

Colorado Department of Transportation Outdoor Advertising Manual



February 2015

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*Please also refer to the “CDOT Outdoor Advertising Reference Guide” for all law governing outdoor advertising in Colorado.



INTRODUCTION

The Colorado Department of Transportation (“CDOT”) is responsible for administering an Outdoor Advertising Program for the State of Colorado, and enforcing federal and state laws, including CDOT’s Rules Governing Outdoor Advertising in Colorado (the “Rules”).

CDOT personnel administering the program are guided by federal and state law, including the Rules and agreements with the Federal Highway Administration. In order to do this, CDOT has created the following authoritative documents to support the laws governing outdoor advertising. These documents should be consulted for any outdoor advertising question. They are listed below in order of importance:

- The Rules Governing Outdoor Advertising in Colorado, 2 CCR 601-3
- The Outdoor Advertising Reference Guide
- Procedural Directive 1501.2 “Procedures Governing CDOT’s Outdoor Advertising Program”
- The Outdoor Advertising Manual
- Guidance Memorandum: State Oversight of On-Premise Advertising On-Premise Signs Guidance Memorandum / Nevans / Sept. 16, 2014

The Outdoor Advertising Reference Guide is a companion document to the Manual. It is separate from the Manual, and can be found on the Outdoor Advertising webpage. The purpose of the Reference Guide is a complete compilation of all federal and state regulations, laws and statutes, as well as all Federal State Agreements between CDOT and the Federal Highway Administration, and critical FHWA memoranda.

CDOT Organization

Procedural Directive 1501.2 sets forth the roles and responsibilities for CDOT personnel who oversee and implement the CDOT Outdoor Advertising Program. Please see the Procedural Directive included in this Manual for the roles and responsibilities of CDOT personnel. See also the Contact Information sheet with up-to-date phone numbers and email addresses. The Outdoor Advertising Control Program Manager administers the Outdoor Advertising Program and works with the inspectors and engineers in the five CDOT regions to effectively control outdoor advertising in Colorado.

Map of Permitted Outdoor Advertising Devices in the State of Colorado

To locate a permitted Outdoor Advertising Device within CDOT’s jurisdiction, go to the CDOT Online Transportation Information System “OTIS” page: <http://dtdapps.coloradodot.info/otis/Flex/MapView> This provides the location of each Outdoor Advertising Devices in Colorado. The Outdoor Advertising Program Manager, working with the CDOT, will periodically update the database.

Payments for Outdoor Advertising Permits

Payments for Outdoor Advertising Permits should be sent to CDOT Accounts Receivable, 4201 E. Arkansas Avenue, Denver, CO 80222.

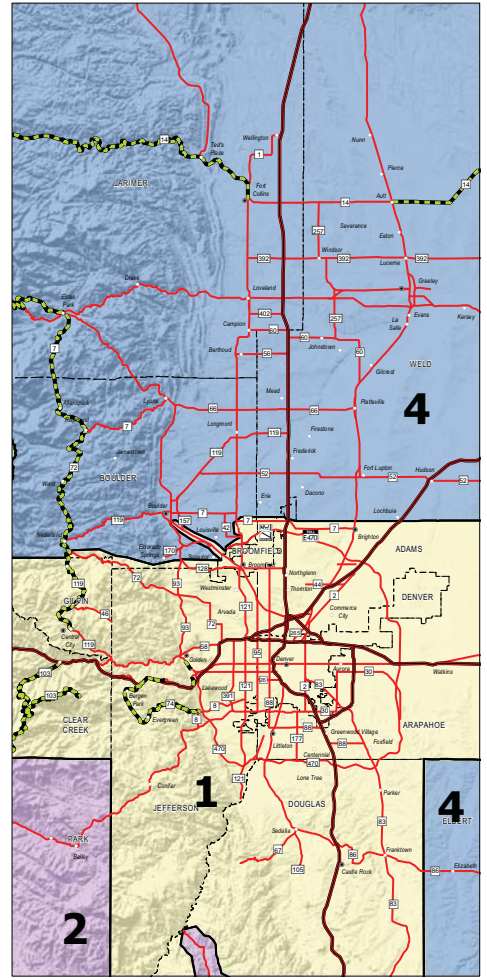


**Colorado Department of Transportation
Contact Information for Outdoor Advertising Program**

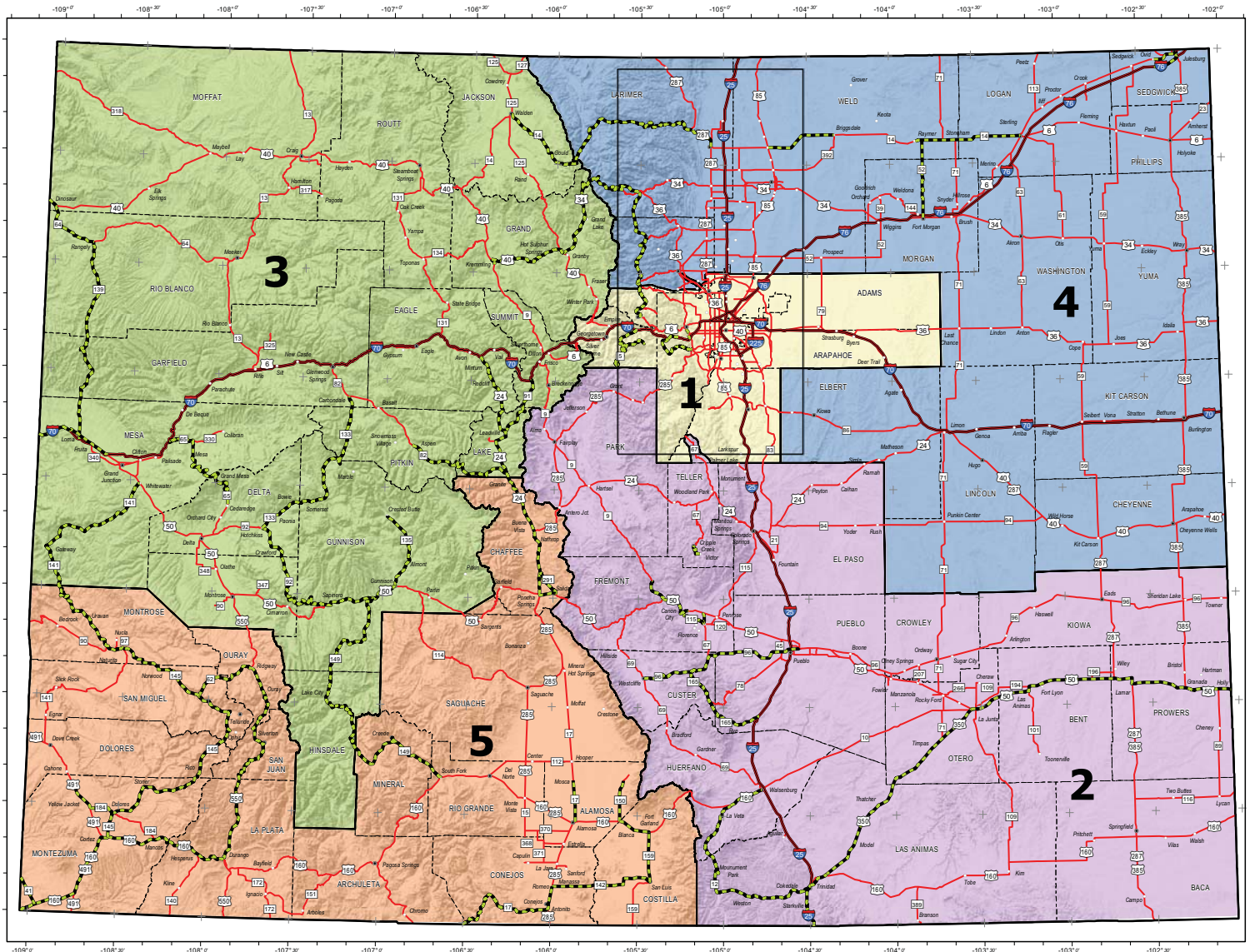
<p>Roadside Advertising Program Manager 4201 E. Arkansas Ave Denver, CO 80222 (303) 757-9273</p>	<p>Statewide Utilities Engineer (Oversees Advertising Program Manager) 4201 E. Arkansas Ave Denver, CO 80222</p>
<p>Region 1 Brandi Kemper 2000 South Holly Street Denver, CO 80222 (303) 757-9938 Brandi.Kemper@State.CO.US</p>	
<p>Region 2 (Southeast) Carl Buford 905 Erie Avenue Pueblo, CO 8100 I (719) 562-5519 Carl.Buford@State.CO.US</p> <p>Mark Nusskern 1480 Quail Lake Loop Colorado Springs, CO 80906 (719) 546-5433 Mark.Nusskern@State.CO.US</p>	<p>Region 3 (West and Northwest) Alan Clubb 222 6th Street, Room 100 Grand Junction, CO 81501 (970) 683-6283 Alan.Clubb@State.CO.US</p>
<p>Region 4 (Northeast including Boulder) Tim Bilobran 1420 2nd Street Greeley, CO 80632 (970) 350-2163 Timothy.Bilobran@State.CO.US</p>	<p>Region 5 (South and Southwest) Phillip Robinson 3803 North Main Street Durango, CO 8130 I (970) 385-8362 Phillip.Robinson@State.CO.US</p>

Colorado Outdoor Advertising Controlled Routes 2014

-  Toll Road
 -  Interstate Highways
 -  U.S. Highways
 -  State Highways
 -  Cities and Towns
 -  Scenic Byway
- | CDOT Region | |
|---|---|
|  | 1 |
|  | 2 |
|  | 3 |
|  | 4 |
|  | 5 |



0 4 8 16 24 Miles



20 10 0 20 40 60 Miles



Data Source: CDOT 2013
Published: November 2014
WWW.COLORADOINFO.INFO

The information contained in this map is based on the most currently available data and has been checked for accuracy. CDOT does not guarantee the accuracy of any information presented, is not liable in any respect for any errors or omissions, and is not responsible for determining "fitness for use".

Authority

Rules Governing Outdoor Advertising in Colorado

PD 1501.2 “Procedures Governing CDOT’s Outdoor Advertising Program





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.]

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.
- 1.2 "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 Main Traveled Way of any State Highway, except any advertising device on a vehicle using the highway. The term "vehicle using the highway" does not include any vehicle parked near said highway for advertising purposes. [§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 "Commercial Advertising" means advertising of commercial interests which promotes or identifies goods and/or services as a result of the exposure of the business name rather than advocating a social or political cause.
- 1.7 "Conforming Sign" means a Sign legally erected and maintained in accordance with state, federal, and local laws.
- 1.8 "Comprehensive Development" shall include all land used or to be used or occupied for the activities of the development, including buildings, parking, storage and service areas, streets, driveways, and reasonably necessary landscaped areas. A Comprehensive Development includes only land that is used for a purpose reasonably related to the activities of the development other than an attempt to qualify the land for On-Premise advertising. [§ 43-1-403 (1.5)(a), 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 "Directional Sign" shall have the same meaning as § 43-1-403(4), C.R.S. (i.e., shall include but not be limited to: Advertising devices containing directional information to facilitate emergency vehicle access to remote locations or 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).
- 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.]
- 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 "Off-Premise Sign" means an Advertising Device which advertises an activity, service or product not conducted on the Property upon which the Sign is located.
- 1.19 "Official Sign" shall have the same meaning as § 43-1-403(13), C.R.S. (Any advertising device erected for a public purpose authorized by law, but the term shall not include devices advertising any private business).
- 1.20 "On-Premise Sign" means an Advertising Device: (1) advertising the sale or lease of a Property on which it is located; (2) or advertising activities on the Property on which it is located; or (3) located within a Comprehensive Development that advertises any activity conducted within the Comprehensive Development.
- 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 and identifies it for purposes of oversight. The Permit Number Identifier for Advertising Devices is different from the number identifier used for Official Signs (that do not require a Permit).
- 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 "Premises" means the central, actual physical location where an activity is routinely conducted. Premises include the primary structures, parking facilities and private roadway if they are necessary to the principal activity.
- 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(I)]

- 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]

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 Off-Premise 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)(II)(c), C.R.S.]
 3. Advertising on Bus Benches and Shelters. [§ 43-1-407(2)(a)(I) through (III), C.R.S.]
 4. Directional Signs not excepted under § 43-1-407(1)(b)(I) through (II), C.R.S.

2.2 Signs Not Requiring a Permit from CDOT

- A. A Sign Permit is not required for:
1. On-Premise Signs;
 2. Directional Signs that are:
 - a. No larger than 8 square feet and that advertises farms, ranches, nonprofit educational, veterans', religious, charitable, or civic organizations. §43-1-407(1)(b)(II), C.R.S.;

- b. No larger than 32 square feet, the sole purpose of which is to provide direction to individual farms or ranches by way of individual Signs that are no larger than 8 square feet. [§43-1-407(1)(b)(II), C.R.S.];
 - c. A Sign indicating a public utility and not advertising a product, including informational Signs, notices, or markers, erected and maintained by a public or private public utility company. [23 C.F.R. 750.153(o)]
3. Official Signs. [§ 43-1-404(1)(a) and § 43-1-407, C.R.S.]

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 or renewing 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. 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. Advertisement of illegal activities;
 - 3. Failure to maintain the Sign in good repair;
 - 4. Failure to comply with all Permit provisions;
 - 5. Increasing the permitted size of an Advertising Device; or
 - 6. Any violation of federal law referenced herein, § 43-1-401, *et seq.*, C.R.S. or these Rules.
- B. Pursuant to § 43-1-412(4), C.R.S., the applicant or permit holder shall have 60 days within which to provide CDOT with proof of compliance.

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

3.1 Issuance of Written Notice

- A. If the Department determines that an application for renewal should be denied, or that an existing Permit should be revoked, the Department shall give written notice by certified mail to the Applicant or Permittee.
- B. If the Department revokes a Permit, the Department shall send a Notice of Noncompliance pursuant to Rule 3.00 to the Permittee.
- C. In either case, the notice shall specify in what respect the Sign does not comply with relevant federal or state law and/or these Rules.
- D. Pursuant to § 43-1-412(4), C.R.S., the applicant or permit holder shall have 60 within which to provide CDOT with proof of compliance.

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 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 Application 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 Request for Hearing

- A. A request for a hearing must be received by the Department no later than 60 days after receipt of the notice. [§ 43-1-412(3), C.R.S.]
- B. The request for hearing must be made in writing, by certified mail, addressed to and received by:
- Outdoor Advertising Program
Colorado Dept. of Transportation
4201 East Arkansas Ave.
Denver, Colorado, 80222
- C. Upon receipt of a request for a hearing, the Department shall arrange for and give written notice of the hearing.
- D. At least 30 days prior to the hearing, the Department shall provide notice of the hearing either by personal service or certified mail to the last address furnished by the person requesting the hearing. The notice shall meet the requirements of § 24-4-105(2)(a), C.R.S.
- E. Any person(s) given such notice shall file a written answer within 30 days after the service or mailing of such notice.

- F. If such person fails to answer, the Department, upon motion, may enter a default. For good cause shown, the entry of default may be set aside within 10 days after the date of such entry. [§ 24-4-105(2)(b), C.R.S.]
- G. A person who may be affected or aggrieved by the Department action shall be admitted as a party to the proceeding upon the person's filing with the Department a written request to be included, setting forth a brief statement of the facts which entitle the person to be admitted and the matters which should be decided. The Department may admit any person or agency as a party to the proceeding for limited purposes. [§ 24-4-105(2)(c), C.R.S.]
- H. The hearing shall be presided over by an Administrative Law Judge pursuant to § 24-4-105(3), C.R.S.

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. On-Premise Signs;
 - 2. Off-Premise Signs, which include:
 - a. Signs in Areas Zoned for Commercial or Industrial Uses";
 - b. Nonconforming Signs;
 - c. Directional and Official Signs;
 - d. Advertising Devices on Scenic Byways (See Rule 9.00);
 - e. Landmark Signs;
 - f. Free Coffee Signs;
 - g. Tourist-Oriented Directional Signs (TODS) and Specific Information Signs (LOGO). Rules Governing TODS and LOGO Signs are addressed in a separate set of rules, 2 CCR 601-7;
 - h. Changeable Electronic Variable Message Signs ("CEVMS")

6.02 On-Premise Signs

[23 U.S.C. 131(c) and (j); 23 C.F.R. 750.704(a); 23 C.F.R. 750.105, 23 C.F.R. 750.108, and 23 C.F.R. 750.709(d)]

- A. Authority. This section of the Rules pertains to On-Premise Signs located outside of 50 feet from the advertised or principal activity and Visible from the Main Travelled Way of the State Highway System.
1. Size
 - a. On-Premise Signs which are located outside of 50 feet from the advertised or principal activity shall not exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim, but excluding supports. [23 C.F.R. 750.108(g)].
 - b. No Sign may attempt or appear to attempt to direct the movement of traffic or interfere with, imitate or resemble any official traffic sign, signal or device.
 - c. No Sign may prevent the driver of a vehicle from having a clear and unobstructed view of Official Signs and approaching or merging traffic.
 - d. No Sign may be erected or maintained upon trees or painted or drawn upon rocks or other natural features.
 - e. No On-Premise Sign may be erected in an area across a public or private roadway from the Property where the business is conducted unless the purpose of the public or private roadway is for the exclusive use of a Comprehensive Development.
 2. Lighting
 - a. On-Premise Signs shall comply with the lighting requirements of § 43-1-404(1)(f)(I), C.R.S.; however, for purposes of spacing, On-Premise Signs shall not be counted within the 1,000 feet limitation for Off-Premise Signs.
 - b. No Sign may contain, include, or be illuminated by any flashing, intermittent or moving light or lights.
 - c. No lighting may 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 or 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.
 - d. No On-Premise Sign may move or have any animated or moving parts.
- B. An On-Premise Sign must be located upon the same Property as the activity advertised. An On-Premise Sign may:
1. Advertise the principal or primary activities, goods or services available upon the premises;

2. Identify the property upon which the Sign is located;
 3. Advertise the property upon which the Sign is located for sale or lease;
 4. When located within a Comprehensive Development, advertise activities conducted within the Comprehensive Development;
 5. Direct the traveling public to the closest entrance to the premises located upon the property;
 6. Include non-Commercial Advertising devices (ex. religious, social or political commentaries) erected by the owner or lessee of property.
- C. Where the Sign site is located at or near the end of a narrow strip contiguous to the advertised activity, the Sign site shall not be considered part of the Premises on which the activity being advertised is conducted when the purpose is clearly to circumvent 23 U.S.C. 131(j). See 23 C.F.R. 750.709(3).
- D. An On-Premise Sign does not include:
1. A Sign that advertises activities, goods, or services not available upon the property.
 2. A Sign that consists principally of brand name or trade name advertising of a product or service which is only incidental to the principal activity conducted upon the premises.
 3. A Sign which brings in rental income to the premise/property and /or Sign owner. [23 C.F.R. 750.709]
- E. On-Premise Signs that Identify the Property upon which They Are Located.
1. An On-Premise Sign identifying the property upon which it is located shall contain only the:
 - a. Name of the property,
 - b. Type of property,
 - c. Logo, and/or
 - d. Name of the owner of the property.
 2. Such Signs may also direct the traveling public to the closest entrance to the premises.
 3. On-Premise Signs directing the travelling public to the closest entrance to the premises 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.
 4. 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.
 5. The purpose of such Signs shall not be to advertise specific goods or services available upon the premises.

