



# COLORADO

## Department of Transportation

2829 W. Howard Place  
Denver, CO 80204-2305

### Notice of Proposed Rulemaking

Executive Director  
Rules Governing Outdoor Advertising in Colorado  
2 CCR 601-3

#### Proposed Statement of Basis and Purpose and Statutory Authority

#### I. Rules

The rules governing outdoor advertising in Colorado are found at 2 CCR 601-3.

#### II. Statement of Basis & Purpose

The purpose of these rules is to carry out the provisions of Colorado's Outdoor Advertising Act found at § 43-1-401, *et seq.*, C.R.S., and the Highway Beautification Act of 1965 found at 23 U.S.C. § 131 by establishing a statewide uniform program controlling the use of advertising devices in areas adjacent to the State Highway System. The intent of these rules is to protect and promote the health, safety, and welfare of the traveling public and the people of Colorado, and to promote the reasonable, orderly and effective display of outdoor advertising, while preserving and enhancing the natural and scenic beauty of Colorado.

Senate Bill 21-263 took effect in Colorado on June 30, 2021, changing the permitting and enforcement processes for the control of advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway to a compensation-based approach.

The specific purpose of this rulemaking is to consider changes to align CDOT's processes for permitting and enforcement of outdoor advertising devices with Senate Bill 21-263. Proposed changes include:

- Add, modify, or delete defined terms to aid in the interpretation and implementation of these Rules as follows:
  - Modify the definitions of "Advertising Device" and "Comprehensive Development" to reference the definitions in statute for consistency.
  - Delete the definitions of "Directional Sign", "Off-Premise Sign", "Official Sign", and "On-Premise Sign" to align with Senate 21-263.
  - Add the new definition of "Compensation" to reference the definition in statute for consistency.
  - Delete the definitions of "Commercial Advertising" and "Premises" since they are no longer necessary as a result of Senate Bill 21-263.
  - Modify the definition of "Permit Number Identifier" to align with Senate Bill 21-263.
- Establish a new compensation-based approach within the rules for permitting and enforcement of outdoor advertising devices in areas near interstates and state highways and visible to the traveling public from the roadway.



- Delete the requirements for the previous categories of outdoor advertising devices (i.e., On-Premise Sign, Off-Premise Sign, Official Sign, and Directional Sign) from the rules.
- Clarify CDOT is prohibited from issuing or renewing a permit if the advertising device becomes decay, insecure, or in danger of falling, or unsafe due to lack of maintenance or repair, which mirrors § 43-1-411(5), C.R.S.
- Clarify CDOT will provide the reasons for the denial of the application, the denial of the renewal of the permit, or the revocation of the Permit in writing.
- Modify the noncompliance requirements to give a property owner or sign owner the option to execute an affidavit under the penalty of perjury in the event the property owner or sign owner does not believe their sign is an advertising device requiring a CDOT permit.
- Streamline the hearing procedures and also modify the procedures to allow an applicant who was denied a permit to request an expedited hearing within 30 days of the notice of denial.
- Delete the requirements for signs erected after 1970 advertising necessary goods and services to align with Senate Bill 21-263.
- Delete the requirements for “Landmark Signs” and “Free Coffee Signs”. Landmark signs have not been established Colorado. Free Coffee Signs are set forth in federal law.
- Clarify that Changeable Electronic Variable Message Signs may not be within 1000 feet of each other that are facing the same direction.
- Update the materials incorporated by reference within the rules in accordance with § 24-4-103(12.5), C.R.S.
- Add procedures for interested and affected parties to petition for a declaratory order to increase transparency for the public and be in compliance with the Colorado Administrative Procedure Act. This is a voluntary process that allows for interested and affected parties to obtain a declaratory order on statutes, rules, or orders relating to the control of outdoor advertising in Colorado.
- Make other non-substantive changes to align the rules with Senate Bill 21-263 or fix typographical or grammatical errors.

### III. Statutory Authority

The statutory authority is as follows:

- Senate Bill 21-263 enacted into law on June 30, 2021.
- § 43-1-105(6), C.R.S., which authorizes the Executive Director or designee to preside over a hearing whenever CDOT is required by law to hold a hearing.
- § 43-1-414(4), C.R.S., which authorizes CDOT to promulgate rules governing the acquisition procedures for the advertising devices, the appraisal of advertising devices, and the administration and enforcement of outdoor advertising.
- § 43-1-415, C.R.S., which authorizes CDOT to promulgate rules necessary to carry out the provisions of the Outdoor Advertising Act.

