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**Rules of**  
**Department of Transportation**  
**Division 10—Missouri Highways and Transportation**  
**Commission**  
**Chapter 6—Outdoor Advertising**

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**Title 7—DEPARTMENT OF  
TRANSPORTATION**  
**Division 10—Missouri Highways and  
Transportation Commission**  
**Chapter 6—Outdoor Advertising**

**7 CSR 10-6.010 Public Information**

*PURPOSE: This rule informs interested persons how they may obtain information and materials about state outdoor advertising control.*

(1) General Information. Sections 226.500–226.600, RSMo regulate outdoor advertising in Missouri adjacent to the interstate and primary highway systems. The Missouri General Assembly has delegated authority to the Missouri Highways and Transportation Commission to implement these statutes. The Missouri Highways and Transportation Commission has adopted administrative rules, 7 CSR 10-6, under these statutes to promote highway safety. These rules have the force and effect of law and should be read together with the statutes.

(2) How to Obtain Information and Materials. Information and materials regarding outdoor advertising control are available at [http://www.modot.org/business/outdoor\\_advertising/](http://www.modot.org/business/outdoor_advertising/).

*AUTHORITY: sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed April 11, 1972, effective April 30, 1972. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

**7 CSR 10-6.015 Definitions**

*PURPOSE: This rule provides definitions of terms in addition to those terms defined in section 226.510, RSMo.*

(1) Animated means the display image(s) or message(s) moves or appears to have motion.

(2) Automatic changeable display means a display with the capability of content changes by means of mechanical or electronic input.

(3) Back-to-back sign, double-faced sign, or V-type sign is a sign with two (2) sides each of which can be read from opposite directions of the same roadway, with not more than two (2) faces to each side, and not more than two (2) display areas to each facing. The faces must be physically contiguous, connected by the same structure or cross-bracing or located not more than fifteen feet (15') apart at their nearest point.

(4) Changed conditions mean a change in facts or local ordinance, such as but not limited to, discontinuance of a commercial or industrial activity, decrease in the limits of an urban area, reclassification of a secondary highway to interstate or federal aid primary or National Highway System (NHS) highway status, upgrading of an urban primary highway to freeway status or amendment of a comprehensive local zoning ordinance from commercial to residential or the like.

(5) Commercial or industrial activities are defined in section 226.540(5) and (6), RSMo.

(6) Commission means the Missouri Highways and Transportation Commission.

(7) Department means the Missouri Department of Transportation.

(8) Digital technology means display of a message by manipulation of light projected onto a screen or otherwise produced within the screen including displays using light emitting diode (LED) technology, plasma technology, or any industry equivalent that produces the same result as these technologies.

(9) Display means a single graphic design which advertises goods, services, or businesses.

(10) Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

(11) Flashing means emitting a series of sudden and transient outbursts of light.

(12) Highway means any existing highway or a roadway project for which the Missouri Highways and Transportation Commission has authorized the purchase of right-of-way.

(13) Intermittent means occurring at intervals.

(14) Lawful means lawfully erected and in compliance with all other legal requirements

including, but not limited to, permit requirements, payment of biennial inspection fees, and in the case of nonconforming signs, the requirements of 7 CSR 10-6.060(3).

(15) Lawfully erected means erected prior to January 1, 1968 or erected after January 1, 1968, in compliance with the sizing, lighting, spacing, location, permit, and all other requirements of sections 226.500–226.600, RSMo as provided by those sections at the erection date of the sign; or erected after January 1, 1968, and before March 30, 1972, in compliance with the sizing, lighting, spacing, and location requirements in effect at the time of erection, but for which a permit was not obtained prior to March 30, 1972.

(16) Maintain means allow to exist.

(17) Main-traveled way means the through traffic lanes of the highway.

(18) Nonconforming sign or nonconforming outdoor advertising means a sign which was lawfully erected but which does not conform to the requirements of state statutes enacted at a later date or which later fails to comply with state statutes due to changed conditions.

