



Republic of Namibia
Annotated Statutes

Advertising on Roads and Ribbon Development Ordinance 30 of 1960

(OG 2254)

came into force on date of publication: 30 May 1960

as amended by

Advertising on Roads and Ribbon Development

Amendment Ordinance 3 of 1967 (OG 2777)

came into force on date of publication: 30 March 1967

Entertainment Tax Abolition Ordinance 11 of 1972 (OG 3260)

came into force on 1 July 1972 (section 6 of Ord 11 of 1972)

ORDINANCE

To regulate the display of advertisements outside certain urban areas at places visible from proclaimed roads; and the erection of structures near certain proclaimed roads; and access to certain land from such roads; and the establishment of drive-in cinemas.

[long title amended by Ord. 3 of 1967 and substituted by Ord. 11 of 1972]

(Assented to 21st May, 1960)

(English text signed by the Administrator)

ARRANGEMENT OF SECTIONS

[The provisions in this Ordinance have no headings,
with the exception of section 9A which was inserted by Ord 11 of 1972.]

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:-

[Ord. 3 of 1967 amends the Ordinance throughout
to substitute "proclaimed road" for "public road".]

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Ord. 11 of 1972 amends the Ordinance throughout to substitute “Executive Committee” for “Administrator”. The associated pronouns “he”, “his” and “him” are inappropriate after this global substitution, but these have not been annotated in respect of individual provisions.]

1. In this Ordinance the expressions “proclaimed road”, “main road”, “trunk road” and “road reserve” shall have the meanings assigned to them in section *two* of the Roads Ordinance, 1962 (Ordinance 28 of 1962) and unless the context clearly indicates another meaning -

[The introductory phrase of section 1 is amended by Ord. 3 of 1967. The Roads Ordinance 28 of 1962 has been replaced by the Roads Ordinance 17 of 1972.]

“advertisement” means any visible representation of a word, name, letter, figure or object or of an abbreviation of a word or name, or of any sign or symbol; or any light which is not intended solely for illumination or as a warning against any danger;

“building restriction road” means any proclaimed road which the Executive Committee has proclaimed a building restriction road under section seven and which he has not deproclaimed as such;

“Executive Committee” means the Administrator-in-Executive Committee as referred to in section 6 of the South West Africa Constitution Act, 1968 (Act 39 of 1968);

[The definition of “Executive Committee” is inserted by Ord. 11 of 1972. The South-West Africa Constitution Act 39 of 1968 was repealed by Article 147 of the Namibian Constitution.]

“local authority” means a municipality or village management board and in respect of any area not under the control of a municipality or village management board “local authority” means the magistrate of the district in which such area is situated;

[definition of “local authority” substituted by Ord. 3 of 1967]

“structure” means anything made, manufactured or assembled and erected above or under the ground.

[This definition should end with a semicolon rather than a full stop.]

“township” means a group of erven, blocks or lots and public places, other than commonage land, which has been established or recognised under any law as a township or village, if those erven, blocks or lots are used or are intended to be used mainly for purposes other than farming, horticulture or the keeping of animals, or any village not established or recognised under any law as a township, which has been recognized by the Executive Committee for the purposes of this Ordinance, as a township.

[This definition should end with a semicolon rather than a full stop.]

“urban area” means the area consisting of the erven, blocks or lots and public open spaces other than commonage land and of the streets bounded by erven, blocks or lots or such public open spaces in a city, town, village or township which is under the jurisdiction of a local authority.”

[The closing quotation mark at the end of this definition is superfluous.]