- F. On-Premise Signs that Advertise the Primary Activities, Goods or Services Conducted on the Premises which are located outside of 50 feet from the activity shall not exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim, but excluding supports. [23 C.F.R. 750.108(g)]
- G. On-Premise Signs that Advertise the Sale or Lease of the Property upon which the Sign is Located.
 - 1. An On-Premise Sign that advertises the sale or lease of the property may not contain any product or service other than the logo and/or name, type of real property, address, and contact information of the party offering the property for sale or lease.
 - 2. Real property offered for sale or lease must only be for the uses of record for zoned or platted areas.
 - 3. On-Premise Signs advertising the sale or lease of the property are limited to one Sign Visible to traffic proceeding in any one direction less than one mile apart.
 - 4. On-Premise Signs advertising the sale or lease of the property may be no larger than 96 square feet including border and trim, but excluding supports.
 - 5. 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. [23 C.F.R. 750. 105(a)].
- H. On-Premise Signs – Non-Commercial.
 - 1. Non-commercial Signs 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.
 - 2. If the highway frontage of the property upon which the premises is located is more than one mile in length, one non-commercial Sign visible to traffic proceeding in any one direction per mile is allowable.
- I. A property owner who has an On-Premise Sign that was in existence upon the property on the effective date of these Rules and who could have reasonably believed such advertising device was on premise under prior rules shall be allowed one year from the effective date of the Rules to bring such advertising device into compliance with these Rules.
- J. Measurement of On-Premise Signs
 - 1. These Rules do not apply to On-Premise Signs located within 50 feet of the principal activity.
 - 2. When the advertised activity is a business, is commercial, or concerns industrial land use, the 50-foot distance shall be measured from the regularly used buildings, parking lots, storage or processing areas, or other structures which are essential and customary to the conduct of the business. The distance shall not be measured from driveways, fences, or similar facilities.

3. When the advertised activity is a non-commercial or non-industrial land use such as a residence, farm, or orchard, the 50-foot distance shall be measured from the major structures on the Property.
 4. A Sign that is located within 50 feet of the premises and advertises the primary activities, goods and services available upon the premises is 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 is a separate purpose unrelated to the principal activity advertised.
- K. Obsolescence of On-Premise Signs
1. Upon the termination or cessation for one consecutive year of the activities, services or products advertised by an On-Premise Sign, the Sign advertising the activity shall no longer qualify as an On-Premise Sign and shall be deemed illegal and subject to removal by the Department at the expense of the Sign owner.
- L. On-Premise Signs – Right-of-Way Encroachment
1. On-Premise Signs shall be allowed to extend over existing right-of-way and future rights-of-way of any State Highway if:
 - a. The Sign is attached to and extends from a building and only advertises activities or services offered in that building;
 - b. The building and attached Sign is adjacent to the State Highway within a city, city and county, or incorporated town having authority over the State Highway pursuant to § 43-2-135, C.R.S.;
 - c. The Sign does not restrict pedestrian traffic and is not a safety hazard to the motoring public; and
 - d. Before erecting the Sign, the owner has obtained written permission from the city, city and county or incorporated town. [§ 43-1-421, C.R.S.]
 2. No On-Premise Sign may encroach over an Interstate right-of-way nor any portion of a roadway.
- M. Comprehensive Development On-Premise Signs
1. On-Premise Signs for Comprehensive Developments shall adhere to the requirements of On-Premise Signs in Rule 6.02.
 2. A Comprehensive Development includes all land used or to be used or occupied for the activities of the development, including buildings, parking, storage and service areas, streets, driveways, and reasonably necessary landscaped areas.
 3. A Comprehensive Development includes only land that is used for a purpose reasonably related to the activities of the development other than an attempt to qualify the land for On-Premise advertising.

4. A Comprehensive Development is a group of two or more lots or parcels of land used primarily for multiple separate commercial or industrial activities and must meet all of the following requirements pursuant to § 43-1-403 (1.5)(a) and (b), C.R.S.:
 - a. Is located entirely on one side of a highway;
 - b. Consists of lots or parcels that are contiguous except for public or private roadways or driveways that provide access to the development;
 - c. Has been approved by the relevant local government as a development with a common identity and plan for public and private improvements;
 - d. Has common areas such as parking, amenities, and landscaping; and
 - e. Has an approved plan of common ownership in which the owners have recorded irrevocable rights to use common areas and that provides for the management and maintenance of common areas.

6.03 Off-Premise Signs

6.03.1 General Requirements

- A. Off-Premise Signs include:
 1. Signs in Areas Zoned for Commercial or Industrial Uses;
 2. Nonconforming Signs;
 3. Directional and Official Signs;
 4. Advertising Devices on Scenic Byways;
 5. Landmark Signs, and
 6. Free Coffee Signs
- B. An Off-Premise Sign 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 Off-Premise Sign shall be erected adjacent to a Scenic Byway, except for Directional and Official Signs. [§ 43-1-419, C.R.S.]
- D. An Off-Premise Sign shall be considered abandoned if it meets the requirements of Rule 6.03.3 B.
- E. Measuring Distances between Off-Premise 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 displays out-of-date advertising matter, or 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.
 - 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. Requirements for Signs Erected After 1970 Advertising Necessary Goods and Services.
 - a. Advertising Devices located along non-interstate Controlled Routes shall be subject to the following requirements:
 - (1) Only inform the traveling public of necessary goods or services available within a five-mile radius of the Advertising Device. Necessary goods and services shall be limited to those set forth in § 43-1-404(1)(e)(I)(c), C.R.S.

- (2) No person providing necessary goods or services shall be eligible for more than two Advertising Devices.
- (3) The Advertising Device shall predominately display the name and location of the necessary goods or services advertised.
- (4) 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.

C. Lighting

1. Advertising Devices that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information, such as time, date, temperature, weather, or similar information.
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, and Official and On-Premise Signs as defined in 23 U.S.C. 131(c) and these Rules, 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 Directional and Official Signs

[§ 43-1-403(4), C.R.S.; 23 U.S.C 131(c)(1); 23 C.F.R. 750.105; 23 C.F.R. 750.153]

- A. CDOT's Jurisdiction over Directional and Official Signs.
 1. Directional and Official Signs under CDOT control are located within 660 feet of the right-of-way and Directional and Official Signs located beyond 660 feet of the right-of-way outside of Urban Areas, Visible from the Main Traveled Way of the system, and erected with the purpose of their message being read from such Main Traveled Way.
 2. Urban Area means an area as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by CDOT and local officials, subject to approval by the Secretary of Transportation. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census. [23 C.F.R. 750.153(t)]
- B. Definitions. The Definitions listed below are specific to this Rule on Directional and Official Signs.
 1. "Directional Sign" includes, but is not limited to:
 - a. Signs containing directional information to facilitate emergency vehicle access to remote locations;
 - b. Signs referring to public places owned or operated by federal, state, or local governments or their agencies;

- c. Publicly or privately owned natural phenomena, historic, cultural, scientific, educational, and religious sites;
 - d. Areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. 23 C.F.R. 750.153(r); § 43-1-403 (4) C.R.S.; or
 - e. Public utility signs, service club and religious notices, and public service signs. [23 C.F.R. 750.153(m)]
 2. A "Notice" for purposes of this section of the Rules is a temporary sign providing the content as stated in the "Official Sign" or "Public Utility Sign" definitions but which is posted for a limited time.
 3. "Official Sign" is a Sign erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction pursuant to federal, state or local law and for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by CDOT or local government agencies or nonprofit historical societies may be considered Official Signs. [23 C.F.R. 750.153 (n)] Official Signs shall not include Signs advertising any private business. [§43-1-403(13), C.R.S.]
 4. "Public Service Sign" located on school bus stop shelters:
 - a. Identifies the donor, sponsor, or contributor of said shelters;
 - b. Contains public service messages, which shall occupy not less than 50% of the area of the Sign;
 - c. Contains no other message;
 - d. Is located on school bus shelters which are authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or the Department; and
 - e. May not exceed 32 square feet in area. Not more than one Sign on each shelter shall face in any one direction. [23 C.F.R. 750.153(q)]
 5. "Public Utility Sign" means a warning sign, informational sign, notice, or marker that is customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations. [23 C.F.R. 750.153(o)]
 6. "Service club" or "Religious" signs or notices mean a sign or notice whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious services, which signs or notices do not exceed 8 square feet in area. [23 C.F.R. 750.153(p)]
- C. Criteria for Directional Signs [23 C.F.R. 170.154(f)]
 1. Prohibited Signs. The following Directional Sign conditions are prohibited:
 - a. Directional Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those Signs or at the location of those activities.

- b. Directional Signs that obscure or otherwise interfere with the effectiveness of any official traffic sign, signal or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
 - c. Directional Signs erected or maintained upon trees or painted or drawn upon rocks or other natural features.
 - d. Directional Signs that are:
 - (1) Obsolete;
 - (2) Structurally unsafe or in disrepair;
 - (3) Move or have any animated or moving parts;
 - (4) Located in Rest Areas, Parklands or Scenic Areas.
2. Size of Directional Signs
- a. No Directional Sign shall exceed the following limits, including border and trim, but exclude supports:
 - Maximum area - 150 square feet;
 - Maximum height - 20 feet;
 - Maximum length - 20 feet.
3. Lighting of Directional Signs
- a. The following lighting conditions are prohibited:
 - (1) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights.
 - (2) Signs that are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an Interstate or primary highway or 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) Signs that are illuminated so as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.
4. Spacing of Directional Signs
- a. Each location of a Directional Sign must be approved by the Department.
 - b. No Directional Sign may be located within 2,000 feet of an interchange, or intersection at grade along the interstate system or other freeways (measured along the Interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the Main Traveled Way).

- c. No Directional Sign may be located within 2,000 feet of a Rest Area, Parkland, or Scenic Area. A scenic area means any public park or area of particular scenic beauty or historical significance designated by or pursuant to state law as a scenic area.
- d. No two Directional Signs facing the same direction of travel shall be spaced less than one (1) mile apart;
- e. Not more than three Directional Signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity;
- f. Directional Signs located adjacent to the interstate system shall be within 75 air miles of the activity; and
- g. Directional Signs located on other than the interstate system, including adjacent to the primary system, shall be within 50 air miles of the activity.

5. Message Content

- a. The message on Directional Signs shall be limited to the identification of the attraction or activity and 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.

D. Directional Signs Pertaining to Privately-Owned Activities [23 C.F.R. 750.154]

- 1. Privately-owned activities or attractions eligible for Directional Signing must meet the requirements of these Rules and state and federal law, and must be nationally or regionally known, and of outstanding interest to the traveling public. "Outstanding interest to the travelling public" for purposes of these Rules means for edification and enjoyment of the travelling public and not specifically to generate income for the activity. [23 C.F.R. 750.154 (f)(1) and (2)]
- 2. Privately owned activities or attractions eligible for Directional Signing are limited to the following: natural phenomena; scenic attractions; historic, educational, cultural, scientific, and religious sites, and outdoor recreational areas.
- 3. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.

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 with the exception of:
 - 1. Official Signs;

2. On-Premise Signs; and
 3. Directional Signs.
- 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 Landmark Signs

- A. No Landmark Signs have been established in Colorado pursuant to 23 C.F.R. 750.710 (a) and (b).

11.00 Free Coffee Signs

[23 U.S.C. 131(c)]

- A. Signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on an interstate or primary system may be located within the Control Area. Free coffee shall include coffee for which a donation may be made but is not required.

12.00 Off-Premise CEVMS Advertising Devices

- A. Authority. The Department has authority to control the brightness, intervals, spacing and location of Off-Premise CEVMS 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/m²), 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. "Public Service Information" means a message on an electronic Sign which provides the time, date, temperature, weather, or information concerning civic or charitable activities.
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. On-Premise Signs inside 50 feet of the advertised activity are not counted for purposes of this spacing requirement. [§ 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 Off-Premise CEVMS
 - 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. [43-1-421(1)(f)(I), C.R.S.]
 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 October 1, 2012, and its implementing regulations contained in 23 Code of Federal Regulations (C.F.R.) Part 750 in effect as of June 20, 1973, 750.705(h) (Sept. 16, 1975) which are hereby incorporated into the Rules by this reference, and do not include any later amendments.
- B. Also incorporated by reference are the following documents:
 - 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.
 - 2. Uniform Standards of Professional Appraisal Practice (USPAP), 2014-2015 Edition.
- 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, 4201 E. Arkansas Avenue, Denver, Colorado 80222.

Editor's Notes

History

Entire rule eff. 02/14/2015.

COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject		Number
Procedures Governing CDOT's Outdoor Advertising Program		1501.2
Effective	Supersedes	Originating Office
08.21.14	n/a	Project Development Branch

I. PURPOSE

The purpose of this Procedural Directive defines CDOT's roles and responsibilities regarding CDOT's Outdoor Advertising Program and the effective control over outdoor advertising devices.

II. AUTHORITY

Executive Director pursuant to § 43-1-105, C.R.S.

23 U.S.C. 131

23 C.F.R. 750.101 *et seq.*

23 CFR 750.301

23 CFR 750.501

23 CFR 750.701

Federal State Agreements (1965 and 1971)

Roadside Advertising Act § 43-1-401 through 421, C.R.S.

2 CCR 601-3, Rules Governing Roadside Advertising in Colorado

III. APPLICABILITY

This Procedural Directive applies to all offices, divisions and regions of the Department of Transportation, that oversee, administer or participate in the Outdoor Advertising Program.

IV. DEFINITIONS

For defined terms related to Outdoor Advertising, please see: 2 CCR 601-3, the "Rules Governing Roadside Advertising in Colorado" and the CDOT Outdoor Advertising Manual. [§ 43-1-403, C.R.S and 23 CFR 750.102; 23 CFR 750.703]

V. PROCEDURE

A. Headquarters Oversight

1. Director of Project Support

- a) The Director of Project Support is responsible for oversight of the Branch Manager and CDOT's Outdoor Advertising Program.
- b) The Director of Project Support shall confirm that Department Outdoor Advertising staff at both headquarters and in the regions are working together to implement a statewide uniform program controlling the use of Advertising Devices within the Department's jurisdiction.

2. Project Development Branch Manager Responsibilities

- a) The Branch Manager is responsible for the Outdoor Advertising Program Supervisor.
- b) The Branch Manager is responsible for confirming that adequate training of CDOT employees has been completed on at least an annual basis. This includes the Program Manager, the region inspectors and all Transportation Maintenance (TM) field staff.

3. Outdoor Advertising Program Supervisor.

- a) The Program Supervisor is responsible for overseeing all aspects of the program including:
 - (1) Direct supervision of the Program Manager and administrative assistant;
 - (2) All other aspects of the program outside of direct supervisory authority, including the processing of payments by the accounting office, and the maintenance of the database by Division of Transportation Development;
 - (3) Review and approval of all official correspondence, permitting actions, notices of noncompliance and orders prior to their issuance from the region or Program Manager.
 - (4) Coordination with the Office of the Attorney General and Branch Manager regarding all Department decisions of legal significance.
 - (5) Ensuring Department compliance with state law regarding any requests for hearings and appeals in conformance with the Rules Governing Outdoor Advertising and state law.
- b) The Program Supervisor's duties include:
 - (1) Establishing goals and conduct quarterly reviews of the Program Manager's performance.
 - (2) Overseeing the development and completion of all aspects of training, including appropriate training materials, instructors, delivery method, and organization for the Program Manager, region inspectors and all transportation

maintenance staff;

(3) Confirming that adequate training of CDOT employees has been completed on at least an annual basis, and, when appropriate, collaborating with the CDOT Maintenance Training Academy;

(4) Overseeing the determination of CDOT's position on any official action regarding permitting, notices of noncompliance and orders, or any other matter that may have legal implications prior to its issuance by the region:

(5) Working on behalf of the Department with the Office of the Attorney General and request advice of counsel when necessary;

(6) Overseeing the Department's memorandum, which will be provided to the Attorney General in order to capture all relevant facts. The memorandum shall be drafted by the region outdoor advertising staff and the Program Manager.

(7) Calling disposition review meetings when necessary in order to facilitate full discussion on a given issue prior to its resolution. The Program Supervisor shall include, when necessary, all personnel from the region, (traffic engineer, access control manager, inspector, etc.), Branch Manager, Program Manager and a representative from the Office of the Attorney General. The memorandum analyzing the issues shall be provided to all parties prior to the meeting.

(8) Collaborating with Division of Transportation Development on the update of the Outdoor Advertising database on a quarterly basis.

(9) Reviewing the Program Manager's analysis of the Department's fee schedule for the outdoor advertising permit applications and renewals every four years and adjust in statute as necessary.

(10) Maintaining an archival database on Department positions and official activities associated with the administration of Outdoor Advertising to promote consistency.

4. Outdoor Advertising Program Manager Responsibilities.

a) Permit Applications, Renewals, Denials, Revocations, and Notices of Noncompliance. The Program Manager shall:

(1) Review all official correspondence, permit applications, permit renewals, permit revocations, notices of noncompliance, and orders prior to their issuance by the region.

(2) Consult with and obtain approval from his or her supervisor prior to issuing or approving any official action.

(3) Collaborate with the region on a disposition memorandum, which when necessary, will be provided to the Attorney General in order to provide that office with all relevant facts on a given issue.

(4) The Program Manager shall issue the permit renewal invoices and provide the CDOT Accounting Office with all necessary information regarding payments due.

b) Training.

(1) The Program Manager will develop the appropriate training for CDOT staff, including training materials. The training will be reviewed and approved by the Program Supervisor. The in-house training shall be held annually in the most cost-effective method possible.

(2) The Program Manager, in coordination with the appropriate direct supervisor (Region Maintenance Superintendent or Traffic Engineer), is responsible for training Region inspectors and TM's and providing appropriate materials and tools as necessary.

c) Inventory

(1) The Program Manager will annually prepare a comprehensive inventory every year of Nonconforming Advertising Devices.

(2) The Program Manager will perform a comprehensive inventory at least every four years of Off-Premise Signs, including those requiring a CDOT permit: Directional Advertising Signs; Advertising on Bus Benches and Shelters, and Conforming Advertising Signs, and Advertising Devices located in areas zoned by law for commercial or industrial use.

d) Review of Fee Schedule.

(1) The Program Manager will review and recommend the fee schedule for the outdoor advertising permit applications and renewals every four years beginning in FY2014. The Program Manager and Program Supervisor shall make recommendations to the Executive Director to determine whether the fees for outdoor advertising devices are adequate and reasonable or should be adjusted in statute.

e) Database.

(1) The Program Manager shall report necessary database changes to the Program Supervisor for updates as warranted.

(2) The Division of Transportation Development shall oversee the Outdoor Advertising Database.

