C. sec. 131(o). The purpose of these Rules and Regulations is to set forth the procedures to be followed in the enforcement of the Act and these Rules and Regulations.

II. APPLICATION

These Rules and Regulations are applicable to all areas adjacent to the main-traveled ways of the State Highway System. These provisions apply regardless of whether or not Federal funds participated in the costs of such highways. These Rules and Regulations as finally adopted shall become effective January 1, 1984.

III. AUTHORITY

C.R.S. 1973, 43-1-415 (1981 Colo. Sess. Laws, chapter 512) and C.R.S. 1973, 24-4-103, as amended

IV. DEFINITIONS

The terms as used in these Rules and Regulations are defined as follows:

- A. "Abandoned sign" means a sign which no one has interest in, or as defined by these Rules and Regulations.
- B. "Acquired for right-of-way" means acquired for right-of-way for any public road by the State, a county, a city or other political subdivision of a state by donation, dedication, purchase, condemnation,

use, or any other means. The date of acquisition shall be the date upon which title, whether fee title or a lesser interest, vested in the public for right-of-way purposes under applicable State Law.

- C. "Advertise" or "to advertise" or "advertisement" means to describe or appraise publicly, to call public attention to or to inform or give information by words, symbols or pictures.
- D. "Advertising device" means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, structure, or any other contrivance designed, intended, or used to advertise or to give information in the nature of advertising and having the capacity of being visible from the travel way of any State highway, except any advertising device on a vehicle using the highway or a person or animal carrying a sign. The term "vehicle using the highway" does not include any vehicle parked near said highway for advertising purposes. Advertising device is synonymous with sign.
- E. "Areas adjacent to the State Highway System" means areas which are visible from the main-traveled way and within 660 feet of the nearest edge of the right-of-way, and those areas beyond 660 feet outside of urban areas which have signs visible from the main-traveled way and erected with the purpose of their message being read from such main-traveled way.
- F. "Bonus Areas" means any portion of the area within six hundred sixty feet of the nearest edge of the right-of-way of any portion of the federal interstate system of highways which is constructed upon any part of right-of-way, the entire width of which is acquired for right-of-way after July 1, 1956. A portion shall be deemed so constructed if, within such portion, no line normal or perpendicular to the center line of the highway and extending to both edges of the right-of-way will intersect any right-of-way acquired for right-of-way on or before July 1, 1956. Bonus areas do not include:
 - 1. Kerr areas, which are segments of the interstate system which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate system is subject to municipal regulation or control, or which traverse other areas where the use of land as of September 21, 1959, was clearly established by State Law as industrial or commercial. Signs in Kerr areas are subject to size, lighting, and spacing requirements.
 - 2. Cotton areas, which are areas adjacent to the interstate system where any part of the highway right-of-way was acquired prior to July 1, 1956. Signs in Cotton areas are prohibited unless such areas are zoned commercial or industrial. Signs in Cotton areas are subject to size, lighting, and spacing requirements.
- G. "Centerline of the highway" means a line equidistant from the edges of the median separating the main-traveled ways of a divided State Highway, or the centerline of the main-traveled way of a non-divided State highway.
- H. "Change in any aspect of or in the character of" any off-premise advertising device means a change in appearance to the eye or mind of a feature or peculiarity placed upon or attached to an advertising device such as lighting, an increase in overall height, the addition of faces, or change from wood posts and frame to metal posts and frame.
- I. "Defined area" means a geographically described economic area in which tourist-related businesses are located, which area would suffer substantial economic hardship by the removal of any tourist-related advertising device in that area providing directional information about goods and services in the interest of the traveling public.
- J. "Department" means the State Department of Highways.

- K. "Design change" means a change from poster panel to painted bulletin or from painted bulletin to poster panel.
- L. "Directional advertising device" shall include, but not be limited to: advertising devices containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. Such devices shall conform to standards promulgated by the Department pursuant to C.R.S. 1973, 43-1-415 (1981 Colo. Sess. Laws, chapter 512), which standards shall conform to the national policy.
- M. "Entrance roadway" means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of a State highway from the general road system within a State, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.
- N. "Erect" means to construct or allow to be constructed.
- O. "Erected with the purpose of its message being read" means the advertising copy, message, or informative content would be readable or legible without visual aid by a person of normal acuity from the main-traveled way.
- P. "Exit roadway" means any public road or turning roadway, including deceleration lanes, by which traffic may leave the main-traveled way of a State highway to reach the general road system within a State, irrespective of whether traffic may also enter the main-traveled way by such road or turning roadway.
- Q. "Freeway" means all category one highways except interstate highways, pursuant to C.R.S. 1973, 43-2-147, as amended, and the access code promulgated thereunder.
- R. "Grandfathered sign" means a sign lawfully erected and maintained prior to July 1, 1981 in an area zoned for commercial or industrial use which does not meet the size, lighting, and spacing criteria provided in Section VII of these Rules and Regulations.
- S. "Good condition" means a sign that is not decayed, insecure, lacking any part or portion thereof, or is otherwise safe and the painted message is not unsightly.
- T. "Highway or State highway" means any road on the State Highway System, as defined in C.R.S. 1973, 43-2-101.
- U. "Illegal sign" means one which was erected or maintained in violation of the State law, these Rules and Regulations, or local law or ordinance.
- V. "Informational site" means an area established and maintained within a highway rest area wherein panels for the display of advertising and informational plaques may be erected and maintained so as not to be visible from the travel way of any State highway.
- W. "Interstate system" means the system of highways as defined in C.R.S. 1973, 43-2-101. Interstate roads are all category I roads pursuant to the access code except freeways.
- X. "Lease or contract" means an agreement in writing, by which possession or use of land or interests therein is given by the owner of the land to another person for a specified period of time.
- Y. "Legible" means capable of being read without visual aid by a person of normal visual acuity.

