

## DEPARTMENT OF TRANSPORTATION

### Executive Director

## RULES GOVERNING OUTDOOR ADVERTISING IN COLORADO

### 2 CCR 601-3

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

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

The Department of Transportation ("CDOT") is authorized to promulgate rules pursuant to § 43-1-415, C.R.S., and § 43-1-414(4), C.R.S., 23 U.S.C. 131 and 23 C.F.R. 750.701 *et seq.*

The purpose of these Rules is to carry out the provisions of § 43-1-401, *et seq.*, C.R.S., and the Highway Beautification Act of 1965, 23 U.S.C. 131, 23 C.F.R. 750.705(h) 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.

These Rules are written to comply with and implement the Colorado Revised Statutes and the requirements of 23 U.S.C 131, and federal regulations related to outdoor advertising control, 23 C.F.R. Part 750. If any provision of these Rules or their application is held illegal, invalid, or unenforceable, no other provisions or applications of the Rules shall be affected and to this end the provisions of these Rules are severable. If these Rules conflict with relevant federal or state law, the federal or state law shall govern.

#### Application

These Rules apply to all Advertising Devices adjacent to the State Highway System, and all routes on the National Highway System ("NHS") that are Visible from the Main Traveled Way and within 660 feet of the nearest edge of the right-of-way and those additional Signs beyond 660 feet outside of Urban Areas which are Visible from the Main Traveled Way and erected with the purpose of their message being read from such Main Traveled Way. This area is collectively referred to throughout these Rules as the Control Area. [23 U.S.C. 131]. The Main Traveled Way means the Traveled way of a State Highway on which through traffic is carried. [23 U.S.C. 101; § 43-1-404(4), C.R.S.] These Rules do not apply to advertising billboards on land in Colorado held by the federal government in trust for Indian tribes. [23 U.S.C. 131]

#### 1.00 Definitions

- 1.1 All definitions set forth in 23 C.F.R. § 750.102, 23 C.F.R. § 750.703, and § 43-1-403, C.R.S. shall apply to these Rules. If there is a conflict between the definitions in state and federal law and regulations and these Rules, the state and federal law definitions shall govern. Definitions are not listed in alphabetical order.
- 1.2 "Advertising Device" has the same meaning pursuant to § 43-1-403(1), C.R.S.
- 1.3 "Applicant" means a person, entity or agency who applies for an Outdoor Advertising Permit from CDOT to maintain or erect an Advertising Device.

- 1.4 “Bonus Area” shall have the definition set forth in § 43-1-406(2)(b), C.R.S., and means any portion of the area within six hundred sixty (hereinafter “660 feet”) 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 was acquired for right-of-way after July 1, 1956, or may be acquired in the future. 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 Kerr areas or Cotton areas.
- 1.5 “CEVMS” or “Changeable Electronic Variable Message Sign” means a self-luminous advertising Sign which emits or projects any kind of light, color, or message change which ranges from static images to image sequences to full motion video. This shall include “Variable Message Sign” which means an advertising Sign, display or device with moving parts whose message may be changed by electronic or by remote control or other process through the use of moving or intermittent light or lights. [43-1-404(1)(f)(I), C.R.S.]
- 1.6 Repealed.
- 1.7 “Conforming Sign” means a Sign legally erected and maintained in accordance with state, federal, and local laws.
- 1.8 “Comprehensive Development” has the same meaning pursuant to § 43-1-403 (1.5), C.R.S.
- 1.9 “Control Area” means the area within 660 feet of the nearest edge of the State Highway right-of-way where an Advertising Device is Visible from the Main Traveled Way, and areas outside of Urban Areas that are more than 660 feet of the nearest edge of such right-of-way where an Advertising Device is Visible from the Main Traveled Way of the system, and erected with the purpose of its message being read from the Main Traveled Way.
- 1.10 “Controlled Route” means any route on the National Highway System, which includes the interstate system, State Highways, and any route on the former federal-aid primary system in existence on June 1, 1991.
- 1.11 “Department” means the Colorado Department of Transportation (“CDOT”) created pursuant to § 43-1-103, C.R.S.
- 1.12 Repealed.
- 1.13 “Illegal Sign” means a Sign erected or maintained in violation of state or federal law, these Rules or local law or ordinance.
- 1.14 “Main Traveled Way” means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate 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. [23 C.F.R. 750.703(h)]
- 1.15 “Maintain” means to allow to exist, or to preserve, keep in repair, continue or replace an Advertising Device. [§ 43-1-403(9), C.R.S. 23 C.F.R. 750.102 and 23 C.F.R. 750.153]
- 1.16 “Nonconforming Advertising Device” or “Nonconforming Sign” means a Sign which was lawfully erected but which fails to conform to the sizing, lighting, spacing or location requirements of law enacted at a later date or because of changed conditions, except those advertising devices allowed by § 43-1-404(1), C.R.S. [23 C.F.R. 750.707; § 43-1-413, C.R.S., § 43-1-403(12); § 43-1-404(1)(e)(I), C.R.S.]

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- 1.17 “Notice of Noncompliance” means the notice provided to the Applicant, Permittee or property owner providing the information regarding a violation as set forth in § 43-1-412, C.R.S., and these Rules.
- 1.18 Repealed.
- 1.19 Repealed.
- 1.20 Repealed.
- 1.21 “Parkland” means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
- 1.22 “Permit” means an official certificate or document which the Department issues or renews annually to allow an Advertising Device to display advertising.
- 1.23 “Permit Number Identifier” means a series of numbers assigned by the Department that is unique to the Advertising Device.
- 1.24 “Permittee” means a person, entity or agency that applies for and receives an Advertising Permit from the Department to maintain an Advertising Device.
- 1.25 Repealed.
- 1.26 “Property” means an area of land owned by one entity or person that is not severed by land owned by another, nor severed by a public roadway.
- 1.27 “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. [23 C.F.R. 750.153(l)]
- 1.28 “Sign” means any Advertising Device as defined in § 43-1-403(1), C.R.S. For purposes of these Rules, Sign shall have the same meaning as Advertising Device unless otherwise specified.
- 1.29 “State Highway System” for purposes of these Rules shall consist of the non-federal-aid system, including sections thereof within Urban Areas, the federal-aid primary and secondary system, the interstate system and freeways, including State Highways designated as scenic byways by the Colorado Transportation Commission. [23 USC 131(t); § 43-2-101(1) and § 43-1-419, C.R.S. ]
- 1.30 “State Highway” shall have the same meaning as defined in § 43-2-101, C.R.S. and shall include freeways for purposes of these Rules.
- 1.31 “Urban Area” pursuant to 23 U.S.C. 101 (33) means an urbanized area designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area (as defined by 23 U.S.C. 101 (34)), within boundaries to be fixed by responsible State and local officials.
- 1.32 “Visible” means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. [23 C.F.R. 750.153 (j)]

1.33 “Zoned for Commercial or Industrial Uses” means those districts established by the zoning authorities under authority of state law as being most appropriate for commerce, industry, or trade, regardless of how labeled. They are commonly categorized as commercial, industrial, business, manufacturing, highway service or highway business (when these latter are intended for highway-oriented business), retail, trade, warehouse, and similar classifications. [23 C.F.R. 750.703]

1.34 “Compensation” has the same meaning pursuant to § 43-1-403 (1.3), C.R.S.