B. Region Oversight

1. Region Appointing Authority Responsibilities

- a) The Region Appointing Authority is ultimately responsible for confirming that CDOT's Outdoor Advertising Program is fully implemented in the respective CDOT Region, including oversight of outdoor advertising staff.

2. Region Maintenance Superintendents.

- a) The Region Maintenance Superintendent is responsible for ensuring that the TM field staff perform their responsibilities of removing illegal signs along Controlled Routes and notifying the region inspector of their actions and suspected illegal signs.

3. Region Traffic Engineer Oversight of Region Inspectors

- a) The region Traffic Engineer shall ensure that the monitoring and surveillance of outdoor advertising devices is included in the job duties and the performance plans for all CDOT Region inspectors involved in the Outdoor Advertising Program, including but not limited to:
 - (1) Confirming that the region is providing effective control of outdoor advertising on Control Routes through consistent surveillance and monitoring; and
 - (2) All responsibilities enumerated below for inspectors have been met.
- b) The region Traffic Engineer shall confirm that a quarterly review of the performance of the Region Outdoor Advertising Inspector(s) has been conducted.
- c) The region Traffic Engineer shall be apprised of all region permitting issues, and, where necessary, participate in a disposition meeting with headquarters staff and the Office of the Attorney General. The region Traffic Engineer shall review the memorandum drafted by the region team in collaboration with the Program Manager that sets forth the fact giving rise to the issue, which will be provided to the Attorney General in order to obtain a legal analysis.
- d) The region Traffic Engineer shall review and approve all official correspondence issued on behalf of the region regarding outdoor advertising issues.

4. Region Inspector's Supervisor Responsibilities

- a) The region inspector's supervisor shall act as a resource for the region inspector and ensure that the Controlled Route Monitoring Report is completed and provided to the Program Supervisor on a quarterly basis.
- b) When necessary, the region inspector's supervisor shall collaborate with the region Traffic Engineer and inspector on a memorandum which sets forth the facts necessary for the Attorney General's Office to provide a legal analysis.
- c) The region inspector's supervisor may participate in disposition meetings.
- d) The region inspector's supervisor and inspector shall collaborate on the Department's official correspondence and provide it to the disposition team prior to the disposition meeting and issuance.
- e) The region inspector's supervisor shall prepare quarterly goals and review of their performance as necessary.

5. Region Outdoor Advertising Inspector Responsibilities

- a) Monitoring Outdoor Advertising Devices.
 - (1) Inspect and monitor Outdoor Advertising Devices on a scheduled basis.
 - (2) Investigate and confirm illegal signs detected during the monitoring process. Draft and send correspondence in accordance with § 43-1-412, C.R.S. and the Outdoor Advertising Rules. Create a file for the illegal advertising device and provide an electronic copy of the file to the Program Manager for information in preparation of a possible hearing.
 - (3) Track weekly time spent monitoring and administering outdoor advertising in SAP using internal order 200624 for the purpose of cost accumulation and fee review by headquarters staff.
- b) Issuing and Administration of Permits
 - (1) Verify historical and current zoning, property ownership, sign ownership, and historical and current zoning;
 - (2) At the region level, meet all other requirements set forth in the Outdoor Advertising Rules and Manual for the administration and issuance of permits.
 - (3) Collaborate on the disposition memorandum and all official correspondence and provide it to the appropriate person prior to issuance.
- c) Database Update
 - (1) Notify the Program Supervisor and Manager of any changes in the Outdoor

Advertising Device information as soon as practicable but at a minimum on a quarterly basis.

(2) Notify Program Manager promptly of any new Outdoor Advertising permit application.

d) Reporting Requirements

(1) Maintain the official outdoor advertising permit files for each permitted advertising device within each respective region.

(2) Compile and maintain a quarterly Controlled Route Monitoring Report within the region jurisdiction, including inspection dates. This report shall be shared with the Program Supervisor and Program Manager who shall retain it for audit purposes.

(2) Notify everyone immediately in the region supervisory chain of command as well as the Program Supervisor and Program Manager if a hearing or appeal has been requested.

VI. DOCUMENTS RELATED TO OR REFERENCED IN THIS PROCEDURAL DIRECTIVE

Outdoor Advertising Manual (most recent edition - updated regularly)

CDOT Form 290

CDOT Form 291

VII. IMPLEMENTATION PLAN

The Project Development Branch will be responsible for the implementation of this Procedural Directive.

The Project Development Branch will provide a copy of this Directive to all CDOT employees who are impacted by its terms.

VIII. REVIEW DATE

This Procedural Directive shall be reviewed on or before April 2019.


Executive Director


Date of Approval

Permitting Guidance for Outdoor Advertising Devices



Outside Advertising Sign Permitting

Please first read Rule 2.00 and also PD 1501.2

General Guidance

- An application must be submitted and a CDOT permit acquired for each outdoor advertising sign prior to displaying advertisements. Once constructed and upon receipt of completed application and initial fee, a CDOT Outdoor Advertising Permit will be issued to applicant.
- Applications for a permit to erect an outdoor advertising device (CDOT Form No. 291) are available online at: <http://www.coloradodot.info/library/forms/cdot0291.pdf>, at any Region Office, or may be requested from the region inspector or Program Manager.
- Applicants must follow rules to apply for a permit. One stake, paint or other identifying object should be placed at the proposed sign location at or as near as possible to the right-of-way line and others at the actual sign location denoting edges of the sign face(s) to assist the Department in investigating the proposed site. No application for permit will be approved until an on-site verification is conducted by the Department.
- New permit applications are first checked by the Region Outdoor Advertising Inspector, and then subject to review by the Outdoor Advertising Program Manager and his or her supervisor prior to permit issuance. New permits are written by the OA Program Manager and issued by the Region Outdoor Advertising Inspector after the device has been constructed in conformance with the construction permit issued by the local jurisdiction where the sign is located.
- A Permit Tag will be provided by the Department when the annual permit renewal fees have been paid by the permit holder for the State fiscal year which the fees are scheduled on. The Permit Tag, which has the fiscal year printed on it, will be placed on the Permit Identification previously described in this manual. The purpose of the Permit Tag is for the Region Outdoor Advertising Inspector to easily identify, during the annual inventory of advertising devices, all signs that are current with permit fees.
- Permit Term. The proposed sign structure must be completed within 365 calendar days of issuance of the permit. Once erected, the sign permit expires on June 30 every year, but may be renewed annually so long as the structure remains compliant. For example, a zoning change, a scenic byway designation or change can result in a status change but the permit can still be renewed.

- Permit Transfer. The ownership transfer of a specific outdoor advertising device for which a permit has been lawfully issued to the original owner will not in any way affect the validity of the permit for that specific device. A Bill of Sale with proof of authenticity (notarized or other sufficient documentation) shall be provided to CDOT provided that the Department. Change of ownership of property where the sign is located does not constitute a transfer of the permit for the outdoor advertising permit. Such written notice shall indicate the CDOT permit number and the effective date of transfer and mailed to:

CDOT Outdoor Advertising Program
4201 E Arkansas Ave
Denver, CO 80222

- The Outdoor Advertising Program Manager shall notify the Region Outdoor Advertising Inspector of any change in the ownership.
- Lost, damages or destroyed permit identification may be replaced by notifying the Department in writing at the above address. If a lost sticker is located at a later date, it should be destroyed.
- Revocation. Any valid permit issued for an outdoor advertising device may be revoked by the Department pursuant to the process set forth in the Rules, based on the grounds set forth in the Rules.
- Reminder invoices are mailed from the Program Manager to each permit holder on or about April 15 each year, reminding them to renew their annual outdoor advertising permit(s) prior to June 1 to avoid a statutory \$50 late fee. All non-renewed permits expire on June 30. No waivers are permitted per state statute.
- Monies remitted for permits to CDOT Headquarters are sent to the CDOT Accounting Branch to be processed. Monies remitted to the Regions are processed by the respective Region Business Offices with e-mail advisement to the Outdoor Advertising Control Program Manager.
- CDOT permitting requirements are in addition to any permit or licensing requirements of local governing bodies, or other state agencies.

Guidance on Specific Signs

Off-Premise Sign Checklist

Converting a Static Conforming Sign to a CEVMS



CDOT Off-Premise Signs Checklist




Checklist for Advertising Devices located in areas Zoned for Commercial or Industrial Uses by law.

[See Rule 7.00 § 43-1-404(1)(d) and (e), and § 43-1-407(1)(II)(c), C.R.S.]

This checklist will help in determining when the criteria established for this sign category is met. Use this in addition to the "Applicant Instructions" on CDOT Form 291 Outdoor Sign Installation Application.

Requirement	Legal references and definitions	Notes
<input type="checkbox"/> Off-Premise Signs require a permit. The sign must meet all permit requirements.		
<input type="checkbox"/> Applicant must verify that the land on which the sign will be located is Zoned for Commercial or Industrial Use.	<p>“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, <u>regardless of how labeled</u>. 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. [See Rule 1.33 and 23 C.F.R. 750.703]</p>	<p>This applies to all Off-Premise Signs</p>

Along Interstate Highways and Freeways			
Signs Along Interstate Highways and Freeways are Only Allowed in Cotton or Kerr Areas (these are the two exceptions to Bonus Areas)			
■	No two Signs shall be spaced less than 500 feet apart along the same side of the highway.	See rule 7.00	
■	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.	Federal-State Agreement 1971	
Exceptions Within Bonus Areas Along Interstate Highways and Freeways			
■	Kerr Areas (if outside the corporate limits as of Sept. 21, 1959): <ul style="list-style-type: none"> • On or before September 21, 1959, the use of land must have been clearly established by state law as industrial commercial; and • Today is zoned for commercial or industrial uses; and • Was zoned for commercial or industrial use prior to January 1, 1970; 	43-1-406(2)(b)	<ul style="list-style-type: none"> • If the Applicant can't establish a Cotton or Kerr Areas within the Bonus Area, then the sign location is illegal • Sign must meet all three requirements.

	<p>Kerr Area (if inside corporate limits as of September 21, 1959):</p> <ul style="list-style-type: none"> • The property is within the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959; and • Today is zoned commercial or industrial; and • Was zoned commercial or industrial prior to January 1, 1970. 43-1-406 	<p>43-1-406(2)(b)(I), C.R.S.</p>	<ul style="list-style-type: none"> • Sign must meet all three requirements.
	<p>Cotton Areas: The area adjacent to the interstate system where any part of the interstate ROW was acquired prior to July 1, 1956 for ROW purposes. 43-1-406(2)(a), C.R.S.; and</p> <ul style="list-style-type: none"> ○ The land must be zoned for commercial or industrial use prior to January 1, 1970, then the signs may be up to 1200 square feet. 	<p>43-1-406(2)(b)(II), C.R.S. 43-1-404(1)(e)(I).</p>	<ul style="list-style-type: none"> • Sign must meet all requirements
<p>All other Controlled Routes except Interstate and Freeways:</p>			
	<ul style="list-style-type: none"> ○ The land must have been zoned for commercial or industry uses after January 1, 1970, and if zoned after this date, then the size of the sign can be no larger than 150 square feet, and must comply with all of the following requirements: <ul style="list-style-type: none"> ➤ Be located within one thousand feet of an industrial or commercial building in place; and ➤ Only inform the traveling public of necessary goods or services available 		

	<p>within a five-mile radius of the advertising device; necessary goods and services shall be limited to lodging, camping, food, gas, vehicle repair, health-related goods or services, recreational facilities or services, and places of cultural importance; and</p> <ul style="list-style-type: none"> ➤ No person providing necessary goods or services shall be eligible for more than two advertising devices; and ➤ Predominately display the name and location of the necessary goods or services advertised. 		
■	<ul style="list-style-type: none"> • <u>Outside</u> of incorporated villages and cities, no two structures shall be spaced less than 300 feet apart. • <u>Within</u> incorporated villages and cities, no two structures shall be spaced less than 100 feet apart. 		
■	<ul style="list-style-type: none"> • In urban areas, the sign must be within 660 feet of the nearest edge of the ROW and visible from the main travelled way. • In rural areas, the sign must be visible from the main travelled way with the purpose of its message being read. 		

**CDOT Checklist for
Conversion from a Static Conforming Sign to a
Changeable Electronic Variable Message Sign (CEVMS)**

In order to convert a static sign to a CEVMS, the Permittee must submit an application to the Department. This checklist will help in determining whether the Department may allow the Sign to be converted from a static to a CEVMS. Please refer to the Rules Governing Outdoor Advertising in Colorado for definitions and other guidance, particularly Rule 12.00 D (Conversion from a Static Advertising Device to a CEVMS).

- Is Sign Conforming?
 - If the Sign is a nonconforming sign, it may not be converted to a CEVMS.
 - If the Sign is on a Scenic Byway, it may not be converted to a CEVMS.
- Is there any requirement in CDOT Outdoor Advertising Rule 2.3 that would disallow the issuance of a conversion permit?
- Does the proposed sign comply with all of the requirements of Rule 12.00, specifically Rule 12.00 C?
 - It is very important that the inspector verify the spacing from another permitted CEVMS.
 - No CEVMS may be placed within 1,000 feet of another Advertising Device on the same side of a highway. See CDOT Outdoor Advertising Rules, Rule 12.00 C. 2 (a). § 43-1-404(1)(f)(I).
 - Before issuing a new CEVMS permit, the inspector must check with the Program Manager to determine whether there are any issued but not yet constructed CEVMS permits, within the 1,000 feet spacing. In some cases, a CEVMS permit has been issued and the permit holder has 365 days to construct the CEVMS. If they fail to do so within 365 days, the permit expires, and another applicant may have applied.
 - To make the spacing determination, CDOT does not measure from On-Premise CEVMS which are within the 50 foot limit of the advertised or principal activity. See Rule 6.02 J. 2.
- Has Permittee made a written request to convert application for conversion?
- Has Permittee paid permit fees for static sign?

- If not, permit fees must be paid prior to reviewing conversion request.
- Has the Permittee provided evidence that the local jurisdiction permitted the CEVMS?
 - If not, CDOT may not issue permit.
- Has Permittee submitted a copy of an approved construction permit from the local jurisdiction to rebuild the sign for CEVMS?
 - If not, then CDOT may advise the Permittee what the restrictions are on a CEVMS, but may not issue the CEVMS permit until the construction permit has been issued by the local jurisdiction.
 - CDOT does not have the authority to issue a construction permit for an outdoor advertising sign.
- Is Sign an On-Premise Advertising Device?
 - If yes, CDOT does not permit On-Premise Advertising Devices; however, if the Advertising Device is outside of the 50 feet measurement from the advertised or principal activity, then CDOT should advise the Permittee that:
 - The Advertising Device must adhere to the CDOT Rules Governing Outdoor Advertising, specifically Rule 6.02 and Rule 12.00.
 - While CDOT does not permit On-Premise Advertising Devices, it has the authority to control the brightness, intervals, spacing and location along Controlled Routes for the purpose of ensuring safety to the travelling public. See Rule 6.02.
- The conversion of a static Advertising Device 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.

Diagrams

Figure 1A. Cotton Areas by Zoning	
Figure 1B. Cotton Areas Coincident with Roadway ROW	Kerr Area Exception
Figure 1C. Cotton Areas with Roadway ROW Angled	Sign Spacing Details (1, 2, 3)
Figure 1D. Cotton Areas with Offset Roadway ROW	Sign Face Dimension Details (1, 2)



FIGURE 1A. COTTON AREAS BY ZONING

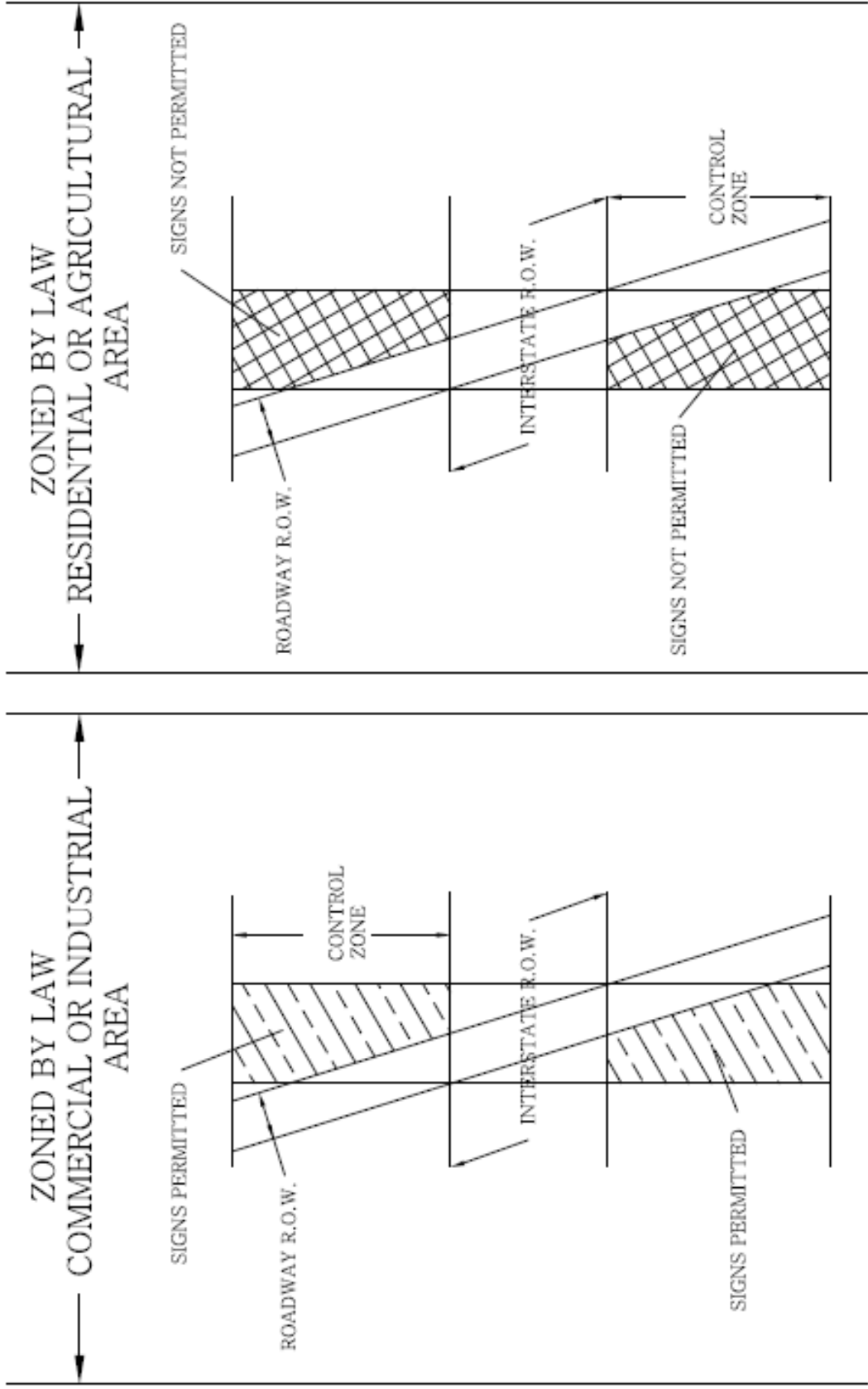
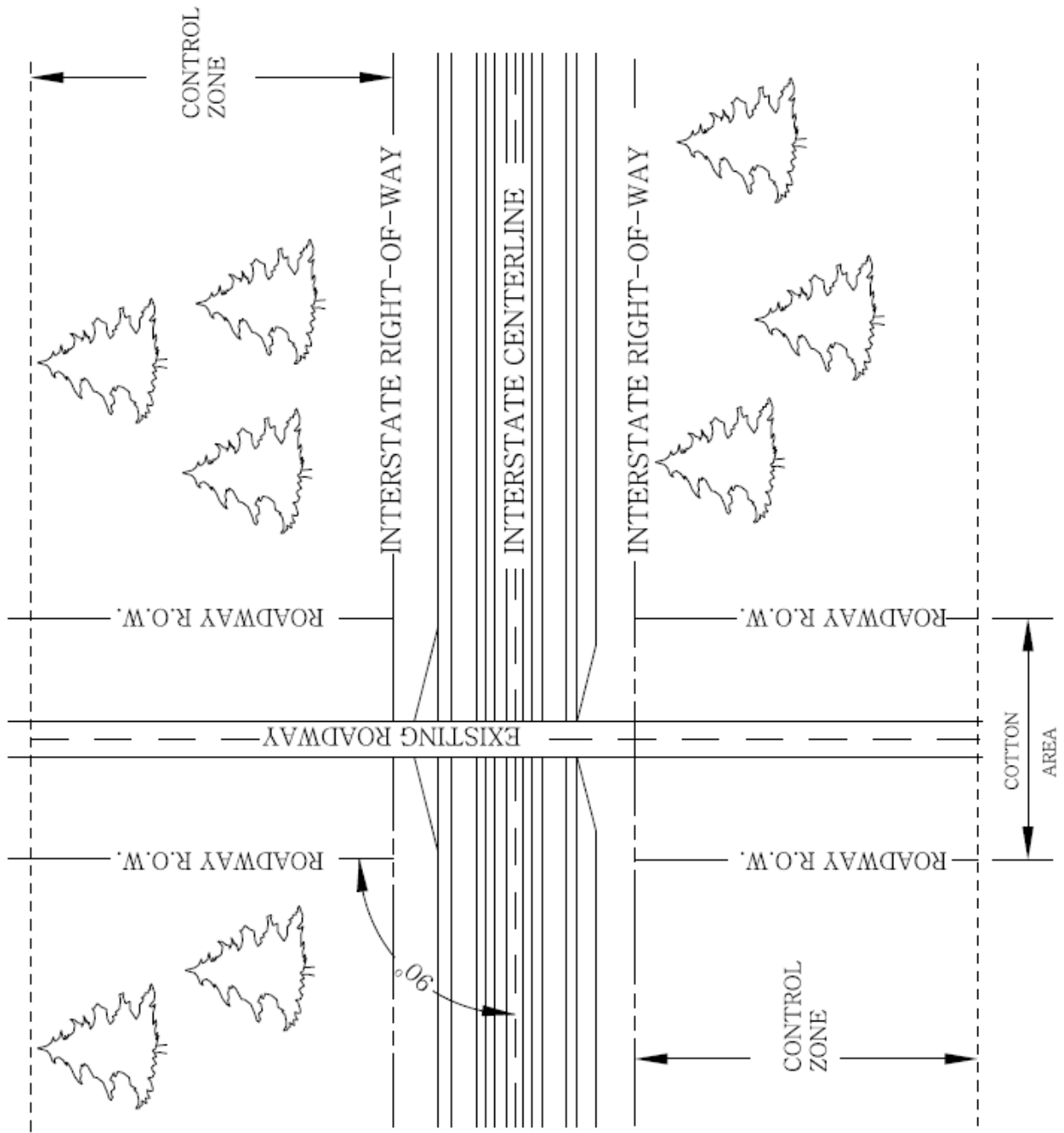