- Z. "Maintain" means to preserve, keep in repair, continue, or replace an advertising device.
- AA. "Main-traveled way" means the traveled way of a State highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- BB. "Minor repairs" means replacing poles, bracing, panels, nails, bolts, or touch-up painting up to fifty percent of replacement cost.
- CC. "Municipality" has the same meaning as defined in C.R.S. 1973, 31-1-101.
- DD. "National policy" means the provisions relating to control of advertising, signs, displays, and devices adjacent to the interstate and primary systems contained in 23 U.S.C. Sec. 131 and the national standards or regulations promulgated pursuant to such provisions.
- EE. "Nonconforming advertising device" means any advertising device which was lawfully erected under State law prior to January 1, 1971, and has been lawfully maintained in accordance with the provisions of this part 4 or prior State law, except those advertising devices allowed by C.R.S. 1973, 43-1-404 (1) (1981 Colo. Sess. Laws, chapter 512).
- FF. "Obsolete" means gone out of date or disused.
- GG. "Official advertising device" means any advertising device erected for a public purpose authorized by law, but the term shall not include devices advertising any private business. Authorized by law means a duly enacted statute, rule, regulation, ordinance, declaration or resolution by a governmental entity specifically authorizing the erection of such device by a governmental entity.
- HH. "On-premise advertising device" means an advertising device advertising the sale or lease of the property on which it is located or advertising activities conducted on the property on which it is located.
- II. "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or water fowl refuge or historic site.
- JJ. "Person" means any individual, corporation, partnership, association, or organized group of persons, whether incorporated or not, and any government, governmental subdivision, or agency thereof.
- KK. "Premises" means the central, actual physical location where an activity is routinely conducted. The premises includes the primary structures, parking facilities and private roadway if they are necessary to the principal activity.
- LL. "Property" means an area of land under one ownership that is not severed by land owned by another, nor severed by a public roadway.
- MM. "Private roadway" is an established access approach to the public way for only the individual or private entity or a single business operated by that individual or private entity that owns in fee the land over which the road passes and is not maintained by a public entity.
- NN. "Public roadway" means any road that is not a private roadway.
- OO. "Rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control for the convenience of the traveling public.

- PP. "Scenic area" means any area or public park which is in fact of particular scenic beauty or historical significance designated by the State Highway Commission.
- QQ. "State Highway System" shall consist of the non-federal-aid system, the federal-aid primary system, the federal-aid secondary system, the interstate system, and the urban system.
- RR. "Tourist-related advertising device" means any legally erected and maintained advertising device which was in existence on May 5, 1976, and which provides directional information about goods and services in the interest of the traveling public limited to the following: Lodging, campsite, food service, recreational facility, tourist attraction, educational or historical site or feature, scenic attraction, gasoline station, or garage.
- SS. "Trade name" shall include brand name, trademark, distinctive symbol or logo, or other similar device or thing used to identify particular products or services.
- TT. "Turning roadway" means a connecting roadway for traffic turning between two intersection legs of an interchange.
- UU. "Urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of Census.
- VV. "Visible" means capable of being seen, whether or not legible, without visual aid by a person of normal acuity.
- WW. "Would work or suffer a substantial economic hardship" means tending to cause or causing a significant negative economic effect, such as a loss of business income, an increase in unemployment, a reduction in sales taxes or other revenue to the State or other governmental entity, a reduction in real estate taxes to the county, and other significant negative economic factors.
- XX. "Zoned for commercial or industrial uses under authority of State Law" means areas which are zoned primarily for business, industry, commerce, or trade pursuant to a State or local zoning ordinance or regulation.

V. ON-PREMISE ADVERTISING DEVICES

On premise signs located outside of a bonus area must comply with the following tests and criteria:

(For Bonus Area Signs, see Section IX)

1. The purpose of an "on premise sign" is to advertise the principal or primary activities, goods or services available upon the premises, or to identify the property upon which the sign is located and may direct the traveling public to the closest entrance to the premises located upon that property, or to advertise the property upon which the sign is located for sale or lease. An on-premise sign must be located upon the same property as the premise activity advertised.