## 2.00 Permitting

### 2.1 Signs Requiring a CDOT Permit

A. A permit from the Department shall be required for all Signs within the Control Area as provided for in §§ 43-1-407 and 408, C.R.S. A permit is required for all Signs, including:

1. Nonconforming Advertising Devices [§ 43-1-403(12), C.R.S.];
2. Advertising Devices located in areas Zoned for Commercial or Industrial Uses by law [§ 43-1-404(1)(d) and (e), and § 43-1-407(1)(c), C.R.S.]; and
3. Advertising on Bus Benches and Shelters. [§ 43-1-407(2)(a)(I) through (III), C.R.S.]
4. Repealed.

### 2.2 Repealed.

### 2.3 Conditions that Prohibit CDOT from Issuing or Renewing a Permit [§ 43-1-411, and § 43-1-417(3)(a), C.R.S. and 23 C.F.R. § 750.108]

A. The Department is prohibited from issuing a Permit for any Advertising Device pursuant to § 43-1-411, C.R.S. and 23 C.F.R. § 750.108 if the Sign:

1. Does not conform to size, lighting, and spacing standards as prescribed by these Rules where the Rules were adopted prior to the erection of the Advertising Device;
2. Would encroach upon the right-of-way of a public highway absent prior written approval from the Department;
3. Is within 500 feet of the center point of an intersection of a Controlled Route at grade with another highway or with a railroad so as to materially obstruct or reduce the existing view of traffic on the other highway or railway trains approaching the intersection;
4. Is along a Controlled Route where it would reduce the existing view of traffic in either direction or of traffic control or official highway signs to less than 500 feet;
5. Includes more than two advertising panels on an Advertising Device facing the same direction;
6. Required a permit prior to July 1, 1981, and no permit was obtained;

7. Simulates any official, directional, or warning sign erected or maintained by the federal or state government or local governing body which involves light that simulates or resembles traffic signals or traffic control signs;
8. Is nailed, tacked, posted, or attached in any manner on trees, plants, fence posts, public utility poles, rocks or other natural objects; or
9. The Department is prohibited from issuing or renewing a Permit if the Sign becomes decayed, insecure, or in danger of falling or otherwise is unsafe or unsightly due to lack of maintenance or repair, or from any other cause.

**2.4 Required Permit Identification on the Sign** [§ 43-1-409(4), C.R.S.]

- A. The Sign must display the following information in a conspicuous location Visible from the Main Traveled Way:
  1. The name of the Permittee or owner of the Permitted Sign;
  2. The Permit Number Identifier assigned by the Department, which must be affixed within 30 days after the date of issuance;
- B. If the name of the Permittee or owner and the Permit Identifier Number and any other required information is not conspicuous and Visible as required, the Permit for the device may be revoked pursuant to Rule 2.11.

**2.5 Permit Term** [§ 43-1-409(1)(a)-(b), C.R.S.]

- A. The Department shall issue a Permit for up to one year from the date of issuance.
- B. If the Advertising Device authorized by a Permit is not erected within 1 year from the Permit issuance date, then the Permit is void as of one year from the date it was issued [§ 43-1-409(1)(a), C.R.S.].
- C. Permits shall be issued without proration for periods of less than 1 year. Permit renewals shall be received before June 1 of each year and shall be issued for a 1 year period beginning July 1 and ending June 30 the following year.
- D. The permit holder may request a replacement Permit Identifier Number at no additional cost.

**2.6 Permit Payment and Maintenance Requirements** [§ 43-1-408 and § 43-1-409, C.R.S.]

- A. All requirements set forth in § 43-1-408 and § 43-1-409, C.R.S., with respect to the Permit Application shall be met before a Permit is issued, including the fee payment for the Permit.
- B. Permit Applications for Advertising Devices located in an area Zoned for Commercial or Industrial Uses must include proof of the dates of the initial and current zoning of the proposed Advertising Device's location and any information that proves that the authorized governmental entity took official action to zone the area.
- C. The Applicant shall not construct the Advertising Device structure prior to obtaining a Permit.

- D. The Permittee shall repair, replace, and Maintain in good condition any damaged Advertising Device structure as allowed in these Rules.
- E. A Permit must be obtained from the Department prior to entering the right-of-way to perform any kind of work.

**2.7 Permit Renewals** [§ 43-1-409, C.R.S.]

- A. Every Permit must be renewed annually and accompanied by a renewal fee pursuant to § 43-1-409, C.R.S., with the exception of Permits related to advertising devices subject to agreements of certification between CDOT and the local zoning authority.
- B. The Permit holder shall, during the term of the Permit, have the right to change the advertising copy, ornamentation, or trim on the structure or Sign subject to the Permit without payment of any additional fee.
- C. Renewal fees shall be assessed in accordance with § 43-1-409, C.R.S.
- D. If the renewal fee is not received on or before May 31, a late fee shall be assessed. The Department shall not waive late fees.
- E. If the Department does not receive a timely application for renewal, the Department shall give written notice by certified mail to the Permittee requiring him or her within 60 days of receipt of the notice to apply for a renewal permit and pay an additional late fee pursuant to § 43-1-409, C.R.S., or remove the Advertising Device by a certain date. The notice shall include the right of the Permittee to request a hearing. [§ 43-1-412(2)(b), C.R.S.]

**2.8 Permit Renewals for Advertising Device subject to Agreement of Certification between Department and Local Zoning** [§ 43-1-409, C.R.S.]

- A. A Permit renewal is not required for an Advertising Device erected in an area Zoned for Commercial or Industrial Uses where the local zoning authority has entered into an agreement of certification with the Department, and the local zoning authority has legal requirements in place concerning the control of Advertising Devices that are at least as restrictive as these Rules as to size, lighting, spacing, use and maintenance.
- B. The local zoning authority's agreement of certification must contain the terms set forth in § 43-1-409(2), C.R.S. If the Department determines after public hearing that the local zoning authority has failed to comply with its agreement of certification, the Department may rescind the agreement of certification by taking the steps set forth in § 43-1-409(2), C.R.S.
- C. The Department's action resulting from this process shall constitute a final agency action.
- D. In the event of rescission of the agreement of certification, the Permittee must renew the Permit.

