

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R08-350]

PREAMBLE

1. Sections Affected

R12-4-601
R12-4-602
R12-4-605
R12-4-606
R12-4-610
R12-4-611

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statutes: A.R.S. §§ 17-304(B), 17-314, 17-340, 17-452, 41-1003, 41-1023, 41-1033, and 41-1092, et seq.

3. A list of all previous notices appearing in the *Register* addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 4195, November 7, 2008 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Marty Fabritz
Address: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7281
Fax: (623) 236-7299
E-mail: mfabritz@azgfd.gov

5. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

The Arizona Game and Fish Department is proposing to amend its Article 6 rules dealing with rules of practice before the Commission to enact changes developed during a preceding Five-year Rule Review. The review, as required by A.R.S. § 41-1056, established a course of action to amend the rules. Subsequent review of these recommendations evaluated their efficacy in practice and enforcement, resulting in the rulemaking as it is submitted in this Notice. The Department has also revised rule language where necessary to make it consistent with the current requirements for rulemaking language and style.

The Commission is amending R12-4-601, R12-4-610, and R12-4-611 to reflect the new Department headquarters address. The Commission is amending R12-4-602 to remove duplicative language and clarify that written comments submitted by an individual on behalf of a group or organization not containing all required information will be placed in the rulemaking record as the views of the individual submitting the comments and not the views of the group or organization. The Commission is amending R12-4-605 to include additional offenses for which the Commission may revoke, suspend, or deny a license. In addition, the Commission is amending R12-4-606 to provide the Commission more discretion regarding revocation, suspension, and denial of the privilege to take wildlife. The Commission may

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now revoke, suspend, or deny someone's privilege to take wildlife for a period of up to five years for a first conviction, 10 years for a second conviction, and permanently for a third conviction. The amendments to R12-4-605 and R12-4-606 are necessary to reflect recent statutory changes in A.R.S. §§ 17-340 and 17-309(A)(1).

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

For the rulemaking identified above, the Commission's intent in proposing these amendments is to benefit individuals that petition the Arizona Game and Fish Commission for adoption, amendment, or repeal of a rule; individuals seeking review of an existing agency practice or policy that they allege to constitute a rule; the Department; and political subdivisions of this state that submit petitions for the same reasons. In addition, the proposed amendments clarify the process for submitting written comments on proposed rules; standards for revocation, suspension or denial of a license; proceedings for license revocation, suspension, or denial of the right to obtain a license and civil damages; petitioning to close state and federal lands to hunting, fishing, trapping, or operating motor vehicles; and petitioning for a hearing before the Commission when no remedy is in statute, rule or policy. The proposed rulemaking will result in no significant impact to state revenues. The Commission has determined that the benefits of the rulemaking outweigh any costs.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Marty Fabritz
Address: Arizona Game and Fish Department
5000 W. Carefree Hwy.
Phoenix, AZ 85086
Telephone: (623) 236-7281
Fax: (623) 236-7299
E-mail: mfabritz@azgfd.gov

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Written comments will be accepted at the above address for 30 days following publication of this Notice in the *Arizona Administrative Register*. An oral proceeding regarding the proposed rules will be held as follows:

Date: February 6, 2009
Time: 8:00 a.m. to 5:00 p.m.
Location: Best Western Inn Suites
1450 Castle Dome Ave.
Yuma, AZ 85365

The rulemaking record will close at 5:00 p.m. on February 6, 2009.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Any material incorporated by reference and its location in the rules:

None

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

Section

- R12-4-601. Petition for Rule or Review of Practice or Policy
- R12-4-602. Written Comments on Proposed Rules
- R12-4-605. Standards for Revocation, Suspension, or Denial of a License
- R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages
- R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles
- R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

ARTICLE 6. RULES OF PRACTICE BEFORE THE COMMISSION

R12-4-601. Petition for Rule or Review of Practice or Policy

- A. No change
- B. No change
- C. No change
- D. No change
- E. A petitioner shall submit an original and one copy of a petition to the Arizona Game and Fish Department, Director's Office, ~~2221 West Greenway Rd., Phoenix, Arizona 85023~~ 5000 West Carefree Highway, Phoenix, Arizona 85086. The Commission shall render a decision on the petition as required by A.R.S. § 41-1033.
- F. No change
 - 1. No change
 - 2. No change
- G. No change
- H. No change
 - 1. No change
 - 2. No change
 - 3. No change
- I. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- J. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
- K. No change
- L. No change
 - 1. No change
 - 2. No change
 - 3. No change

R12-4-602. Written Comments on Proposed Rules

Any individual may submit written statements, arguments, data, and views on proposed rules that have been filed with the Secretary of State under A.R.S. § 41-1022. An individual who submits written comments to the Commission may voluntarily provide their name and mailing address. To be placed into the rulemaking record and considered by the Commission for a final decision, the individual submitting the written comments shall ensure that they:

- 1. No change
- 2. Indicate, if expressed on behalf of a group or organization, whether the views expressed are the official position of the group or organization, the number of individuals represented ~~are represented~~, types of membership available, and number of Arizona residents in each membership category; Comments that do not include the information in this subsection will be placed in the rulemaking record as the views of the individual submitting the comments and not the views of any group or organization; and
- 3. No change

R12-4-605. Standards for Revocation, Suspension, or Denial of a License

- A. Under A.R.S. § 17-340, the Commission shall hold a hearing and may revoke, suspend, or deny any hunting, fishing, or trapping license for an individual who has been convicted of any of the following offenses:
 - 1. Killing or wounding a big game animal during a closed season, ~~or~~ possessing a big game animal taken during a closed

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season, or unlawfully selling, offering for sale, or unlawfully bartering wildlife. Conviction for possession of a road-kill animal or an animal that was engaged in depredation is not considered "possessing during a closed season" for the purposes of this subsection.

2. No change
3. No change
4. No change
5. No change
6. No change
7. Unlawfully using aircraft to take, assist in taking, harass, chase, drive, locate, or assist in locating wildlife in violation of A.R.S. § 17-309(A)(1).

- B.** No change
1. No change
 - a. No change
 - b. No change
 - c. No change
 2. No change
 - a. No change
 - b. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
- C.** No change

R12-4-606. Proceedings for License Revocation, Suspension, or Denial of Right to Obtain a License, and Civil Damages

- A.** No change
- B.** No change
- C.** If a respondent does not appear for a hearing on the date scheduled, at the time and location noticed, no further opportunity to be heard is provided, unless rehearing or review is granted under R12-4-607. If the respondent does not wish to attend the hearing, the respondent may submit written testimony to the Department before the hearing date designated in the Notice of Hearing required by A.R.S. § ~~17-340(D)~~ 17-340(E). The Commission shall ensure that written testimony received at the time of the hearing is read into the record at the hearing.
- D.** The Commission shall base its decision on the officer's case report, a summary prepared by the Department, a certified copy of the court record, and any testimony presented at the hearing. With the notice of hearing required by A.R.S. § ~~17-340(D)~~ 17-340(E), the Department shall supply the respondent with a copy of each document provided to the Commission for use in reaching a decision.
- E.** No change
1. No change
 2. No change
- F.** A license revoked by the Commission is suspended on the date of the hearing and revoked upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order revoking a license, the license is revoked after all appeals have been completed. A denial of the right to obtain a license is effective for a period ~~not to exceed five years~~, as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.
- G.** A license suspended by the Commission is suspended on the date of the hearing, and suspended upon issuance of the findings of fact, conclusions of law, and order. If a respondent appeals the Commission's order suspending a license, the license is suspended after all appeals have been completed. Under A.R.S. § 17-340(A), a suspension of a license is effective for a period ~~not to exceed five years~~, as determined by the Commission as authorized under A.R.S. § 17-340, beginning on the date of the hearing.

R12-4-610. Petitions for the Closure of State or Federal Lands to Hunting, Fishing, Trapping, or Operation of Motor Vehicles

- A.** No change
- B.** No change
- C.** No change
- D.** ~~The~~ A petitioner shall file ~~an~~ the original and one copy of the petition ~~shall be filed~~ with the Director of the Arizona Game and Fish Department, ~~2221 West Greenway, Phoenix, Arizona 85023~~ 5000 West Carefree Highway, Phoenix, Arizona

85086, not less than 60 calendar days before a scheduled Commission meeting to be placed on the agenda for that meeting. If the Commission receives a petition after that time it will be considered at the next regularly-scheduled open meeting. At any time, the petitioner may withdraw the petition or request delay to a later regularly-scheduled open meeting.

- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - a. No change
 - b. No change
 - c. No change
 - 6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - i. No change
 - ii. No change
 - 7. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - 8. No change
 - a. No change
 - b. No change

R12-4-611. Petition for a Hearing Before the Commission When No Remedy is Provided in Statute, Rule, or Policy

- A. No change
- B. No change
- C. A petitioner shall file the original and one copy of the petition with the Arizona Game and Fish Department, Director's Office, ~~2221 W. Greenway Rd., Phoenix, Arizona 85023~~ 5000 West Carefree Highway, Phoenix, Arizona 85086.
- D. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
- F. No change
- G. No change
- H. No change
 - 1. No change
 - 2. No change
- I. No change
- J. No change
- K. No change
- L. This Section does not apply to the following:
 - 1. A matter related to a license revocation, suspension, denial, or civil assessment; or
 - 2. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION
HIGHWAYS

[R08-358]

PREAMBLE

1. Sections Affected

Rulemaking Action

Article 7	Amend
R17-3-701	Repeal
R17-3-701	New Section
Exhibit 1	Repeal
Exhibit 2	Repeal
Exhibit 3	Repeal
Exhibit 4	Repeal
Exhibit 5	Repeal
Exhibit 6	Repeal
Exhibit 7	Repeal
Exhibit 8	Repeal
Exhibit 9	Repeal
R17-3-701.01	Repeal
R17-3-702	New Section
R17-3-702.01	New Section
R17-3-702.02	New Section
R17-3-702.03	New Section
R17-3-702.04	New Section
R17-3-702.05	New Section
R17-3-702.06	New Section
R17-3-702.07	New Section
R17-3-702.08	New Section
R17-3-702.09	New Section
R17-3-702.10	New Section
R17-3-702.11	New Section
R17-3-702.12	New Section
R17-3-702.13	New Section
R17-3-702.14	New Section
R17-3-702.15	New Section
R17-3-702.16	New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 28-366 and 28-7908

Implementing statute: A.R.S. §§ 28-7901 through 28-7915

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 848, March 21, 2008

Notice of Rulemaking Docket Opening: 14 A.A.R. 2718, June 27, 2008

Notice of Proposed Rulemaking: 14 A.A.R. 2896, July 25, 2008

Notice of Termination of Rulemaking: 14 A.A.R. 4090, October 31, 2008

Notice of Rulemaking Docket Opening: 14 A.A.R. 4195, November 7, 2008 (*in this issue*)

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Janette M. Quiroz, Administrative Rules Analyst

Address: Department of Transportation
206 S. 17th Ave., Mail Drop 176A
Phoenix, AZ 85007

Telephone: (602) 712-6185

Fax: (602) 712-3097
E-mail: jmquiroz@azdot.gov

Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at www.azdot.gov/mvd/MVDRules/rules.asp.

5. An explanation of the rule, including the agency's reasons for initiating the rule:

This rulemaking arises from a Five-year Review Report approved by the Governor's Regulatory Review Council on November 2, 2004; whereby the Department anticipated making the following amendments:

- Transfer existing language to new smaller, individual Sections, which will make future rulemakings more manageable.
- Update any related citations and ensure conformity to Arizona Administrative Procedures Act; Secretary of State, and Governor's Regulatory Review Council rulemaking format and style requirements.
- Remove statutory language, as statute has been renumbered, and placement within administrative rules is not consistent with format and style requirements of the Secretary of State's Office.
- Repeal Exhibits that the Agency has determined not to be clear, concise, or understandable, and which are unnecessary.

This proposed rulemaking is the first of future rulemakings to update and clarify the outdoor advertising administrative rules. The Department continues to analyze specific amendments necessary to exercise effective control over the state's Outdoor Advertising Program, and time-frames for completion.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Agency does not propose to rely nor review any study relevant to this rulemaking.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Department anticipates that there will be an unquantifiable benefit to industry and other stakeholders, as the proposed amendments make the rules more clear, concise, and understandable.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

See item 4

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rulemaking:

Date: December 9, 2008

Time: 1:00 p.m.

Location: 206 S. 17th Ave., Auditorium
Phoenix, AZ 85007

Nature: Oral Proceeding

Close of record: Individuals interested in submitting a comment on this rulemaking may do so in writing, by fax, or e-mail, to the Administrative Rules Analyst listed in item 4, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of legal state holidays. The record on this rulemaking will close at 5:00 p.m. on December 9, 2008.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 3. DEPARTMENT OF TRANSPORTATION

HIGHWAYS

ARTICLE 7. HIGHWAY ENCROACHMENTS AND PERMITS BEAUTIFICATION

Section

- R17-3-701. ~~Outdoor advertising control~~ Definitions
- Exhibit 1. ~~TABLE OF REGULATIONS FOR OUTDOOR ADVERTISING~~ Repealed
- Exhibit 2. ~~Outdoor Advertising Control Zone~~ Repealed
- Exhibit 3. ~~Maximum Area~~ Repealed
- Exhibit 4. ~~Business Area in a County with Comprehensive Zoning Regulations or Unzoned Commercial or Industrial Area~~ Repealed
- Exhibit 5. ~~Business Area at Rural Freeway Interchange~~ Repealed
- Exhibit 6. ~~Outdoor Advertising Prohibited Area at Rural Freeway Interchange~~ Repealed
- Exhibit 7. ~~Restricted~~ Repealed
- Exhibit 8. ~~A Point 800 Feet Beyond the Point of Widening at the Exit From or the Entrance to the Main-Traveled Way to a Freeway~~ Repealed
- Exhibit 9. ~~List of District Offices~~ Repealed
- R17-3-701.01. ~~Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits~~ Repealed
- R17-3-702. ~~Repealed Outdoor Advertising~~
- R17-3-702.01. Permit Application and Fee
- R17-3-702.02. Permit Requirements
- R17-3-702.03. Restrictions on Right-of-Way Use
- R17-3-702.04. Nonconforming Sign
- R17-3-702.05. On-premise Sign
- R17-3-702.06. Municipal Limits
- R17-3-702.07. Proposed Freeway Alignment
- R17-3-702.08. Double-Faced, Back-to-Back, and V-Type Signs
- R17-3-702.09. Requests for Hearings and Appeals
- R17-3-702.10. Directional and Other Official Signs Scope and Application
- R17-3-702.11. Standards for Directional Signs
- R17-3-702.12. Directional Signs Application Process
- R17-3-702.13. Rural Activity Sign
- R17-3-702.14. Public Service Sign
- R17-3-702.15. Multifaced Community Sign
- R17-3-702.16. Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits

ARTICLE 7. HIGHWAY ENCROACHMENTS AND PERMITS BEAUTIFICATION

R17-3-701. ~~Outdoor advertising control~~ Definitions

A. Purpose. The purpose of this subsection is to present the definitions of specialized terms used in describing outdoor advertising signs and matters relating thereto and to present a portion of the Arizona Revised Statutes dealing specifically with the regulation of certain advertising displays.