- a. A sign that is located upon the premises and only advertises the primary activities, goods or services conducted or available upon the premises or consists solely of the name of the establishment is an on premise sign.
- b. A sign that advertises activities, goods, or services not available upon the premises is not an on-premise sign. A sign that consists principally of brand name or trade name advertising, and the product or service advertised is only incidental to the principal activity conducted upon the premises is not an on premise sign.
- c. A sign that is located within approximately 50 feet of the premises and advertises the primary activities, goods and services available upon the premises is presumed to be an on-premise sign unless the land upon which the sign is located is used for, or devoted to, a separate purpose unrelated to the principal activity advertised. For example, land adjacent to or adjoining a service station, but devoted to raising of crops, residence, or farmstead uses or other commercial or industrial uses having no direct relationship to the service station activity.
- d. A sign which identifies the property upon which it is located is an on premise sign if it only advertises the following information of record; the name of the property; the type of property; its logo; and/or the name of the owner of the property. If such signs are located on the property upon which the premises are located, such signs may direct the traveling public to the closest entrance to the premises. To further the purposes and intent of the act, signs allowed under this subsection are limited to two signs visible to traffic proceeding in any one direction if the highway frontage of the property is less than one mile in length. If the highway frontage of the property is more than one mile in length, one sign visible to traffic proceeding in any one direction per mile is allowed. The purpose of such signs shall not be to advertise specific goods or services available upon the premises. Devices allowed herein may be no larger than 150 square feet including border and trim. To the extent that signs are visible from the highway frontage of the property under paragraphs a or c of this subsection 1, signs under this paragraph are prohibited.
- e. A sign which advertises the property upon which it is erected for sale or lease is an on-premise sign if it predominantly advertises the sale or lease of that specific piece of property. If the sign advertises any product or service other than the logo and/or name, type of real property, address, and telephone number of the party offering the property for sale or lease such sign shall not be an on-premise sign. Type of real property will only be the uses of record for zones or platted areas. To further the purposes and intent of the act, such signs are limited to one sign visible to traffic proceeding in any one direction less than one mile apart and may be no larger than 96 square feet including border and trim.
- f. For the purposes of non-commercial advertising devices (ex. religious, social or political commentaries) erected by the owner or lessee of property, the premises is the primary structures, parking area and private roadway. Non-commercial signs that are on the premises or within approximately 50 feet thereof are on-premise signs. To further the purposes of the act, non-commercial signs that are more than approximately 50 feet from the premises may be no larger than 150 square feet and are limited to two signs visible to traffic proceeding in any one direction if the highway frontage of the property upon which the premises is located is less than one mile in length. If the highway frontage of the property upon which the premises is located is more than one mile in length, one sign visible to traffic proceeding in any one direction per mile is allowable.
- g. A property owner who had an advertising device that was in existence upon his property on the effective date of these Rules and Regulations and who could have reasonably believed such advertising device was on premise under prior rules and regulations shall

be allowed six (6) months from the effective date hereof to bring such advertising device into compliance with these Rules and Regulations.

- h. Advertising devices allowable under subsections d) and f) above shall not in combination exceed the size or number allowed under either section individually.

VI. DIRECTIONAL ADVERTISING DEVICES

Directional Advertising Devices must meet the following requirements:

A. A permit must be obtained prior to erection of the directional sign.

- 1. Application contents set forth in C.R.S. 1973, 43-1-408 (1981 Colo. Sess. Laws, chapter 512).

B. Size

- 1. All directional advertising devices shall conform to one of the following two standard sizes: fifteen (15) feet in length and ten (10) feet in height, or eight (8) feet in length and four (4) feet in height.
- 2. All dimensions include border and trim, but exclude supports.

C. Lighting is not permitted, but reflectorization may be used.

D. Sign colors

- 1. No Directional Sign will contain colors other than the following standardized colors:
Background — blue Message — white (trim is not allowed).

E. Spacing

- 1. Each location of a sign must be approved by the State Highway Department prior to issuance of permit.
- 2. No sign shall be located within 2,000 feet of an interchange, or intersection at grade along the State Highway System (measured along the highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way).
- 3. No sign shall be located within 2,000 feet of a rest area, parkland, or scenic area (measured as in 2 above).
- 4. No two signs facing the same direction of travel shall be spaced less than 1 mile apart.
- 5. Not more than three signs pertaining to the same activity and facing the same direction of travel shall be erected along any single route approaching the activity. No activity shall qualify for more than six directional signs.
- 6. Signs located adjacent to the Interstate System shall be within 75 air miles of the activity.
- 7. Signs located on other than the Interstate System shall be within 50 air miles of the activity.

F. Message Content

1. The one message allowed on each face of a directional sign shall be limited to the identification of the attraction or activity and legible directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited. Trademarks and logos are prohibited.
2. Any attraction or activity that is not open 12 months of the year shall be required to display the dates they are open to the public, on each approved directional sign.

G. Selection Methods and Criteria

1. To be eligible, attractions or activities must be regionally known, and of outstanding interest to the traveling public.
 - a. Regionally known: Colorado is divided into four (4) geographic regions. Privately owned attractions or activities to qualify as regionally known must maintain legal roadside advertising and/or be actively engaged in advertising campaigns and promotions in Colorado and all the adjoining states to their region location in Colorado, which advertises their attractions or activities.
 - 1) The northwest region is all area north of Interstate Highway 70 and west of the Continental Divide.
 - 2) The southwest region is all area south of Interstate Highway 70 and west of the Continental Divide south to Monarch Pass, east on State Highway 50 to the junction with State Highway 285, and south on State Highway 285.
 - 3) The southeast region is all area south of Interstate Highway 70 and east of the Continental Divide south to Monarch Pass, east on State Highway 50 to the junction with State Highway 285, and south on State Highway 285.
 - 4) The northeast region is all area north of Interstate Highway 70 and east of the Continental Divide.
 - b. To be of outstanding interest to the travelling public the attraction or activity must be of the type a substantial number of tourists would plan on visiting during their stay in Colorado.
2. Specific selection methods and criteria to be used in determining whether or not an attraction or activity qualifies for this type of signing:
 - a. Any corporation must be registered with the Colorado Department of State and any other business must furnish proof of license if required by any State, city, or county agency.
 - b. If the attraction or activity is clearly visible from the main-traveled way, "on-premise" signs will suffice in lieu of directional signs.
 - c. The dominant attraction must be for edification and enjoyment of the motorist; not a tourist-oriented roadside business. Prime purpose of the signs must be to direct the motorist and not to generate income to the activity.
 - d. No request for a directional sign shall be disapproved or approved until the Division of Highways has performed an evaluation of the activity or attraction to be advertised.