**2.9 Transfers of Permits** [§ 43-1-409(7), C.R.S.]

- A. A Permittee may transfer the Permit to another party.
- B. The Permittee or the other party must file with the Department a transfer form signed by the Permittee and purchaser or transferee within 60 days of the transfer of legal interest in the Advertising Device.

- C. The transfer form must include the name and address of the purchaser or transferee, the Permit Identifier Number, contact information for the Permittee and purchaser or transferee, and a copy of any lease or sale agreement documenting the transfer.
- D. Any change in size, location, or materials of the Advertising Device shall require a new Permit application.

**2.10 Permits for Bus Benches and Bus Shelters [§ 43-1-407(2)(A)(I) and (II), C.R.S.]**

- A. The Department shall issue a Permit to erect or Maintain an Advertising Device on a bus bench or bus shelter located within the right-of-way of any State Highway or on land adjacent to or Visible from the right-of-way of any State Highway if the local governing body having authority over the State Highway pursuant to § 43-2-135, C.R.S. has approved such Advertising Device.
- B. The Department shall accept the local Permit as a state-approved Permit if the approval procedure of the local governing body included a determination that the Advertising Device does not restrict pedestrian traffic and is not a safety hazard to the motoring public. [§ 43-1-407(2)(a)(I), C.R.S.]
- C. The Department shall not impose any additional or more strict requirements for Advertising Device Permits on bus benches or bus shelters than those imposed by a local governing body unless required by federal law, or based on safety requirements for bus benches or shelters.
- D. If the bus bench or bus shelter is located on a Controlled Route outside of a city, city and county, or incorporated town, the Department shall have direct authority over the issuance of a permit. [§ 43-1-417, C.R.S. and 43-2-135, C.R.S.]

**2.11 Permit Denial, Revocation, or Denial of Renewal [23 C.F.R. § 750.104; § 43-1-410, C.R.S.]**

- A. The Department may deny, revoke, or deny the renewal of a Permit for any violation of state or federal law or these Rules, including but not limited to:
  - 1. False or misleading information in the Permit application or renewal;
  - 2. Failure to maintain the Sign in good repair;
  - 3. Failure to comply with all Permit provisions;
  - 4. Increasing the permitted size of an Advertising Device; or
  - 5. Any violation of federal law referenced herein, § 43-1-401, et seq., C.R.S. or these Rules.
- B. The Department will notify the Applicant or Permittee in writing stating the reasons for the denial of the application, the denial of the renewal of the Permit, or the revocation of the Permit along with the opportunity to request a hearing as set forth in Rule 5.00.

**3.00 Notice of Noncompliance Pursuant to § 43-1-412, C.R.S.**

**3.1 Repealed.**

**3.2 Grounds for Noncompliance**

- A. Sign lacking a CDOT Permit [§ 43-1-412(2)(a), C.R.S.]
  - 1. If a Permit has not been obtained for the Advertising Device, the Department shall give written Notice of Noncompliance by certified mail to the owner of the Property on which the Sign is located. Such notice will:
    - a. Inform the Property owner that the Advertising Device is illegal;
    - b. Require the owner to remove the Sign within 60 days of receipt of the notice, execute an affidavit under the penalty of perjury as evidence that the device is not an Advertising Device, or obtain a permit; and
    - c. Advise the Property owner of the right to request a hearing.
- B. Permit Renewal. [§ 43-1-412(2)(b), C.R.S.]
  - 1. Permitted Signs are subject to renewal requirements.
  - 2. If the Department does not receive a Permit renewal application as required, the Department shall give the Permittee written notice by certified mail that:
    - a. Requires the Permittee to apply for a renewal Permit and pay the required late fee within 60 days of receipt of the notice or remove the Sign; and
    - b. Advise the Permittee of the right to request a hearing.
- C. Permit Revoked or Renewal Denied. § 43-1-412(2)(c), C.R.S.
  - 1. If the Department determines that a renewal application should be denied or that an existing Permit should be revoked, the Department shall give the Applicant or Permittee written notice by certified mail that:
    - a. Specifies in what respect he or she has failed to comply with state or federal law and these Rules;
    - b. Requires the removal of the Advertising Device or correction of the violation, if correction is permissible, within 60 days of receipt of the notice; and
    - c. Advises the Applicant or Permittee of the right to request a hearing. See Rule 5.00.

**4.00 Due Process and Enforcement**

- A. After the 60 day notice period has expired, the Department may determine with or without a hearing whether the Advertising Device is in compliance.

- B. If the Department determines the Advertising Device is not in compliance with state and federal law and these Rules, it shall issue an order that shall be served upon the party by certified mail setting forth:
  - 1. The provisions of the law or Rules violated;
  - 2. The facts alleged to constitute the violation;
  - 3. The time by which the Advertising Device must be removed; and
  - 4. That the Advertising Device will be removed at the party's expense. [§ 43-1-412(4), C.R.S.]
- C. If the party does not remove the Advertising Device as ordered, the Department is authorized to remove it immediately and bill the appropriate party for costs incurred. [§ 43-1-412(5), C.R.S.]
- D. If the Property owner does not consent to the Department's entry upon the land to remove the Advertising Device, and no party has sought judicial review pursuant to the State Administrative Procedure Act, the Department may apply to a court of competent jurisdiction for an order allowing the Department to enter upon the land for the purpose of immediately removing the Advertising Device.
- E. The court shall issue such order upon proof the Advertising Device has not been removed and judicial review has not been sought. [§ 43-1-412(5), C.R.S.]
- F. Upon removal of the Advertising Device pursuant to § 43-1-412, C.R.S., neither the owner of the Property upon which it was erected nor the Department shall be liable in damages to anyone who claims to be the owner of the Advertising Device but who has failed to obtain a Permit.
- G. The Department shall not be responsible for damages otherwise created by the removal of the Advertising Device or for its destruction subsequent to removal. [§ 43-1-412(6), C.R.S.]

## **5.00 Hearings**

### **5.1 Request for Hearing**

- A. A request for a hearing must be received by the Department no later than sixty (60) days after receipt of the notice. An Applicant who was denied a Permit may request an expedited hearing within thirty (30) days of the notice of denial pursuant to § 43-1-408(3), C.R.S.
- B. The request for hearing must be made in writing, by certified mail, addressed to and received by:

Colorado Department of Transportation  
Outdoor Advertising Program  
2829 W. Howard Place  
Denver, Colorado, 80204
- C. All hearings and appeals will be conducted pursuant to §§ 24-4-105 and 106, C.R.S.