1. Definition of terms. Terms used in this rule are defined as follows:

- a. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish.
- b. "Re-erection" means the placing of any sign in a vertical position subsequent to its initial erection. Re-erection shall only occur in the event the sign has been damaged by tortious acts, acts of God such as wind, rain, flooding, or in the course of normal maintenance.
- c. "Lease" means an agreement, oral or in writing by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.
- d. "Illegal sign" means one which was erected and/or maintained in violation of the state law.
- e. "On-premise sign" means any sign that meets the following requirements (such signs are not controlled by state statutes):
 - i. Premises. The sign must be located on the same premises as the activity or property advertised.
 - ii. Purpose. The sign must have as its purpose:
 - (1) The identification of the activity, or its products or services, or
 - (2) The sale or lease of the property on which the sign is located, rather than the purpose of general adver-

- tising-
- iii. In the case of an on premise sign advertising an activity, the premises will include all actual land used or occupied for such activity, including its buildings, parking, storage and service areas, streets, driveways and established front, rear, and side yards constituting an integral part of such activity, provided the sign is located on property under the same ownership or lease as the activity. Uses of land which serves no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for signing purposes will not be considered as premises. Generally these will be inexpensive facilities, such as picnic, playgrounds, walking paths, or fences.
 - f. "Off premise sign" means an outdoor advertising sign which advertises an activity, service or product and which is located on premises other than the premises at which such activity or service occurs or product is sold or manufactured.
 - g. "Nonconforming sign" means one which was lawfully erected but which does not comply with the provisions of state law or state laws passed at a later date or which later fails to comply with state law or state regulations due to changed conditions. Illegally erected or maintained signs are not nonconforming signs.
 - h. "Maintain" means to allow to exist, including such activities necessary to keep the sign in good repair, safe condition, and change of copy.
 - i. "Scenic area" means any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.
 - j. "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.
 - k. "Federal or state law" means a federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state or federal agency or a political subdivision of a state pursuant to a federal or state constitution or statute.
 - l. "Scenic overlook or rest area" — 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.
 - m. "Abandoned sign" means a sign for which neither the sign owner nor the landowner claim any responsibility.
 - n. "Double faced sign" means a sign which has two faces facing in the same direction.
 - o. "Back-to-back sign" means a sign which carries faces attached on each side of the structure, being read from opposite directions.
 - p. "V type signs" — signs which are oriented at an angle to each other, the nearest points of which are not more than ten feet apart.
 - q. "Face" means the surface of an outdoor advertising structure on which the design is posted or painted, usually made of galvanized metal sheets, fiberboard, plywood or plastic.
 - r. "Landmark sign" means a sign of historic or artistic significance which existed on October 22, 1965 which may be preserved or maintained as determined by the Director and approved by the Secretary of Transportation.
 - s. "Normal maintenance (nonconforming sign)," is that customary to keep a sign in ordinary repair, upkeep or refurbishing. Such maintenance will not exceed 50% of the appraised value of the sign. Repairs will be allowed for fires, winds, explosions, or other acts of God. Current appraisal schedules will be used in making value determinations. Normal maintenance also includes re-erection at the same location or within a reasonable distance of the original location, not to exceed ten feet.
 - t. "Intended to be read from the main traveled way" is defined by any of the following criteria:
 - i. More than 80% of the average daily traffic (as determined by ADOT traffic counts) viewing the outdoor advertising is traveling in either or both directions along the main traveled way.
 - ii. Message content is of such a nature that it would be only of interest for the traffic using the main traveled way.
 - iii. The sales value of the outdoor advertising is directly attributable to advertising circulation generated by traffic along the main traveled way.
 - u. "Within the view of and directed at the main traveled way" means any sign which is readable from the main-traveled way for more than five seconds traveling at the posted speed limit or for such a time as the whole message can be read whichever is less.
 - v. "Interchange" means a junction of two or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams.
2. State statute regarding outdoor advertising. The following portion from Title 28 of the Arizona Revised Statutes is the authority for and is relevant to the content and intent of this rule. This portion of the A.R.S. is from Title 28, amended effective August 22, 1975. Exhibits 1 through 8 portray the essence of requirements promulgated by these statutes.

**“CHAPTER 16
BEAUTIFICATION OF HIGHWAYS**

ARTICLE 1. REGULATION OF CERTAIN ADVERTISING DISPLAYS

“28-2101. Definitions

In this Article, unless the context otherwise requires:

1. “Business area” means an area outside municipal limits embracing all of the land on the same side of the highway on which one or more commercial or industrial activities are conducted, including all land within one thousand feet measured in any direction from the nearest edge of the actual land used or occupied for such activity, including its parking, storage and service areas, its driveways and its established front, rear and side yards, constituting an integral part of such activity and which is zoned, under authority of law, primarily to permit industrial or commercial activity. However, when one or more commercial or industrial activities are located within one thousand feet of a freeway interchange, the business area shall extend three thousand feet measured in each direction parallel to the freeway from the center line of the crossroad, but shall not extend beyond the limits of the established commercial or industrial zone.
2. “Freeway” means a divided arterial highway on the interstate or primary system with full control of access and with grade separations at intersections.
3. “Information center” means a site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the state and providing other information the transportation board considers desirable.
4. “Interstate system” means that portion of the national system of interstate and defense highways located within this state as may now or hereafter be officially designated by the transportation board and approved by the secretary of transportation pursuant to title 23, United States Code.
5. “Main traveled way” means the portion of a roadway for the movement of vehicles, exclusive of shoulders, on which through traffic is carried. In the case of divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads or parking areas.
6. “Outdoor advertising” means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard or other thing which is designed, intended or used to advertise or inform, the message of which is visible from any place on the main traveled way of the interstate, secondary or primary systems.
7. “Primary system” means that portion of connected main highways located within this state as may now or hereafter be officially designated by the transportation board and approved by the secretary of transportation pursuant to title 23, United States Code.
8. “Safety rest area” means a site established and maintained by or under public supervision or control for the convenience of the traveling public within or adjacent to the right-of-way of the interstate or primary systems.
9. “Secondary system” means that portion of connected highways located within this state as may now or hereafter be officially designated by the transportation board and approved by the secretary of transportation pursuant to title 23, United States Code.
10. “Unzoned commercial or industrial area” means an area not zoned under authority of law in which land use is characteristic of that generally permitted only in areas which are actually zoned commercial or industrial under authority of state law, embracing all of the land on the same side of the highway on which one or more commercial or industrial activities are conducted, including all land within one thousand feet measured in any direction from the nearest edge of the actual land used or occupied by such activity, including its parking, storage and service areas, its driveways and its established front, rear and side yards, constituting an integral part of such activity. As used in this paragraph, “commercial or industrial activities” does not include:
 - (a) Outdoor advertising structures.
 - (b) Agricultural, forestry, grazing, farming and related activities.
 - (c) Transient or temporary activities including but not limited to wayside fresh produce stands.
 - (d) Activities not visible from the main traveled way.
 - (e) Activities conducted in a building principally used as a residence.
 - (f) Railroad tracks and minor sidings, and above ground or underground utility lines.

“28-2102. Outdoor advertising authorized

- A. The following outdoor advertising may be placed or maintained along interstate, secondary and primary systems within six hundred sixty feet of the edge of the right-of-way:
1. Directional or other official signs or notices that are required or authorized by law, including but not limited to, signs pertaining to natural wonders, scenic and historic attractions.
 2. Signs, displays and devices advertising activities conducted on the property upon which they are located.
 3. Signs, displays and devices advertising the sale or lease of property upon which they are located.
 4. Signs, displays and devices lawfully placed after April 1, 1970, in business areas.
 5. Signs, displays and devices lawfully placed after the effective date of this Article in zoned or unzoned commercial or industrial areas inside municipal limits, or after April 1, 1972, in unzoned commercial or industrial areas outside of municipal limits.
 6. Signs, displays and devices lawfully existing on April 1, 1970, which are located in business areas, and in zoned commercial or industrial areas outside of municipal limits.
 7. Signs, displays and devices lawfully existing on the effective date of this Article which are located in zoned or unzoned commercial or industrial areas inside municipal limits, or on April 1, 1972, in unzoned commercial or industrial areas outside of municipal limits.

- B. Outdoor advertising authorized under subsection A, paragraphs 1, 4, and 5 of this Section shall conform with standards contained, and shall bear permits required, in regulations promulgated by the director under the provisions of this Article, except that such authorized outdoor advertising along highways in the secondary system which are not state highways need only bear permits required by the responsible county or municipal authority.
- C. Outdoor advertising authorized under paragraphs 6 and 7, subsection A of this Section need not conform to standards contained, but shall bear permits required, in regulations promulgated by the director under the provisions of this Article, except that such authorized outdoor advertising along highways in the secondary system which are not state highways need only bear permits required by the responsible county or municipal authority.
- D. Signs lawfully in existence on October 22, 1965 which are determined by the director, subject to the approval of the secretary of transportation as provided for by § 131(e) of Title 23 of the United States Code, to be landmark signs, including signs on farm structures or natural surfaces, of historic or artistic significance the preservation of which would be consistent with the purposes of this Article, may be preserved or maintained.

~~“28-2103. Outdoor advertising prohibited~~

- A. No outdoor advertising shall be placed or maintained adjacent to the interstate, secondary or primary systems at the following locations or positions or under any of the following conditions or if it is of the following nature:
 - 1. If within view of, directed at, and intended to be read from the main traveled way of the interstate, primary or secondary systems, ~~excepting outdoor advertising authorized under § 28-2102.~~
 - 2. If visible from the main traveled way and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this Article, or if likely to be mistaken for any such permitted sign, or if intended or likely to be construed as giving warning to traffic, such as by the use of the words “STOP” or “SLOW DOWN.”
 - 3. If within any stream or drainage channel or below the flood water level of any stream or drainage channel where the outdoor advertising might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.
 - 4. If visible from the main traveled way and displaying any red, flashing, blinking, intermittent or moving light or lights likely to be mistaken for a warning or danger signal, excepting that part necessary to give public service information such as time, date, weather, temperature or similar information.
 - 5. If any illumination thereon is of such brilliance and so positioned as to blind or dazzle the vision of travelers on the main traveled way.
 - 6. If existing under a permit as required by this Article and not maintained in a safe condition.
 - 7. If obviously abandoned.
 - 8. If placed in such a manner as to obstruct, or otherwise physically interfere with, an official traffic sign, signal or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging or intersecting traffic.
 - 9. If placed upon trees, or painted or drawn upon rocks or other natural features, excepting signs permitted under § 28-2102, subsection A, paragraph 2.
- B. At interchanges on freeways or interstate highways outside of municipal limits, no outdoor advertising signs, displays or device shall be erected in the area between the crossroad and a point five hundred feet beyond the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

~~“28-2104. Standards for outdoor advertising; directional and other official signs; business areas and unzoned commercial or industrial areas outside municipal limits; zoned or unzoned commercial or industrial areas within municipal limits~~

- A. Direction and other official signs authorized under § 28-2102, subsection (A), paragraph (1), shall comply with regulations which shall be promulgated by the director relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement this Article, which regulations shall not be inconsistent with such national standards as may be promulgated from time to time by the secretary of transportation of the United States pursuant to subdivision (c) of § 131 of Title 23 of the United States Code.
- B. After April 1, 1970, outdoor advertising placed in business areas and after April 1, 1972, in unzoned commercial or industrial areas outside of municipal limits shall comply with the provisions of this Article and the following standards:
 - 1. Size of outdoor advertising shall not exceed one thousand two hundred square feet in area with a maximum vertical facing dimension of twenty five feet and a maximum horizontal facing dimension of sixty feet, including border and trim, and excluding base or apron supports and other structural members. Such size limitations shall apply to each facing of outdoor advertising. The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding three hundred fifty square feet each may be placed in a facing. Back to back or V-type signs may be placed, with the maximum area allowed for each facing.
 - 2. Spacing of outdoor advertising shall be such that it is not placed:
 - (a) Within five hundred feet from other outdoor advertising on the same side of a freeway.
 - (b) Within five hundred feet of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way at a scenic overlook or safety roadside rest area on any portion of a freeway.
 - (c) Within three hundred feet from other outdoor advertising on the same side of any portion of the primary system which is not a freeway.
 - 3. Minimum spacing distances from other outdoor advertising shall not apply to outdoor advertising which is separated by a building or other obstruction in such a manner that only one display located within the minimum distances set forth herein is visible from the highway at any one time. Spacing distances shall be measured along the nearest edge of the pavement to a point directly opposite the outdoor advertising.

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4. Outdoor Advertising authorized under § 28-2102, subsection (A), paragraphs (2) and (3) shall not be counted and measured from in determining compliance with the spacing requirements of this subsection.
- C. After the effective date of this Article, outdoor advertising placed in zoned or unzoned commercial or industrial areas within municipal limits shall comply with the following standards:
 1. The size of outdoor advertising shall not exceed that set forth in subsection (B), paragraph (1) of this Section.
 2. Spacing of outdoor advertising shall be such that it is not placed:
 - (a) Within five hundred feet from other outdoor advertising on the same side of a freeway.
 - (b) Within one hundred feet from other outdoor advertising on the same side of any portion of the primary system which is not a freeway.
 3. It shall have the same standard as subsection (B), paragraph (3) of this Section.
 4. It shall have the same standard as subsection (B), paragraph (4) of this Section.

~~“28-2105. Authority to acquire outdoor advertising and property rights; compensation; removal~~

- A. The director shall acquire by gift, agreement, purchase, exchange, eminent domain or other lawful means, all right, title, leasehold, and interest in any outdoor advertising together with the right of the owner of the real property on which such outdoor advertising is located to erect and maintain such outdoor advertising thereon, when the outdoor advertising is prohibited by this Article. Damages resulting from any taking of property in eminent domain shall be ascertained in the manner provided by law.
- B. If compensation is required by federal law, and if federal participation in such compensation is required by federal law, non-conforming outdoor advertising shall not be required to be removed until federal funds for the federal share of compensation therefor as required by such federal law have been made available to the Department.
- C. When outdoor advertising is placed after the effective date of this Article, contrary to provisions of this Article or the regulations promulgated by the director, or when a permit is not obtained as prescribed in this Article, the outdoor advertising shall be deemed unlawful. The director shall give notice by certified mail of his intention to remove advertising deemed unlawful to both the owner or the occupant of the land on which such outdoor advertising is located and the owner of the outdoor advertising, if the latter is known, or if unknown, by posting notice in a conspicuous place on such outdoor advertising. Within seven days after such notice is mailed or posted the owner of the land or the outdoor advertising may make a written request to the director for a hearing to show cause why the outdoor advertising should not be removed. The director shall designate a hearing officer, who shall be an administrative employee of the department, to conduct and preside at such hearings. When a hearing is requested under this provision, the hearing shall be held within thirty days thereafter and the party requesting the hearing shall be given at least five days' notice of the time of such hearing. All hearings shall be conducted at department administrative offices. A full and complete record and transcript of the hearing shall be taken. The presiding officer shall within ten days after the hearing make a written determination of his findings of fact, conclusions and decision and shall mail a copy of the same, by certified mail, to the owner or the party who requested the hearing. If the decision is adverse to the party, the party may within ten days after the decision is rendered, petition the superior court of the county wherein the outdoor advertising is located to determine whether the decision of the hearing officer was lawful and reasonable. If the decision of the court upholds that of the director, all costs from the time of the administrative hearing, including court costs, shall be borne by the owner of the land or the outdoor advertising or both. If a hearing before the director is not requested, or if there is no appeal taken from the director's decision of such hearing, or if the director's decision is affirmed on appeal, the director shall immediately remove the offending outdoor advertising. The owner of the outdoor advertising or the owner or occupant of the land or the owner of the outdoor advertising and the owner or occupant of the land shall be liable for the costs of such removal. The director shall incur no liability for such removal.