FIGURE 1B. COTTON AREAS COINCIDENT WITH ROADWAY R.O.W.



COINCIDES WITH R.O.W.
NOT AVAILABLE FOR SIGNS

FIGURE 1C. COTTON AREAS WITH ROADWAY R.O.W. ANGLED

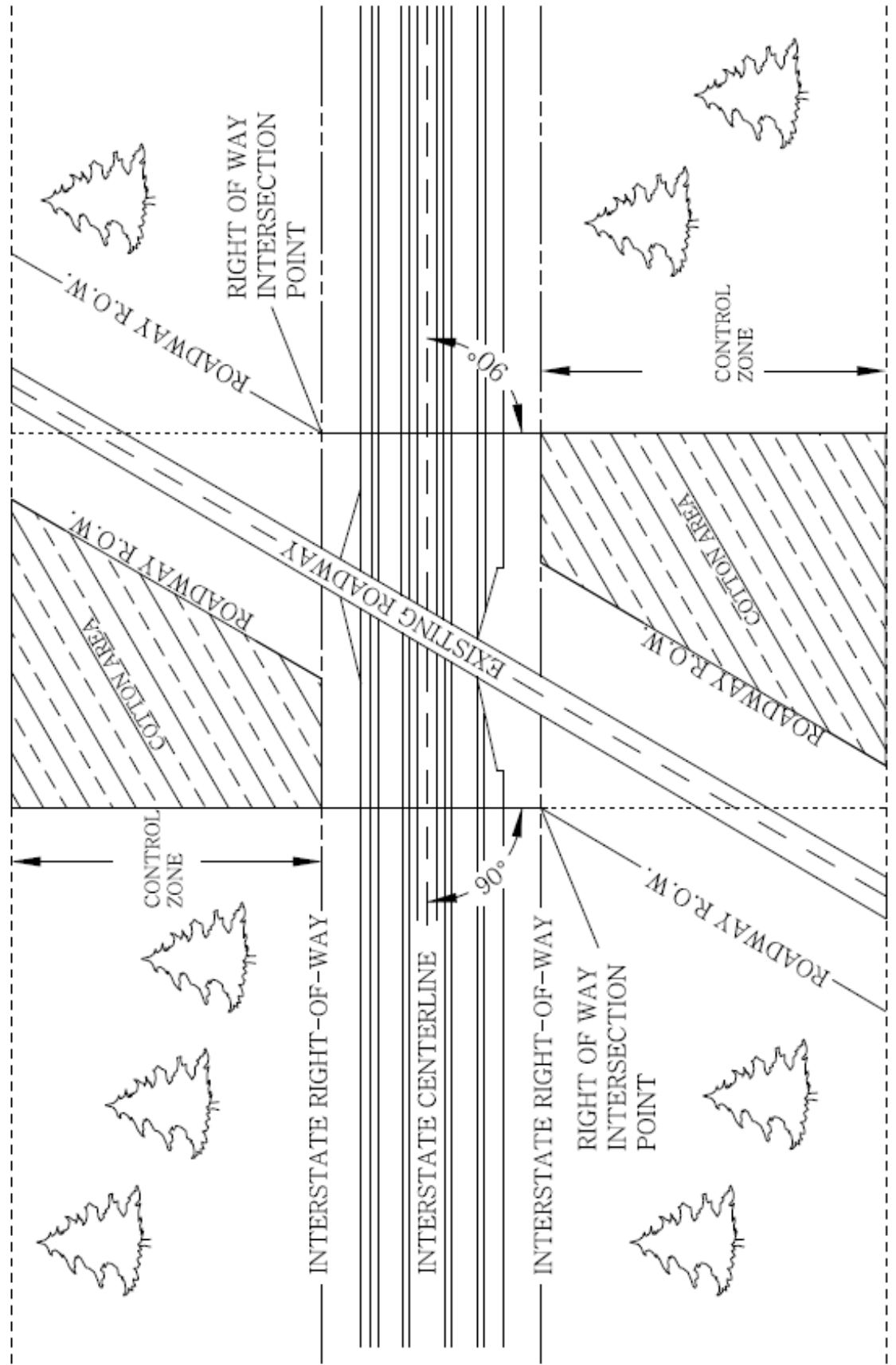
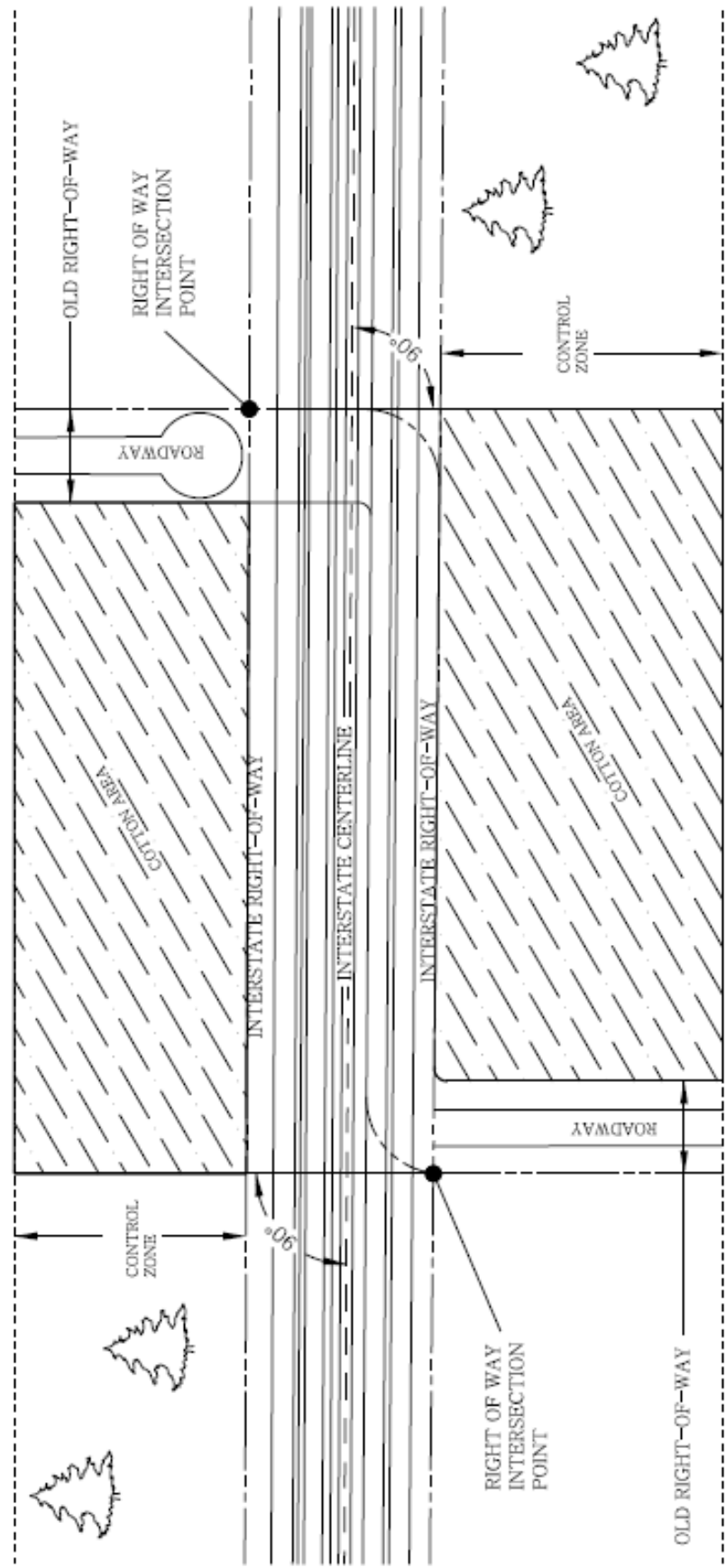


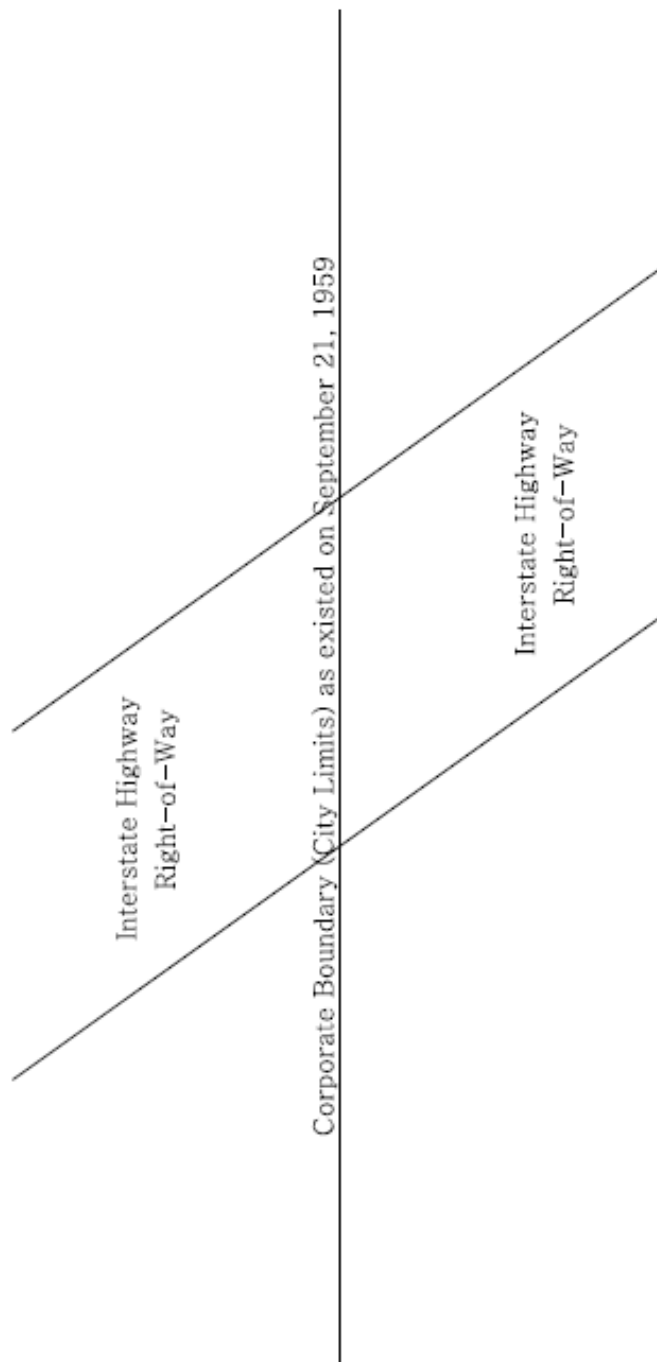
FIGURE 1D. COTTON AREAS WITH OFFSET ROADWAY R.O.W.



KERR AREA EXCEPTION

Within the County

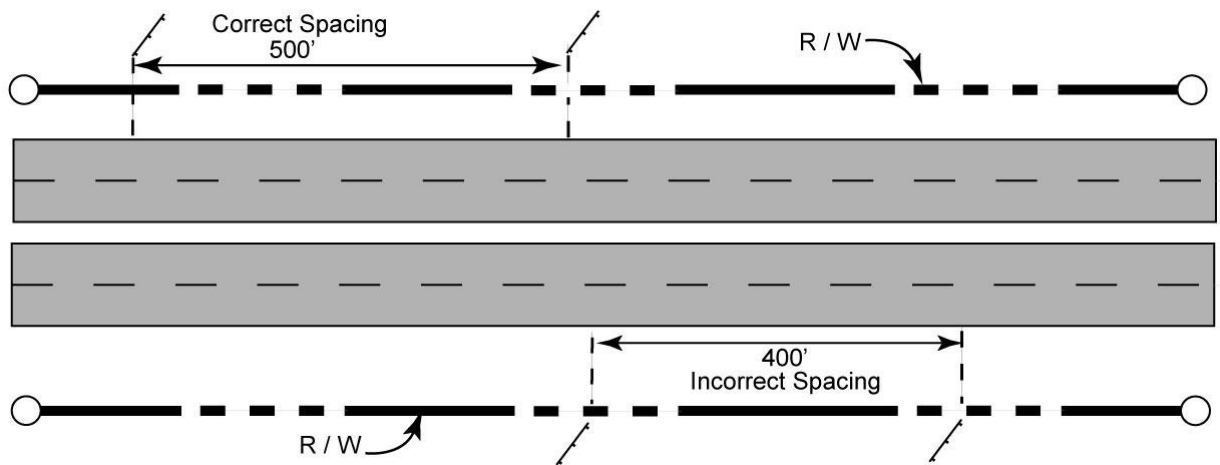
USE MUST BE CLEARLY ESTABLISHED BY STATE LAW AS INDUSTRIAL OR COMMERCIAL PRIOR TO SEPTEMBER 21, 1959