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**6.00 Signs Allowed in Control Areas**

[§ 43-1-404, C.R.S., 23 USC § 131, 23 C.F.R. § 750.105; 23 C.F.R. § 750.108]

**6.01 Advertising Devices Allowed**

- A. The following Signs may be allowed within the Control Area adjacent to the Controlled Route:
1. Repealed;
  2. Advertising Devices, which include:
    - a. Signs in Areas Zoned for Commercial or Industrial Uses;
    - b. Nonconforming Signs;
    - c. Repealed;
    - d. Advertising Devices on Scenic Byways (See Rule 9.00);
    - e. Repealed;
    - f. Repealed;
    - g. Repealed; and
    - h. Changeable Electronic Variable Message Signs ("CEVMS").

**6.02 Repealed.**

**6.03 Advertising Devices**

**6.03.1 General Requirements**

- A. Signs include:
1. Signs in Areas Zoned for Commercial or Industrial Uses;
  2. Nonconforming Signs;
  3. Repealed; and
  4. Advertising Devices on Scenic Byways.
  5. Repealed.
  6. Repealed.
- B. An Advertising Device shall comply with the requirements set forth in these Rules and 23 C.F.R. § 750.108. All Signs shall not:
1. Attempt to direct the movement of traffic or interfere with or resemble an official traffic sign, signal or device; [23 C.F.R. 750.108(a)]

2. Interfere with a driver's clear and unobstructed view of official signs and approaching, intersecting or merging traffic; [23 C.F.R. § 750.108(b)]
  3. Contain or be illuminated by any flashing, intermittent or moving light(s); [23 C.F.R. 750.108(c)]
  4. Contain any animated parts or moving parts; [23 C.F.R. 750.108(e)]
  5. Be illuminated by lights that interfere with a driver's vision or cause glare so as to impair the driver's vision, or that interfere with a driver's operating the vehicle; [23 C.F.R. 750.108(d)]
  6. Be erected or displayed upon any natural feature, fence, [23 C.F.R. 750.108(f)] or utility pole. [§ 43-1-411(4), C.R.S.]
- C. No new Advertising Device shall be erected adjacent to a Scenic Byway. [§ 43-1-419, C.R.S.]
- D. A Sign shall be considered abandoned if it meets the requirements of Rule 6.03.3(B).
- E. Measuring Distances between Signs [23 C.F.R. § 750.103]
1. Distances from the edge of the right-of-way shall be measured horizontally along a line perpendicular to the centerline of the highway.
  2. All distances shall be measured along the centerline of the highway between two vertical planes which are normal or perpendicular to and intersect the centerline of the highway, and which pass through the termini of the measured distance.

### 6.03.2 Nonconforming Advertising Devices

- A. CDOT has authority over all Nonconforming Signs located along a Controlled Route and that are Visible from the Main Traveled Way with the purpose of their messages being read, except such Signs in Urban Areas that are more than 660 feet from the nearest edge of the Controlled Route right-of-way. [23 C.F.R. 750.704; § 43-1-406, C.R.S.]
- B. Legal Requirements to Maintain and Continue Nonconforming Signs. [23 C.F.R. 750.707]
1. There must be existing Property rights in the Nonconforming Sign and the Sign owner must be able to prove the legal right to install a Sign on the Property.
  2. The Nonconforming Sign must have been lawfully in place on the effective date of the state law or rule, and must have continued to be lawfully maintained following passage of the state law or rule.
  3. The Nonconforming Sign may be sold, leased, or otherwise transferred without affecting its status, but its location may not be changed.

4. A Nonconforming Sign removed as a result of a right-of-way taking or for any other reason may be relocated to a conforming area but cannot be reestablished at a new location as a nonconforming use. [23 C.F.R. 750.707(d)(3)]

**6.03.3 Sign Repairs** [23 C.F.R. § 750.707; § 43-1-413, C.R.S.]

- A. Reasonable and Customary Repair of a Nonconforming Sign. This section provides guidance on what constitutes Reasonable and Customary Repair not to exceed 50% replacement cost per year. Nothing within this section allows for changing any aspect of or the character of a Nonconforming Sign. Such a change shall be considered a violation of § 43-1-413(1)(c), C.R.S.
  1. The Nonconforming Sign must remain substantially the same as it was on the date it was designated as a Nonconforming Sign.
  2. A Permittee is responsible for reasonable and customary repair and maintenance of the Nonconforming Sign.
  3. A Permittee must notify CDOT prior to performing any customary repair or maintenance of the Nonconforming Sign if such customary repair or maintenance involves replacing the entire face or head of the Sign, or if it involves replacement of all supporting poles of the Sign.
  4. Reasonable and customary repair and maintenance of the Nonconforming Sign, including a change of advertising message or design, is not a change that would terminate nonconforming rights, but such change shall be non-compensable. [§ 43-1-413(3), C.R.S.]
  5. Reasonable and customary repair and maintenance of the Nonconforming Sign shall not exceed 50% of the replacement cost of the Device in any given calendar year.
  6. Nonconforming Signs that require more than 50% of their replacement cost in repairs in any given calendar year to maintain minimum structural integrity and operational functionality will be determined by the Department as being obsolete (See Rule 6.03.3 B). Such Signs shall not be repaired, shall lose their nonconforming status and shall be removed as Illegal Signs by the Sign owner at his or her expense without compensation. [§ 43-1-412 and 413, C.R.S.; 23 C.F.R. 750.707(d)(6)]
  7. Any repairs exceeding 50% of the replacement cost of the Nonconforming Sign shall constitute substantial repair in violation of § 43-1-413, C.R.S. if such customary repair or maintenance involves replacing the entire face or head of the Sign, or if it involves replacement of all supporting poles of the Sign. This shall result in termination of the right to maintain the Nonconforming Sign. (See Rule 6.03.3 C 5.)
- B. Abandoned, Discontinued or Obsolete Nonconforming Signs. [23 U.S.C. § 131; 23 C.F.R. § 750.707; § 43-1-413(2)(f), C.R.S.]
  1. Abandoned or Discontinued Signs