- e. Any attraction or activity that has official signs on State highway right-of-way shall not qualify for signs on private property.
3. Activities or attractions eligible for directional signing shall include the following: natural phenomena; historic, educational, cultural, scientific, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation.

In considering eligibility, the following State agencies are hereby recognized as being a State authority to be consulted:

Colorado Council on the Arts and Humanities

State Historical Society of Colorado

Colorado Department of State

Colorado Department of Health

Colorado Division of Parks and Outdoor Recreation

Colorado Department of Highways

- a. Natural phenomena are limited to the following: Unusual rock formations, caves, geysers, and waterfalls as created by nature.
- b. Historic, educational, cultural, scientific, and religious sites are limited to those having definite historic, educational, cultural, scientific, and religious significance. Descriptive plaques, guides, or other information must be available to adequately explain the site's significance. The site must be within 10 miles of a State highway intersection with access on an adequate all-weather highway.
- c. Areas of natural scenic beauty or other areas naturally suited for outdoor recreation must be within 10 miles of a State Highway intersection with access on an adequate all-weather road;
 - 1) and shall contain the following:
 - a) A minimum of 10 acres, approximately fifty percent of which must be unoccupied "open space" accessible to the public.
 - b) State approved drinking water and toilet facilities.
 - c) Picnic area with tables, benches and litter barrels.
 - d) Adequate maintenance to keep all facilities in a clean and sanitary condition.
 - 2) and shall contain at least one of the following:
 - a) Supervised swimming area.
 - b) A suitable and readily accessible lake or stream open to public fishing.
 - c) A public boat landing.

- d) A State approved campground.
- e) A golf course or a driving range or tennis courts.
- f) A playground with equipment suitable for children.
- g) Suitable and publicly accessible trails and paths of substantial length which are adequately maintained.

VII. SIGNS IN AREAS ZONED FOR COMMERCIAL OR INDUSTRIAL USE

- A. All signs adjacent to the State Highway System must obtain a State Sign Permit.
- B. Signs erected after July 9, 1971 in areas zoned for commercial or industrial use must comply with size, lighting, and spacing criteria. All such signs lawfully erected shall be classified as conforming and may be allowed to be maintained provided that they meet the following criteria: (no such signs shall be allowed to be erected within a bonus area of the Interstate System).
 - 1. Size of signs located in areas zoned for commercial or industrial use.
 - a. In areas zoned prior to January 1, 1970, the maximum area for any one sign shall be 1200 square feet visible in any one direction of travel with a maximum height of 30 feet and a maximum length of 60 feet.
 - b. In areas zoned on or after January 1, 1970, the maximum area for any one sign shall be 150 square feet visible in any one direction of travel.
 - c. Measurements shall be inclusive of any border and trim, but excluding the base, apron, supports, and other structural members. In the case of a cut out sign, the waste area is also included.
 - d. The maximum size limitations shall apply to each side of a sign structure. Signs may be placed back-to-back, or in V-type construction with not more than two displays to each facing. Each two-faced sign structure shall be considered as one sign structure if the two faces share a common vertical post.
 - 2. Lighting
 - a. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving the following public service information: time, date, temperature, and weather.
 - b. Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the State Highway System and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.
 - c. No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
 - d. All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the State.
 - 3. Spacing of Signs

- a. Interstate Highways and Freeways.
 - 1) No two signs shall be spaced less than 500 feet apart.
 - 2) Outside of incorporated villages and cities, no sign may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. The 500 feet is to be measured along the Interstate or Freeway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.
 - b. All other State highways except Interstate and Freeways.
 - 1) Outside of incorporated villages and cities, no two structures shall be spaced less than 300 feet apart.
 - 2) Within incorporated villages and cities, no two structures shall be spaced less than 100 feet apart.
 - c. No more than one sign shall be allowed at a location for purposes of determining compliance with spacing requirements and shall be located on the same side of the highway as the building qualifying the location zoned for commercial and industrial use after January 1, 1970.
 - d. Official and on-premise signs, as defined in these Rules and Regulations, and signs that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
4. Criteria for advertising devices in areas zoned for commercial or industrial use after January 1, 1970.
- a. The commercial or industrial building in place shall be a substantial structure and not a structure built to qualify the area for signing. The land between the building and the sign structure must be continuously zoned for commercial or industrial uses.
 - b. Necessary goods and services are described as follows:
 - 1) Lodging — rooms available on a nightly basis; such as hotels, motels, and cabins.
 - 2) Camping — a facility whose primary business is to provide adequate camping sites with fresh water and sanitary rest room facilities.
 - 3) Food — facilities whose primary business is for the service or sale of prepared or packaged food; such as restaurants, fast/food outlets, grocery stores, bakeries, and meat markets.
 - 4) Gas — facilities that provide fuel products to the motoring public.
 - 5) Vehicle repair — a facility which offers motor vehicle repair services to the motoring public.
 - 6) Health related goods or services — facilities which provide goods such as drugs and medicines or services such as emergency medical services provided by a licensed medical practitioner.