~~“28-2106. Agreement with secretary of transportation; outdoor advertising regulations; permits~~

The director shall:

1. Enter into the agreement with the secretary of transportation provided for by § 131(d) of Title 23 of the United States Code setting forth the standards governing the size, lighting, and spacing of outdoor advertising authorized under § 28-2102, subsection (A), paragraphs (4) and (5), and defining an unzoned commercial or industrial area. If the standards and definitions contained in the agreement do not agree substantially with the provisions of this Article, the agreement shall not become effective until the legislature by statute amends this Article to conform with the terms of the agreement.
2. Prescribe and enforce regulations governing the placing, maintenance, and removal of outdoor advertising. Such regulations shall be consistent with the public policy of this state to protect the safety and welfare of the traveling public, the provisions of this Article, the terms of the agreement with the secretary of transportation, and the national standards, criteria, and rules and regulations promulgated by the secretary of transportation pursuant to § 131 of Title 23, United States Code.
3. Define by rules or regulations, unzoned commercial or industrial areas along with the interstate and primary systems. The definitions shall be consistent with the definitions of these areas set forth in this Article and set forth in the agreement with the secretary of transportation.
4. Issue permits to place or maintain, or both, outdoor advertising authorized under § 28-2102, subsection (A), paragraphs (1), (4), (5), (6) and (7), and establish and collect fees for the issuance of such permits. The fees shall be not more than the actual costs to the department. All fees collected under the provisions of this Article shall be paid to the state treasurer for credit to the state highway fund.

~~“28-2107. Control of advertising displays along interstate, secondary and primary highways by municipality or county~~
If an incorporated municipality or county desires to control outdoor advertising along interstate, secondary and primary highways, it may do so upon request to the director and certification by the director to the secretary of transportation that the municipality or

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county has enacted comprehensive zoning ordinances and by ordinance regulates the size, lighting, and spacing of outdoor advertising in zoned commercial and industrial areas along interstate, secondary and primary highways, providing that municipalities or counties may not assume control of outdoor advertising under the provisions of this Section if the ordinance provisions are less restrictive than the provisions of this Article.

~~“28-2108. Advertising displays in safety rest areas; information centers~~

~~In order to provide information in the specific interest of the traveling public, the director may authorize advertising displays at safety rest areas and at information centers.~~

~~“28-2109. Construction of Article~~

~~The provisions of this Article shall be cumulative and supplemental to other provisions of law and shall not be construed as affecting or enlarging any authority of counties, cities or towns pursuant to any other provisions of law which may exist to enact ordinances regulating the size, lighting, and spacing of outdoor advertising.~~

~~“28-2110. Violating penalty~~

~~A person who violates any provision of this Article or any regulation of the director made and promulgated under this Article is guilty of a misdemeanor.”~~

B. Authority and responsibility.

1. Purpose. The purpose of this subsection is to describe the authority and responsibilities the Arizona Department of Transportation exercises in developing rules and regulations relative to outdoor advertising facilities.
2. ADOT responsibilities regarding advertising control. The Arizona Department of Transportation is directed to:
 - a. Enter into an agreement with the U.S. Secretary of Transportation provided for by § 131(d) of Title 23, United States Code, setting forth standards governing outdoor advertising authorized;
 - b. Prescribe and enforce regulations governing the placing, maintenance, and removal of outdoor advertising;
 - c. Define by rules or regulations, unzoned commercial or industrial areas along the interstate and primary systems;
 - d. Issue permits to place or maintain, or both, outdoor advertising authorized under the act and establish and collect fees for the issuance of such permits.
3. Rules, regulations, and authority. The regulation of outdoor advertising along Arizona Highways by the Arizona Department of Transportation was established by A.R.S. §§ 28-2101 through 28-2110 by the twenty-ninth legislature in second regular session and subsequent amendments. This legislation was approved by the governor and filed in the Office of the Secretary of State on May 18, 1970. The rules and regulations prescribed herein describe the administrative procedure adopted by the Arizona Department of Transportation to aid and guide the effective control of outdoor advertising. These rules and regulations are in addition to and do not purport to change or alter the federal act, the state act, or the federal state agreement.
4. Permit application procedure. Maintenance Permit Services, Highways Division, Arizona Department of Transportation, is responsible for administering a permit procedure.

C. Outdoor advertising permit application procedure.

1. Purpose. The purpose of this subsection is to present the procedures to be followed by applicants in requesting permits for the erection of outdoor advertising facilities.
2. ADOT permit form and fee required. Each application for a permit to erect an outdoor advertising facility must be made on the appropriate Arizona Department of Transportation form and shall be accompanied by a check or money order in the amount of \$20.00 payable to the Arizona Department of Transportation:
 - a. The initial application fee shall be valid for a period of one year from date of issuance. It shall be renewable annually upon payment of a \$5.00 fee.
 - b. Renewal fees will become delinquent 30 days after the annual renewal date. On becoming delinquent, such sign structures will be in violation and a new initial application fee of \$20.00 will be required.
3. Applications mailed to maintenance permit engineer. Applications for outdoor advertising permits should be mailed to:
Arizona Department of Transportation
Highway Division
206 South 17th Avenue
Phoenix, Arizona 85007,
Attention: Maintenance Permit Engineer, Maintenance Section.
 - a. Assistance to applicants is available at District offices. (See list of district office addresses in Exhibit 9).
4. Separate application for each sign. Each outdoor advertising sign, display or device requires a separate application with fee. All required information describing the location of the sign, the sign qualification standards, and the permitted area identification shall be completely entered on the permit form.
5. Legal description of sign site required. Applicants shall be required to obtain a certification from the governing zoning authority certifying that the zoning is correct for the legal description of the proposed sign location. In cases where the legal description is listed incorrectly on the application, a new certification must be obtained for the correct legal description. Legal descriptions shall adequately describe the property for which the application is made.
6. Location diagram required. Applicants shall submit a location diagram indicating highway route number and such physical features as: buildings, bridges, culverts, poles, mileposts and other stationary land marks necessary to adequately describe the location. The sketch will also indicate the distance in feet the sign is to be erected from the nearest milepost or a street intersection and other off-premise signs in the same vicinity.
7. Applicants must mark site locations. Applicants are required to place an identifiable device or object bearing applicant's name at the proposed sign location to aid field inspectors in site evaluations.

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8. Landowner's permission mandatory. Applicants shall be required to obtain a signed certification stating that the applicant has the permission of the landowner to erect the sign at the noted legal description, or in lieu thereof, furnish a copy of an executed lease.
 9. Each pending application field checked. Each pending application will be field checked for compliance with the state act and ADOT regulations by the district. The findings of the field check will be forwarded to the Maintenance Permit Engineer, Maintenance Section, for final examination and if approved, permit issuance.
 10. Noncompliance. Each application for a permit to erect an outdoor advertising facility which does not comply with all requirements of the law and the Arizona Department of Transportation regulations, will be denied and the application fee may be retained by the state. Exception will be made in cases where applicants did not have knowledge of previous applications or permits for the same site.
 - a. An additional \$20.00 fee shall be added to the regular permit fee for signs illegally erected prior to the issuance of a permit.
 11. Permit decals on sign structures. Applicants shall affix permit decals on a permanent surface near the portion of the sign structure closest to the main traveled way and clearly visible from said roadway. Permit decals to replace any which have been issued and were improperly affixed, lost or destroyed, whether before or after attaching to the sign structure, may be purchased at a cost of \$5.00.
 - a. Signs bearing permit decals for signs other than the sign for which they were issued shall be in violation.
 12. Forfeiture of permit fee. Outdoor advertising facilities for which permits have been issued shall be erected within 120 days and shall bear the official permit identification issued for the specific facility. If the applicant mails a written request for extension of time prior to expiration of the 120 days, an additional 60-day extension may be granted. Any permit canceled because no sign was erected within the prescribed time will result in forfeiture of the \$20.00 fee.
 13. Denial of permit renewals. An existing permit will not be renewed for an approved location on which no sign structure exists.
 14. Removal and re-erection time limits. If an outdoor advertising sign is removed from a permitted location for any reason, the permit shall expire within 30 days from date of removal, except that the permittee may notify the Arizona Department of Transportation, Highways Division, Maintenance Permit Engineer, of intent to re-erect which will allow 120 days for re-erection. Failure to re-erect which will allow 120 days for re-erection. Failure to re-erect within the 120 days allowed will cancel the existing permit.
 15. Transfer of permits. Permits are transferable upon sale of sign provided a new order furnishes the Arizona Department of Transportation with notification of sale within 30 days after date of sale.
 16. Calendar days. All references to days made in this permit application procedure, as well as those references in all rules and regulations applying to outdoor advertising control, shall mean calendar days.
- D. Administrative rules.**
1. Purpose. The purpose of this subsection is to present administrative rules developed by the Arizona Department of Transportation for control of outdoor advertising.
 2. Restrictions on rights-of-way use. No sign shall be erected or maintained from or by use of interstate highway rights-of-way. Any observed action of this type will result in cancellation of the permit. Signs may be erected and maintained from primary and secondary highways only if no other access is available and an encroachment permit is issued.
 3. Nonconforming signs shall be in violation if:
 - a. A sign is enlarged (increased in any dimensions of the sign face or structural support);
 - b. A sign is replaced (an existing sign is removed and replaced with a completely different sign);
 - c. A sign is rebuilt to a different configuration or material composition beyond normal maintenance, or
 - d. A sign is relocated (moved to a new position or location without being lawfully permitted);
 - e. A sign which was previously non-illuminated has lighting added.
 4. Commercial or industrial activities. Commercial or industrial activities which define a "business area," "unzoned commercial or industrial area" must be in operation at the time the permit application is made.
 - a. Should any commercial or industrial activity, which has been used in defining or delineating a "business area" or an "unzoned commercial or industrial area," cease to operate for a period of six continuous months, any signs qualified by such activity shall become nonconforming.
 5. On premise. Should any activity which has been used in defining an "on premise" sign cease to operate for a period of six continuous months any signs qualified by such activity shall be considered as off premise and will require appropriate permits. If the signs are then not permitable they will be in violation.
 6. Municipal limit between signs. When a municipal limit falls between signs the spacing requirement shall be 300 feet between signs on primary or secondary highways.
 7. Proposed interstate alignment locations. Signs existing or to be erected on primary or secondary highway systems which have been declared by the Director of Transportation as an interstate freeway alignment prior to construction of such interstate or freeway shall be classified as though the Interstate or Freeway already exists, requiring spacing criteria for Interstate or other freeways.
 8. Double-faced, back-to-back, and V-type signs. Double-faced, back-to-back and V-type sign structure permits will be limited to a single sign ownership for each site. No more than two faces will be allowed facing each direction of travel. Double-faced signs shall not exceed 350 square feet per face. "V-type signs will be limited to a 10' spacing between faces at the apex. V-type sign spacing from other signs shall be measured from the middle of the apex."
 9. Multifaced community signs. Local chambers of commerce may obtain permits to erect signs with more than two faces. These signs shall not exceed 1,200 square feet in area with a maximum overall vertical facing of 25 feet and a maximum overall horizontal facing of 60 feet, including border and trim, and excluding base or apron supports and other structural members. All other laws, rules and regulations will apply to multifaced community signs as to other off premise signs.
 10. New sign making existing sign nonconforming. If a new sign which would otherwise be conforming will make an existing sign nonconforming, the new sign shall not be allowed.

11. Hearing requests. The land owner or sign owner may request a hearing in connection with a permit application denied or other action taken by the Arizona Department of Transportation in connection with the rules herein prescribed. Within seven days after notice of such action is mailed or posted the land owner or sign owner may make written request for a hearing on such actions. The Director of Transportation shall designate a hearing officer, who shall be an administrative employee of the Department of Transportation, to conduct and preside at such hearings. When a hearing is requested, the hearing shall be held within thirty days thereafter and the party requesting the hearing shall be given at least five days notice of the time of such hearing. All hearings shall be conducted at Department of Transportation administrative offices. A full and complete record and transcript of the hearing shall be taken. The presiding officer shall within ten days after the hearing make a written determination of his findings of fact, conclusions and decision and shall mail a copy of the same, by certified mail, to the owner or the party who requested the hearing.
 12. Landmark signs. The Director will submit a one time declaration listing all landmark signs to the Secretary of Transportation. The preservation of these signs would be consistent with the purposes of state highway beautification laws.
 13. Blanked out or discontinued noneonforming signs. When an existing noneonforming sign ceases to display advertising matter for a period of one year the use of the structure as a noneonforming outdoor advertising sign is terminated.
 14. Vandalized signs. Legal noneonforming signs may be rebuilt to their original configuration and size when they are destroyed due to vandalism and other eriminal or tortious acts.
- E. Standards for directional and other official signs:**
1. Purpose. The purpose of this subsection is to present standards applicable to directional and other official signs.
 2. Seope and application. The standards presented in this Chapter apply to directional and other official signs and notices which are erected and maintained with 660 feet of the nearest edge of the right of way of the interstate, federal aid primary and secondary highway systems and which are visible from the main traveled way of the systems. These types of signs must conform to national standards, promulgated by the Secretary of Transportation under authority set forth in § 131(e) of Title 23, United States Code. These standards do not apply, however, to directional and other official signs erected on the highway right of way.
 3. Definitions. "Official signs and notices" means signs and notices, other than traffic regulatory, erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.
 - a. "Directional and other official signs and notices" includes only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.
 - b. "Public utility signs" means warning markers which are customarily erected and maintained by publicly or privately owned public utilities to protect their facilities.
 - c. "Service club and religious notices" means signs and notices, whose erection is authorized by law, relating to meetings of nonprofit service clubs or charitable associations, or religious service, which signs do not exceed eight square feet in area.
 - d. "Public service signs" means signs located on school bus stop shelters, which signs:
 - i. Identify the donor, sponsor, or contribution of said shelters;
 - ii. Contain safety slogans or messages, which shall occupy not less than 60% of the area of the sign;
 - iii. Contain no other message;
 - iv. Are 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 state agency controlling the highway involved; and
 - v. May not exceed 32 square feet in area. Not more than one sign on each shelter shall face in any one direction.
 - e. "Directional" means signs containing directional information about public places owned or operated by federal, state, or local government or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, religious, and rural activity sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public.
 - f. "Obsolete sign" means a directional or other official sign the purpose of which is no longer pertinent.
 4. Standards for directional signs. The following apply only to directional signs:
 - a. General. The following signs are prohibited:
 - i. 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.
 - ii. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
 - iii. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
 - iv. Obsolete signs.
 - v. Signs which are structurally unsafe or in disrepair.
 - vi. Signs which move or have any animated or moving parts.
 - vii. Signs located in rest areas, parklands or scenic areas.
 - b. Size. No sign shall exceed the following limits, which include border and trim, but exelude supports:
 - i. Maximum area — 150 square feet.
 - ii. Maximum height — 20 feet.
 - iii. Maximum length — 20 feet.
 - c. Lighting. Signs may be illuminated, subject to the following:
 - i. Signs which contain, include, or are illuminated by any flashing, intermittent or moving light or lights are prohibited.
 - ii. Signs which 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