- a. An abandoned or discontinued Sign is one that for one year or more years is without advertising matter, or is in need of substantial repair. Such Signs determined by the Department as abandoned or discontinued are subject to removal as Illegal Signs under § 43-1-412, C.R.S.
2. Obsolete Signs
    - a. For purposes of these Rules, “obsolescence” in § 43-1-413(2)(f), C.R.S. shall refer to Sign design, structure or other physical elements of the Sign, and not to displayed advertising.
    - b. A Nonconforming Sign will be determined obsolete and thus irreparable and illegal under § 43-1-413(2) and (4), C.R.S. if the cost to maintain and/or repair or replace the Sign exceeds 50% of the replacement cost of such device on the date that the Department determined the device is obsolete as set forth in these Rules.
- C. Damage or Destruction of Nonconforming Signs. [23 C.F.R. § 750.707(d)(6); § 43-1-413(2)(e), C.R.S.]
1. A Nonconforming Sign that is damaged or destroyed from any cause except willful destruction may lose its nonconforming status and become an Illegal Sign under the law. Illegal Signs shall be removed by the owner at their own expense and without compensation, pursuant to § 43-1-412, C.R.S.
  2. Signs that are damaged or destroyed to the degree that the cost to repair such damage or destruction exceeds 50% of the Sign’s replacement cost on the date the damage or destruction occurred shall not be repaired or replaced, but shall lose their nonconforming status and shall be removed as Illegal Signs pursuant to § 43-1-413 and 412, C.R.S.
  3. A Permittee must notify CDOT prior to performing any repair of damage to or destruction of the Nonconforming Sign if such repair involves replacing of the entire face or head of the Sign, or if it involves replacement of all supporting poles of the Sign.
  4. The Department shall determine whether a Sign has been damaged or destroyed to a degree that terminates the Nonconforming Sign’s nonconforming status based on the schedule of compensation referenced in § 43-1-413(2)(e), C.R.S., as follows:
    - a. For purposes of these Rules, the schedule of compensation referenced in § 43-1-413(2)(e), C.R.S. is referred to as the “replacement cost schedule.”
    - b. The replacement cost schedule is used to determine whether the cost to repair damage or destruction to a Nonconforming Sign exceeds 50% of the replacement cost of the Sign, in which case the Sign is determined as “obsolete”. The replacement cost is the cost of the Sign as if installed new on its existing Sign site on the date the damage or destruction occurred.

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- c. If the damage or destruction to the Sign is the result of willful destruction, the 50 % rule and the replacement cost schedule do not apply and the Sign may be repaired or restored to its same physical characteristics as existed on the date it became nonconforming.
- d. The procedure under (1) through (5) below shall determine whether the damaged or destroyed Nonconforming Sign may be repaired or restored:
- (1) The Sign owner shall obtain and pay for one but not more than three repair cost estimates of the Nonconforming Sign. The estimates must be made by an independent licensed general contractor or other licensed professional (Sign installation contractor or similar). These estimates must be provided in 7 business days from the damage or destruction of the Sign;
  - (2) The Department also may obtain an equal number of repair cost estimates for the Nonconforming Sign under (1) above. The estimates must be made by an independent licensed general contractor or other licensed professional (Sign installation contractor or similar). These estimates must be provided in 7 business days from the damage or destruction;
  - (3) The Department shall, at its discretion, either accept the single estimate or average of up to three estimates obtained in section (1) as the repair cost of the Sign or shall use the average of all of the estimates obtained in sections (1 and 2) to establish the repair cost of the Nonconforming Sign.
  - (4) The cost to replace the entire Nonconforming Sign shall be determined according to the replacement cost schedule that is based on the Federal Highway Administration Non-Regulatory Supplement Federal-Aid Policy Guide, Transmittal 35 Attachment: Sign and Site Valuation Formula and Schedule Guide for Controlling Outdoor Advertising Pursuant to 23 U.S.C. 131 dated February 16, 2006, NS 23 C.F.R. 750D, Parts I, II, III. The data relied upon as developed using the FHWA Guide shall be processed based on elements of the real estate appraisal methodology known as the Cost Approach. Replacement cost shall not include the cost of land, the cost of renting land, nor any factor other than the Nonconforming Sign itself.
  - (5) The Department shall make a determination whether the Sign may be repaired or restored based on (3) and
  - (6) Whether the cost of repairing or restoring the Sign exceeds 50% of the replacement cost of the Nonconforming Sign on the date of damage or destruction. (Repair cost/replacement cost = percentage of repair to replacement).

5. If the Department determines that the cost to repair or restore the Sign is greater than 50% of the Sign's replacement cost, the Nonconforming Sign shall not be repaired or restored and shall lose its right to be maintained. Such determination must be made within 7 business days of the completion of the procedure in subsection 4. d. above. The Nonconforming Sign shall become illegal as described in § 43-1-413, C.R.S., the Permit shall be revoked and the Sign structure will be removed at the owner's expense without compensation, as described in § 43-1-412, C.R.S.

D. Repairs Authorized

1. No damage or destruction to the Nonconforming Sign shall be repaired without prior written Department approval, which must be given within the time set forth in subsection C.
2. Upon Department notice to the Sign owner that the repairs may be made, the repairs must be completed within 60 days from the date of such notification or the Permit shall be revoked and the Sign structure will be removed as an Illegal Sign at the Sign owner's expense and without compensation.
3. The Department may extend the 60-day repair period an additional 30 days for conditions beyond the Sign owner's control and upon written proof of good faith effort to repair the Sign.

E. Acquisition Procedures for Nonconforming Signs pursuant to § 43-1-414(1), C.R.S. This section of the Rules applies where the Department either acquires a Sign by gift, exchange or agreement, or eminent domain.

1. Eminent Domain. If the Nonconforming Sign is acquired by eminent domain, CDOT shall follow the procedures set forth in § 38-1-101, et seq. C.R.S. and § 24-56-101, et seq., C.R.S. If the acquisition is not through eminent domain, the following procedures apply.
2. Non-Eminent Domain Purchase. The Department and Nonconforming Sign owner may agree on a purchase price for CDOT to acquire the Sign for any purpose, which price may be based on an appraisal performed as described below.
  - a. Appraisal of Nonconforming Sign pursuant to § 43-1-414(4), C.R.S. If the Department appraises the value of the Nonconforming Sign, the appraisal shall be conducted according to the standards and practices set forth in the Uniform Standards of Professional Appraisal Practice (USPAP), 2014-2015 edition.

CDOT may compensate the owner and acquire the Nonconforming Sign at a price that is not less than the Sign's appraised market value according to such market value definition referenced in USPAP.
  - b. The Sign appraisal shall take into account normal depreciation of the Sign according to appraisal standards and practices set forth in the 2014-2015 USPAP.

- c. Nonconforming Sign owners must obtain the Department's prior approval if any modification is made to a Nonconforming Sign in conformance with these Rules. Nonconforming Signs that have been modified without prior approval of the Department may lose their nonconforming status.
  - d. Nonconforming Signs that have been modified with approval of the Department will be appraised and the owner compensated according to the Sign's original design and construction as if no design changes or modifications had been made; however, where these same changes shall have resulted in a decrease in value, the appraisal and compensation shall reflect those design changes or modifications made and any lower value resulting therefrom. [§43-1-414(2), C.R.S.]
3. Sign Site. Where CDOT acquires a Sign by gift, exchange, agreement or purchase, the Department also may appraise and compensate the owner of the underlying Sign site for any Property right extinguished as a result of the Sign acquisition.