2. (1) Subject to the provisions of sub-section (4) of this section and of section *six* no person shall display an advertisement, except an advertisement displayed at the commencement of this Ordinance and which thereafter remains displayed continuously and unchanged in the same place, which is visible from a proclaimed road, unless it is displayed in accordance with

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the written permission of the Executive Committee: Provided that any person may, subject to the provisions of sub-section (3) of this section and of sub-section (1) of section *four* without permission -

- (a) display on a building such an advertisement which discloses merely the name or nature of any business or undertaking carried on therein, or the name of the proprietor or manager of that business or undertaking or any information which relates solely to that business or undertaking or to any article or service supplied in connection with that business or undertaking or in connection with any other business or undertaking of that proprietor;
- (b) provided the name of the advertiser is not displayed more prominently than the rest of the advertisement, display, outside a proclaimed road such an advertisement which relates solely to an article produced or to a service performed or business or undertaking carried on, or to a form of recreation available or to an entertainment, meeting or sale to be held upon the land upon which the advertisement is displayed, or to the sale or lease of that land;
- (c) display, outside a proclaimed road, such an advertisement which merely indicates the name of the farm or that a particular road or path is a private or path or is intended for a particular class of traffic or leads to a particular place or that a particular act is prohibited or permitted; or

[paragraph (c) amended by Ord. 3 of 1967]

- (d) display, on or at a gate, such an advertisement which conveys besides the name of the farm owner merely the name of a property or place to which the gate gives access, or merely a warning or a direction to close the gate.

(2) The Executive Committee may, by proclamation in the *Official Gazette*, define any class of advertisement not mentioned in any of the paragraphs of the proviso to sub-section (1), which may be displayed without his permission if it is displayed in a form or manner or at a place or in circumstances or on conditions defined in the proclamation, and thereupon any such advertisement shall, for the purposes of this Ordinance, be deemed to be an advertisement mentioned in the said paragraph.

(3) When the Executive Committee has made a regulation under paragraph (b) of sub-section (1) of section *twelve* relating to an advertisement mentioned in any paragraph of the proviso to sub-section (1) of this section, no person shall display such advertisement (including any such advertisement displayed before the commencement of this Ordinance and which thereafter remains displayed continuously and unchanged in the same place) unless the advertisement is displayed in accordance with the requirements of that regulation.

(4) The provisions of this section shall also apply to the South African Railways Administration, unless such advertisement is not visible from any proclaimed road.

3. The Executive Committee may in his discretion grant or refuse any permission mentioned in sub-section (1) of section *two*, for which any person has applied, and if he grants such permission, he may (subject to the applicable provisions of any regulation made under paragraph (b) of sub-section (1) of section *twelve*) prescribe the specifications to which the advertisement to which the permission relates, shall conform, the period during which the permission shall be of effect, the manner, place and circumstances in which, and the conditions on which, the advertisement may be displayed, and may at any time alter or revoke such permission.

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4. (1) When there is being displayed at a place visible from a proclaimed road an advertisement (including an advertisement mentioned in the proviso to sub-section (1) of section *two*) whether such advertisement was displayed before the commencement of this Ordinance and thereafter remains displayed continuously and unchanged in the same place, or is being displayed only after such commencement -

- (a) for which no permission was granted under section *two* or for which the permission has expired or has been revoked; or
- (b) which does not conform to the specifications or conditions prescribed in any permission granted therefor in any regulation applicable thereto, or which is being displayed in a manner or place or in circumstances other than those prescribed in any such permission or regulation,

[The word “prescribed” is misspelt in the *Official Gazette*, as reproduced above.]

the Executive Committee may by notice in writing direct any person who displays such advertisement to remove it or to effect such alterations in the nature of the advertisement or in the manner in which it is displayed as may be prescribed in the notice, and to effect such removal or alteration within such period (which shall be not less than fourteen days from the date on which the notice was given) as may be specified in the notice: Provided that the Executive Committee shall not within a period of six months as from the date of commencement of this Ordinance, give any such direction in regard to an advertisement which was being displayed on the lastmentioned date, and thereafter remained displayed continuously and unchanged in the same place.

(2) If a person to whom a notice has been given in terms of sub-section (1) fails to comply with a direction contained in that notice within the period therein specified, the Executive Committee may, at any time after the expiration of that period, through the agency of any person authorized thereto by him, enter upon the land upon which the advertisement to which the notice relates, is being displayed and remove the advertisement or effect the alterations prescribed in the notice.