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- the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
- iii. No sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal.
 - d. Spacing:
 - i. Each location of a directional sign must be approved by the Arizona Department of Transportation.
 - ii. No directional sign may be located within 2,000 feet of an interstate, 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).
 - iii. No directional sign may be located within 2,000 feet of a rest area, parkland, or scenic area:
 - (1) No two directional signs facing the same direction of travel shall be spaced less than one mile apart;
 - (2) 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;
 - (3) Directional signs located adjacent to the Interstate System shall be within 75 air miles of the activity; and
 - (4) Directional signs located adjacent to the Primary System shall be within 50 air miles of the activity;
 - (5) No directional signs shall be located within 500 feet of an off-premise outdoor advertising sign on any state highway.
 - e. Message content. 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 number. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.
 - f. Selection methods and criteria for privately owned activities or attractions to obtain directional sign approval:
 - i. Privately owned activities are attractions eligible for directional signing are limited to the following categories:
 - (1) Natural phenomena;
 - (2) Scenic attractions;
 - (3) Historic sites;
 - (4) Educational sites;
 - (5) Cultural sites;
 - (6) Scientific sites;
 - (7) Religious sites;
 - (8) Outdoor recreational area.
 - ii. To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public.
 - iii. The Director, Arizona Department of Transportation, will appoint a "Selection Board for Directional Signing Qualifications" consisting of three administrative or professional employees of the Department of Transportation, one of whom shall be designated as chairman, to judge and approve the qualifications for directional signing of privately owned activities or attractions as limited to the categories in subdivision (i) and the qualification in subdivision (ii) above.
 - iv. Applicants for directional signs involving privately owned activities or attractions, shall first qualify such activity or attraction by submitting an official qualification form to the attention of the maintenance permit engineer, highways division, Arizona Department of Transportation. The maintenance permit engineer will forward the application for qualification, along with any technical data which may assist the board in making their determination, to the selection board.
 - v. Applicant shall indicate one or more categories (as listed in subdivision (i) above) that is applicable to the activity or attraction for which qualification is sought. Applicants shall submit a statement and supporting evidence that the activity or attraction is nationally or regionally known and is of outstanding interest to the traveling public.
 - vi. The qualifications board will, upon approval or rejection of an application, give notification of their determination in writing, to the applicant and to the maintenance permit engineer.
 - vii. The maintenance permit engineer will not issue any permits for directional signs for any privately owned activity or attraction until receipt of qualification approval by the qualifications board. All directional sign permits issued for the Department of Transportation by the maintenance permit engineer will meet the standards for directional and other "official signs" as incorporated in the "Rules and Regulations for Outdoor Advertising along Arizona Highways" approved and issued by the Director, Arizona Department of Transportation.
 - g. "Rural activity signs" are intended to give directions to rural activity sites located along rural roads connecting to state highways. The signs must be located in areas primarily rural in nature. Rural activities that may qualify include ranches, recreational areas and mines. Signs for private residences, subdivisions, and commercial activities are not permitted. Industrial activities that are located in primarily rural areas such as mines or material pits may be allowed. The signs shall not be located in "business areas," "unzoned commercial or industrial areas," nor within municipal limits. The selection board may make final determination of eligibility for such signs when necessary. Not more than one sign pertaining to a rural activity facing the same direction of travel may be erected along a single route approaching the rural connecting road. Signs will be limited to ten square feet in area. All other standards for directional signs shall apply.
 - h. No application fee, is required for "official signs and notices," "public utility signs," "service club and religious notices," "public service signs" or "directional signs" erected by federal, state or local governments. Other directional signs require a permit application and \$20.00 fee.

In addition to the definitions under A.R.S. § 28-7901, the following terms and phrases apply to R17-3-701 through R17-3-702.16, unless otherwise indicated:

"Back-to-Back sign" means a sign which carries faces attached on each side of the structure, being read from oppo-

site directions.

“Board” means the Selection Board for Directional Signing Qualifications.

“Department” means the Arizona Department of Transportation.

“Directional and other official signs and notices” means only:

Official signs and notices.

Public utility signs.

Service club and religious notices.

Public service signs, or

Directional signs.

“Directional sign” means a sign containing directional information about:

A public place owned or operated by federal, state, or local government or their agencies;

A publicly or privately owned natural phenomena, historic, cultural, scientific, educational, religious, rural activity site; or

An area of natural scenic beauty or naturally suited for outdoor recreation, deemed by the Board to be in the interest of the traveling public.

“Director” means the Director of the Arizona Department of Transportation.

“Double-Faced sign” means a sign which has two faces, facing in the same direction.

“Erect” means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any way bring into being or establish.

“Face” means the surface of an outdoor advertising structure, on which the design is posted or painted, usually made of galvanized metal sheets, fiberboard, plywood or plastic.

“Federal or state law” means a federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by a state or federal agency or a political subdivision of a state pursuant to a federal or state constitution or statute.

“Intended to be read from the main traveled way” means:

More than 80% of the average daily traffic, as determined by the Department’s traffic counts, is viewing the outdoor advertising, and is traveling in either or both directions along the main-traveled way;

Message content is of such a nature that it would only be of interest for the traffic using the main-traveled way; or

The sales value of the outdoor advertising is directly attributable to advertising circulation, generated by traffic along the main-traveled way.

“Interchange” means a junction of two or more highways by a system of separate levels that permit traffic to pass from one to another without the crossing of traffic streams.

“Lease” means an agreement, oral or in writing, by which possession or use of land or interests therein is given by the owner to another person for a specified period of time.

“Maintain” means to allow to exist, including such activities necessary to keep the sign in good repair, safe condition, and change of copy.

“Nonconforming sign” means a sign which was lawfully erected but which does not comply with the provisions of state law, or state laws passed at a later date, or which later fails to comply with the provisions of state law or state regulations due to changed conditions, beyond the control of the sign owner.

“Normal maintenance of a nonconforming sign” means maintenance which is customary to keep a sign in ordinary repair, upkeep or refurbishing, that does not exceed 50% of the appraised value of the sign.

“Obsolete sign” means a directional or other official sign, the purpose of which is no longer pertinent.

“Official signs and notices” means signs and notices, other than traffic regulatory, which are:

Erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction; and

In accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility; or

Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies.

“Off-premise sign” means an outdoor advertising sign which advertises an activity, service or product, and which is

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located on premises other than the premises at which such activity or service occurs or product is sold or manufactured.

“On-premise sign” means any sign not controlled by state statute, and which is located on the same premises as the activity or property advertised and has as its purpose:

The identification of the activity, or its products or services; or

The sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

“Parkland” means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge or historic site.

“Permit” means an Outdoor Advertising permit, issued by the Department, to erect and maintain outdoor advertising.

“Public service sign” means a sign which is located:

On a school bus stop shelter that is authorized or approved by city, county, or state law, regulation, or ordinance;
and

At a place approved by the city, county, or state agency controlling the highway involved.

“Public utility sign” means a warning marker which is erected and maintained by a publicly or privately owned public utility to protect the facility.

“Re-erection” means the placing of a sign in a vertical position subsequent to its initial erection.

“Rural activity sign” means a sign which is intended to give directions to a rural activity site located along a rural road connecting to a state highway.

“Scenic area” means an area of particular natural scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of natural scenic beauty.

“Service club and religious notice” means a sign or notice, not exceeding eight square feet in area, whose erection is authorized by federal, state, or local law, relating to a meeting of a:

Nonprofit service club or charitable association, or

Religious service.

“Sign” has the same meaning as “outdoor advertising” provided under A.R.S. § 28-7901.

“Tortious act” means an act that subjects the actor to liability under the principles of tort law.

“V-Type signs” mean signs which are oriented at an angle to each other, the nearest points of which are not more than 10 feet apart, measured from the apex.

“Within the view of, and directed at, the main-traveled way” means a sign which is readable from the main-traveled way for more than five seconds traveling at the posted speed limit, or for such a time as the whole message can be read, whichever is less.

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Exhibit 1. TABLE OF REGULATIONS FOR OUTDOOR ADVERTISING Repealed

SPECIFICATION	ZONED COUNTY	UNZONED COUNTY	MUNICIPALITY
Permitted Area	"Business Area"	"Unzoned Commercial or Industrial Area"	Zoned or "unzoned Commercial or Industrial Area"
Zoning Required	Commercial or Industrial	NA	Zoned—Yes Unzoned—NA
Dimension of Area	1,000 ft. each way	1,000 ft. each way	Wherever zoned and 1,000 ft. each way for Unzoned Commercial or Industrial
Dimension of Area at Freeway T.I. activity within 1,000 ft. of T.I.	3,000 ft. each way from crossroad. Except for prohibition	NA	NA
Prohibited Traffic Interchange Area	From 500 ft. beyond point of widening to crossroad	From 500 ft. beyond point of widening to crossroad	NA
SPACING			
Freeway—same side	500 ft. minimum	500 ft. minimum	500 ft. minimum
Primary and secondary—not a freeway	300 ft. minimum	300 ft. minimum	100 ft. minimum
Exit & Entrance to a scenic overlook or safety rest area	Not within 500 ft. of the beginning or end to the pavement widening of the exit or entrance	Not within 500 ft. of the beginning or end to the pavement widening of the exit or entrance	NA
SIZE			
Area	1,200 Sq. ft.	Same	Same
Vertical Facing	25 ft. maximum	Same	Same
Horizontal Facing	60 ft. maximum	Same	Same
2 Displays One Face	350 sq. ft. each	Same	Same