#### **6.03.4 Termination of Nonconforming Sign**

1. The right to maintain a Nonconforming Sign shall be terminated by the Department if any of the conditions listed in § 43-1-413(2), C.R.S. occur.
2. If the right to maintain the Nonconforming Sign is terminated, it shall become illegal and be removed pursuant to § 43-1-412 C.R.S., and these Rules.

#### **6.03.5 Tourist-Related Nonconforming Advertising Devices – Exemption [23 C.F.R. 750.503; § 43-1-414, C.R.S.]**

1. Tourist Related Nonconforming Advertising Devices which comply with state and federal requirements may be exempted from removal pursuant to § 43-1-414(5), C.R.S.
2. "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, campsites, food service, recreational facilities, tourist attractions, educational or historical sites or features, scenic attractions, gasoline stations, or garages.

### **7.00 Signs in Areas Zoned by Law for Industrial or Commercial Uses**

[23 C.F.R. § 750.708; § 43-1-404(1)(e)(I); § 43-1-406(2)(b)(I) and (II), C.R.S.]

#### **A. Location**

1. Advertising Devices may be located in areas Zoned for Commercial or Industrial Uses as defined in section 1.33 of these Rules. Primary land use of the Sign location must be commercial or industrial and the zoning must be part of a comprehensive zoning.

2. Advertising Devices located adjacent to the Interstate Right-of-Way:
  - a. Cotton Area: Adjacent to right-of-way that was acquired prior to July 1, 1956 for roadway purposes and zoned as commercial or industrial prior to January 1, 1970 (Cotton Area, see § 43-1-406(2)(b)(II) C.R.S.); or
  - b. Kerr Area: Outside the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959 and clearly established by state law as industrial or commercial before that date and zoned for industrial or commercial uses under authority of state law prior to January 1, 1970; see § 43-1-404(1)(d) and § 43-1-406(2)(b)(I) C.R.S.; or
  - c. Kerr Area: Within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959 and zoned for industrial or commercial uses before January 1, 1970 (§ 43-1-406(2)(b)(I) C.R.S.).
- B. Size Requirements [§ 43-1-404(1), C.R.S.]
  1. Advertising Device measurements shall be inclusive of any border and trim, but excluding the base, apron, supports, and other structural members.
  2. 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.
  3. In areas Zoned for Commercial or Industrial Uses by law prior to January 1, 1970, the Sign shall have:
    - a. A maximum area for any one Sign of 1200 square feet Visible in any one direction of travel;
    - b. A maximum Sign face height of 30 feet; and
    - c. A maximum Sign face length of 60 feet.
  4. In areas Zoned for Commercial or Industrial Uses on or after January 1, 1970, located along non-interstate Controlled Routes, the Sign shall:
    - a. Be no larger than 150 square feet; and
    - b. Be located within one thousand feet of an industrial or commercial building.
  5. Repealed.
- C. Lighting
  1. Advertising Devices that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited.
  2. Advertising Devices are prohibited that 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.

3. No Sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.
4. All lighting shall be subject to any other provisions relating to lighting of Signs presently applicable to all Controlled Routes highways under the jurisdiction of the State.
5. CEVMS technology shall not, in itself, constitute the use of flashing, intermittent or moving light or lights.
6. An Advertising Device may contain a message center display with moveable parts and a changeable message that is changed by electronic processes or by remote control. The illumination of an Advertising Device containing a message center display is not the use of a flashing, intermittent or moving light for the purposes of these Rules. [§ 43-1-404(1)(f), C.R.S.]

D. Spacing of Signs

1. Advertising Devices on Control Routes may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of any official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic.
2. Interstate Highways and Freeways:
  - a. No two Signs shall be spaced less than 500 feet apart.
  - b. Outside of incorporated villages and cities, no Advertising Device 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.
3. All other Controlled Routes except Interstate and Freeways
  - a. Outside of incorporated villages and cities, no two structures shall be spaced less than 300 feet apart.
  - b. Within incorporated villages and cities, no two structures shall be spaced less than 100 feet apart.
4. The above provisions for spacing-between-structures do not apply to structures separated by buildings or other obstructions in such a manner that only one Sign face located within the above spacing distances is Visible from the highway at any one time.
5. The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the Advertising Devices along each side of the State Highway and shall apply only to structures located on the same side of the State Highway.
6. 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.

7. If a Sign was erected prior to July 9, 1971 in an area Zoned for Commercial or Industrial Uses, see Rule 6.03.2 "Nonconforming Advertising Devices."

**8.00 Repealed.**

**9.00 Advertising Devices on Scenic Byways**

[§ 43-1-419, C.R.S.; 23 U.S.C. § 131(s)]

- A. A Scenic Byway is a road designated as such by the Colorado Transportation Commission along a Controlled Route.
- B. No new Advertising Device shall be erected along a Scenic Byway that is visible from the Controlled Route.
- C. Existing Advertising Devices along Scenic Byways which are in compliance with state and federal law and these Rules may continue to be maintained; however, they will have the status of Nonconforming Signs.
- D. For purposes of this section, an Advertising Device shall be considered to be Visible from a designated highway if it is plainly visible to the driver of a vehicle who is proceeding in a legally designated direction and traveling at the posted speed. [23 C.F.R. 750.153 (j); § 43-1-403(17), C.R.S.]
- E. The designation of a Scenic Byway shall specify by Global Positioning System or other technology the precise location of the Scenic Byway.

**10.00 Repealed.**

**11.00 Repealed.**

**12.00 CEVMS Advertising Devices**

- A. Authority. The Department has authority to control the brightness, intervals, spacing and location of CEVMS Advertising Devices along Controlled Routes for the purpose of ensuring safety to the travelling public. [23 USC §131 (c)(3) and (j); 23 C.F.R. § 750.705; § 43-1-404(1)(f), and § 43-1-415(1), C.R.S.]
- B. Definitions
  1. "CEVMS" or "Changeable Electronic Variable Message Sign" means a self-luminous advertising Sign which emits or projects any kind of light, color, or message change which ranges from static images to full motion video. This shall include "Variable Message Sign" which means an advertising Sign, display or device with moving parts whose message may be changed by electronic or by remote control or other process through the use of moving or intermittent light or lights. [43-1-404(1)(f)(I), C.R.S.]
  2. "Footcandle" means a unit of Illuminance equivalent to the illumination produced by a source of one candle at a distance of one foot and equal to one lumen incident per square foot.
  3. "Glare" means the sensation produced by Illuminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss of visual performance and visibility.