(3) The Executive Committee may recover the expenses which he incurred by any action taken under sub-section (2) from any person to whom the notice in question was given, unless such person proves -

- (a) that he did not at the time when he received the notice, nor at any time thereafter, display the advertisement; or
- (b) that he did not take any active part in the displaying of the advertisement and did not grant any person permission to display it and did not receive any valuable consideration in connection with the displaying of the advertisement, and that he does not manufacture an article or own, control or manage a business or undertaking to which the advertisement relates.

5. For the purposes of sections *two* and *four* -

- (a) a person who has erected or otherwise caused the appearance of an advertisement or who has renovated or repaired it, and any person who is entitled to remove it, shall be deemed to display that advertisement while and whenever it is visible from a proclaimed road;
- (b) the owner, lessee or occupier of land on which an advertisement which is visible from a proclaimed road, is being displayed, or on which is situated such an

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advertisement which has been renovated or repaired, and the manufacturer of any article or the proprietor of any business or undertaking to which such an advertisement relates, and any agent of such a manufacturer or proprietor shall, unless the contrary is proved, be deemed to have erected that advertisement or otherwise to have caused it to appear or to have renovated, restored or repaired it, as the case may be, or to have permitted its erection, appearance, renovation or repair;

- (c) any person who purports to exercise any right in connection with land to which the public has no access as a matter of right, or who is from time to time upon any such land, shall be deemed to be the owner, lessee or occupier of that land, unless the contrary is proved.

6. The provisions of sections *two* and *four* shall not apply to any advertisement -

- (a) which is displayed on a vehicle which is being used on a proclaimed road, if it is proved that the main purposes for which that vehicle is being so used is not to display that advertisement;
- (b) which is displayed in an urban area;
- (c) which a person in the service of the State or of a body which is empowered by an ordinance relating to roads to construct or maintain roads displays in the performance of his duties in such service;
- (d) which is displayed on a proclaimed road in accordance with the consent of an authority authorized by an ordinance relating to roads to construct and maintain that road, and which merely indicates that a road or path leading out of the said proclaimed road, is a private road or path or is intended for a particular class of traffic or leads to a particular place or to land owned, leased or occupied by a particular person or which conveys merely a warning;

[paragraph (d) amended by Ord. 3 of 1967]

- (e) which is displayed on a windmill or on a vehicle or implement or machinery used in connection with farming, if such advertisement consists only of a trade name or the name of the maker or manufacturer of such windmill, vehicle or implement or machinery, or of both such trade name and name, and the chief purpose for which such windmill, vehicle or implement or machinery is used, is not the display of such advertisement.

[The words “consists” and “purpose” are misspelt in the *Official Gazette*, as reproduced above.]

7. (1) The Executive Committee may in the *Official Gazette* proclaim any proclaimed road or any section of a proclaimed road to be a building restriction road for the purposes of this Ordinance, and he may by a like proclamation withdraw such firstmentioned proclamation and thereupon the road or section of a road in question shall cease to be a building restriction road.

(2) When the Executive Committee has proclaimed a road to be a building restriction road, he shall cause as many suitable notices of that proclamation as he may deem necessary to be erected along the road or section of the road to which the proclamation relates, and upon withdrawal of the proclamation he shall cause those notices to be removed.

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8. (1) Subject to the provisions of sub-section (2) no person shall erect or permit the erection of any structure which is attached to the land on which it stands even though it does not form part of that land within a distance of one hundred metres from the central line of a trunk, main or building restriction road, except in accordance with a permission in writing granted by the Executive Committee: Provided that the preceding provisions of this section shall not apply to -

- (a) the completion of a structure whose erection was started on a date before the road in question became a trunk, main or building restriction road or before the coming into operation of this Ordinance whichever date is the later;

[The word "whichever" is hyphenated in the *Official Gazette*, as reproduced above.]

- (b) a structure erected by the Railways Administration on land under its control;
- (c) a structure erected in an urban area or on an erf or lot in a township which was in existence as such at the commencement of this Ordinance;
- (d) an enclosure, a fence or a wall which does not rise higher than five feet above the surface of the land on which it stands;
- (e) an irrigation work as defined in the law relating to irrigation;

Provided further that any permission granted under this section shall not legalize the erection of a structure which is inconsistent with the provisions of any other law.