Exhibit 2. Repealed

**AUTHORIZED-OUTDOOR
ADVERTISING
CONTROL-ZONE**

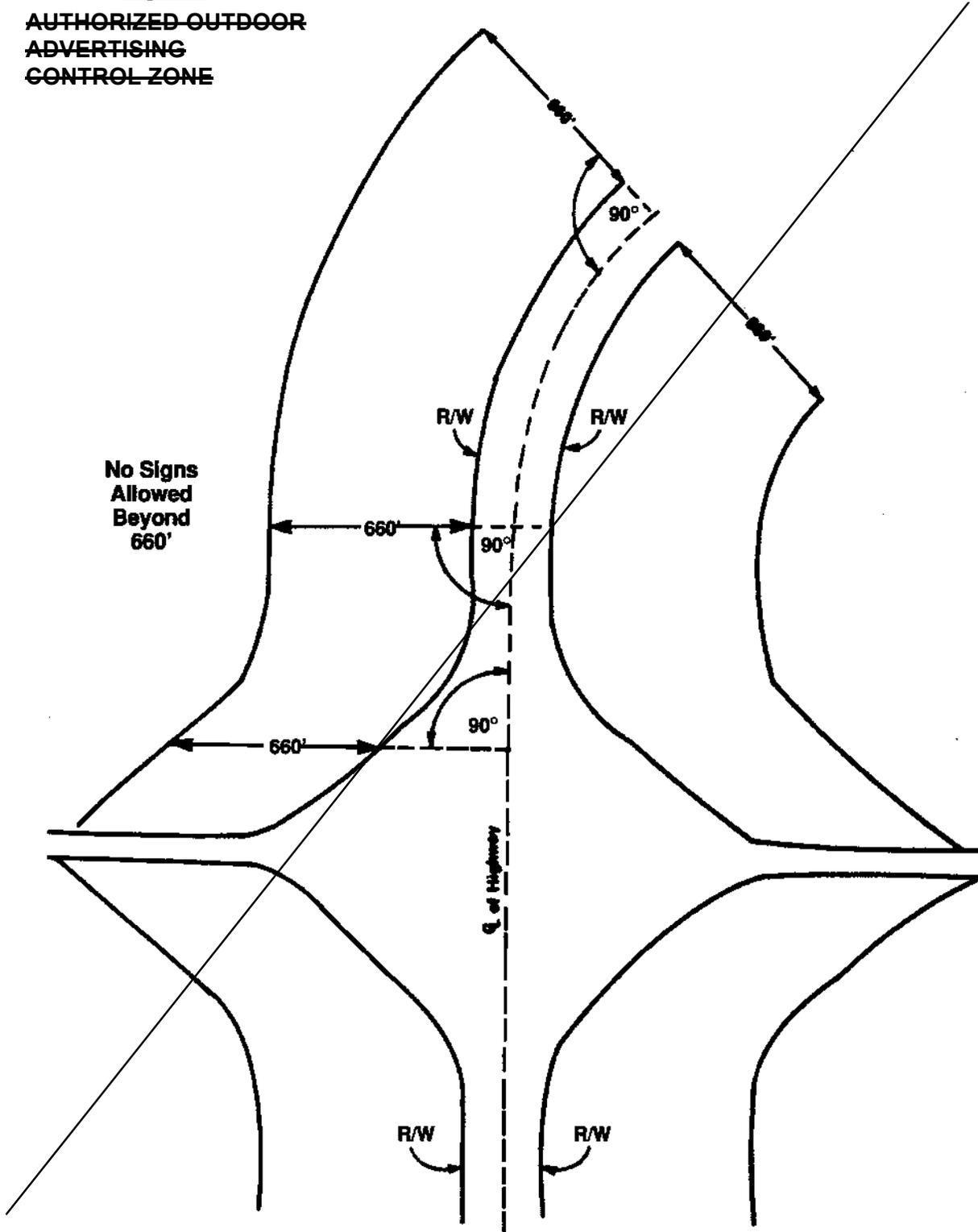


Exhibit 3. Repealed

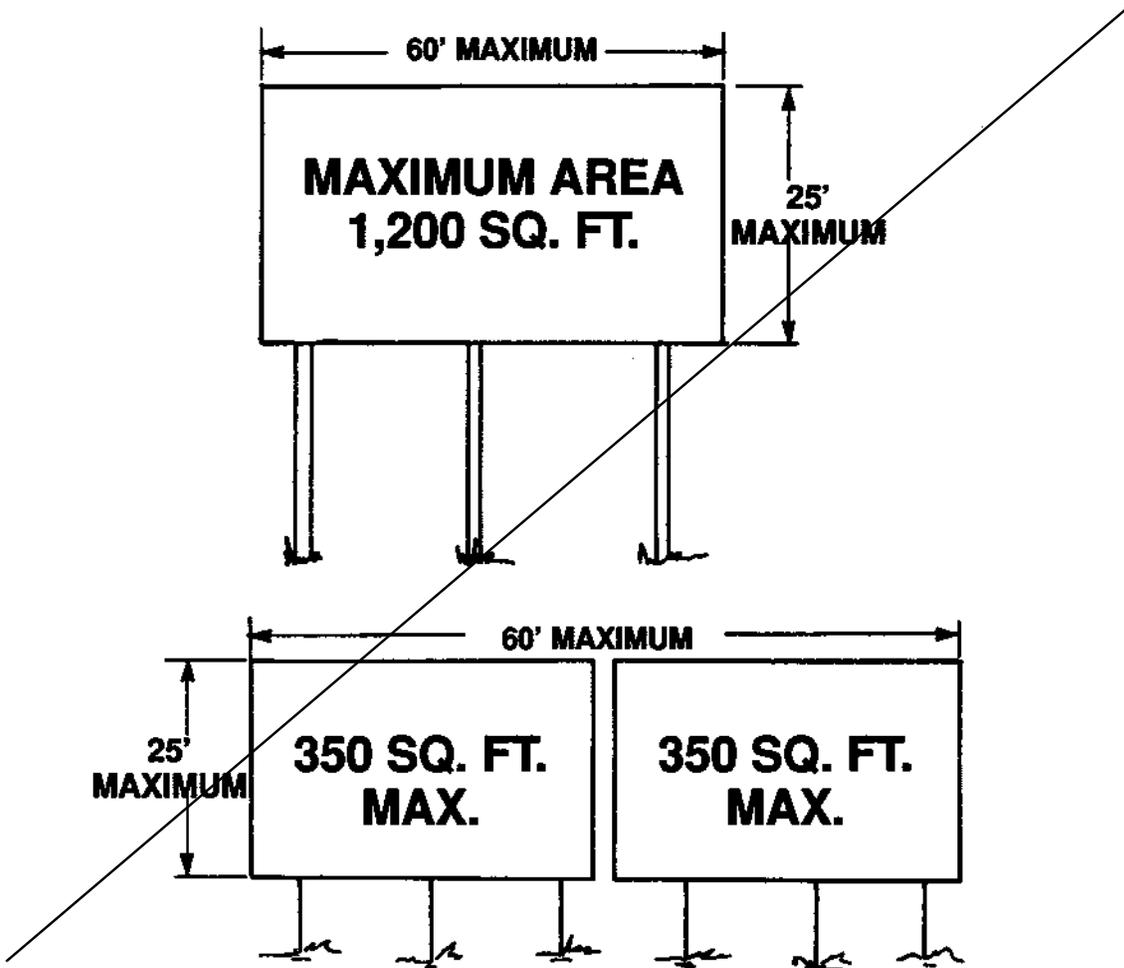


Exhibit 4. Repealed

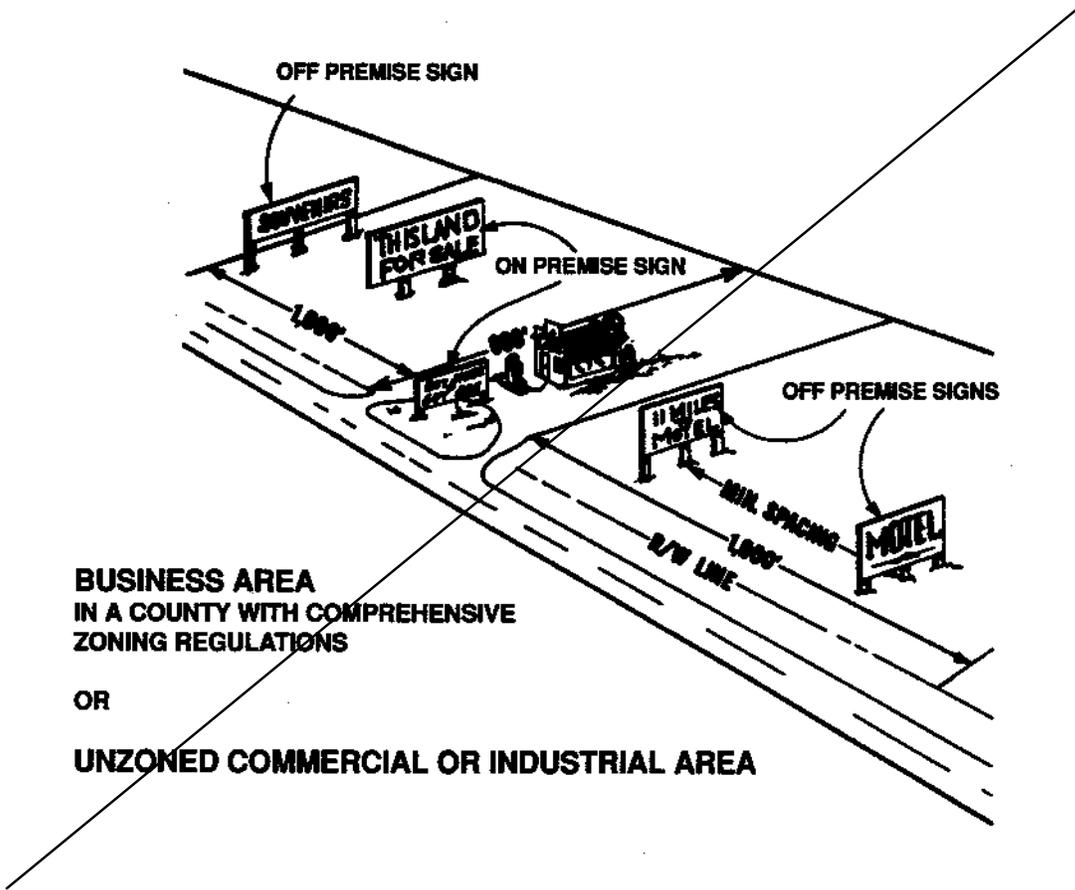


Exhibit 5. Repealed

BUSINESS AREA
AT RURAL FREEWAY INTERCHANGE

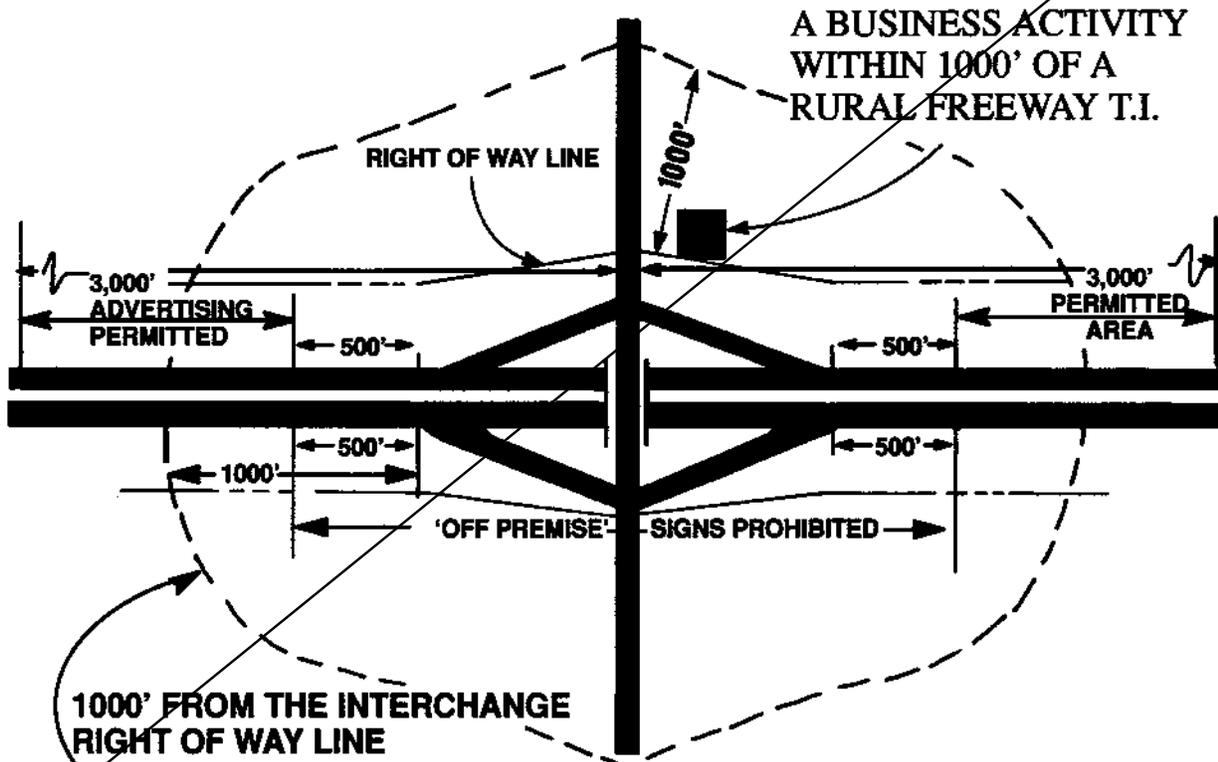


Exhibit 6. Repealed

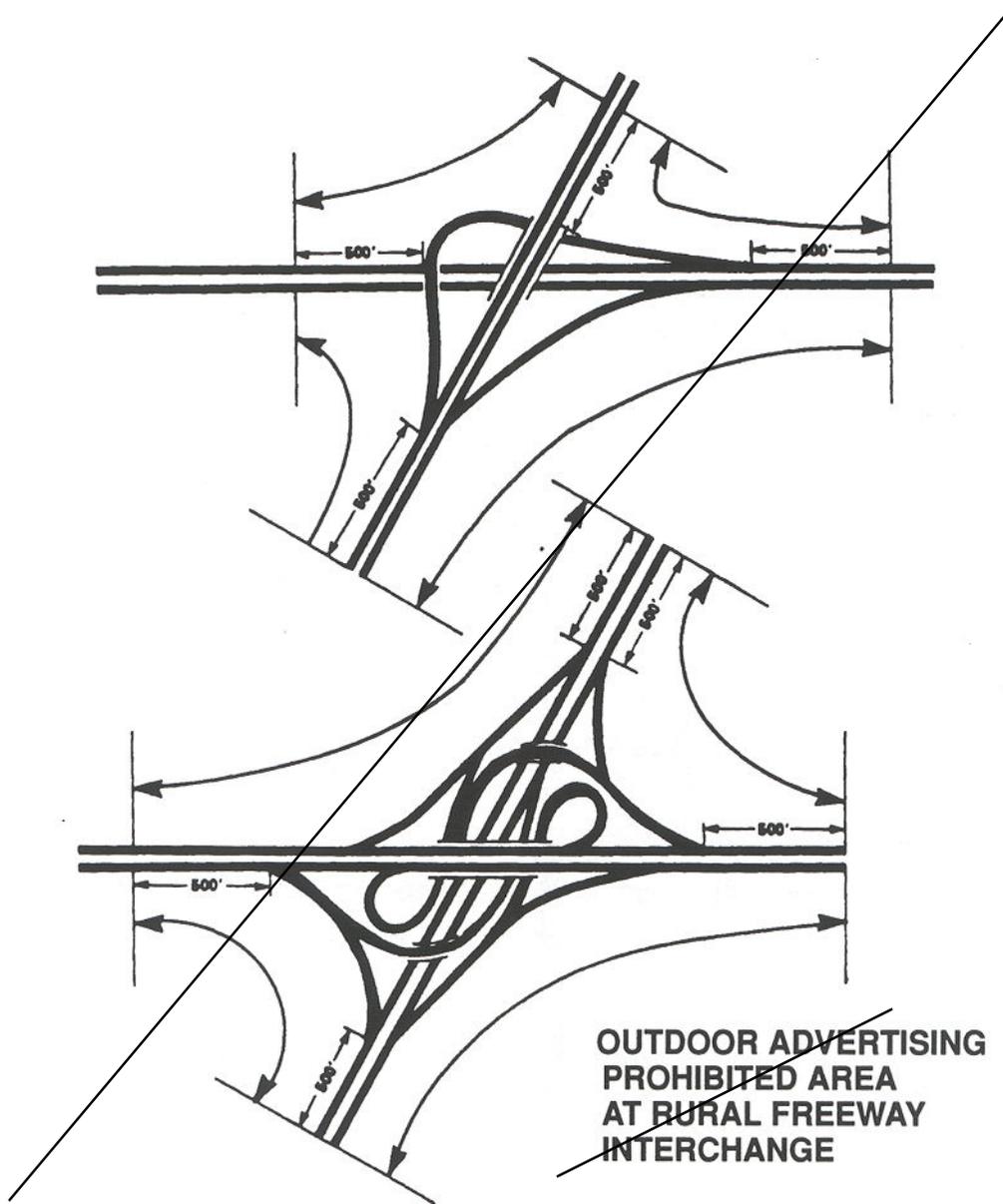


Exhibit 7. Repealed

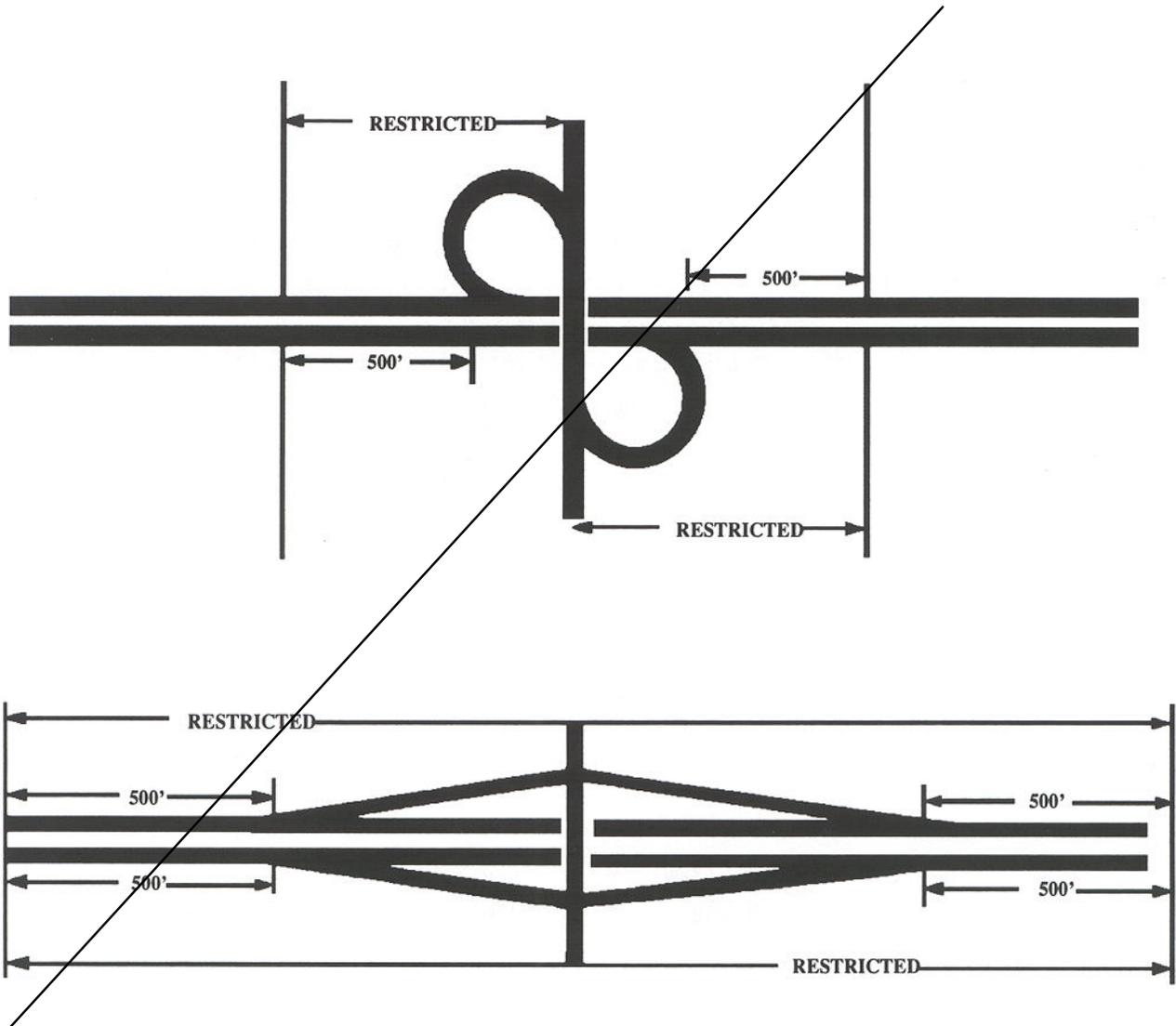


Exhibit 8. Repealed

~~A POINT 500 FEET BEYOND THE POINT OF WIDENING
AT THE EXIT FROM OR THE ENTRANCE TO THE MAIN-
TRAVELED WAY TO A FREEWAY.~~