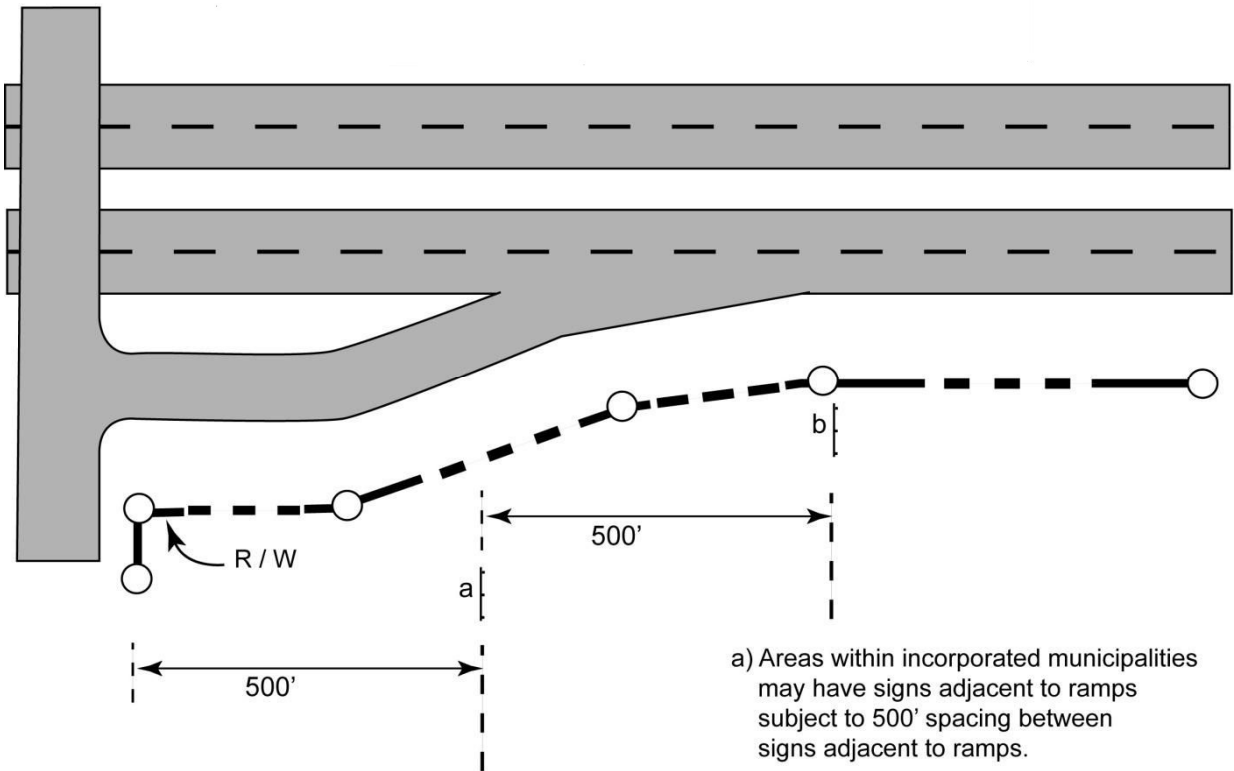
MUST BE ZONED INDUSTRIAL OR COMMERCIAL BY STATE LAW PRIOR TO JANUARY 1, 1970

Within the City

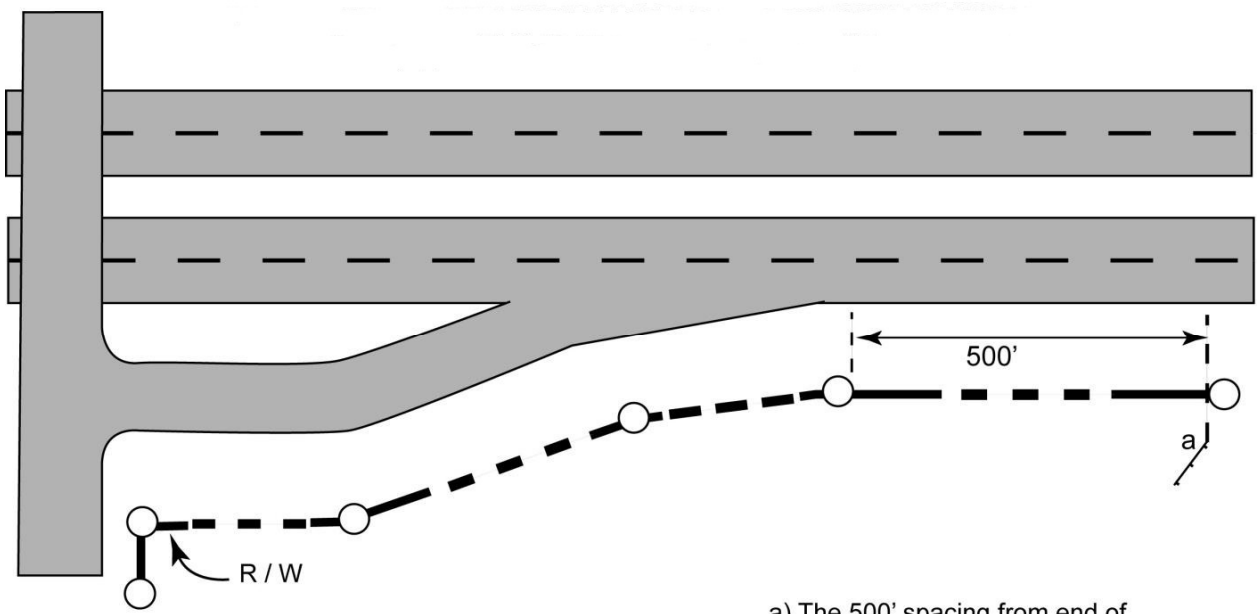
SIGN SPACING ALONG CONTROLLED ROUTES
WITH LIMITED ACCESS RIGHT-OF WAY



SIGN SPACING ADJACENT TO INTERCHANGES ALONG CONTROLLED ROUTES
WITH LIMITED ACCESS RIGHT-OF-WAY
(APPLIES TO MUNICIPALITIES WITHIN URBAN AREAS)

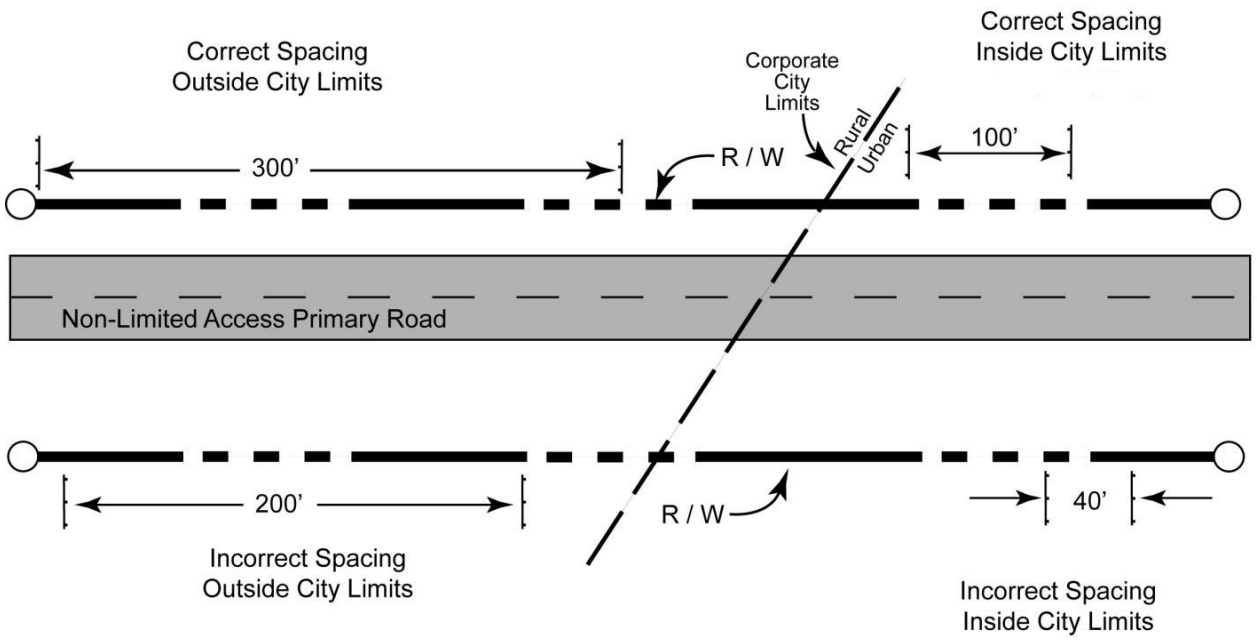


**SIGN SPACING ADJACENT TO INTERCHANGES ON CONTROLLED ROUTES
 WITH LIMITED ACCESS RIGHT-OF-WAY
 (APPLIES TO LOCATIONS OUTSIDE URBAN AREAS)**

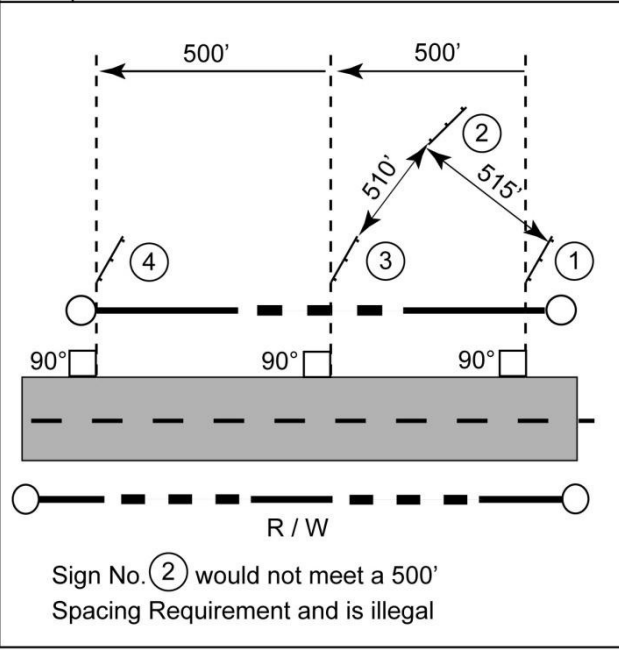
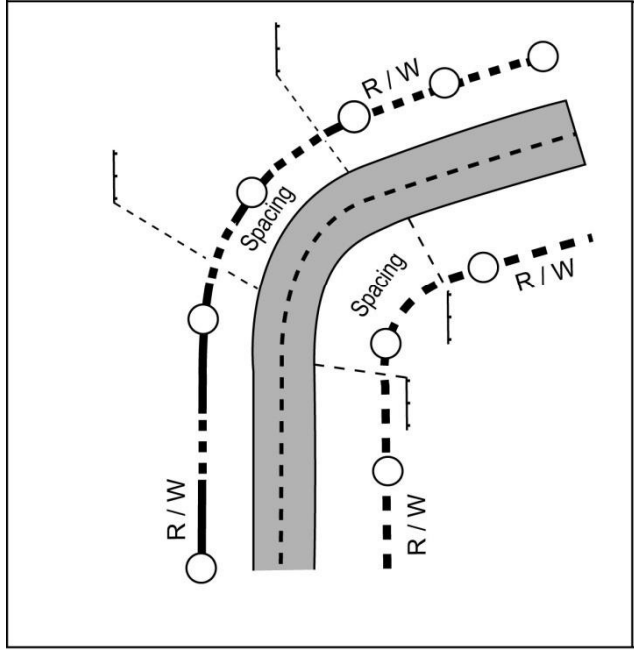
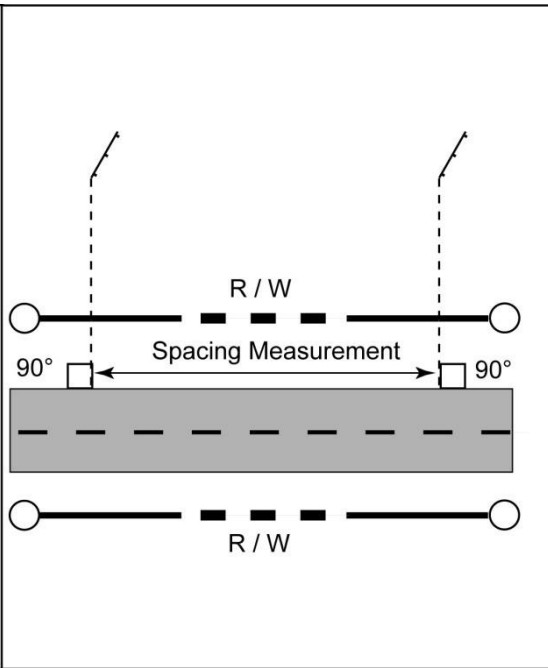
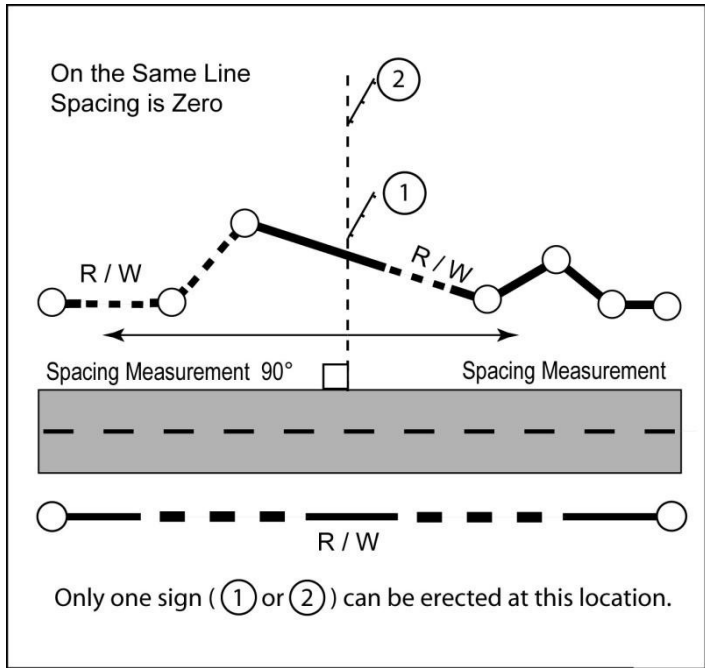



a) The 500' spacing from end of taper applies only in areas outside of incorporated municipalities.

**SIGN SPACING ALONG NON-LIMITED ACCESS CONTROLLED ROUTES
 (URBAN AREAS HAVE POPULATIONS GREATER THAN 5,000)**



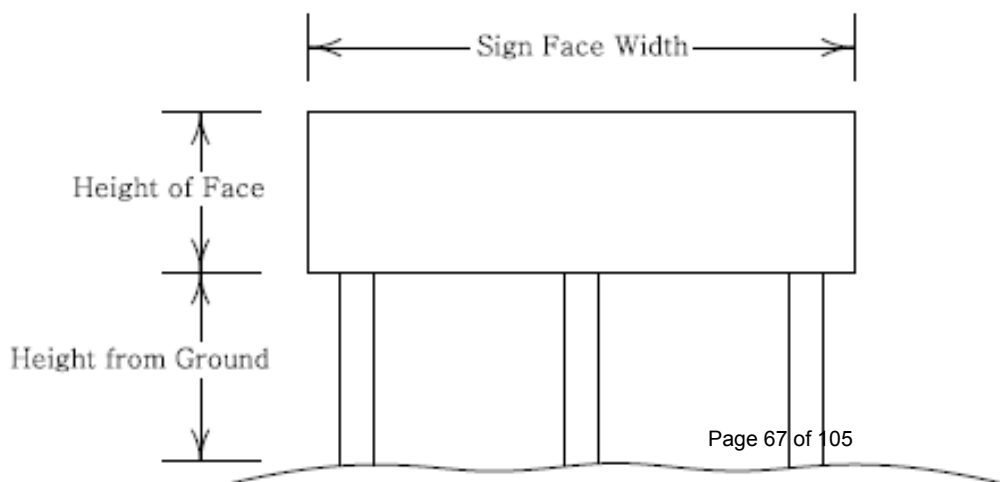
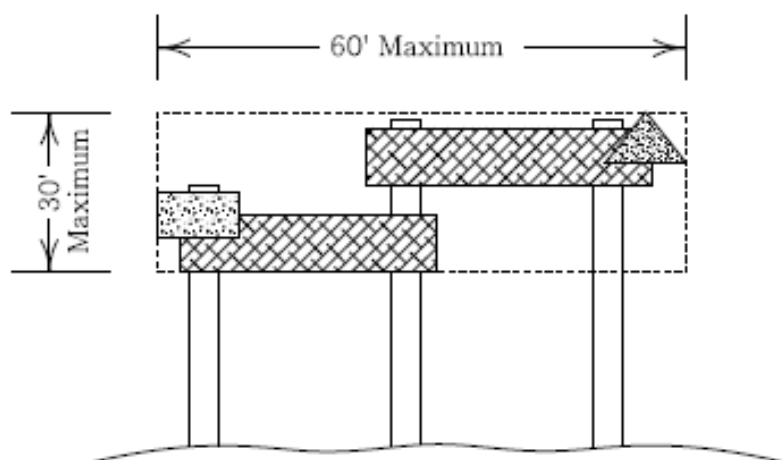
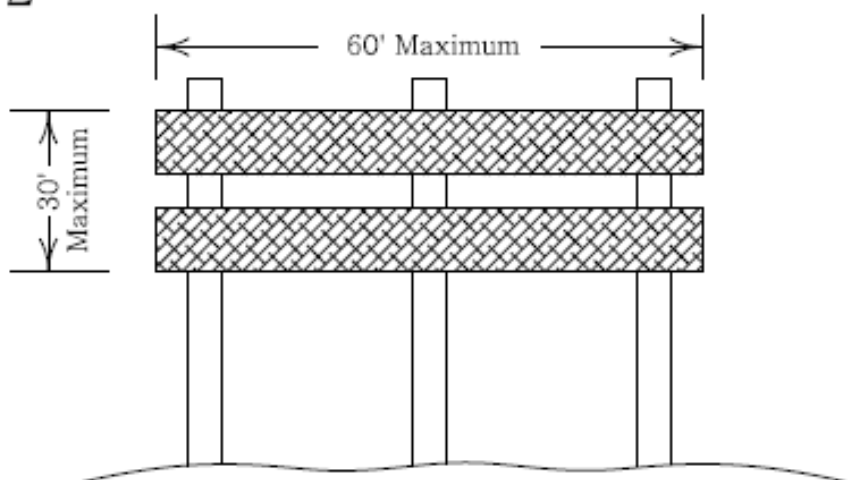
MEASUREMENT OF SPACING BETWEEN SIGNS



 Denotes Outdoor Advertising Sign

Sign Face Dimension Details

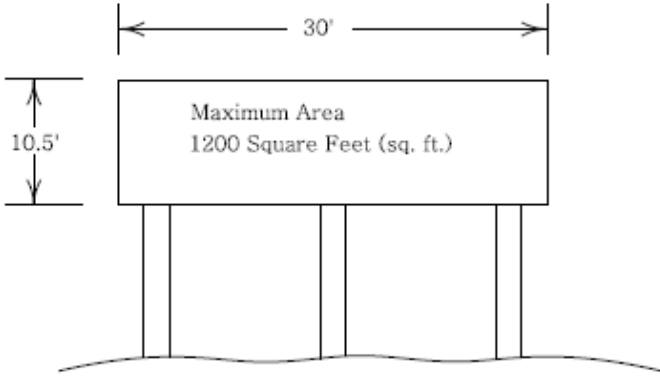
Page 1 of 2



Sign Face Dimension Details

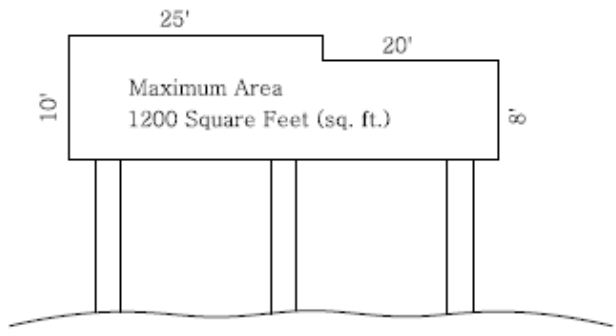
Page 2 of 2

Sign Face



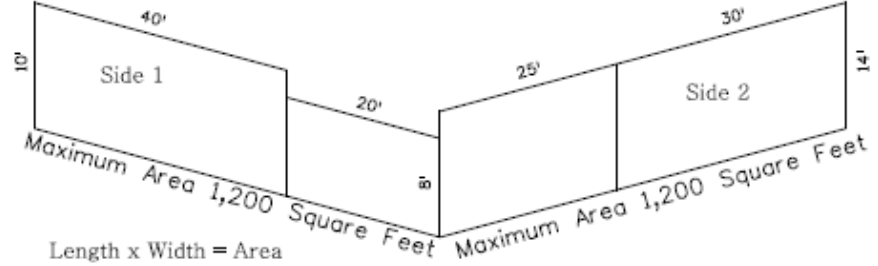
Length x Width = Area
 30 feet x 10.5 feet = 315 sq. ft.

Side-by-Side



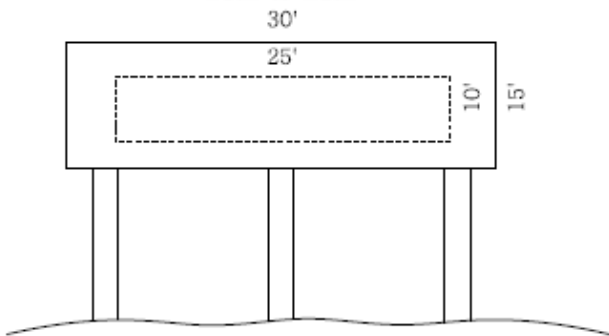
Length x Width = Area
 45 feet x 10 feet = 450 sq. ft.