- 7) Recreational facilities and service — facilities available to or used by the traveling public and those services available at the facility which are necessary for the operation of that facility. For example a ski area would be a recreational facility and the rental of skis at the ski area would be a necessary service for the operation of that facility.
- 8) Places of cultural importance—facilities which produce or present the visual, literary or performing arts and designated historic sites or structures that are open to the public and listed on the state or national register. Sites eligible for signage include:
 - a) Art galleries or artist studios which maintain regular hours for public visitation. Commercial or not for profit galleries must present original works of art in an exhibition format and may offer art for sale.
 - b) Art museums or centers which regularly exhibit original works of art for public viewing.
 - c) Performing arts centers or civic auditoriums which present live performing arts events such as dance, music, theater, opera.
 - d) Historical sites designated as historically significant by the National or Colorado State Registers.
 - e) Folk art, ethnic, or historical museums which preserve and present artifacts of indigenous cultures of Colorado or of historical significance.
 - f) Facilities operated by tax exempt non-profit religious organizations as certified by state and federal revenue services.
 - g) Facilities operated by tax exempt non-profit service and civic organizations as certified by state and federal revenue services.
 - h) Libraries which maintain regular hours for public visitation which are operated by municipalities, counties or the state.
- c. If the necessary goods and services are not available 12 months out of the year the sign must clearly display the dates such goods and services are available.
- d. Signs located in an area zoned for commercial or industrial use after January 1, 1970 will comply with C.R.S. 1973, 43-1-404(1)(e) (1981 Colo. Sess. Laws, chapter 512).
- e. Such advertising devices are allowed if they are visible from the primary and secondary highway systems.

C. Grandfathered signs which do not meet the size lighting, and spacing criteria provided in subsection B above may continue to be maintained.

All such signs shall be classified as grandfathered and must comply with the following criteria:

1. The right to continue a grandfathered sign is not confined to the sign owner or any one individual or corporation so using the land. Thus, a grandfathered sign may be sold,

leased, or otherwise transferred without affecting its status. However, the location of the grandfathered sign may not be changed. A grandfathered sign removed as a result of a right-of-way taking, or for any other reason, cannot be reestablished at a new location.

2. The sign must have been lawful on the effective date of the State Law or Rules and Regulations and must continue to be lawfully maintained.
3. The grandfathered sign may continue as long as it is not changed, abandoned or destroyed. The sign must remain substantially the same as it was in existence on the effective date of the State Law or Rules and Regulations. Extension or enlargement of the sign is a change in the existing use. Replacement, rebuilding, or re-erecting or change in any aspect of or in the character of the sign is a change in the existing use. Exception may be made for the rebuilding or re-erecting of signs which have been vandalized or subject to other criminal or tortious acts, if allowed by State Law and re-erected in kind. Reasonable maintenance of the sign is not a change in the existing use. This would include a change of advertising message and normal upkeep and repair of a sign structure.

VIII. NONCONFORMING ADVERTISING DEVICES

- A. No such sign shall be allowed to be maintained unless it shall have been in existence on February 21, 1966, outside incorporated city limits and June 2, 1971 within incorporated city limits.
 1. The right to continue a nonconforming sign is not confined to the sign owner or any one individual or corporation so using the land. Thus, a nonconforming sign may be sold, leased, or otherwise transferred without affecting its status. Permits are transferable to new owners of signs when certification of purchase is furnished to the Division of Highways. However, the location of the nonconforming sign may not be changed.
 2. The nonconforming sign may continue subject to the C.R.S. 1973, 43-1-413 (1981 Colo. Sess. Laws, chapter 512) and these Rules and Regulations. The sign must remain the same as it was on July 1, 1971, however, minor repairs to maintain a sign in good condition may be made in compliance with these Rules and Regulations.
 - a. Minor repairs may be made once it is determined the cost does not exceed fifty percent of replacement cost as supported by estimated costs from the sign owner and/or a third party estimate. These repairs must be completed within sixty (60) days from the date of notification pursuant to C.R.S. 1973, 43-1-412 (1981 Colo. Sess. Laws, chapter 512) to the sign owner to repair, or the permit shall be revoked and the sign structure will be removed. Up to an additional thirty (30) days may be granted in the discretion of the department upon written proof of good faith effort and conditions beyond the permittee's control.
 - b. Replacement cost or cost of repairing is the value of said sign as determined by the department approved schedule of compensation in effect upon the date of notification to the sign owner less the 20 percent profit factor included therein, and shall not include the cost of land, the cost of renting land, nor any factor other than the sign itself. This determination will be made by the Roadside Advertising Inspector. Example: (Depreciated sign value) \$1,000 x .80 (Schedule Less Profit) = \$800 x .50 = \$400 (Replacement cost or cost of repairing)
 - c. If the cost to repair an advertising device is determined to be more than fifty percent of the approved schedule of compensation less the profit, the device shall be deemed obsolete or destroyed, the permit shall be revoked and the sign structure will be removed.

- d. Written approval from the Department must be obtained before a design change is made to a sign.
- 3. The nonconforming sign may continue as long as it is not changed in aspect or character, abandoned, or obsolete, as defined in these Rules and Regulations. If a sign is blank or displays obsolete advertising matter for a period of six (6) months, that will constitute abandonment and the sign shall be removed.
- B. The right to maintain any nonconforming advertising device shall terminate pursuant to C.R.S. 1973, 43-1-413 (1981 Colo. Sess. Laws, chapter 512).
- C. If a nonconforming sign has been absent from the sign site for a period of sixty (60) calendar days, the sign will be classified as non-existent and shall not be allowed to be re-erected.

IX. SIGNS IN BONUS AREAS OF THE INTERSTATE SYSTEM

Only the signs expressly allowed by this section may be erected or maintained adjacent to Bonus Areas of the Interstate System.