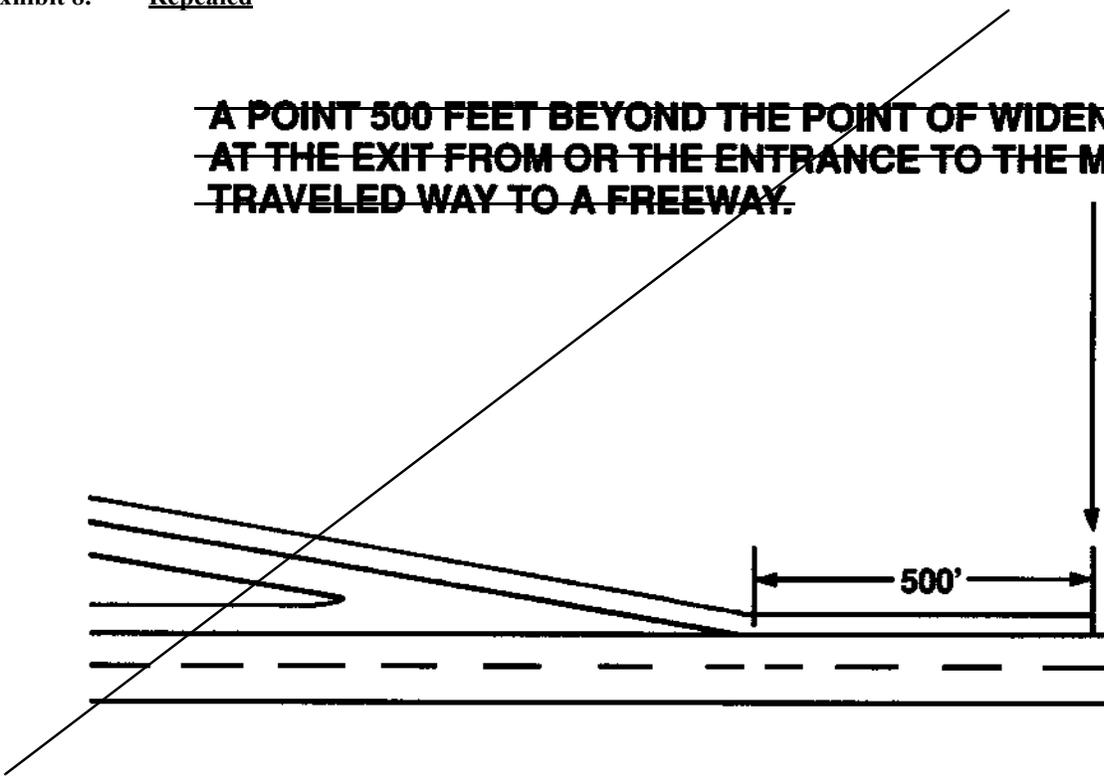


Exhibit 9. Repealed

LIST OF DISTRICT OFFICES

	TELEPHONE	MAILING ADDRESS
DISTRICT I Office	261-7381	2140 W. Hilton Ave. Phoenix, AZ 85009
DISTRICT II Office	622-6701	1221 S. 2nd Ave. P.O. Box 27306 Tucson, AZ 85726
DISTRICT III Office	428-0030	P.O. Box 711 Safford, AZ 85546
DISTRICT IV Office	524-6801	P.O. Box 280 Holbrook, AZ 86025
DISTRICT V Office	774-1491	1801 S. Milton Rd. Flagstaff, AZ 86001
DISTRICT VI Office	445-5391	1210 East Sheldon Prescott, AZ 86301
DISTRICT VII Office	473-4401	U.S. 60-70 Claypool Drawer AD Miami, AZ 85539

R17-3-701.01. ~~Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits Repealed~~

- ~~**A.** Outdoor advertising shall not be erected under A.R.S. § 28-2102(A)(4) or (5) in a zoned area:~~
- ~~1. Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or~~
 - ~~2. In which limited commercial or industrial activities are permitted as an incident to other primary land uses.~~
- ~~**B.** A permit for outdoor advertising shall not be issued under A.R.S. § 28-2106(4) in a zoned area:~~
- ~~1. Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or~~
 - ~~2. In which limited commercial or industrial activities are permitted as an incident to other primary land uses.~~

R17-3-702. ~~Repealed Outdoor Advertising~~

~~R17-3-702 through R17-3-702.16 implements A.R.S. Title 28, Chapter 23, Article 1.~~

R17-3-702.01. Permit Application and Fee

- A.** An individual seeking to obtain a Permit shall make application to the Department, on a form provided by the Department.
- B.** Each application for a Permit shall be accompanied by a check or money order in the amount of \$20, made payable to the Department.
- 1.** An application fee shall not be required for the following directional signs:
 - a.** Official signs and notices;
 - b.** Public utility signs;
 - c.** Service club and religious notices;
 - d.** Public service signs; or
 - e.** Directional signs erected by federal, state or local governments.
 - 2.** Other directional signs require a Permit application and \$20 fee.
- C.** An application for Permit shall be completed in full, to include information describing the location of the sign, the sign qualification standards, the permitted area identification, and items listed in subsection R17-3-702.01(D), to be considered by the Department.
- D.** The following supporting documentation shall be submitted to the Department in support of an application for Permit:
- 1.** A signed statement from the governing zoning authority indicating that the zoning is correct for the legal description of the proposed sign location.
 - a.** In cases where the legal description is listed incorrectly on the application, a new certification shall be obtained for the correct legal description.
 - b.** A legal description shall adequately describe the property for which the application is made.
 - 2.** A location diagram which adequately describes the location, and which shall include the following:
 - a.** Highway route number.
 - b.** Physical features to include:
 - i.** Buildings,
 - ii.** Bridges,
 - iii.** Culverts,
 - iv.** Poles,
 - v.** Mileposts,
 - vi.** Other stationary land marks, and
 - vii.** The distance in feet the sign is to be erected from the nearest milepost or cross street intersection, and
 - viii.** Other off-premise signs in the same vicinity.
 - 3.** A signed certification from the landowner, stating that the applicant has the permission of the landowner to erect the sign at the noted legal description, or in lieu thereof, a copy of an executed lease.
- E.** Applicants are required to place an identifiable device or object bearing applicant's name at the proposed sign location, to be used by the Department to perform a field check of the proposed site of the outdoor advertising.
- F.** An applicant shall submit a completed application and supporting documentation for Permit to the Department as follows:
- 1.** Hand delivered or national delivery service:
Arizona Department of Transportation
Maintenance Permit Services
2739 East Washington Street, Building B
Phoenix, Arizona 85034
 - 2.** United States Postal Service or certified and registered mail:
Arizona Department of Transportation
Maintenance Permit Services
206 South 17th Avenue, MD004R

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Phoenix, Arizona 85007

- G. The Department shall process applications for Permit in the order received by the Maintenance Permits Services Section, as determined by the Maintenance Permits Services' date and time stamp.
- H. A separate application and fee shall be submitted to the Department for each outdoor advertising, sign, display or device.
- I. Each application for a Permit which does not comply with all requirements of the law and Department regulations shall be denied and the application fee may be retained by the state.
 - 1. The Department shall return the application fee to an applicant if the applicant did not have knowledge of a previous application or Permit for the same site.
 - 2. An additional fee of \$20 shall be added to the initial Permit fee for a sign erected prior to the issuance of a Permit.
- J. An approved application for Permit shall be valid for a period of one year from the date of issuance.

R17-3-702.02. Permit Requirements

- A. An applicant shall affix a Permit decal on a permanent surface near the portion of the sign structure closest to the main traveled way, and clearly visible from said roadway.
 - 1. Permit decals to replace any which have been issued and were improperly affixed, lost or destroyed, whether before or after attaching to the sign structure, may be purchased from the Department at a cost of \$5 per decal.
 - 2. A sign bearing a Permit decal for a sign other than the sign for which the Permit was issued shall be in violation.
- B. Outdoor advertising facilities for which Permits have been issued shall be erected within 120 days and shall bear the official Permit identification issued for the specific facility.
 - 1. If the applicant mails a written request for extension of time to the Department, prior to expiration of the 120 days, an additional 60-day extension may be granted.
 - 2. Any Permit canceled because no sign was erected within the prescribed time shall result in forfeiture of the \$20 application fee.
- C. If an outdoor advertising sign is removed from a permitted location for any reason, the Permit shall expire within 30 days from date of removal.
 - 1. If the permittee notifies the Department of intent to re-erect a sign within the 30 days from date of removal, the Department shall allow 120 days for re-erection.
 - 2. If the permittee fails to re-erect the sign within the 120 days allowed, the Department shall cancel the existing Permit.
- D. A commercial or industrial activity which is used to define a business area, or unzoned commercial or industrial area shall be in operation at the time the Permit application is made.
- E. If a commercial or industrial activity, which has been used in defining or delineating a business area, or an unzoned commercial or industrial area, ceases to operate for a period of six continuous months, any signs qualified by such activity shall be classified by the Department as a nonconforming sign.
- F. A Permit shall be renewable annually upon payment of a \$5 fee.
 - 1. An existing Permit shall not be renewed for an approved location on which no sign structure exists.
 - 2. Renewal fees shall become delinquent 30 days after the annual renewal date.
 - 3. On becoming delinquent, such sign structure shall be in violation, and a new initial application fee of \$20 shall be required.
- G. A Permit issued under this Article is transferable upon the sale of a sign, provided the new owner furnishes the Department with notification of the sale within 30 days after the date of the sale.

R17-3-702.03. Restrictions on Right-of-Way Use

- A. No sign shall be erected or maintained from, or by use of, interstate highway rights-of-way.
- B. Any observed action prohibited under subsection R17-3-702.03(A) shall result in cancellation of the Permit.
- C. Signs may be erected and maintained from primary and secondary highways only if no other access is available, and an encroachment permit is issued by the Department.

R17-3-702.04. Nonconforming Sign

- A. A nonconforming sign shall be in violation if the sign:
 - 1. Is increased in any dimensions of the sign face or structural support;
 - 2. Is removed and replaced with a completely different sign;
 - 3. Is rebuilt to a different configuration or material composition, beyond normal maintenance;
 - 4. Is relocated to a new position or location without being lawfully permitted, except as provided under subsection (E);
or
 - 5. Was previously non-illuminated and illumination is added.
- B. If a new sign, which would otherwise be conforming will make an existing sign nonconforming, the new sign shall not be allowed.
- C. An illegally erected or maintained sign shall not be considered a nonconforming sign.
- D. When an existing nonconforming sign ceases to display advertising matter for a period of one year, the use of the structure as a nonconforming sign is terminated.

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- E. Normal maintenance of a nonconforming sign includes re-erection of a sign at the same location, or within a reasonable distance of the original location, not to exceed 10 feet.
- F. Nonconforming signs may be rebuilt to their original configuration and size when they are destroyed due to vandalism and other criminal or tortious acts.
- G. The re-erection of a nonconforming sign shall only occur in the event the sign has been damaged by tortious acts, acts of God such as wind, rain, flooding, or in the course of normal maintenance.

R17-3-702.05. On-premise Sign

- A. If an activity which has been used in defining an on-premise sign ceases to operate for a period of six continuous months, any signs qualified by such activity shall be considered as off-premise and shall require a Permit.
- B. Failure to make application for, and obtain a Permit from the Department, for an off-premise sign under subsection R17-3-702.05(A), shall result in the Department issuing a violation.
- C. Uses of land which does not serve an integral purpose related to the activity, other than to attempt to qualify the land for signing purposes, shall not be considered as premises.
- D. In the case of an on-premise sign advertising an activity, the premises shall include all actual land used or occupied for such activity, including its:
 - 1. Buildings;
 - 2. Parking;
 - 3. Storage and service areas;
 - 4. Streets;
 - 5. Driveways; and
 - 6. Established front, rear, and side yards.
- E. Actual land used or occupied shall constitute an integral part of such activity, provided the sign is located on the property under the same ownership or lease as the activity.

R17-3-702.06. Municipal Limits

When a municipal limit falls between signs, the spacing requirement shall be 300 feet between signs, on primary or secondary highways.

R17-3-702.07. Proposed Freeway Alignment

Signs existing or to be erected on primary or secondary highway systems which have been declared by the Director to be a freeway alignment, prior to construction of such freeway, shall be classified as though the freeway already exists, requiring spacing criteria for freeways.

R17-3-702.08. Double-Faced, Back-to-Back, and V-Type Signs

- A. The Department shall limit the issuance of a Permit for a Double-Faced, Back-to-Back or V-Type sign structure to:
 - 1. A single sign ownership for each site; and
 - 2. A sign structure with no more than two faces facing each direction of travel, except as provided under R17-3-702.15.
- B. Double-Faced signs shall not exceed 350 square feet per face.
- C. A V-Type sign's spacing shall be measured, from other signs, from the middle of the apex.

R17-3-702.09. Requests for Hearings and Appeals

Hearings and appeals shall be noticed and conducted under A.R.S. § 28- 7906 and 17 A.A.C. 1, Article 5.

R17-3-702.10. Directional and Other Official Signs Scope and Application

- A. Regulations under R17-3-702.10 through R17-3-702.16 shall apply to directional and other official signs and notices which are erected and maintained within 660 feet of the nearest edge of the right-of-way of the interstate, federal-aid primary and secondary highway systems, and which are visible from the main traveled way of the systems.
- B. Signs under subsection R17-3-702.10(A) shall conform to national standards, promulgated by the Secretary of Transportation under 23 U.S.C. 131(c).
- C. Regulations under subsection R17-3-702.10(A) shall not apply to directional and other official signs erected on the highway right-of-way.