V-Type



Length x Width = Area
 Side 1: 60 feet x 10 feet = 600 sq. ft.
 Side 2: 55 feet x 14 feet = 770 sq. ft.

Back-to-Back



Length x Width = Area
 30 feet x 15 feet = 450 sq. ft.

Forms and Notifications

Form 291: Permit Application

Form 1343: Confiscated Sign Release Agreement



COLORADO DEPARTMENT OF TRANSPORTATION ROADSIDE SIGN PERMIT APPLICATION	Region	Date
	Section	Route
Leave no space blank. Attached exhibits are considered a part of this application. INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED	County	Milepost

APPLICANT INFORMATION Attach *Exhibit A*, a current notarized statement of property owner's consent or lease agreement.

Sign Owner Name (Company Name & Contact)			Property Owner Name (Company Name & Contact)		
Phone		Email	Phone		Email
Sign Owner Mailing Address (Street, City, State, ZIP)			Property Owner Mailing Address (Street, City, State, ZIP)		
Parcel Number of Sign Location			Expiration date of consent/lease agreement and any additional terms:		
Subdivision	Block	Lot			

SIGN DESCRIPTION Attach *Exhibit B*, a sketch of property, lease and sign locations (plan & elevation) or photo and actual survey. If sign location is eligible under the Kerr or Cotton Area Exception, sufficient documentation must be submitted with this application.

Height above ground (ft)		Side of Highway		Latitude		Longitude	
Sign face Width (ft)	No. of faces	Distance from ROW (ft)		GPS Datum:		Surveyor:	
Sign face height (ft)	Total Area (SF)	Date of Construction:		<input type="checkbox"/> Kerr Area Exception <small>(2 CCR 601-3 § IV.F.1)</small>		<input type="checkbox"/> Cotton Area Exception <small>(2 CCR 601-3 § IV.F.2)</small>	
Sign Type: (Mark all that apply.)			Spacing Along Highway (Ahead)		Spacing Along Highway (Back)		
<input type="checkbox"/> Wood <input type="checkbox"/> Lighted <input type="checkbox"/> Changeable Message			What does the sign advertise?				
<input type="checkbox"/> Metal <input type="checkbox"/> Reflectorized <input type="checkbox"/> Electronic			Location of the item advertised				
<input type="checkbox"/> Other _____			<input type="checkbox"/> Date/Time/Temperature				

LOCAL JURISDICTION APPROVAL Attach *Exhibit C*, a certified copy of zoning documentation, attested by City/County Clerk, documenting zoning and date of zoning. Property must be zoned either industrial or commercial or both industrial and commercial.

<input type="checkbox"/> Approved <input type="checkbox"/> Denied	Date Reviewed:		Type of Zoning		Earliest Effective Date of Zoning	
Local Zoning Administrator approval*			Zoning documentation was filed In _____ City/County		Book _____ Page _____	
Building Permit Issued? <input type="checkbox"/> YES <input type="checkbox"/> NO		Date Issued		Date Expires		
INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED						

* Signature indicates local zoning certification and compliance with local sign ordinances only, CDOT approval is also required.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE LOCAL, STATE OR FEDERAL LAWS THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE, ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT THE PERMIT ISSUED BASED ON THIS PERMIT APPLICATION MAY BE DENIED, REVOKED OR A RENEWAL DENIED IF:

- I provide false or misleading information on this application, or
- Any violation of the rules and regulations of CDOT (2CCR 601-3), or
- Any violation of the provisions of the Outdoor Advertising Act (CRS 43-1-401) including, but not limited to
- Any violation of CRS 43-1-409, § (1)(a) which states in part, If the sign authorized by a permit is not erected within one year from the date the permit was issued, then the permit is void as of one year from the date it was issued.

Applicant signature:		Date:	<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED		Date Received
Applicant signature witnessed by:		Date	Received by (CDOT Inspector)		

Distribute signed originals including all exhibits to:

Applicant
Region Permit Office
Staff Traffic and Safety Branch

Previous editions are obsolete and may not be used

CDOT Form 291 10/07

Instructions for filling out CDOT Form # 291 ROADSIDE SIGN PERMIT APPLICATION

- CDOT Region Number (1-Aurora, 2-Pueblo, 3-Grand Junction, 4-Greeley, 5-Durango or 6-Denver)
- Mtce Section (Maintenance Section—leave blank if unknown)
- State Highway #
- Milepost #
- County
- Date MM/DD/YY
- Proposed sign location—either describe by direction and distance from intersection and side of highway or street address (within cities)
- Sign Owner Name (company name)
- Sign Owner Address (Street Address or PO Box, City, State and ZIP)
- Property Owner Legal Name(s)
- Property Owner(s) Address (Street Address or PO Box, City, State and ZIP)
- Legal description of property (from property title or tax records—NOT Tax ID Number)
- Expiration date and additional terms of lease agreement
- Height above ground (from natural ground to top of sign)
- Number of faces (sign faces, either one or two)
- Sign Face length (in feet)
- Sign Face height (in feet)
- Distance from ROW
- Date erected (MM/DD/YY)
- GPS Coordinates (get these from surveyor and provide these with survey—indicate if providing later)
- GPS Datum (get this from surveyor and provide with survey—indicate if providing later)
- Surveyor (Colorado registration number)
- Type of Permit Requested (Conforming, Directional, Necessary Goods and Services, etc.)
- Distance to nearest sign ahead (in feet, on same side of highway)
- Distance to nearest sign back (in feet, on same side of highway)
- What does this sign advertise?
- Location of the item advertised (distance and direction)

Local Jurisdiction Approval

- Local Zoning Administrator original (three signatures), with approval/denial noted and date of signature **(signature indicates local current zoning approval or denial only)**
- Actual current zoning must be noted as industrial, commercial, or industrial and commercial
- Date when zoning documentation filed with City/County—this is the only zoning date that counts
 - Before July 1, 1956 inside Cotton Areas adjacent to the interstate system
 - Before September 21, 1959 inside Kerr Areas adjacent to the interstate system
 - Before January 1, 1970 for signs up to 1200 square feet (outside Bonus Areas adjacent to the interstate system) along the primary and secondary highway systems for signs erected after July 9, 1971.
 - After January 1, 1970 for signs up to 150 square feet (outside Bonus Areas adjacent to the interstate system) along the primary and secondary highway systems for signs erected after July 9, 1971
 - County, Book and Page in which zoning documentation was filed

Submit three originals, each with original applicant signature

Original applicant signature must be witnessed

Inspector will sign and date all three application copies upon receipt, returning one to applicant and forwarding one to headquarters when application is approved or denied, with approval/denial date noted on application.

COLORADO DEPARTMENT OF TRANSPORTATION CONFISCATED SIGN RELEASE AGREEMENT

Date Removed:

State Highway:

Region/Section/Patrol:

AGREEMENT

I understand that the Colorado Revised Statute 43-1-417 § (3)(a) prohibits the placing of any advertising device within highway right-of-way. I agree not to place any sign(s) upon the right-of-way of any State Highway without written permission from the Colorado Department of Transportation (CDOT), now or at any time in the future.

I understand and have been given a copy of CRS. 43-1-417, which states that legal action can be brought against my company and me for willful violation of this provision.

In agreement with these statements, I will remove any existing, and will not place any additional sign(s) illegally on CDOT's property by the undersigned person or other company representative. Any signs placed within CDOT property may be removed without prior notice or compensation.

CRS 43-1-417. Violation and penalty.

(1) The erection, use, or maintenance of any advertising device in violation of any provision of this part 4 is declared to be illegal and, in addition to other remedies provided by law, the department is authorized to institute appropriate action or proceeding to prevent or remove such violation in any district court of competent jurisdiction. The removal of any advertising device unlawfully erected shall be at the expense of the person who erects and maintains such device.

(2) Any person who violates any provisions of this part 4 is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of violation of the provisions of this part 4 shall constitute a separate offense.

(3) (a) Except as provided in section 43-1-421, no person other than the department without written approval of the department shall erect or maintain any advertising device located either wholly or partly within the right-of-way of any state highway that is a part of the state highway system, including streets within cities, cities and counties, and incorporated towns. All advertising devices so located are hereby declared to be public nuisances, and any law enforcement officer or peace officer in the state of Colorado or employee of the department is hereby authorized and directed to remove the same without notice.

(b) The department may grant written permission to erect official advertising devices within the right-of-way of any state highway.

Sign Owner & Company or Representative (Print):

Sign Owner or Representative Signature:

Date:

Sign Owner Address:

City:

State:

ZIP:

Phone:

FAX:

Number of Signs:

Comments:

Route:

Mile Post:

Side:

Sign Removed by:

Sign I.D. No:

Distribution : Region Inspector - Original
Sign Owner
HQ Safety & Traffic
Section/Patrol

CDOT Form #1343 04/05

Guidance Documents

Nonconforming Signs: Damaged or Destroyed Analysis

On-Premise Signs Guidance Memorandum

How to Identify a Cotton or Kerr Area

Sign Description



CDOT Hypothetical Analysis for Damaged or Destroyed Nonconforming Signs

Please see CDOT's Rules Governing Outdoor Advertising for guidance on damaged or destroyed signs. State and federal law and rules govern, but local government ordinances may impose stricter requirements than the state.

Scenario 1: If sign is damaged by any cause other than willful destruction.

- CDOT will determine whether or not the sign may be repaired based on the analysis set forth in the Rules. There is no legal right to re-erect the sign because of its nonconforming status.
 - The owner must get a repair estimate from a general contractor or other licensed professional.
 - CDOT can get its own repair estimate.
 - CDOT may accept the owner's repair estimate or average its estimate and the owner's estimate.
 - CDOT relies on FHWA Memo dated Feb. 16, 2006 to quantify the replacement cost.
 - Example: the Sign for Mark's Hamburgers blew over as a result of a bad storm. This is an old nonconforming sign and is 1000 square feet. Estimate the repair cost on date the damage or destruction occurred.
Owner says repair cost is \$3,000
CDOT says \$5,000
CDOT averages repairs at \$4,000.
Therefore, the replacement cost may not exceed \$8,000
First, what kind of sign is it? For this example, the sign is a standard poster panel.
- Items to consider:

Direct Costs:

Price per Square Foot (\$/S.F.) of Display Area

- Material, labor, etc.
- Construction material
- Material handling
- Construction labor
- Engineering
- Permits
- Equipment costs for sign construction
- Other sign erection/installation costs

Direct Costs = \$20.00 per sf

Indirect Costs (overhead or burden) attributable to construction.

\$/S.F. of Display Area

Items to be considered:

- Shop overhead
- Insurance
- Salaries
- General office expense
- Utilities (not including sign illumination)
- Taxes
- Business licenses
- Site procurement
- Management
- Bad debts, interest and other expenses normal to sign construction
- Profit (A sign fabricator or builder's profit is an appropriate item reflected in the cost of a sign and, therefore, should be included in the development of sign cost schedules.)

Indirect Costs = \$10.00 per sf

Adjustments

Illumination, including power run-in
Steel support
Height
Multiple face
Other appropriate adjustments

Cost of Adjustments = \$5.00 per sf (based on two faced sign)
\$20 + 10 + 5 = \$35 per sf x 1,000 sf = \$35,000

Answer: Sign may be repaired because \$4,000 is less than 50% of \$35,000.

Scenario 2: If CDOT alerts owner that sign is obsolete, CDOT will determine obsolescence based on the analysis in Scenario 1.

Scenario 3: If a nonconforming sign is in disrepair and the owner wants to repair it.

- Sign may be repaired (customary and reasonable repair and maintenance), but it must remain substantially the same as it was when it became nonconforming, and may only be repaired for half of its replacement cost in any given calendar year. 43-1-413(3), and Rules.
- Examples of reasonable and customary repair: CDOT analyzes this as: the posts and supports constitute 50%, the panel where the advertising is located constitutes 50%. So

the owner can replace the structure's posts one year and the panel face another year. Reasonable and customary repair does not include a change in the advertising message or the design. 43-1.413(3) C.R.S. So it is permissible to change the advertising message any time and this is not considered reasonable and customary repair.

- If the damage exceeds 50% of the replacement cost, it is obsolete and may not be repaired.
- **Owner must notify CDOT before doing reasonable and customary repair or maintenance. If owner fails to notify, it is possible to repair beyond the 50% permitted under the law.** An owner who exceeds reasonable and customary repair or maintenance loses the ability to retain the permit; the sign becomes illegal. We added to rules that CDOT must be notified before repairs are made to a nonconforming sign.



MEMORANDUM

State Oversight of On-Premise Advertising

From: Mary Frances Nevans

To: Outdoor Advertising Rules File and Manual

Date: September 16, 2014

Legal References:

23 USC 131(c)(2) and (j)	23 C.F.R. 750.704(a)	23 C.F.R. 750.105
23 C.F.R. 750.108	23 C.F.R. 750.709(d)	§ 43-1-403(14), C.R.S.
§ 43-1-407, C.R.S.	§ 43-1-415(1), C.R.S.	
FHWA website: http://www.fhwa.dot.gov/real_estate/oac/oacprog.cfm#ONPROP		

Summary: Colorado is a Bonus State¹ and as such the Colorado Department of Transportation (“CDOT”) is authorized to regulate, but not permit “On-Premise” signs within Bonus Areas. This authority pertains to On-Premise Signs in the Bonus Area and outside of 50 feet of the advertised activity.

Legal Analysis:

This memorandum seeks to provide guidance to inspectors charged with monitoring outdoor advertising devices within CDOT’s jurisdiction. It is also intended to provide guidance to lawyers and others who wish to understand the basis for the Outdoor Advertising Rules. The

¹ The following states signed agreements to be Bonus States: California, Maine, Pennsylvania, Colorado, Maryland, Rhode Island, Connecticut, Nebraska, Vermont, Delaware, New Hampshire, Virginia, Georgia, New Jersey, Washington, Hawaii, New York, West Virginia, Illinois, North Dakota, Wisconsin, Iowa, Ohio, Kentucky, and Oregon. Iowa has allegedly paid the FHWA to not participate as a Bonus State any longer.

federal law is not clear in the area of On-Premise signs and the state’s requirements regarding regulation. This is made more complex for Bonus states. It is CDOT’s intent to fulfill its legal obligations under the state and federal law. It is not CDOT’s intent to “overregulate” or extend its authority beyond what it is mandated by law to do. This is particularly important given limited staff and resources.

Colorado Revised Statutes

Colorado’s Roadside Advertising Act, § 43-1-401, C.R.S. is the enabling statute for the federal Highway Beautification Act, 23 U.S.C. 131 and subsequent amendments and regulations.

Definition. § 43-1-403(14), C.R.S. defines “On-Premise Advertising Device”² as:

(a) 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; or

(b) An advertising device located within a comprehensive development that advertises any activity conducted in the comprehensive development, so long as the placement of the advertising device does not cause a reduction of federal aid highway moneys pursuant to 23 U.S.C. sec 131.

Rule-Making Authority. The Department’s authority to promulgate rules regarding On-Premise signs is found in state and federal law. § 43-1-415(1), C.R.S., requires the Department to “administer and enforce provisions of part 4 and promulgate and enforce rules . . . including but not limited to . . . On-Premise advertising devices.” *See Pigg v. State Dep’t of Highways*, 746 P.2d 961, 966 (Colo. 1987)(holding that the Department is responsible for adopting and enforcing rules and regulations governing On-Premise advertising devices). The regulations promulgated under the Beautification Act in turn require states to establish criteria, either through statutes or through administrative regulations, for assessing whether particular classes of signs satisfy the “On-Premise” exception. *Pigg*, 746 P.2d at 968. 23 C.F.R. 750.705(h) mandates that the State “develop laws, regulations, and procedures to accomplish the requirements of 23 C.F.R. 750.705.”

However, § 43-1-407, C.R.S. provides that On-Premise signs are not within the categories of signs requiring a CDOT-issued permit in order to be erected and maintained. Therefore, under Colorado law, the Department is charged with promulgating and enforcing rules concerning On-Premise Advertising Devices, but may not issue permits for them. The extent of CDOT’s regulation is to ensure that On-Premise advertising devices are not illegal and that they conform with state and federal law.

The State’s Requirements under Federal Law

A Bonus State’s authority over On-Premise signs is found in 23 C.F.R. 750.704(a):

² Note that the language used in the Colorado statute is “advertising device” not “sign.”

(a) 23 U.S.C. 131 provides that signs adjacent to the Interstate and Federal-aid Primary Systems which are visible from the main-travelled 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, shall be limited to the following:

[. . .]

(2) Signs advertising the sale or lease of property upon which they are located;

(3) Signs advertising activities conducted on the property on which they are located;

[. . .]

23 C.F.R. 750.101(2) states the purpose of regulation:

It is a national policy that the erection and maintenance of outdoor advertising signs, displays, or devices within 660 feet of the edge of the right-of-way and visible from the main-traveled way of all portions of the Interstate System constructed upon any part of right-of-way, the entire width of which is acquired subsequent to July 1, 1956, should be regulated, consistent with national standards to be prepared and promulgated by the Secretary of Transportation.

Further, 23 C.F.R. 750.705 requires the States, as part of “effective control” to:

(g) Establish criteria for determining which signs have been erected with the purpose of their message being read from the main-traveled way of an Interstate or primary highway, except where State law makes such criteria unnecessary. Where a sign is erected with the purpose of its message being read from two or more highways, one or more of which is a controlled highway, the more stringent of applicable control requirements apply.

This section also excludes sale or lease signs and signs advertising activities conducted on the property from the requirements of “effective control by the state in subsection (a)(prohibiting the erection of new signs except those enumerated in 750.704). This language is also found at 23 C.F.R. 750.709(d)(stating that signs are exempt from control under 23 U.S.C. 131 if they solely advertising the sale or lease of the property on which they are located; or advertise activities conducted on the property on which they are located).

These provisions are trumped by other sections included herein which require Bonus States to oversee these categories of signs. Guidance on this oversight is provided in 23 C.F.R. 750.105 which concerns signs that may be erected or maintained in protected areas:

Class 2 - On-Premise signs. Signs not prohibited by State law which are consistent with the applicable provisions of this section and Sec. 750.108 and which advertise the sale or lease of, or activities being conducted upon, the real property where the signs are located.

Not more than one such sign advertising the sale or lease of the same property may be permitted under this class in such manner as to be visible to traffic proceeding in any one direction on any one Interstate Highway.

Not more than one such sign, visible to traffic proceeding in any one direction on any one Interstate Highway and advertising activities being conducted upon the real property where the sign is located, may be permitted under this class more than 50 feet from the advertised activity.

(b) A Class 2 or 3 sign, except a Class 2 sign not more than 50 feet from the advertised activity,³ that displays any trade name which refers to or identifies any service rendered or product sold, used, or otherwise handled more than 12 air miles from such sign may not be permitted unless the name of the advertised activity which is within 12 air miles of such sign is displayed as conspicuously as such trade name.