(2) The Executive Committee may in his discretion grant or refuse any permission mentioned in sub-section (1) for which any person has applied and if he grants such permission, he may prescribe the specifications to which the structure to which the permission relates, shall conform and the manner, place and circumstances in which, and the conditions on which the structure shall be erected.

(3) When a structure has been erected in contravention of sub-section (1), the Executive Committee may deal with that structure and with the person who erected it or permitted its erection, *mutatis mutandis* in accordance with the applicable provisions of section four.

9. (1) When the access to, or exit from, a trunk, main or building restriction road situated wholly outside an urban area and wholly outside a township, is barred by a lawfully constructed fence, wall, hedge, trench, ditch or similar obstacle, or beacons of stone, concrete, iron or other permanent material along or near the boundary of the road reserve, no person shall be entitled to gain access to or exit from any land through, under or over that fence, wall, hedge, trench, ditch or other obstacle by means of a gate, bridge, stile, road or other passage, unless the Executive Committee has authorized in writing the construction of the gate, bridge, stile, road or other passage in question: Provided that the provisions of this section shall not apply to any lawfully constructed gate, bridge, stile, road or other passage which existed and was in use at the coming into operation of this Ordinance and which was at no time thereafter closed or removed: Provided further that the Executive Committee shall not withhold his authorization for the construction of any such gate, bridge, stile, road or other passage as aforesaid, which is necessary to give access to, or exit from, a piece of land to which, or from which, no other reasonable access or exit is available or can be made available at reasonable expense, or if -

- (a) a land surveyor surveyed the said piece of land and lodged a diagram thereof, with the Surveyor-General before the coming into operation of this Ordinance or before

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the date of erection of the fence, wall, hedge, trench, ditch or other obstacle in question; and

- (b) before the said date, a person other than the owner of any land of which the first-mentioned piece of land may have formed a portion at the time when the said survey and diagram were made, acquired, or entered into an agreement to acquire, the ownership of the piece of land or hired that piece of land on a registered lease for a period of not less than ten years.

(2) In granting the authorization mentioned in subsection (1) the Executive Committee may prescribe the nature of the gate, bridge, stile, road or other passage in question and the place where and the manner in which it shall be constructed and may impose such other conditions in connection with it or its use, as he may deem necessary, and if any requirement prescribed or condition imposed in such authorization is not observed, he may withdraw his authorization.

(3) Where a person is responsible for access to, or exit from, a trunk, main or building restriction road which is in contravention of the provisions of sub-section (1), or in respect of which the Executive Committee has withdrawn his authorization under the provisions of sub-section (2), and such person does not bring about the closing or removal of such access or exit within 30 days of the date of the said withdrawal, the Executive Committee may direct him to close and remove such access or exit, and if he fails to give effect to such direction, the Executive Committee may cause the access or exit to be closed and removed and recover the cost of such closing and removal from such person.

(4) Whenever the Executive Committee is of the opinion that any access to, or exit from, a trunk, main or building restriction road which was in existence and in use at the commencement of this Ordinance is for any reason undesired he may close and remove such access or exit if, after consultation with the land owner concerned or person having control over the land, he provides another access or exit to or from the trunk, main or building restriction road in question or another proclaimed road: Provided that in such a case the cost of the work shall be paid by the Administration with the proviso, however, that the Administration shall not be responsible for the maintenance of such new access or exit: Provided further that if the Executive Committee finds that he is unable to provide another access or exit to or from the said trunk, main or building restriction road or other proclaimed road as aforesaid, he may compensate the owner or person aforesaid for the loss of such access or exit and such compensation shall be fixed by agreement or arbitration, as the case may be.