4. "Illuminance" means the amount of light that is intercepted by an object that is a distance away from the Sign measured in Footcandles. That is, the lighted Sign face illuminates objects that are away from it, and the lighting level produced by the Sign on a particular object is measured in Footcandles.
5. "Luminance" means the photometric measure of the luminous intensity per unit area of light travelling in a given direction. It describes the amount of light that passes through or is emitted from a particular area, and falls within a given solid angle. The unit for luminance is candela per square meter (cd/m<sup>2</sup>), also known as "nit".
6. "Message" means anything displayed on a Sign, including copy, art and graphics.
7. "Multiple Message Sign" (also known as tri-vision Signs) means an outdoor advertising Sign, display or device whose message is on triangular louvered facings and are changed by electronic or other rotation of the louvers.
8. "NIT" means a unit of visible-light intensity equal to one candle per square meter, measured perpendicular to the rays of the source.
9. Repealed.
10. "Segmented Message" means any message or distinct subunit of a message presented by means of at least one display change on a variable message Sign.
11. "Traveling Message" means a message which moves or appears to move across any Advertising Device.

C. General Requirements

1. The CEVMS shall comply with all applicable federal, state, and local laws, rules and regulations.
2. Location
  - a. No CEVMS may be placed within 1,000 feet of another CEVMS on the same side of a highway and facing the same direction of travel. [§ 43-1-404(1)(f)(I), C.R.S.]
  - b. A CEVMS shall not prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
  - c. A CEVMS shall not interfere with or direct, or attempt to direct, the movement of traffic, or resemble or simulate any warning or danger signal, or any official traffic control device, or contain wording, color, shapes or likenesses of official traffic control devices;
  - d. A CEVMS shall not be maintained upon trees or rocks or other natural features.
3. Mechanics
  - a. A CEVMS shall not move or have any animated or moving parts.

- b. A CEVMS shall not contain, incorporate or use any inter-active component or medium, and shall not interact with drivers or interfaces with cell phones or any other electronic device.
  - c. A CEVMS shall not incorporate, use or emit any sound or noise or any electronic signals capable of being detected or emit any smoke, scent or odors.
4. Operations
- a. CEVMS Advertising Devices found to be brighter than necessary for adequate visibility shall be adjusted by the person owning or controlling the Sign to conform to the requirements of state and federal laws and these Rules.
  - b. CEVMS must:
    - (1) Use sufficient safeguards to prevent unauthorized access, use or hacking of CEVMS and related technology, including infrastructure, hardware, software and networks, by unauthorized users;
    - (2) Include the ability to be held on a static image in the event a malfunction occurs that violates these Rules;
    - (3) Not contain animation, flashing, scrolling or travelling messages, or intermittent or full-motion video;
    - (4) Not change intensity or expose its message for less than 4 seconds.
    - (5) Have a transition interval of less than 1 second.
    - (6) The Permit holder is responsible for any changes, alterations or modifications to the display of the CEVMS made by an unauthorized user.
5. Operational Requirements Specific to CEVMS Advertising Devices
- a. General Requirements.
    - (1) A CEVMS must include the ability to automatically or technologically modify displays and lighting levels where directed by the Department to assure safety of the motoring public.
    - (2) The Permit holder, Sign owner or third party must have the ability to repair and monitor the brightness.
    - (3) A CEVMS shall be capable of being remotely monitored to ensure conformance with these Rules and state and federal laws.

- b. Brightness.
- (1) A CEVMS shall adhere to the brightness standards set forth herein.
  - (2) CEVMS shall not exceed three-tenths (0.3) Footcandles over ambient light as measured by the distance to the Sign set forth below with a Footcandle or Illuminance meter that can measure to the 100th of a Footcandle.
  - (3) The measurement shall be conducted at least 30 minutes after sunset or 30 minutes before sunrise.
  - (4) If the Footcandle reading exceeds the 0.3 Footcandles, then the nighttime luminance which shall not exceed 300 NIT (candelas per square meter) which may be measured with a nit gun or luminance meter that can read to the accuracy of 5 nits.
  - (5) Any measurements required pursuant to this subsection shall be taken from a point within the highway right-of-way at a safe distance outside of the Main Traveled Way and as close to perpendicular to the face of the changeable message Sign as practical.
  - (6) If a perpendicular measurement is not practical, a measurement shall be taken at an angle up to ten degrees (10 degrees) offset from the perpendicular center point of the Sign face.
  - (7) Upon request, the Sign owner shall provide written certification from the Sign manufacturer that the light intensity has been factory pre-set not to exceed 0.3 Footcandles above ambient light as measured from the appropriate distance (see chart in Section 12.C.5.10) and the Sign is equipped with automatic dimming technology.
  - (8) The CEVMS shall not be of such intensity or brilliance as 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.
  - (9) The CEVMS shall have the capability of adjusting brightness level in response to changes in ambient light levels so the Signs are not unreasonably bright for the safety of the motoring public.
  - (10) A CEVMS shall use automatic dimming technology to adjust the brightness of the Sign relative to ambient light so that at no time shall a Sign exceed a brightness level of three tenths (0.3) Footcandles above ambient light, as measured using a Footcandle meter and in conformance with the following distance table:

Brightness / Illuminance Measurements shall be taken as follows:

CEVMS Sign Illuminance Measurement Distance	
Sign Area (square feet)	Distance of Measurement (feet from Sign)
700 – 1200	350
300 – 699	250
200 – 299	150
150 – 199	135
100 – 149	110
50 – 99	90
25 – 49	55
0 – 24	45

- D. Conversion from a Static Advertising Device to a CEVMS
1. A Nonconforming Sign shall not be converted to a CEVMS.
  2. An existing permitted static outdoor Advertising Device may be converted to a CEVMS, provided the existing Sign:
    - a. Has been approved by the local government, if applicable, and the state prior to conversion;
    - b. Was legally erected;
    - c. Has had all permit fees timely paid; and
    - d. Is in compliance with these Rules and with federal, state and local laws.
  3. The conversion of a static outdoor Advertising Device to a CEVMS must be completed within 1 year of CDOT's written approval of the CEVMS Conversion. The Applicant must reapply if not completed within 1 year.
  4. Site Review. The Department may conduct a site review and inspection prior to permitting a conversion to CEVMS to ensure that the description, location, and other information contained in the application for conversion is in compliance with these Rules.
  5. Compliance Grace Period. Any CEVMS permitted prior to the effective date of these Rules shall conform with the requirements of these Rules within 180 days of the effective date of the Rules or such CEVMS shall be deemed illegal and non-compensable and subject to removal by the Department at the expense of the Sign owner.
  6. Appeal Regarding a CEVMS. In the event of an appeal, a CEVMS must be maintained in a static blank Sign display until the appeal is resolved.