- A. Directional or official signs which shall conform to standards contained in these Rules and Regulations.
- B. On-premise signs as defined in Section IV may be allowed to advertise the sale or lease of the real property on which the signs are located pursuant to Section V, 1, e. Not more than one such sign advertising the sale or lease of the same property may be allowed in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway. No such sign shall exceed 96 square feet in area, including border and trim, but excluding supports.
- C. On-premise signs as defined in Section IV may be allowed to advertise principal activities on the real property on which the sign is located pursuant to Section V, 1, a, c or f, provided that the sign is located not more than 50 feet from the activity, except as provided in D below.
- D. On-premise signs as defined in Section IV which are used to identify principal activities pursuant to Section V, 1, d or f, may be allowed more than 50 feet from the activities provided not more than one such sign shall be visible to traffic proceeding in any one direction on any one Interstate highway. No such sign shall exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim, but excluding supports.

X. GENERAL REGULATIONS

The following Rules and Regulations shall apply to all signs visible from the State Highway System.

- A. No sign shall be allowed to advertise activities that are illegal under State or Federal Laws or Rules and Regulations.
- B. A sign which is blank or displays obsolete advertising matter for a period of six months is an abandoned sign and shall be removed.
- C. No sign shall be allowed that is not clean and in good condition.
- D. No sign shall be allowed which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

- E. No off-premise sign shall be allowed which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights except those giving the following public service information: time, date, temperature and weather.
- F. No lighting shall be allowed to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main-traveled way of the State Highway System, unless lighting is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.
- G. No sign shall be allowed which moves or has any animated or moving parts.
- H. No off-premise sign shall be allowed to be erected or maintained upon trees or painted or drawn upon rocks or other natural features, including fences and utility poles.
- I. The United States Postal Service prohibits advertising on mail boxes or their supports. Business symbols or business trademarks are classified as advertising, which are prohibited. The business name which is required by the USPS to be on each mail box shall not be in excess of three inches high, or it will be classified as advertising, which is prohibited.
- J. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic. Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.
- K. No off-premise sign shall contain more than two signs or advertisements per facing.
- L. Distances shall be measured horizontally along a line perpendicular to the centerline of the highway.
- M. Distances beyond protected areas and inside urban areas shall be measured horizontally along a line normal or perpendicular to the right-of-way line of the highway.
- N. Distances between sign structures located on the same side of the highway shall be measured along the nearest edge of the pavement between points directly opposite the closest points of the signs to the highway.

XI. PERMITS

A permit from the Department shall be required for all signs as provided for in C.R.S. 1973, 43-1-407 (1981 Colo. Sess. Laws, chapter 512).

XII. APPLICATION FOR PERMIT AND RENEWALS — CONTENTS

- A. Application for a permit shall be made upon forms provided by the department pursuant to C.R.S. 1973, 43-1-408 (1981 Colo. Sess. Laws, chapter 512).
- B. Application forms will be available at district and Denver offices of the Department of Highways.
- C. Applicants for permits for signs in areas zoned for commercial or industrial use on or after January 1, 1970, must inform the department as to the name of the goods or services to be advertised thereon and location thereof upon the application form. If the applicant wishes to change the message during the permit or renewal period the applicant must inform the department of the proposed change and receive written approval prior to such change.

XIII. PERMIT TERM — RENEWAL — FEES — CERTIFICATION

A. Permit Term and Renewal Term Pursuant to C.R.S. 1973, 43-1-409 (1981 Colo. Sess. Laws, chapter 512)

1. Any sign erected after July 1, 1981 and before January 1, 1982 shall be required to obtain a permit for the year 1981 without proration. Such signs shall be required to apply for a renewal permit before December 1, 1981.
2. Any sign legally erected and maintained without a permit prior to July 1, 1981 shall be required to apply for a permit before December 1, 1981.
3. Any sign legally erected and maintained under permit prior to July 1, 1981 shall be required to apply for a renewal permit before December 1, 1981.
4. Permits and renewals effective January 1, 1982 shall be issued for a period of eighteen months. Thereafter, applications for renewals shall be made before June 1 of each year and shall be issued for a one year period beginning July 1 and ending June 30.

B. Fees Pursuant to C.R.S. 1973, 43-1-409 (1981 Colo. Sess. Laws, chapter 512)

1. Each application for a permit or renewal of a permit shall be accompanied by a permit fee for each advertising device, in accordance with the following schedule:

Sign size —	100 square feet of face area or less	\$10.00
Sign size —	101 square feet of face area to 250 square feet of face area	\$20.00
Sign size —	251 square feet of face area to 600 square feet of face area	\$40.00
Sign size —	601 square feet of face area or more	\$75.00

2. Face area for any one sign structure is the total area used for advertising including border and trim but excluding the base, apron, supports and other structural members that do not contain advertising. For example, a back to back or "V" type sign structure of 150 square feet has a face area of 300 square feet.
3. One fee is charged for a two faced sign structure only if the two faces share a common vertical post with a maximum of two advertisements per face.

C. Certification Pursuant to C.R.S. 1973, 43-1-409(2) (1981 Colo. Sess. Laws, chapter 512)

1. Local zoning authorities may certify for control of advertising devices located in areas zoned for industrial or commercial uses pursuant to part 4 and these Rules and Regulations.
2. A local zoning authority that seeks to administer and regulate advertising devices located in areas zoned for commercial or industrial uses within their zoning authority in a manner that is at least as restrictive as part 4 and these Rules and Regulations may do so under the following terms and conditions:
 - a. The local zoning authority must submit to the department its rules, regulations, or ordinances concerning the control of advertising devices that are in full force and effect. The department shall review said rules, regulations, or ordinance and

determine if they are at least as restrictive as part 4 and these Rules and Regulations.