(c) Only information about public places operated by Federal, State, or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation and places for camping, lodging, eating, and vehicle service and repair is deemed to be in the specific interest of the traveling public. For the purposes of the standards in this part, a trade name is deemed to be information in the specific interest of the traveling public only if it identifies or characterizes such a place or identifies vehicle service, equipment, parts, accessories, fuels, oils, or lubricants being offered for sale at such a place. Signs displaying any other trade name may not be permitted under Class 4.

(d) Notwithstanding the provisions of paragraph (b) of this section, Class 2 or Class 3 signs which also qualify as Class 4 signs may display trade names in accordance with the provisions of paragraph (c) of this section.

23 C.F.R. 750.108 provides that no Class 2 signs may be permitted to be erected or maintained in any manner inconsistent with certain regulations. These restrictions include: signs attempting to direct the movement of traffic; signs pointing the driver of a vehicle from having an unobstructed view of official signs and approaching or merging traffic; signs illuminated by flashing, intermittent or moving lights; signs with unshielded lighting; signs with moving or animated parts, and; signs upon trees or painted upon trees or other natural features. 23 C.F.R. 750.108(a) through (f).

Importantly, 23 CFR 750.108 provides size restrictions for On-Premise signs: “(g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conduct upon, the real property where the sign is located.”⁴

³ This important provision is the basis for the state’s exclusion from regulation of signs within 50 feet of the advertised activity.

⁴ This provision supports the state’s exclusion from regulation of signs within 50 feet of the advertised activity.

While this provision requires that Bonus States regulate On-Premise signs, it does not allow for the state to permit them. Section (d) further requires that the state's rules contain criteria for determining exemptions, which may include:

- (1) A property test for determining whether a sign is located on the same property as the activity or property advertised; and
- (2) A purpose test for determining whether a sign has as its sole purpose the identification of the activity located on the property or its products or services, or the sale or lease of the property on which the sign is located.
- (3) The criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as "on-property" signs, such as signs on narrow strips of lawn contiguous to the advertised activity which the purpose is clearly to circumvent 23 U.S.C. 131.

23 C.F.R. 750.108 provides further guidance on restrictions that pertain to Class 2 signs:

[They] may not be permitted to be erected or maintained in any manner inconsistent with the following:

- (a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.
- (b) No sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
- (c) No sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.
- (d) No lighting may be permitted 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 Interstate System, or 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.
- (e) No sign may be permitted which moves or has any animated or moving parts.
- (f) No sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (g) No sign may be permitted to exceed 20 feet in length, width or height, or 150 square feet in area, including border and trim but excluding supports, except Class 2 signs not more than 50 feet from, and advertising activities being conducted upon, the real property where the sign is located.

Further Guidance.

The FHWA provides the following guidance on its website regarding On-Premise Signs.

- On-Premise Signs have no size or spacing limitations;

- On-property signs advertise goods or services offered by business enterprises on the property where the sign is located;
- In the Bonus States, there are size, lighting, and spacing controls for such signs along the Interstate. These States may now allow the installation of On-Premise electronic variable message signs as the result of a Federal legislative change in 1978. Such signs had been previously prohibited in Bonus States.⁵
- Signs are exempt from control if they solely advertise activities conducted on the property on which they are located. However, sufficient flexibility is provided in the Federal regulations for the individual States to provide for the differences that exist in State laws with respect to the critical term, "property" and further to provide for differing State desires with respect to criteria. The intent of the Federal regulations is to provide a broad general requirement for on-property criteria. It would be advantageous for the States to develop a property test and a purpose test.
- State laws or regulations are to contain criteria for determining exemptions. The only limitation imposed is that the criteria must be sufficiently specific to curb attempts to improperly qualify outdoor advertising as on-property signs, such as signs on narrow strips of land contiguous to the advertised activity when the purpose is clearly to circumvent 23 U.S.C. 131.
- States are to develop regulations to determine which signs are indeed on-property signs and preclude the improper qualification of signs that are not on-property. Examples of such regulations include:
 - a. A property test and a purpose test.
 - b. A test to preclude signs located on narrow strips of land contiguous to the advertised activity qualifying as an On-Premise sign.
- Suggested factors for consideration include: the effect of leases or easement in the property test, what should be considered in determining when the purpose is clearly to circumvent 23 U.S.C. 131, intervening land uses separating the sign from the activity, whether the activity advertised is visible from the controlled highway, and a rational relationship between the site where the activity is advertised and that part of the property on which the activity takes place. The criteria should identify how large and/or complicated holdings will be treated such as multiple uses of property under a single ownership.

Conclusion: Colorado is a Bonus State; therefore, the size, lighting, and spacing requirements of the Federal State Agreement control On-Premise signs in Bonus Areas. CDOT is required by state law to include in its Rules guidance on CDOT's oversight of On-Premise Signs. It is

⁵ 23 U.S.C. 131(j) states: "permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder."

required by federal law to include in the rules a “property test” and a “purpose test” and follow the guidance set forth in the federal regulations. CDOT’s existing rules regarding On-Premise Signs dating from 1983 do not provide much guidance, but were upheld in the Colorado Supreme Court *Pigg* case.

Appendix

CDOT’s rules currently in effect date from 1983 and contain the following language concerning On-Premise signs. This section is provided as an appendix to this memorandum to provide information on the current state of regulation in Colorado, which has been in place since the rules went into effect. While the rules are divided into bonus area and non-bonus area, there is very little difference between the two sections. Moreover, they are difficult to understand and have unnecessary internal references. Colorado’s current Governor has issued executive orders requiring agencies to simplify the language in rules.

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 X)

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.

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.

How to Determine a Kerr or Cotton Area

The 1958 Bonus Act (from Wikipedia)

In 1958, Congress passed the first outdoor advertising control legislation commonly known as the "Bonus Act", PL 85-381. It was repealed and replaced by the Highway Beautification Act of 1965, 23 U.S.C. 131 (j). Its provisions still exist by reason of agreements with the states.

The Bonus Act provided an incentive to states to control outdoor advertising within 660 feet (200 m) of the Interstate highway system. States which volunteered for the program would receive a bonus of one-half of one percent of the Federal highway construction costs on segments of Interstate highways controlling outdoor advertising.

Bonus Act Amendments

Two amendments were adopted which allowed outdoor advertising along portions of Interstate highways. The first amendment was known as the "Cotton Amendment", which exempted any areas adjacent to part of a right-of-way, to July 1, 1956. This allowed billboards in areas adjacent to interchanges, overpasses, and along roads that ran parallel to the interstate

The second, known as the "Kerr Amendment", allowed outdoor advertising in commercial and industrial zones. Incorporated municipal boundaries were frozen as of September 21, 1959 (the date of the amendment). Another feature of the Kerr Amendment was that outside city limits, signs were permitted only in commercial or industrial zones as of September 21, 1959. (In effect the zones were frozen. Inside city boundaries, zoning was not frozen for purposes of outdoor advertising control.)

Bonus Act Sign Compensation

The Bonus Act provided that states could either remove existing signs under the police power or under the power of eminent domain by paying just compensation. If the state chose to pay compensation the Federal government provided 90 percent as the federal match for Interstates.

States Enacting Bonus Act Provisions

The following 25 states initially enacted laws to implement the "Bonus" program:

California, Maine, Pennsylvania, Colorado, Maryland, Rhode Island, Connecticut, Nebraska, Vermont, Delaware, New Hampshire, Virginia, Georgia, New Jersey, Washington, Hawaii, New York, West Virginia, Illinois, North Dakota, Wisconsin, Iowa, Ohio, Kentucky, and Oregon.

Two states, Georgia and North Dakota, dropped the bonus program; Georgia by court decision and North Dakota by legislation.

Cotton Areas.

1. Envision a map that shows all the areas that either a State, City, County, or political subdivision have acquired land for public right-of-way purposes prior to July 1, 1956 by any means (from definition of acquired for right-of-way and Bonus areas).
2. Take into consideration that the road may no longer exist or has never been built, only that the land was acquired for right-of-way purposes for a public road and it was still considered that way on July 1, 1956.
3. Once you have created that "map" of the existing right-of-way on July 1, 1956, you then can "overlay" that map on a map of the Interstate right-of-way system.
4. Any areas that overlap are Cotton areas.
5. To measure a Cotton area you need to start at one end of where the Interstate right-of-way overlays the old roadway right-of-way and continue to the other end where the Interstate right-of-way no longer overlaps the old right-of-way.
6. From the beginning and ending points go out 90 degrees from the Interstate right-of-way to the end of the control area (660' inside an urban area and further if outside an urban area if a sign is intended to be viewed from the Interstate).

Kerr Areas.

1. Envision creating two maps. First, imagine all the boundaries of incorporated municipalities, as those boundaries existed on September 21, 1959 on a map.
2. Overlay a map of the Interstate system on that boundary map. Any place where the Interstate right-of-way traverses one of those 1959 boundaries, a potential Kerr area exists (taking into consideration the need to be zoned commercial or industrial and is under municipal regulation and control).
3. The second part of a Kerr area is easy to understand, but hard for states to develop as a comprehensive project.
4. One has to create a map of where all the land uses as of September 21, 1959 were clearly established by state law as industrial or commercial.
5. Overlay a map of the Interstate system onto this map and anywhere the Interstate traverses these areas a potential Kerr area exists.
6. Any area where any of these three "maps" don't overlay the Interstate right-of-way is where a Bonus area exists.

Sign Descriptions

These sign descriptions are from the FHWA website referencing Outdoor Advertising Association of America website and from The Signage Sourcebook published by the Signage Foundation for Communication Excellence, Inc., first edition, October, 2003.

Please see the definitions in Rule 1.00 of the Rules Governing Outdoor Advertising in Colorado, 2 CCR 601-3. These sign descriptions are intended to provide guidance on terms standard in the industry. They are not legal definitions, whereas the definitions in Rule 1.00 of the Rules are binding on Colorado as legal definitions. If there is a conflict between the Rules and these definitions, the Rule definitions shall govern.

Backlight Unit (Backlit) - Advertising structures which house illumination in a box to throw light through translucent advertising printed on plastic or heavy-duty paper for higher visibility especially at night.

Billboard - Large format advertising displays intended for viewing from extended distances, generally more than 50 square feet. Billboard displays include, but not limited to: 30-sheet posters, 8-sheet posters, vinyl-wrapped posters, bulletins, wall murals and stadium/arena signage.

Bulletin - The largest standard format of outdoor media, the most common size is 14' high x 48' wide. Design copy is most commonly reproduced on vinyl, and then wrapped around the surface of a bulletin structure. Design copy can also be painted directly onto the surface of a bulletin or printed on paper and applied. Bulletins are sold either as permanent displays or in rotary packages.

Cutouts; Extensions; Embellishments - Temporary add-ons to the structure (usually bulletins) that extend beyond the standard structure area to command greater attention to the message. Can include letters, packages, 3-D elements, fiber optics, etc. These are usually comprised of creative copy that extend outside the traditional rectangle.

Double-Faced Sign - A sign that may have two parallel faces. See "V-Type Sign"

Fascia Sign - A building mounted sign.

Mobile Billboard - A truck or trailer equipped with one or more poster panel units. The unit can either be parked at specified venues or driven around designated localities.

Paint (Permanent) Bulletins - 14 feet by 48 feet -These signs are large and quite expensive to build. They are usually found along the Interstate system and are typically supported by a single monopole. Same as "billboard" or "bulletin"

Poster Panel - An advertising structure on which standardized posters are displayed.

"8 Sheet" Posters - These signs are usually only found on secondary arterial highways and in urban areas. 8 sheet posters are targeted primarily at automotive travelers and pedestrians. Also known as "junior posters".

"30 Sheet" Posters - Primarily found in commercial and industrial areas on secondary arterial roads and are primarily aimed toward the automotive traveler. Overall signboard surface is approximately 12 by 24 feet, with an advertising image of 10.5 feet by 21 feet.

Wrapped Square Posters or Premiere Square - These signs are 24.5 feet by 24.5 feet in size and display vinyl advertising copy. They may be found in areas similar to those that use standard 30 sheets and "wrapped" 30 sheets.

Wrapped "30 sheet" Posters or Premiere Panel - These signs are the same size as the traditional "30 sheet" poster, but they maximize copy size by taking the message surface out to the very perimeter edge of the structure. Overall copy size is approximately 12 by 24 feet.

Spectaculars - Very large signs; spectaculars have no standard dimension. Signs are custom built, frequently incorporate motion and/or fiber optic technology and 3-D features. These signs are typically used in areas of mass consumer exposure, such as Times Square or the Las Vegas Strip.

Stacked Panels (Decked Panels) - Two advertising panels built vertically, one above the other, and facing the same direction.

Street Furniture - Advertising displays, many that provide a public amenity, positioned at close proximity to pedestrians for eye-level viewing or at a curbside to impact vehicular traffic. Street furniture displays include, but are not limited to: transit shelters, newsstands/news racks, kiosks, shopping mall panels, convenience store panels and in-store signage.

Taxi Displays (tops, trunk and interior displays & exterior wraps), truck side displays (sides, tails & headers) and/or vehicle wraps (cars, vans & SUVs)

Trim (Molding) - A frame of metal, fiberglass, plastic or wood that surrounds the surface of an outdoor advertising structure.

Tri-Vision - A painted display embellishment, which, through use of triangular louver construction, permits the display of three different copy, messages in a pre-determined sequence. (Also called Multi-Vision).

V-Type Sign - An off-premise sign structure that consists of multiple sign facings placed at angles to each other, oriented in different directions.

Wall Scapes - These signs are murals that are typically painted onto the side of a building or other massive structure. In certain applications, vinyl advertising copy may be applied to or suspended from a wall. These signs may be huge vinyl signs draped down or wrapped

around buildings, suspended from construction scaffolding, or other supporting framework. These signs are sometimes referred to as "building warps".

Wall Mural - An advertising display applied directly onto the exterior surface of a building. Painting directly onto the surface is the most common application method; however, a painted or printed vinyl substrate can also be applied to a wall surface, depending on the location.

Wall Sign - A building-mounted sign either attached to or displayed or painted on an exterior wall in a manner parallel with the wall surface, and not projecting more than 1 inch from such surface. (See fascia sign.)

Frequently Asked Questions



CDOT Outdoor Advertising Program

Frequently Asked Questions

Note: The CDOT Rules Governing Outdoor Advertising in Colorado constitute law and are the authoritative guidance and should be read first. These FAQ are supplemental to the rules, and do not have the effect of law.

ADVERTISING DEVICES IN CDOT ROW

- CDOT ROW may not be used for Advertising Devices. Under § 43-1-417(3)(a), C.R.S., “...no person other than the department without written approval of the department shall erect or maintain any advertising device located either wholly or partly within the right-of-way of any state highway that is a part of the state highway system, including streets within cities, cities and counties, and incorporated towns. All advertising devices so located are hereby declared to be public nuisances, and any law enforcement officer or peace officer in the state of Colorado or employee of the department is hereby authorized and directed to remove the same without notice.”
- Signs without specific written permission are subject to possible sanctions. A CDOT employee should advise the Region Advertising Inspector that he or she has identified an illegal sign. Removed signs should be safely stored at the nearest CDOT Region Maintenance Facility for a period of not less than thirty (30) days. Owners wishing to recover such illegal signs will be required to fill out CDOT Form 1343 acknowledging receipt of their illegal sign and stating they will not place any illegal signs in the future.

APPRAISAL AND VALUATION OF DAMAGED OR DESTROYED ADVERTISING DEVICE

- If a situation arises with an Advertising Sign that requires an appraisal, please see the steps set forth in the rules, and contact the Right-of-Way manager in the region where the sign is located to obtain expert assistance on the sign’s appraisal.

BANNERS AND DECORATIONS

- Banner and decorations and temporary signing for events only by nonprofit organizations or local agencies over and within State highway ROW that is not an interstate highway, freeway or expressway may be authorized with Special Use Permit CDOT Form No. 1283.
- Neither banners or decorations, or permanent overhead signs or arches may be placed or suspended over, attached to, or within any state highway structure or facility, including any interstate, freeway or expressway ROW.
- Temporary and permanent signs placed within state highway ROW without specific written permission from the Department are declared to be public nuisances pursuant to §43-1-417(3)(a), C.R.S., and are not allowed.

- Annual or biennial permits for non-decorative banners at specific locations are issued to a local jurisdiction or a nonprofit organization sponsoring an event that has been approved by the local jurisdiction.
- The local jurisdiction then authorizes each banner installation, notifies the Department, and provides traffic control. Banners displaying private advertisements are not allowed.

Conditions and Restrictions for Installation of Banners in State Highway ROW for Non-Decorative Banners

- A Non-Decorative Banner is a banner used for the description of an event hosted by a nonprofit or local jurisdiction.
- The following restrictions are applicable to all banner permits and annual/biennial permits:
 - The event must be approved by the local jurisdiction(s) where the banner is located.
 - Display is allowed only within the community that is staging the event, or immediately adjacent to the event location.
 - The banner must be made of substantial material, such as cloth, canvas, or plastic/vinyl.
 - The Region Traffic Engineer shall determine the maximum number of banners allowed and their specific location(s).
 - Rope shall be without knots.
 - Banners shall not contain private advertising whether in trademarked text or logo format, however, brief text, and/or logos identifying the applicant's local agency (e.g. city or county only) are allowed.
 - Telephone number, address, website URL and e-mail address shall not be displayed on any banner within the State highway ROW.
 - Authorized banners and unlighted decorations over the roadway must have a vertical clearance of at least eighteen (18) feet and lighted decorations over the roadway must have a vertical clearance of at least twenty-four (24) feet and be suspended securely from permanent structures or poles.
 - No temporary supports are allowed and use of state structures or facilities for purposes of suspension or affixing banners and decorations is prohibited.
 - Suspension or installation of banners is prohibited on state-owned traffic signal poles or other State-owned structures or facilities.
 - Local police may provide traffic control while the banner is being installed or removed.
 - The display may be allowed two weeks before the event and may remain in place for the duration of the event; however, the total display period should not exceed six weeks.

Conditions and Restrictions for Installation of Banners in State Highway ROW for Decorative Banners

- **Decorative Banner** permits are issued by local jurisdictions for beautification and/or enhancement of their local streets. One single banner may be hung on streetlight poles with one luminaire. Such banners shall not be larger than three (3) feet wide and eight (8) feet long, and may be mounted on the backside of the streetlight pole with the top of the banner at a height of approximately eighteen (18) feet. The bottom of all banners shall not be less than twelve feet above the ground and shall be attached to the streetlight pole. As a minimum, decorative banners shall:
 - Be used exclusively on conventional highways (excluding interstates, freeways and expressways).
 - Not contain advertising whether in text or logo format. However, non-trademarked decorative text or brief text, and/or logos identifying the applicant local agencies, (e.g. cities and counties only) are allowed.
 - May remain in place for periods up to two years—the normal biennial permit duration, however, at the end of the two years, the local agency may reapply.
 - Be applied for by the local jurisdiction.

- Holiday decorations are permitted only on conventional highways—they are not allowed adjacent to interstate highways, freeways or expressways. Decorations attached to vertical structures (other than State-owned facilities) such as power, telephone, or light poles are not to project beyond the front face of the curb line and shall be at least fourteen (14) feet above the sidewalk. Decorations attached to vertical structures that project beyond the curb line or cross the highway shall have a minimum vertical clearance of eighteen (18) feet above the highway pavement at curb line. Decorations shall not be attached to State-owned facilities. Decorative red, yellow or green lights shall not be placed where it could interfere with the driver's perception of traffic signals.