Regulation of the establishment of drive-in cinemas

9A. (1) Notwithstanding the provisions of any other law, no person shall establish or conduct the business of a drive-in cinema without the prior consent of the Executive Committee: Provided that application for such consent shall not be made before the applicant shall have published at least once a week for four consecutive weeks in one Afrikaans and one English newspaper circulating in the area in which the said business is proposed to be established or conducted a notice setting out the intention of the applicant to make the said application in which the situation and extent of the site on which it is intended to conduct the business, is sufficiently described for it to be easily identified and containing a statement that any person having a sufficient interest who objects to the granting of the application may lodge his objection, together with the grounds thereof with the Executive Committee not later than one week after the fourth publication of the said notice: Provided further that such application shall be accompanied by a diagram showing clearly the lay-out of the surrounding within one kilometre around the said site as well as the parking and waiting spaces and the entrance and exit roads to and from the site, giving the distances.

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(2) The Executive Committee may, when granting his consent in terms of subsection (1), impose such conditions as he may deem fit, and he shall have power to amend, vary or revoke any such condition so imposed or to impose from time to time such new conditions as he may deem fit.

(3) For the purpose of this section the expression "drive-in cinema" means a place of entertainment where any person may watch a cinematograph performance while sitting in a motor vehicle.

(4) Any person who contravenes the provisions of subsection (1) or fails to comply with any condition imposed in terms of subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or in default of payment to imprisonment for a period not exceeding three months: Provided that in the case of a continuing offence an additional fine not exceeding fifty rand for each day upon which such contravention or failure continued may be imposed, but no such fine shall in any one prosecution or within any one month exceed two hundred rand.

(5) The provisions of this section shall apply throughout the Territory of South West Africa.

[section 9A inserted by Ord. 11 of 1972]

10. (1) The Surveyor-General shall not approve a general plan or the diagrams of erven, lots, blocks or holdings which together form a group (whether or not streets or roads and open spaces which are, or are intended to be public places form part of such a group) situate wholly or partly outside an urban area, if any part of any such erf, lot, block or holding falls within a distance of one hundred metres of the centre line of a trunk or building restriction road, unless the said general plan or diagram corresponds substantially with a plan or sketch of the proposed layout of the said group which the Executive Committee has approved.

(2) The Provisions of sub-section (1) shall apply *mutatis mutandis* to a diagram of any piece of land adjoining a group of erven, lots, blocks, or holdings, if any part of the said piece of land falls within a distance of one hundred metres of the centre line of a trunk or building restriction road.

[The word "hundred" is misspelt in the Official Gazette, as reproduced above.]

(3) After approval under the provisions of sub-sections (1) and (2) , the title deed of the land in question shall be made subject to the following conditions:-

- (a) that the trunk or building restriction road concerned is not deemed to be part of an urban area and that, for the purposes of this Ordinance, the provisions of sections *one, two, three, four, five, six* and *nine* shall apply;
- (b) that no structure, except an enclosure, fence or wall which does not rise higher than five feet above the surface of the land on which it stands, may be erected within fifteen (15) metres of the boundary of the trunk or building restriction road reserve;
- (c) that no erven, lots, blocks or holdings adjoining a trunk or building restriction road may be used for business purposes, except when such erven, lots, blocks or holdings also adjoin another proclaimed road and no direct access to, or exit from, the trunk or building restriction road is permitted.

(4) When a piece of land has been surveyed, or has been subdivided by means of a survey or surveys into two or more portions and any part of such land or portion, which is

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situate outside an urban area falls within a distance of one hundred metres of the centre line of a trunk or building restriction road, the Surveyor-General shall not approve the diagram of such piece of land unless it has been endorsed by the Executive Committee as to whether the land or portion thereof falls within the above distance from the centre line of the trunk road or building restriction road or not, and, if it does, that the layout is acceptable to him, and the Registrar of Deeds shall not register such piece of land or portion thereof unless he has made such registration subject to the condition that the land shall not be used for business purposes except where such land also adjoins another proclaimed road and no direct access to, or exit from, such trunk, or building restriction road is permitted.

(5) When the Executive Committee has signified that any part of a piece of land situate outside an urban area, falls within a distance of one hundred metres of the centre line of a trunk road or building restriction road, the Registrar of Deeds shall not pass transfer of an undivided share in that land, acquired otherwise than by way of inheritance or legacy, unless the Executive Committee has agreed in writing to the transfer in question and unless he makes his approval subject to the condition that the land shall not be used for business purposes except where such land also adjoins another proclaimed road and no direct access to, or exit from, such trunk or building restriction road is permitted.