- b. The local zoning authority must submit information as to their ability to regulate and enforce their rules, regulations or ordinance.
- c. The local zoning authority must submit a resolution, declaration or clear direction passed or enacted by the governing body expressing its intent to enter into an agreement of certification with the department.
- d. The local zoning authority must enter into an Agreement of Certification with the Department whereby the local zoning authority agrees to the following:
 - 1) Enforce its rules, regulations or ordinances concerning outdoor advertising devices and tender to the department any proposed change or variance thereto prior to adoption.
 - 2) Require a permit be obtained from the department before any new device is erected or before any material change is made to a device in existence at the time of certification within the certification area.
 - 3) Tender to the department detailed semi-annual inspection records and records of actions taken on violations.

3. The Department may rescind the Agreement of Certification according to statutory authority.

XIV. DENIAL OR REVOCATION OF PERMIT OR RENEWAL

A. As provided for in C.R.S. 1973, 43-1-410 (1981 Colo. Sess. Laws, chapter 512).

B. Permits or renewals may be revoked or denied for any of the following reasons:

- 1. Advertisement of illegal activities.
- 2. If used or intended to be used for more than two advertisements facing in the same direction.
- 3. Failure to maintain in a safe and clean condition.
- 4. Failure to comply with permit provisions.
- 5. If any permit or renewal permit is issued for a specific sized sign it may be revoked upon any increase above permitted size.
- 6. For any violation of the Act or of these Rules and Regulations.

C. Permits or renewals for signs in areas zoned for commercial or industrial use on or after January 1, 1970 shall be revoked upon display of non-approved goods or services. Upon notice of non-compliance the permittee must either apply for a new permit and pay the permit fee or remove the advertising device.

D. Erection or maintenance of any sign by crossing of a right-of-way line of any State highway by a sign owner, his agent, officer, or employee at other than established access approaches without the written permission of the department, constitutes a failure to comply with part 4 and rules and regulations concerning permits for the maintenance of advertising devices and shall cause the permit to be revoked. The permittee must remove the advertising device or may retain the device

in place if a permit for a new sign can be issued for that location and the permittee applies for a new permit and pays the required fee.

XV. ISSUANCE OF PERMITS PROHIBITED — WHEN

- A. No permit shall be issued as provided in C.R.S. 1973, 43-1-411 (1981 Colo. Sess. Laws, chapter 512).
- B. No permit shall be issued for the erection, use, or maintenance of any advertising device which is or would be at a point where it would encroach upon the right-of-way of a public highway without written approval of the department.
- C. The department may give written approval in the form of an agreement or lease for the placement and maintenance of benches upon the right-of-way of the State Highway System pursuant to the authority delegated in C.R.S. 1973, 43-1-411(a) and 43-1-417(3)(a) (1981 Colo. Sess. Laws, chapter 512) subject to the consent of the affected municipality or county.

XVI. NOTICE OF NONCOMPLIANCE — REMOVAL AUTHORIZED

- A. As provided for in C.R.S. 1973, 43-1-412 (1981 Colo. Sess. Laws, chapter 512)
- B. Notice of noncompliance
 - 1. All written notices of violation shall be by certified mail. If the department is unable to serve by certified mail it may serve by service of process or by publication in a local newspaper of general circulation.
 - 2. The notice shall inform the party that the device or devices are illegal and shall inform him what actions may be taken to bring the device(s) into compliance with the Act and Rules and Regulations.
 - 3. The notice shall inform the party that he is entitled to request a hearing pursuant to the State Administrative Procedure Act and that such request must be made in writing, by certified mail, received by the State Department of Highways, 4201 East Arkansas, Denver, Colorado, 80222, no later than 60 days after receipt of notice. The requesting party must inform the Department of the address to which all following notices are to be sent.
- C. Hearings
 - 1. All hearings required by the act shall be presided over by the Chief Engineer of the Division of Highways or his designee on behalf of the agency. The findings and conclusions of the presiding agency designee shall constitute final agency action.
 - 2. Upon receipt of a request for hearing, the Department shall arrange for such hearing and shall give written notice to the person requesting the hearing of the time, place, and nature thereof, the legal authority and jurisdiction under which it is to be held, and the matters of fact and law asserted. The notice shall be mailed by first class mail to the requesting party at least twenty days prior to the hearing at the address provided by the requesting party.
 - 3. Hearings shall be held pursuant to the procedures established by the State Administrative Procedure Act.
- D. Decisions and authorization for removal

1. After the sixty days notice of violation period has expired and if no hearing has been properly requested, the department shall determine whether or not the device or devices are in compliance with the Act and these rules and regulations. The agency shall issue a decision which shall include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the records of the department and shall issue an appropriate order, sanction or relief, or denial thereof. The Department shall serve the decision and order on the party in the same manner as it gave notice of violation.
2. After a hearing held pursuant to a request, the agency shall determine whether or not the device or devices are in compliance with the Act and these rules and regulations. The Agency shall issue a decision which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented by the record and shall issue an appropriate order, sanction, or relief, or denial thereof. The Department shall serve by certified mail the decision and order upon the party at the address provided by the party.
3. The decision and order of the agency shall be effective as of the date mailed or such later date if so stated in the order.
4. Judicial review of the Agency's decision and order must be commenced in the Denver District courts within thirty days of the effective date of the decision and order.
5. If the agency orders removal of the device and it is not removed and if the landowner does not consent to removal by the Department and if judicial review has not been sought in the Denver District court within 30 days of the effective date of said decision and order, the Department may apply to a court of competent jurisdiction for an order allowing the department to enter upon the land to remove the device forthwith.