R17-3-702.11. Standards for Directional Signs

The following apply only to directional signs:

- 1. General. The following signs shall be prohibited. A sign:
 - a. Advertising an activity that is illegal under federal or state laws or regulations in effect at the location of the sign or at the location of the activity;
 - b. Located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic;
 - c. Located in safety rest areas, parklands or scenic areas;
 - d. Which is obsolete;

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- e. Which is structurally unsafe or in disrepair;
- f. Which moves or has any animated or moving parts; or
- g. Which is erected or maintained upon trees, or painted or drawn upon rocks or other natural features.
- 2. Size. No sign shall exceed the following limits, which include border and trim, but exclude supports:
 - a. Maximum area of 150 square feet.
 - b. Maximum height of 20 feet, and
 - c. Maximum length of 20 feet.
- 3. Lighting. A sign may be illuminated, except as follows:
 - a. A sign which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights;
 - b. A sign which is 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 System or Primary System;
 - c. A sign which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle; or
 - d. A sign so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal.
- 4. Spacing.
 - a. Each location of a directional sign shall be approved by the Department.
 - b. No directional sign shall 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 shall be located within 2,000 feet of a safety rest area, parkland, or scenic area.
 - d. No two directional signs facing the same direction of travel shall be spaced less than one mile apart.
 - e. Not more than three directional signs pertaining to the same activity, and facing the same direction of travel shall be erected along a single route approaching the activity.
 - f. A directional sign located adjacent to the Interstate System shall be within 75 air miles of the activity.
 - g. A directional sign located adjacent to the Primary System shall be within 50 air miles of the activity.
 - h. No directional sign shall be located within 500 feet of an off-premise outdoor advertising sign on any state highway.
- 5. Message content.
 - a. The message on a directional sign 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 number, or exit number.
 - b. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs shall be prohibited.
- 6. Selection method and criteria for a privately owned activity or attraction to obtain directional sign approval.
 - a. A privately owned activity or attraction eligible for directional signing is limited to the following categories:
 - i. Natural phenomena.
 - ii. Natural scenic beauty.
 - iii. Historic site.
 - iv. Educational site.
 - v. Cultural site.
 - vi. Scientific site.
 - vii. Religious site, or
 - viii. Outdoor recreational area.
 - b. To be eligible for directional signing, a privately owned attraction or activity shall be nationally or regionally known, and of outstanding interest to the traveling public.

R17-3-702.12. Directional Signs Application Process

- A. The Director shall appoint a Board which shall evaluate and approve the qualifications for directional signing of a privately owned activity or attraction as limited to the categories under R17-3-702.11(6)(a), and the qualification under R17-3-702.11(6)(b).**
- B. An applicant for a directional sign involving a privately owned activity or attraction, shall first qualify such activity or attraction by submitting an official qualification form to the Department, along with any supporting documentation to be considered by the Board.**
- C. An applicant shall indicate one or more categories under R17-3-702.11(6)(a) that is applicable to the activity or attraction for which qualification is sought.**
- D. An applicant shall submit a statement and supporting documentation that the activity or attraction is nationally or regionally known and is of outstanding interest to the traveling public.**
- E. The Board shall notify the applicant in writing of the Board's decision whether to approve or deny the application.**
- F. The Department shall not issue a Permit for a directional sign for a privately owned activity or attraction until receipt of qualification approval by the Board.**

R17-3-702.13. Rural Activity Sign

- A.** A rural activity sign shall be located in an area primarily rural in nature.
- B.** Rural activities that may qualify for rural activity signing include ranches, recreational areas, and mines.
- C.** A rural activity sign for a private residence, subdivision, or a commercial activity shall not be permitted by the Department.
- D.** A rural activity sign for an industrial activity that is located in a primarily rural area, such as a mine or material pit may be allowed by the Department.
- E.** A rural activity sign shall not be located in:
 - 1.** A business area.
 - 2.** An unzoned commercial or industrial area, or
 - 3.** Within municipal limits.
- F.** The Board shall make the final determination of eligibility for such signs when necessary.
- G.** There shall not be more than one rural activity sign pertaining to a specific rural activity facing the same direction of travel along a single route approaching the rural connecting road.
- H.** A rural activity sign shall be limited to 10 square feet in area.
- I.** All other regulations for directional signs under R17-3-701 through R17-3-702.16 shall apply.

R17-3-702.14. Public Service Sign

- A.** A public service sign shall:
 - 1.** Identify the donor, sponsor, or contribution of the school bus stop shelter;
 - 2.** Contain safety slogans or messages, which shall occupy not less than 60% of the area of the sign;
 - 3.** Contain no other message;
 - 4.** Not exceed 32 square feet in area.
- B.** There shall not be more than one sign, facing in any one direction, on each bus stop shelter.

R17-3-702.15. Multifaced Community Sign

Local chambers of commerce may obtain a Permit to erect a sign with more than two faces.

- 1.** The sign shall not exceed 1,200 square feet in area;
- 2.** The sign shall have a maximum overall vertical facing of 25 feet and a maximum overall horizontal facing of 60 feet, including border and trim, and excluding base or apron supports and other structural members; and
- 3.** All other laws, rules and regulations shall apply to a multifaced community sign as to other off-premise signs.

R17-3-702.16. Outdoor Advertising Control: Restrictions on the Erection of Billboards and Signs and Restrictions on the Issuance of Permits

- A.** Outdoor advertising shall not be erected under A.R.S. § 28-2102(A)(4) or (5) in a zoned area:
 - 1.** Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or
 - 2.** In which limited commercial or industrial activities are permitted as an incident to other primary land uses.
- B.** A Permit for outdoor advertising shall not be issued under A.R.S. § 28-2106(4) in a zoned area:
 - 1.** Which is not part of a comprehensive zoning plan and which is created primarily to permit outdoor advertising structures, or
 - 2.** In which limited commercial or industrial activities are permitted as an incident to other primary land uses.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

[R08-359]

PREAMBLE

1. Sections Affected

R20-8-101
R20-8-102
R20-8-103
R20-8-104
R20-8-201

Rulemaking Action

Amend
Amend
Amend
Amend
Amend

Notices of Proposed Rulemaking

R20-8-202 Amend
R20-8-203 Amend
R20-8-204 Amend

2. The statutory Authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

A.R.S. § 41-1554.04(A)

A.R.S. § 41-1554.04(A)(3) and (4)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 14 A.A.R. 2936, July 25, 2008

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Lisa Danka
Address: 1700 W. Washington St., Suite 600
Phoenix, AZ 85007
Telephone: (602)771-1165
Fax: (602)771-1200
E-mail: Lisad@azcommerce.com

5. An explanation of the rule, including the agency's reasons for initiating the rule:

Background

In 1997, the Arizona State Legislature established the Greater Arizona Development Authority (Authority) for the purpose of making funds available to provide technical assistance to infrastructure projects of political subdivisions, Indian tribes, and special districts.

Summary

In the 2007 legislative session, HB 2754 was passed, enacting several amendments to the Authority's statutes. In addition, a number of potential changes to the Authority's rules have been identified since the last rulemaking which will provide greater clarity and improve the effectiveness of the program. Additionally, the declining capacity of the program is making a method of evaluating and prioritizing financial assistance applications necessary.

Proposed Changes

Definitions:

- Several definitions were previously defined in both rule and authorizing statutes. The proposed changes delete the double defined words and incorporate them by reference. This will eliminate the need to update rules each time that the definitions in statute are amended.
- New definitions were added in order to more accurately describe technical terms used throughout Articles 1 and 2 of Chapter 8.
- Some words were amended to reflect changes in the program's operating environment and changes being proposed to other sections of the rules.

Application Process:

- The proposed changes clarify the process of opening new rounds of Technical Assistance and Financial Assistance. The proposed changes allow electronic notification of round openings. This will decrease the cost to the Authority, and increase the number of potential applicants who will be notified.
- A clarification was made to the acceptable forms of documentation allowed. Examples of acceptable documentation were added.

Eligibility Criteria:

- The changes separate the Technical Assistance programs and identify a list of items that the Authority could request as part of an application.
- In order to conform changes proposed in the Application Process Section, the same changes were proposed to acceptable forms of documentation.
- A Section on the applicant's responsibility to cover costs incurred by the Authority was proposed.

Priority; Approval and Disapproval; Protest

- Ineffective criterion were removed and replaced with more effective measurements. Points are being proposed to the Financial Assistance rules (R20-8-204), enabling the prioritization of the loan applications. This

has become increasingly necessary as the capacity of the program declines. The tables that previously outlined the prioritization in the Technical Assistance rules (R20-8-104) were deleted and incorporated into the narrative Section to eliminate the chance of conflict within rules.

- The protest sections of both Articles were amended to match state law.

6. A reference to any study relevant to the rules that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of Authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

No adverse economic impact is expected. Municipalities and the state may benefit economically from proposed changes. Small businesses and individual consumers are not eligible for the program.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Lisa Danka
Address: 1700 W. Washington St., Suite 600
Phoenix, AZ 85007
Telephone: (602)771-1165
Fax: (602)771-1200
E-mail: Lisad@azcommerce.com

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Public comment will be accepted through December 8, 2008 by e-mail to the contact person listed on this form.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

A.R.S. § 41-1554: R20-8-101, R20-8-201, R20-8-202, R20-8-203, R20-8-204

13. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

ARTICLE 1. TECHNICAL ASSISTANCE

Section	
R20-8-101.	Definitions
R20-8-102.	Application Process
R20-8-103.	Eligibility Criteria
R20-8-104.	Priority; Approval and Disapproval; Protest
Table A.	Priority Criteria—Project Development Account Repealed
Table B.	Priority Criteria—Project Assistance Account Repealed

ARTICLE 2. FINANCIAL ASSISTANCE

Section	
R20-8-201.	Definitions
R20-8-202.	Application Process
R20-8-203.	Eligibility Criteria
R20-8-204.	Priority; Approval and Disapproval; Funding; Protest

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. “Administrative fee” means any and all costs or expenses associated with processing, preparing or executing a technical assistance application or related transaction, including costs and expenses associated with staff, the board, professional services, service providers, vendors or other entities involved in the transaction.”
- ~~1-2.~~ “Administratively complete” means that an applicant has completed the application for technical assistance and provided all of the information and and documents that staff determines is applicable.
- ~~2-3.~~ No change
- ~~3.~~ “Authority” means the Greater Arizona Development Authority.
- ~~4.~~ “Board” means the board of directors of the Authority or their designees.
4. “Cash” means United States currency.
5. No change
6. No change
- ~~7.~~ “Infrastructure” means any facility located in this state for public use and owned by a political subdivision, special district or Indian tribe that retains ultimate responsibility for its operation and maintenance. A.R.S. § 41-1554(6).
- ~~8-7.~~ No change
- ~~9-8.~~ No change
- ~~10-9.~~ No change
- ~~11-10.~~ “Staff” means the Executive Director and ~~the Finance Director of the Authority~~ other employees of the Department of Commerce.
- ~~12-11.~~ No change
- ~~13.~~ “Tribal subdivision” means any chapter, district or village that is recognized by an Indian tribe by resolution or through tribal constitution and that receives technical assistance. A.R.S. § 41-1554(14).

R20-8-102. Application Process

- A. The Board shall annually establish a due date by which applications for technical assistance from either the project development account, or both accounts, shall be submitted for each technical assistance round, and the number of technical assistance rounds to be held in a given state fiscal year. To the extent it deems necessary, the Board may extend the due date by which applications for technical assistance are to be submitted.
- B. The Authority shall ~~send solicitation letters to~~ notify potential applicants by electronic or other means of the due date for applications at least 60 days ~~before applications are due~~ in advance of such date. Other interested persons may submit requests to the Authority to be placed on a mailing notification list to be utilized by the Authority in sending out solicitation letters.
- C. An applicant shall provide to the Authority by the established due date for applications on a form provided by the Authority ~~any of the following information that the staff determines is applicable:~~
 1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. A list of professional and outside service providers who have worked with the applicant on any part of the project; ~~or~~
 8. An indication of whether the application is for monies from the Project Development Account or the Project Assistance Account; and
 9. The amount of the applicant’s cash contribution to the technical assistance project.
- D. In addition to the application required in subsection (C), an applicant shall provide to the Authority by the established due date for applications ~~any of the following information that the staff determines is applicable:~~
 1. An adopted ~~A~~ planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, such as examples include but are not limited to a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;
 2. If the project is listed on the ~~project~~ priority list of the Water Infrastructure Finance Authority or on the Department of Transportation’s Five-Year State Plan, a document evidencing this fact; and
 3. No change
 - a. No change
 - b. The estimated economic impact on the community; and
 - c. The commitment of local ~~funds, if applicable~~ cash contribution; or

4. No change
 - a. No change
 - b. No change
 5. The applicant's ~~most recent~~ financial statements for the most recent three years.
- E. No change

R20-8-103. Eligibility Criteria

To be eligible to receive technical assistance, an applicant shall satisfy all of the following criteria:

1. No change
2. The technical assistance requested is for the development ~~or financing~~ of an infrastructure project;
3. No change
4. No change
5. The applicant provides evidence that the project is part of ~~an adopted comprehensive plan, for example, a capital improvement plan, a local strategic plan, or similar planning document~~ or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant an adopted planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, examples include but are not limited to a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant;
6. No change
7. The applicant does not have an open award ~~agreement~~ for technical assistance with the Authority; ~~and~~
8. The applicant is not requesting technical assistance for a project that has already received funds from the Financial Assistance Program; ~~and~~
9. Applicants are responsible for the payment of all administrative fees and penalties associated with technical assistance. Administrative fees shall be paid on or before 90 days from the date on the authority's invoice. Administrative fees remaining unpaid after 90 days from the date of the authority's invoice shall be subject to penalties of 5% per annum. Applicants with outstanding administrative fees or penalties are not eligible for technical or financial assistance.