**13.00 Materials Incorporated by Reference**

- A. These Rules are intended to be consistent with and not be a replacement for 23 United States Code (U.S.C.) § 131 dated December 4, 2015, and its implementing regulations contained in 23 Code of Federal Regulations (C.F.R.) Part 750 in effect as of August 23, 1985 which are hereby incorporated into the Rules by this reference pursuant to § 24-4-103(12.5), C.R.S., and do not include any later amendments.

1. Copies of the referenced United State Code may be obtained from the following address:

Office of the Law Revision Counsel  
U.S. House of Representatives  
H2-308 Ford House Office Building  
Washington, DC 20515  
(202) 226-2411  
<https://uscode.house.gov/browse.xhtml>

2. Copies of the referenced Code of Federal Regulations may be obtained from the following address:

U.S. Government Publishing Office  
732 North Capitol Street, N.W.  
Washington, DC 20401  
(866) 512-1800  
<https://www.govinfo.gov/>

- B. Also incorporated by reference are the following documents and do not include any later amendments:

1. Federal Highway Administration (FHWA) Non-Regulatory Supplement Federal-Aid Policy Guide, Transmittal 35 Attachment: Sign and Site Valuation Formula and Schedule Guide for Controlling Outdoor Advertising Pursuant to 23 U.S.C. § 131 dated February 16, 2006, NS 23 C.F.R. 750D, Parts I, II, III.

Copies of the referenced FHWA Transmittal 35 Attachment may be obtained from the following address:

Federal Highway Administration  
Office of Chief Counsel  
1200 New Jersey Avenue, SE.  
E82-101  
Washington, DC 20509  
(202) 366-1376  
<https://www.fhwa.dot.gov>

2. Uniform Standards of Professional Appraisal Practice (USPAP), 2020- 2021 Edition.

Copies of the referenced USPAP may be obtained from the following address:

The Appraisal Foundation  
1155 15th Street, NW, Suite 1111  
Washington, DC 20005

(202) 347-7722  
<https://www.appraisalfoundation.org/>

- C. All referenced laws and regulations shall be available for copying or public inspection during regular business hours from the Office of Policy and Government Relations, Colorado Department of Transportation, 2829 W. Howard Place, Denver, Colorado 80204.

#### 14.00 Declaratory Orders

- A. Any person may petition the Executive Director for a declaratory order pursuant to § 24-4-105(11), C.R.S.
- B. Contents of the Petition
  - 1. The name of address of the petitioner.
  - 2. Whether the petitioner is a Permittee and what interest, if any, they have or would have in the applicable Advertising Device or proposed Advertising Device.
  - 3. Whether the petitioner is involved in any pending administrative hearings or lawsuits with the Department or the relevant local jurisdiction.
  - 4. The statute, rule, or order to which the petition relates.
  - 5. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule, or order to which the petition relates.
  - 6. A concise statement of the legal authorities, if any, and such other reasons upon which the petitioner relies.
- C. The Executive Director Retains Discretion Whether to Entertain Petition.

The Executive Director or designee will determine, in their sole discretion without prior notice to the petitioner, whether to entertain any petition. If the Executive Director or designee decides not to entertain a petition, the Department will notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:

- 1. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule, or order in question.
- 2. The petition involves a subject, question, or issue that is relevant to a pending hearing before the state or any local licensing authority, an on-going proceeding conducted by the Department, or relates to an issue or case which is currently the subject of litigation.
- 3. The petition seeks a ruling on a moot or hypothetical question.
- 4. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo. R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule, or order.

D. Executive Director Entertains the Petition.

If the Executive Director or designee determines to entertain the petition for a declaratory order, the Department will notify the petitioner, and any of the following procedures may apply:

1. The Executive Director or designee may expedite the matter by ruling on the basis of the facts and legal authority presented in the petition, or by requesting the parties to submit additional evidence and legal argument in writing.
2. In the event the Executive Director or designee determines that an evidentiary hearing is necessary to a ruling on the petition, a hearing will be conducted in accordance with the State Administrative Procedure Act, § 24-4-101, C.R.S. et seq. The petitioner will be identified as Respondent.
3. The parties to any proceeding pursuant to this Rule will be the petitioner/Respondent and the Department. Any other interested person(s) may seek leave of the Department to intervene in the proceeding and such leave may be granted if the Department determines that such intervention will make a separate petition by the interested person(s) for a separate declaratory order unnecessary.
4. The declaratory order will constitute a Final Agency Order subject to judicial review pursuant to § 24-4-106, C.R.S.

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**Editor's Notes**

**History**

Entire rule eff. 02/14/2015.

Rules 1.1, 1.2, 1.8, 1.23, 1.34, 2.1 A.2, 2.3 A, 2.11, 3.2 A, 3.2 C, 5.00, 6.01 A.2, 6.03, 6.03.1, 6.03.3 B.1.a, 6.03 C.4.d.(5), 7.00 C.1, 7.00 D.6, 9.00 B, 12.00 A, 12.00 C.2, 12.00 C.5 emer. rules eff. 08/04/2021. Rules 1.6, 1.12, 1.18, 1.19, 1.20, 1.25, 2.1 A.4, 2.2, 3.1, 6.01 A.1, 6.01 A.2.c, 6.01 A.2.e.-g, 6.02, 6.03.1 A.3, 6.03.1 A.5-6, 7.00 B.5, 8.00, 10.00, 11.00, 12.00 B.9 repealed emer. rules eff. 08/04/2021.

Rules 1.1, 1.2, 1.8, 1.23, 1.34, 2.1 A.2, 2.3 A, 2.11, 3.2 A, 3.2 C, 5.00, 6.01 A.2, 6.03, 6.03.1, 6.03.3 B.1.a, 6.03 C.4.d.(5), 7.00 C.1, 7.00 D.6, 9.00 B, 12.00 A, 12.00 C.2, 12.00 C.5, 13.00, 14.00 eff. 11/30/2021. Rules 1.6, 1.12, 1.18, 1.19, 1.20, 1.25, 2.1 A.4, 2.2, 3.1, 6.01 A.1, 6.01 A.2.c, 6.01 A.2.e.-g, 6.02, 6.03.1 A.3, 6.03.1 A.5-6, 7.00 B.5, 8.00, 10.00, 11.00, 12.00 B.9 repealed eff. 11/30/2021.