XVII. ACQUISITION AND APPRAISAL OF ADVERTISING DEVICES

A. Policy

Just compensation shall be paid for each lawfully permitted nonconforming advertising device. Where the nonconforming advertising device has been modified with approval of the department, just compensation shall be determined as if no design changes had been made, unless the design changes shall have resulted in a decrease in value. Just compensation shall be paid for the taking, from the owner of such advertising device of all right, title, leasehold, and interest in such advertising device and for the taking from the owner of real property on which such advertising device is located of the right to maintain such advertising device.

B. Programming

A sign removal project may consist of any group of proposed sign removals. The signs may be those belonging to one company or those located along a single route, all of the signs in a single county or other locality, hardship situations, individually or grouped, such as those involving vandalized signs, or all of a sign owner's signs in a given State or area, or any similar grouping.

C. Valuation and Review Methods

Schedules — Formulas. Schedules, formulas or other methods to simplify valuation of signs and sites may be used for the purpose of minimizing administrative and legal expenses necessarily involved in determining just compensation by individual appraisals and litigation. Either the schedule or an appraisal may be used to determine just compensation under eminent domain, for signs.

D. Appraisals

1. Compensation is based on approved schedules or accepted appraisal procedures. Normal depreciation will be taken into account.
2. Compensation to the owner of a sign site will be based on approval schedules or accepted appraisal procedure.

E. Review of Value Estimates

All estimates of value shall be reviewed by a person other than the person who made the estimate prior to initiation of negotiations.

XVIII. TOURIST — RELATED NONCONFORMING ADVERTISING DEVICES — EXEMPTION

- A. Tourist related non-conforming advertising devices which comply with these Rules and Regulations may be exempted from removal pursuant to C.R.S. 1973, 43-1-414 (1981 Colo. Sess. Laws, chapter 512).
- B. A tourist related non-conforming advertising device may be exempted from removal if it is located in a defined geographic area which area would suffer substantial economic hardship by removal of such tourist related non-conforming advertising devices. In order to determine if such a geographic area exists and if any given tourist related non-conforming device located therein qualifies for exemption the following analysis and procedure is to be followed.

1. Basic data

- a. Individual Tourist Related Businesses that may be adversely affected by removal of their non-conforming advertising device(s) shall conduct a survey of their patrons using forms provided by the department to determine what percentage of the patrons have sought the tourist related goods or services offered by the business because of their non-conforming advertising device(s). The survey shall be conducted over at least a 90 day period and shall give patrons the opportunity to comment objectively on whether or not the signs were instrumental in their decision to patronize the business.
- b. Individual Tourist Related Businesses must provide basic financial data and information upon a form provided by the department. The business will identify thereon its projected reduction of income, taxes and numbers of employees caused by the loss of the non-conforming advertising device(s). The projected figures are established by applying the percentage figure established by the survey to the businesses current income, number of employees and tax liability.
- c. The data and forms generated by the individual tourist related businesses must be submitted to the appropriate state agency, board of county commissioners, city and county, municipality or other governmental agency.

2. Analysis and action required of the governmental agency

- a. A governmental agency must receive several applications, each supported by basic data, in order to determine if there is a defined geographic area within its jurisdiction that would suffer substantial economic hardship if tourist related non-conforming signs are removed in the defined area.
- b. The governmental agency will compile the basic data tendered by individual tourist related businesses, define the area of economic impact, and determine if the defined area as a whole will be significantly economically impacted by the

projected losses of income, employment and tax revenues generated by the applying tourist related businesses if those business' non-conforming signs are removed.

- c. All backup data, together with Department of Highways Forms, individual business information, and a declaration, resolution, certified copy of an ordinance or other clear direction that removal of the Tourist Related Advertising Devices would work a substantial economic hardship on the defined area are to be submitted to the Department. An analysis of negative economic impacts shall be submitted to the Department of Highways for review, along with all other data.
- d. Non-conforming signs in the defined area for which applications for exemption have been received must be listed and proof that the advertiser has not changed since May 5, 1976 shall be included.
 - 1) Signs advertising lodging, campsites, food services, recreational facilities, tourist attraction, educational or historical site or feature, scenic attraction, gasoline station, or garages may be subject to exemption under this section.
 - 2) Directional Content will predominantly include the advertiser's name and specific directional information, such as mileage, route numbers and exit numbers. (Examples: Exit 34, XYZ Motel, 1 Mile West on S.H. 36; ABC Restaurant, Turn Right on S.H. 40 — 2.0 Miles East).
- 3. Upon receipt of the declaration, resolution, certified copy of an ordinance or other clear direction from the appropriate state agency, a City and County, municipality, or County, the Department will contact other government agencies and survey participants to verify the estimates and all data submitted by the governmental entity.
 - a. Each application and the supporting data will be evaluated and analyzed individually.
 - b. Upon completion of the review, and if the Department finds that the governmental entity used the required method of economic analysis, the Department will forward such request for exemption for the defined area to the United States Secretary of Transportation Representative with the Department's recommendations.
 - c. Any request for exemption for a defined area submitted to the Department must request the retention of the Tourist-Related Advertising Devices in the defined area.
- C. Any exemption approved for an economic hardship in a defined area will be reviewed at least every three years by the Department and all signs must continue to meet the following requirements:
 - 1. All signs exempted must continue to advertise the same business as was advertised on May 5, 1976.
 - 2. All signs exempted must continue to comply with requirements concerning directional contents.
 - 3. All signs exempted must remain in good and clean condition.

4. If the sign becomes obsolete or fails to comply with any provision of this section, a notice will be given to the sign owner that he has failed to comply with this section and the sign is subject to immediate purchase and removal.

Editor's Notes**History**