R20-8-104. Priority; Approval and Disapproval; Protest

- ~~A.~~ The Authority shall request the Department of Commerce prepare an economic overview for each of the projects eligible for technical assistance that establishes the economic context for the project.
- A. During each technical assistance round, the Board shall determine the order and priority of infrastructure projects, for both the Project Development Account and the Project Assistance Account, for which an eligible application for technical assistance has been received. For the Project Development Account, the Board shall use a scale of 75 points maximum for all applications based on the criteria in Table A. ~~For the Project Assistance Account, the Board shall use a scale consisting of 95 points maximum for tribal applications and a scale consisting of 100 points maximum for all other applications based on the criteria in Table B.~~ Application scores shall then be prioritized based on a percentage of the points received to total points possible.
- B. For the project development account, the board shall use a scale of 100 points maximum for all applications based on subsection (B)(1) and (2) of this Section. Application scores shall then be prioritized based on a percentage of the points received to total points possible. The minimum number of points required to be eligible for consideration for award by the board shall be 70% or 70 points. Applicants scoring less than 70% will be notified. A score of 70% or higher does not guarantee funding.
- ~~C.1.~~ Applications for monies from the Project Development Account ~~with tied scores~~ shall be prioritized by comparing the scores that each application received in Table A under the following categories in descending order of importance:
- ~~1-a.~~ Population as of the latest decennial census – only one of the following:
 - i. 30 points – Cities/Towns having a population up to and including 50,000 or counties having a population up to and including 200,000; or
 - ii. 30 points – Tribes and special districts; or
 - iii. 0 points – Cities/towns having a population of more than 50,000 or counties having a population of more than 200,000.
 - 2- Evidence of local support for the project;
 - ~~2-b.~~ Evidence of the project's impact on the community based on all of the following; and
 - i. Up to 15 points – The project addresses health, safety, and welfare issues, and
 - ii. Up to 10 points – The economic impact summary prepared by the applicant; and
 - iii. 5 points – The applicant has not previously received funding from the project development account within the past five years.
 - c. Evidence of local support for the project based on the following:

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project development or the project assistance account. Applicants scoring less than 70% will be notified. A score of 70% does not guarantee funding. The Board may fund all or a portion of a technical assistance request.

~~H.E.~~ The Authority shall mail notify each applicant of the Board's written determination to each applicant within 90 days after the date that all applications for technical assistance are due.

~~I.F.~~ For each approved project approved for technical assistance funding, the Authority shall establish a date by which the commitment of the Authority to provide technical assistance expires. The Authority shall not provide technical assistance for an approved project scoring 70% or more if the applicant does not complete all agreements with the Authority on or before that date.

~~J.G.~~ The Authority shall bypass a project within a technical assistance round and offer funding to the next highest ranking project if the project is not ready to proceed within the next 6-month period six months after the award date.

~~K.H.~~ An applicant whose project for technical assistance is disapproved or determined to be ineligible may file a protest with the Board as follows: appeal. The Authority shall use the Uniform Administrative Appeals procedures of A.R.S. Title 41, Chapter 6, Article 10, to govern the initiation and conduct of formal adjudicative proceedings before the Authority.

1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairperson of the Board, with a copy to the Executive Director of the Authority.
2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. Staff shall distribute a copy of the response to the Board.
3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. Staff shall schedule the presentation for the next regular Board meeting.
4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for technical assistance. Within 30 days after the presentation, the Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for technical assistance.

Table A. Priority Criteria—Project Development Account Repealed

Priority Criteria—Project Development Account		Point Total
1. Evidence of local support for the project based on the following:		30 points
The project is included in the General Plan, Capital Improvement Plan, or other similar planning document of the applicant or has been discussed in meetings or study sessions of the applicant's governing board.	Up to 15 points	
The project has public/private partnerships that will provide financial or in-kind services.	Up to 10 points	
The project has received a resolution of support from the governing board of the applicant.	5 points	
2. Evidence of the project's impact on the community based on the following:		30 points
An economic impact summary as prepared and submitted by the applicant.	Up to 10 points	
The project addresses health, safety, and welfare issues.	Up to 10 points	
An economic overview prepared by the Department of Commerce.	Up to 5 points	
The applicant has not previously received funding from the GADA Technical Assistance Program.	5 points	
3. Evidence that information regarding financial and managerial capacity necessary to operate and maintain the project will be researched and developed as part of the requested technical assistance.	Up to 15 points	15 points
Maximum Point Total		75 points

Table B. Priority Criteria—Project Assistance Account Repealed

Priority Criteria—Project Assistance Account		Point Total
1. Evidence of local support for the project based on the following:		35 points

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The project is included in the General Plan, Capital Improvement Plan, or other similar planning document of the applicant or has been discussed in meetings or study sessions of the applicant's governing board.	Up to 15 points	
The project has public/private partnerships that provide financial or in-kind services.	Up to 10 points	
The project has received a resolution of support from the governing board of the applicant.	5 points	
The project has received voter authorization.*	5 points	
2. Evidence of the project's impact on the community based on the following:		30 points
An economic impact summary as prepared and submitted by the applicant.	Up to 10 points	
The project addresses health, safety, and welfare issues.	Up to 10 points	
An economic overview prepared by the Department of Commerce	Up to 5 points	
The applicant has not previously received funding from the GADA Technical Assistance program.	5 points	
3. Evidence of a permanent funding source for the project:		20 points
The project is a likely candidate for a GADA Financial Assistance loan.	Up to 10 points	
A revenue stream has been identified to pay for the project.	5 points	
A funding source has been identified for the project.	5 points	
4. Evidence of sufficient financial and managerial capacity to operate and maintain the project.	Up to 15 points	15 points
Maximum Point Total		95/100 points

* State law does not require tribal governments to obtain voter authorization for infrastructure project; therefore, technical applications received from tribal governments will be based on an adjusted 95-point scale, as described in R20-8-104(B).

ARTICLE 2. FINANCIAL ASSISTANCE

R20-8-201. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. "A rating" means an applicant has been assigned a credit rating of A1, A2, or A3 by Moody's or A+, A or A- by Standard & Poor's.
2. "Access to capital" means an applicant's ability to obtain funding based on the security of the revenues to be pledged, the general financial condition of the applicant and other factors outside of the applicant's control.
3. "Authority" means the Greater Arizona Development Authority.
3. "Administrative fee" means any and all costs and expenses associated with processing, preparing or executing a financial assistance application or related bond transaction, including costs and expenses associated with staff, the board, professional services, service providers, vendors or other entities involved in the transaction.
4. "Board" means the board of directors of the Authority or their designees.
- 1-4. "Administratively complete" means that an applicant has completed the application for financial assistance and provided all of the information and documents that the staff determines is applicable.
- 2-5. No change
6. "Economic evaluation" means a detailed economic analysis based on public data and information provided by the applicant.
6. "Baa rating" means an applicant has been assigned a credit rating of Baa1, Baa2 or Baa3 by Moody's.
7. "BBB rating" means an applicant has been assigned a credit rating of BBB+, BBB or BBB- by Standard & Poor's.
8. "Infrastructure" means any facility located in this state for public use and owned by a political subdivision, special district or Indian tribe that retains ultimate responsibility for its operation and maintenance. A.R.S. § 41-1554(6).
8. "Cash" means United States currency.
9. "Category I" means a rating indication assigned by Moody's that applies to applicants that have credit ratings determined to fall into category of A3 or higher.
10. "Category II" means a rating indication assigned by Moody's to applicants that have credit ratings determined to

~~Baa3, Baa2, or Baa1.~~

11. “Coverage ratio” means the ratio produced by the fraction in which pledged revenues are the numerator and debt service is the denominator.
12. “Debt service” means annual principle and interest payments on all loans from the Authority plus any principle and interest payments on other debt secured with an equal pledge on the same revenues pledged to the Authority’s loans.
- ~~5-13.~~ No change
- ~~7-14.~~ No change
15. “General obligation” means a pledge by the applicant’s voters of the full faith and credit and unlimited taxing ability to secure a loan. The applicant must have the ability to levy and increase property taxes for payment of debt obligations.
16. “Moody’s” means Moody’s Investors Service, Inc., its successors and their assigns.
- ~~9-17.~~ “Pledged revenues” means any monies to be received by a political subdivision, ~~or~~ special district, ~~or~~ Indian tribe including property taxes, other local taxes, fees, assessments, or charges pledged by a political subdivision, ~~or~~ special district, ~~or~~ Indian tribe as a source for repayment of a loan repayment agreement.
- ~~10-18.~~ No change
- ~~11-19.~~ “Staff” means the Executive Director and the Finance Director of the Authority; other employees of the Department of Commerce.
20. “Standard & Poor’s” means Standard & Poor’s Ratings Service, its successors and their assigns.

R20-8-202. Application Process

- A. The Board shall annually establish a due date by which applications for financial assistance shall be submitted, ~~for each financial assistance round, and the number of financial assistance rounds to be held in a given state fiscal year. To the extent it deems necessary, the Board may extend the due date by which applications for financial assistance are to be submitted.~~
- B. The Authority shall ~~send solicitation letters to~~ notify potential applicants of the due date for applications and of any limitation of the amount of funding available at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a mailing notification list to be utilized by the Authority in sending out solicitation letters.
- C. An applicant shall provide to the Authority by the established due date for applications on a form provided by the Authority ~~any of the following information that the staff determines is applicable:~~
 1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 8. No change
 9. No change
 10. No change
 11. No change
 12. An estimated schedule of required disbursements of the financial assistance; ~~or~~
 13. No change
- D. In addition to the application and documentation required in subsection (C), an applicant shall provide to the Authority by the established due date for applications ~~any of the following information that the staff determines is applicable:~~
 1. No change
 2. No change
 - a. No change
 - b. No change
 - c. No change
 3. No change
 - a. No change
 - b. No change
 - c. No change
 4. No change
 5. To the extent required under A.R.S. § 41-1554.06, for ~~For~~ a political subdivision, evidence of voter approval to incur debt in connection with the project:
 - a. No change
 - b. No change

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6. No change
 7. For an Indian tribe, evidence of the current or proposed establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity subject to suit by the Attorney General, or evidence that additional assets funds or revenue streams that are subject to execution by the Attorney General without the waiver of any claim of sovereign immunity by the Tribe have been designated as additional security.
- E. Staff shall analyze each application received on or prior to the due date for applications for financial assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-203. Applications for financial assistance that are determined to be both administratively complete and eligible for financial assistance under R20-8-203 shall be submitted to the Board for prioritization and possible funding. Applications that are either not administratively complete or do not meet the criteria in R20-8-203 shall not be submitted to the Board ~~with a recommendation that they be disapproved.~~

R20-8-203. Eligibility Criteria

To be eligible to receive financial assistance, an applicant shall satisfy all of the following criteria:

1. The applicant is ~~either~~ a political subdivision, special district, or Indian tribe;
2. No change
3. No change
4. No change
5. No change
6. No change
7. The applicant provides evidence that the project is part of an adopted ~~comprehensive plan, for example, a capital improvement plan, local strategic plan, or similar planning document;~~ and planning document specific to the locality of the project for which the financial assistance is being requested that includes the project. examples include but are not limited to a capital improvement plan, local strategic plan, general plan, comprehensive plan or similar planning document or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant; and
8. ~~The applicant has the capacity to manage, construct, and operate the infrastructure project.~~
8. The applicant demonstrates that the loan proceeds will be managed and expended in accordance with the timetable set forth in the application. The applicant is responsible for payment of any expenses or administrative fee incurred by the Authority as the result of the applicant's failure to expend the money in a timely manner.
9. The minimum number of points required to be eligible for consideration for funding by the board shall be 70% or 70 points.
10. Applicants are responsible for the payment of all administrative fees and penalties associated with financial assistance. Administrative fees shall be paid on or before 90 days from the date on the Authority's invoice. Administrative fees remaining unpaid after 90 days from the date on the Authority's invoice shall be subject to penalties of 5% per annum. Applicants with outstanding administrative fees or penalties are not eligible for financial or technical assistance.

R20-8-204. Priority; Approval and Disapproval; Funding; Protest

- A. The Board shall ~~disapprove~~ not review an application for financial assistance which does not meet the eligibility criteria in R20-8-203.
- ~~B.~~ The Authority shall request the Department of Commerce prepare an economic evaluation for each of the projects eligible for financial assistance that analyzes the benefits and costs of the project.
- ~~C.~~ B. During each financial assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for financial assistance has been received, ~~based on the following factors listed below in order of importance. A project shall be given a higher priority to receive financial assistance for each of the following:~~ Applications for monies shall be prioritized under the following categories in descending order of importance:
1. The applicant demonstrates strong credit worthiness and ability to repay the obligation based on the source of the repayment pledge – up to 50 points; for example, the applicant has a coverage ratio of at least 1 or a debt service reserve consisting of a set aside of 1 year of projected principal and interest payments;
 - a. Up to 50 points – Category I, A, and general obligation pledges, or
 - b. Up to 45 points – Category II, Baa, BBB, and previously unrated pledges with coverage ratios of 1.50 or higher;
or
 - c. Up to 35 points – Previously unrated pledges with coverage ratios less than 1.50.
 2. The applicant demonstrates that it has little or no access to alternative funding sources that provide the same or lower ~~interest rate~~ access to capital as that provided by the Authority – up to 25 points;
 - a. 25 points – No access to alternative funding sources; or
 - b. 15 points – One alternative funding source; or
 - c. 5 points – Two or more alternative funding sources; or

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- d. 0 points – No alternative funding sources researched.
- 3. There is evidence of a high degree of certainty of the project's public support based on the adopted planning document specific to the locality or evidence that the project has been discussed in meetings or in study sessions of the governing body of the applicant – up to 15 points; economic benefits based on 1 or more of the following:
 - a. The economic evaluation prepared by the Department of Commerce;
 - b. Partnerships, to the extent that they exist, both public and private, providing financial and in-kind services, in support of the project; or
 - e. The public support; or
- 4. The purpose of the project is for 1 or more of the following:
 - a. Public health or safety reasons;
 - b. Current identified infrastructure needs; or
 - e. Future identified infrastructure needs.
 - a. Up to 10 points – Public infrastructure or economic development, or
 - b. Up to 5 points – Refinancing of public infrastructure debt.

~~D.C.~~ The Board shall approve or disapprove each application for financial assistance based upon the priority list and available funding for financial assistance. The Board shall not consider applications scoring less than 70%. Applicants will be notified if their score is less than 70%. A score of 70% does not guarantee funding. The Board may fund all or a portion of a financial assistance request. Disbursement of funds to an approved applicant shall only occur upon the applicant's agreement with the terms and conditions established by the Board in accordance with A.R.S. § 41-1554.06. The prioritization under subsection (B) is as follows:

- 1. The tied application with the higher score under subsection (B)(1) shall have priority over other applications;
- 2. If the tied applications have the same score under subsection (B)(1) the application with the higher score under subsection (B)(2) shall have priority over the other applications;
- 3. If the tied applications have the same score under subsections (B)(1) and (2) the application with the higher score under subsection (B)(3) shall have priority over the other applications;
- 4. If the tied applications have the same score under subsections (B)(1), (2), and (3), the application with the higher score under subsection (B)(4) shall have priority over the other applications;
- 5. If the tied applications have the same score under subsections (B)(1), (2), (3), and (4), the Board shall determine the priority of the applications.

~~E.D.~~ The Authority shall mail notify each applicant of the Board's written determination to each applicant within 90 days after the date that all applications for financial assistance were due.

~~F.E.~~ No change

~~G.F.~~ An applicant whose project for financial assistance is disapproved or determined to be ineligible may appeal. The Authority shall use the Uniform Administrative Appeals Procedures of A.R.S. Title 41, Chapter 6, Article 10 to govern the initiation and conduct of formal adjudicative proceedings before the Authority. file a protest with the Board as follows:

- 1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairperson of the Board, with a copy to the Executive Director of the Authority.
- 2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. Staff shall distribute a copy of the response to the Board.
- 3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. Staff shall schedule the presentation for the next regular Board meeting.
- 4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for financial assistance. Within 30 days after the presentation, the Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for financial assistance.