BUS BENCHES AND BUS SHELTERS ADVERTISING

Does CDOT Permit Advertising on Bus Benches or Bus Shelters?

The statute requires CDOT to oversee all advertising on bus benches and bus shelters located either within the ROW of any state highway or on land adjacent to or visible from the ROW of any state highway.

- If not controlled by a local agency, CDOT issues the permit.
- If controlled by a local agency, CDOT has no choice other than to accept the local permit as a state-approved permit as long as it:
 - (1) Does not restrict pedestrian traffic; and
 - (2) Is not a safety hazard to the motoring public.

Note that the statute governing advertising on bus benches and bus shelters, 43-1-407(2)(a)(I), C.R.S. prevents CDOT from imposing any additional requirements or more strict requirements for advertising device permits on bus benches or bus shelters than those imposed by a local governing body unless it is for one of the two reasons stated above. Please see Rule 2.10.

CALIBRATION OF EQUIPMENT TO MEASURE CEVMS

CDOT is required to keep its measurement equipment calibrated for accurate readings. The following service is one option to calibrate measurement equipment: <http://www.globalspec.com/local/2704/CO>

CONTROLLED ROUTE

- Why Did CDOT Use the Words Controlled Route in the Rules? In updating the 1983 rules, CDOT sought to make the rules as user-friendly as possible. Given the complex references to roadways, interstates, and secondary and primary roads in the federal and state law, CDOT sought to use a term which provided clear guidance as to what was within CDOT's jurisdiction in the context of outdoor advertising. "Controlled Route" is defined in Rule 1.10 as "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."
- The authority for this definition is located in: Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102-240, December 18, 1991, and additional roads included as a result of Moving Ahead for Progress in the 21st Century (MAP-21), Pub.L. 112-141, July 6, 2012, 23 U.S.C.A. § 103].
- A Map of the Controlled Routes is included in the Outdoor Advertising Manual

Changeable Electronic Variable Message Signs (CEVMS)

See 2 CCR 601-3, Rule 12.00, for the full requirements of CEVMS signs.

CUSTOMARY USE

What is customary use?

“Customary use” is a term used in the federal and state law. It means that when we are trying to determine whether an area is zoned commercial or industrial, we look first to see if the area has that zoning in place. It is important to note that under Rule 1.33, definition of “zoned for commercial or industrial uses” the evaluation does not depend on how the area is labeled. This definition is exactly the same as the federal definition found in 23 C.F.R. 750.703. This is particularly important today when mixed use zoning is more and more common. So customary use is not subjective evaluation of an area to determine whether it is residential or not. It is one factor to consider when determining whether an area has the proper zoning to allow a sign to be erected.

23 U.S.C. 131(d) states that in order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with **customary use** is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary.

Federal Authority: § 750.708(a) Acceptance of state zoning. 23 U.S.C. 131(d) provide that signs “may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas . . . which are zoned industrial or commercial under authority of State law.” Section 131(d) further provides, “The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act.”

(b) State and local zoning actions must be taken pursuant to the State's zoning enabling statute or constitutional authority and in accordance therewith. Action which is not a part of comprehensive zoning and is created primarily to permit outdoor advertising structures, is not recognized as zoning for outdoor advertising control purposes.

(c) Where a unit of government has not zoned in accordance with statutory authority or is not authorized to zone, the definition of an unzoned commercial or industrial area in the State–Federal agreement will apply within that political subdivision or area.

(d) A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising control purposes.

Authority: Federal State Agreements. *See Rule Review Reference Guide*, § 43-1-404(1)(d) and (e) C.R.S. and Outdoor Advertising Rules. (“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).

FLAGS, U.S. and Colorado

U.S. flags and Colorado flags may be placed within, State highway ROW. Encroachment permits are not required within city corporate boundaries; however, the Department should approve the method of installation and maintenance. Within unincorporated areas, no-fee permits are issued for such flag installations after any needed traffic and maintenance reviews are completed. Applicants usually are local jurisdictions and civic organizations, but individuals may make applications for flags to be displayed within the State highway ROW immediately fronting their property.

HEARINGS See Rule 5.00

Does CDOT Need to Have Hearings Conducted by an Administrative Law Judge? Yes.
Can it hold hearing in-house? No.

24-4-105(3) Colorado Revised Statutes provides CDOT with the ability to hold an administrative hearing in-house or use the services of an ALJ. If CDOT were to hold the hearing in house, the hearing must not be presided over by anyone in a supervisory role to the program staff. 24-4-106(6) Colorado Revised Statutes. Also, given the complexity and formality of the hearing process, CDOT does not have the legal staff to meet the requirements of the APA for a formal hearing process. Also, it should be noted that unlike the Access Program, where a hearing may be held in-house (but still not presided over by anyone in the supervisory chain) Advertising Devices are not located on CDOT ROW; therefore, the interests are dissimilar to those of the appellants in an access hearing and would constitute a greater level of legal skill.

MAP-21’S IMPACT ON OUTDOOR ADVERTISING IN COLORADO (Source: FHWA Memo: 5.16.2013). MAP-21 Outdoor Advertising Questions and Answers

Question 1: How will the enhanced National Highway System (NHS) under 23 U.S.C. 103, as amended by MAP-21 Section 1104(a), affect a State's responsibility to provide effective control of outdoor advertising?

Answer 1: 23 U.S.C. 103, as amended by MAP-21 Section 1104(a), results in the addition of road segments to the NHS. Because these new segments are now part of the NHS, States will be responsible for effective control of outdoor advertising along these roadways. For additional information on the MAP-21 changes to the NHS, see: <http://www.fhwa.dot.gov/map21/qandas/qanhs.cfm>

Question 2: What is the time frame for MAP-21 implementation?

Answer 2: October 1, 2012 was the effective date for the MAP-21 changes that relate to outdoor advertising control. States are responsible for developing processes, procedures and an implementation plan to demonstrate effective control for the outdoor advertising program in coordination with Federal Highway Administration (FHWA) Division Offices.

Question 3: What roadways are now considered controlled routes for outdoor advertising?

Answer 3: Under 23 U.S.C. 131, outdoor advertising control applies to the Interstate Highway System, the Federal-aid primary system in existence on June 1, 1991, and the NHS. 23 U.S.C. 103, as amended by MAP-21 Section 1104(a), adds new roadways to the NHS and States will be responsible for control of outdoor advertising along these roadways. The NHS, as amended by MAP-21, is composed of approximately 220,000 miles of rural and urban roads serving major population centers, international border crossings, intermodal transportation facilities, and major travel destinations. The NHS, as amended by MAP-21, includes the Interstate Highway System, all principal arterials (including those not previously designated as part of the NHS) and international border crossings on those routes, intermodal connectors (highways that provide motor vehicle access between the NHS and major intermodal transportation facilities), Strategic Highway Network (STRAHNET) (the network of highways important to U.S. strategic defense) and STRAHNET connectors to major military installations. The FHWA has posted maps showing the enhanced NHS at: http://www.fhwa.dot.gov/planning/national_highway_system/nhs_maps/

Question 4: Has the percentage reduction in a State's apportionment changed for States that are not providing effective control of outdoor advertising?

Answer 4: No, the reduction of Federal-aid highway funds for not providing effective control of outdoor advertising remains at 10 percent of the funds that would otherwise be apportioned to the State under 23 U.S.C. 104.

Question 5: How will signs on the new NHS road segments that were in place prior to MAP-21 be classified?

Answer 5: The classification of signs on the road segments added to the NHS as a result of the revisions to 23 U.S.C. 103 by MAP-21 Section 1104(a) must conform to State requirements. Any sign can be classified as legal conforming if it meets all applicable State requirements. A sign could be classified as legal nonconforming if it was in existence as of October 1, 2012, but is located on an additional road segment of the enhanced NHS and does not comply with applicable State requirements. If a sign is classified as legal nonconforming, it is subject to the State's limitation of customary maintenance and substantial change criteria in accordance with 23 CFR 750.707. After October 1, 2012, any sign will be subject to all State requirements for permitting

Question 6: Will States receive additional money for inventory and surveillance of the additional road segments on the revised NHS?

Answer 6: No, States will not receive additional money specifically for these activities. However, MAP-21 Section 1103(a)(13) amends 23 U.S.C. 101(a)(29)(E) to define transportation alternatives as community improvement activities, including inventory, control, or removal of outdoor advertising and funds may be obligated to these projects under 23 U.S.C. 213(a). Although State departments of transportation (State DOT) and Metropolitan Planning Organizations (MPO) are not eligible entities for Transportation Alternative Project (TAP) funds, eligible project sponsors may partner with the State DOT or MPO for projects. TAP projects must be selected through a competitive process in accordance with TAP requirements.

Question 7: What Federal-aid funds may be used for outdoor advertising control purposes?

Answer 7: 23 U.S.C. 131(m) remains in effect, wherein a State may elect to use funds apportioned to it under 23 U.S.C. 104 for removing nonconforming outdoor advertising signs. Additionally, community improvement activities, including inventory, control or removal of outdoor advertising, when carried out as a part of any program or project authorized or funded under Title 23 or as an independent program or project related to surface transportation, are allowed to be funded under the Surface Transportation Program per 23 U.S.C. 133(b)(11)(transportation alternatives), and under TAP as per 23 U.S.C. 213(b) as amended by MAP-21 Section 1122.

MARIJUANA SALES

How Does CDOT Handle Outdoor Advertising for Marijuana Sales?

23 CFR §750.104(a) prohibits signs advertising activities that are illegal under state or federal laws or regulations.”

Technically, since marijuana possession is not legal under federal law, but is legal under Colorado law, these signs would be prohibited; however, given this conflict between state and federal law, federal courts would be unlikely to consider Colorado in violation of the Outdoor Advertising law for an activity that is legal in the state. If a question arises on this issue, please contact the Office of the Attorney General.

NONCONFORMING SIGNS

When Does a Blank Sign Lose Nonconforming Status?

When a sign remains blank for an “established period” it loses its nonconforming status or rights and must be treated as an abandoned or discontinued sign. Blank is defined as “void of advertising matter.” An “available for lease” or similar message that concerns the availability of the sign itself does not constitute advertising matter. A public service message is recognized as being legitimate advertising, as long as it refers to a bona fide public service.

Authority: FHWA Memoranda of March 3, 1975 and January 17, 1977; 23 CFR 750.707. Note however that Rule 12.00 D. 5 requires that if an appeal is pending, a CEVMS must be maintained in a static blank Sign display until the appeal is resolved.

What Does Rules 6.03.2B.1 Mean by “Existing Property Rights” in a Nonconforming Sign?

This means that the sign may not be a paper or cardboard sign or similar message display attached to a tree or other feature. The sign must be owned or leased by someone. [23 C.F.R. 750.707]

ON-PREMISE SIGNS

Does CDOT Regulate On-Premise Outdoor Advertising Devices?

CDOT does not regulate On-Premise signs if they are within 50 feet of the advertised activity. Rule 6.02 provides guidance on how to measure 50 feet.

The federal and state law does give CDOT oversight of On-Premise Signs which are on private property but outside of 50 feet of the advertised activity. CDOT does not permit these signs, but it does have the ability to give notice and assess a penalty under 43-1-417 C.R.S. if the signs are not in compliance with federal, and state law and CDOT’s rules. If CDOT believes there is a violation, the inspector should contact the Office of the Attorney General and Headquarters to discuss it before taking action.

Authority: See Memo on State Oversight of On-Premise Signs in the CDOT Outdoor Advertising Manual. § 43-1-403(14)(a) and (b), and 43-1-421, 43-1-404(1)(d) C.R.S.

Property Identification Signs

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. Signs located on the property upon which the premises are located may direct the traveling public to the closest entrance to the premises. Only one sign visible to traffic proceeding in any one direction is allowed per mile on any single property.

Sale or For Lease Signs

A sign which advertises the property upon which it is erected for sale or lease is limited to a logo and/or trade name, type of real property, address and telephone number of the party offering the property for sale or lease. Only one sign per mile is visible from each direction of travel on the main traveled way is allowed on any one property. These signs must be placed upon the actual property being offered, cannot exceed ninety-six (96) square feet each (including border and trim) and do not require a CDOT permit.

PERMITTING

See Rules Governing Outdoor Advertising in Colorado, and also Permitting section of Outdoor Advertising Manual

- Do Directional Signs Require a Permit? Yes, if they are larger than the dimensions set forth in §43-1-407(1)(b)(II), C.R.S. No if they are not.

POLITICAL SIGNS

May political signs generally be placed on a state highway right-of-way?

No. Political signs may not be placed on a state highway. Federal and state law prohibit signs being placed on state highway rights-of-way unless they are official or directional signs or signs regulated by CDOT under the Manual of Uniform Traffic Control Devices (MUTCD).

Political signs are not permitted in state highway rights -of- way under state statute: 43-1-401 through 43-1-421. This statute is old and poorly written, and it states what signs are permitted in 43-1-404, C.R.S. Political signs are not included in this list and would be considered "illegal." Section 43-1-417 C.R.S. authorizes the removal of illegal signs.

Rule 6.02 B. 6 states that an On-Premise Sign may include religious, social or political commentary erected by the owner or lessee of property.

The federal law that enumerates the list of permitted devices on CDOT controlled roads is found at 23 Code of Federal Regulations 750.105. Political signs are not included in this list.

Section 43-1-416, Colorado Revised Statutes expressly permits a local municipality or county to enact stricter limitations or controls on signage, so reference should be made to the municipal code as well. The basic reason for prohibiting signage on CDOT right-of-way is safety: it is a safety issue for the travelling public to possibly be distracted by signage. Additionally, the federal and state law makes the state transportation department responsible for "highway beautification" and requires that state to oversee the removal of illegal signs.

Who is allowed to remove a political sign placed in CDOT ROW?

Technically, CDOT is responsible for the removal of illegal signs, 43-1-417(3)(a), C.R.S.; however, CDOT does not have a sufficient number of employees to monitor all ROW all the time, so a joint effort with the local entity whose jurisdiction includes the highway is the best option. If the sign is technically within CDOT's jurisdiction, CDOT should remove it. Outside of the jurisdiction and within the county's jurisdiction, the county should remove it.

Ramp Spacing for Signs: What are the requirements for spacing on ramps?

These requirements are based on the Federal State Agreement dated July 9, 1971 section named "Spacing of Signs."

500 feet of Ramp Widening Sign Exclusion in Unincorporated Areas. CDOT prohibits the placement of any off-premise sign within 500 feet of ramp widening along interstates and freeways in unincorporated areas regardless of whether the area is urban or rural. The prohibition and exclusion does not apply if the off-premise sign is located within an incorporated city or town.

Sign Spacing

500 feet Sign Spacing along interstates and freeways. Along interstates and freeways, no sign may be located within 500 feet of another permitted off-premise sign.

300 feet sign spacing along state highways in unincorporated areas. No sign may be placed within 300 feet of another permitted off-premise advertising device along state highways (other than interstates and freeways) in unincorporated areas.

100 feet sign spacing along state highways in incorporated areas. No sign may be placed within 100 feet of another permitted off-premise advertising device along state highways (other than Interstates or freeways) in unincorporated areas.

SHAM ZONING

What is sham zoning?

Sham zoning is where a strip of land is zoned for commercial or industrial use exclusively to erect a billboard. So a strip along a highway or in an otherwise agricultural area could be zoned “commercial or industrial” just so that a sign can be erected.

Sham zoning is based on 23 C.F.R. 750.708(d) which states “A zone in which limited commercial or industrial activities are permitted as an incident to other primary land uses is not considered to be a commercial or industrial zone for outdoor advertising purposes.

SPOT ZONING

What is spot zoning?

Spot zoning is zoning done expressly for the purpose of placing a sign in a certain location.

FHWA Memorandum, Legal Opinion on the FHWA’s Interpretation of 23 CFR § 750.708(b), Acceptance of State Zoning for Purposes of the Highway Beautification Act states:

The term "spot zoning" "commonly refers to the singling out of one lot or other small area for a zoning classification that is different from that accorded similar surrounding land, usually for the benefit of the owner and to the detriment of the community."

Factors to determine whether zoning action is an attempt to circumvent the HBA, the FHWA would look at various factors:

- (1) The expressed reasons for the zoning change;
- (2) The zoning for the surrounding area;
- (3) The actual land uses nearby;
- (4) The existence of plans for commercial or industrial development; the availability of utilities (such as water, electricity, and sewage) in the newly zoned area; and the existence of access roads, or dedicated access, to the newly zoned area.

No one of the above factors alone is determinative. If a combination of them, however, shows that the zoning action is primarily to allow billboards in areas

that have none of the attributes of a commercial or industrial area, the FHWA would not be compelled to accept the zoning action as valid under 23 U.S.C. § 131(d).

VEGETATION CLEARANCE

CDOT is neither required nor obligated to provide visibility for a Outdoor Advertising Control device from the main traveled way of any state highway. Written requests to trim or remove vegetation will be evaluated by the Region Outdoor Advertising Inspector, with assistance from an arbor culturist or other landscaping professional, to determine if the clearance or trimming is necessary for its preservation or for the sole purpose of improving visibility of advertising devices. All vegetation trimming and/or removal will be performed by CDOT personnel or other competent professionals under contract with CDOT. Costs for all such vegetation control shall be paid by Special Use Permit applicant.

Vegetation control within CDOT highway right-of-way shall not be performed by others without specific written CDOT permission and Special Use Permit. Tree removal or vegetation trimming will not be done solely for advertising sign visibility.

Websites on Outdoor Advertising:

A link to the MUTCD: <http://www.coloradodot.info/library/traffic/traffic-manuals-guidelines/fed-state-co-traffic-manuals>

A link to the Federal Highway Administration webpage on outdoor advertising: http://www.fhwa.dot.gov/real_estate/practitioners/oac/oacprog.cfm

A link to Wikipedia on Highway Beautification
Act: http://en.wikipedia.org/wiki/Highway_Beautification_ActPermitting

The intent of developing the Frequently Asked Questions is to continue to add to this document as questions arise. Given the complexity of the law in this area, keeping a record of CDOT's analysis, in some cases working with the Office of the Attorney General, benefits all CDOT employees involved in the Program, and helps make the program consistent throughout the state.

NOTE: ALL REVISIONS OR AMENDMENTS TO THIS MANUAL MUST BE APPROVED PRIOR TO INSERTION BY THE DIRECTOR OF PROJECT SUPPORT AND THE PROJECT DEVELOPMENT BRANCH MANAGER. THE SPECIFIC CHANGE MUST BE NOTED IN THE AMENDMENT HISTORY BELOW. THE PROJECT DEVELOPMENT BRANCH MANAGER WILL SEEK FHWA REVIEW AND APPROVAL ON FUTURE CHANGES TO THE MANUAL.

Date of Approval: _____

Director of Project Development

Amendment History

Section Amended (Page #)	Reason for Amendment	CDOT Staff Sponsoring Amendment	Confirmation that Change Adheres to State/Federal Laws/Rules