(6) Any approval granted under this section by the Executive Committee shall not exempt any person from any provision of any other law.

(7) Any approval granted under this section by the Executive Committee may be made subject to any further condition prohibiting the division of the land in question or any part thereof, or limiting the use to which the land in question or any part thereof may be put, or limiting the number and extent of any buildings or other structures which may be erected thereon, or prohibiting the erection of any building or other structure thereon within a distance from the trunk or building restriction road in question, which is more than the minimum of fifteen (15) metres as provided in paragraph (b) of sub-section (3), and such approval may also stipulate under what circumstances and terms such conditions may be deviated from.

(8) Notwithstanding anything to the contrary contained in the provisions of the Deeds Registry Proclamation 1939 (Proclamation 37 of 1939) as amended, the transferor or owner of any land to which any condition mentioned in this section relates, shall insert every such condition in the relevant deed or transfer, and the Registrar of Deeds shall endorse upon the title deed of any land retained, by the transferor or owner every such condition which relates to the land so retained, and the Executive Committee shall be entitled to enforce compliance with any such condition..

[There are two full stops at the end of subsection (8) in the Official Gazette.]

(9) Notwithstanding anything contained in the Proclamation mentioned in sub-section (8) the Registrar of Deeds may with the written approval of the Executive Committee cancel any condition inserted in a deed of transfer or endorsed upon the title deed of land under sub-section (8) merely by an endorsement to that effect upon the title deed of the land in question.

(10) The cancellation of any condition under subsection (9) may be effected upon a written application by the registered owner of the land concerned, accompanied by the approval required by that sub-section, together with proof that the mortgagee, if any, has been informed of the proposed cancellation.”

[The closing quotation mark at the end of subsection (10) is superfluous.]

11. Nothing in this Ordinance shall have the effect of interfering with, or diminishing, the powers or jurisdiction conferred upon the Executive Committee or the Inspector of Mines by

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any law relating to mining or by the Mines, Works and Minerals Ordinance, 1954 (Ordinance 26 of 1954) as amended, or any regulation made thereunder, or any right or permission granted to any person under any such law or regulation by the Executive Committee or the Inspector of Mines.

- 12.** (1) The Executive Committee may make regulations prescribing -
- (a) the form and manner in which application shall be made to him for the grant or alteration of any permission, authorization, approval or consent under this Ordinance and the information and fees to be submitted with such application;
 - (b) the specifications to which any advertisement mentioned in the proviso to sub-section (1) of section *two* shall conform, the manner in which, the place where and the material on which or by means of which, it shall be displayed as well as the standard of its maintenance;
 - (c) the form and manner of service of a notice to be given under section *four* or sub-section (3) of section *eight*.

(2) The application of regulations made under paragraph (b) of sub-section (1) may be limited to any specific area or areas of a specified class or to advertisements visible from any specified road or to advertisements visible from roads of a specified class or to advertisements relating to any specified subject.

- 13.** Any person who -
- (a) contravenes any provision of section *two*, *seven* or *nine*; or
 - (b) fails to comply with a direction issued to him by the Executive Committee under sub-section (1) of section *four* or sub-section (3) of section *eight*; or
 - (c) is responsible for access to, or exit from, a trunk, main or building restriction road in contravention of the provisions of section *nine*;

shall be guilty of an offence and subject -

- (i) in the case of a contravention mentioned in paragraphs (a) or (b) to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months or to both such fine and imprisonment in the case of a first offence and to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment in the case of a second or subsequent offence, and

[paragraph (i) amended by Ord. 3 of 1967]

- (ii) in the case of a contravention mentioned in paragraph (c) to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

[paragraph (ii) amended by Ord. 3 of 1967]

14. The Executive Committee may delegate all or any of the powers conferred upon him by this Ordinance to any other person or persons, and in so delegating his powers he may prescribe the manner in which his delegate shall exercise any power so delegated.

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15. The provisions of this Ordinance shall bind the State.

16. This Ordinance shall be called the Advertising on Roads and Ribbon Development Ordinance, 1960.