(19) On-premises sign is limited to outdoor advertising which advertises—the sale or lease of the property upon which it is located, the name of the establishment or activity located upon the premises upon which it is located, or the principal or accessory products or services offered by the establishment or activity upon the premises upon which it is located.

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

(21) Premises is limited to improvements, buildings, parking lots, landscaping, storage, or processing areas as well as any other contiguous land actually used in connection with the premises or for access.

(22) Scenic area means any area of particular scenic beauty or historic significance as determined by the federal, state, or local officials having jurisdiction of the area and includes interests in lands which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(23) Sign means outdoor advertising as defined by section 226.510(3), RSMo.



(24) Spot zoning for outdoor advertising or strip zoning for outdoor advertising means an amendment, variance, or exception to the comprehensive local zoning ordinance classifying or zoning a parcel of land as commercial, industrial, or suitable for outdoor advertising, out of harmony with the zoning classification or uses of surrounding land as determined by the department's authorized representative.

(25) Stacked sign means a sign with one (1) or more displays placed one (1) above another on a single structure.

(26) Support pole(s) means the upright support(s) to which the face is attached exclusive of bracing mechanism.

(27) Unlawful signs or unlawful outdoor advertising are those identified as unlawful in sections 226.580.1 and 226.580.2, RSMo, 7 CSR 10-6.040(5), and 7 CSR 10-6.080(2), and nonconforming signs which have failed to comply with the requirements of 7 CSR 10-6.060(3).

(28) Unzoned area means an area where there is no comprehensive zoning regulation. It does not include areas which have rural zoning classifications, land uses established by zoning variances or special exceptions under comprehensive local zoning ordinances.

(29) Unzoned commercial or industrial areas or unzoned commercial or industrial land is defined by sections 226.540(4) and 226.540(5), RSMo and 7 CSR 10-6.040(2)(B).

(30) Visible means capable of being seen, whether or not legible, without visual aid by a person of normal visual acuity. A person of normal visual acuity is any person licensed by Missouri to operate a motor vehicle upon the highways of this state.

(31) Zoned commercial or industrial areas are areas which are zoned industrial, commercial, or the like per section 226.540(5), RSMo and which meet the requirements of 7 CSR 10-6.040(2)(C).

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013. \* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov.*

*30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

**7 CSR 10-6.020 Directional and Other Official Signs**

*PURPOSE: This rule provides standards for the selection, erection, and maintenance of directional and other official signs and notices authorized by section 226.520(1), RSMo, which are consistent with federal regulations, 23 CFR 750.151, implemented under 23 U.S.C. 131(c)(1). This rule does not apply to signs erected by the Missouri State Highways and Transportation Commission on highway right-of-way under sections 226.525 and 226.535, RSMo, or to signs, displays, or devices providing directional information about goods and services in the interest of the traveling public under section 226.520(5), RSMo, and 7 CSR 10-6.060(2)(D).*

(1) Definitions (see 7 CSR 10-6.015).

(2) Categories of Directional and Other Official Signs. Directional and other official signs include the following five (5) classes of signs:

(A) Official signs and notices are signs and notices 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 purpose 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;

(B) Public utility signs are warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly- or privately-owned public utilities, as essential to their operations;

(C) Service club and religious notices are signs and notices, where erection is authorized by law, relating to meetings of nonprofit service clubs, charitable associations, or religious services;

(D) Public service signs are signs located on school bus stop shelters which shall—identify the donor, sponsor, or contributor of the shelters; contain public service messages, which shall occupy not less than fifty percent (50%) of the area of the sign; contain no other message; and be located on school bus shelters which are authorized or approved by city, county, or state law, regulation or ordi-

nance and at places approved by the city, county or state agency controlling the highway involved; and

(E) Directional signs are signs containing directional messages about public places owned or operated by federal, state, or local governments or their agencies; publicly- or privately-owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed by the commission to be in the interest of the traveling public.

(3) Standards for Official Signs and Notices.

(A) General. These signs do not include official traffic signs such as street name signs, speed limit signs, or other directional or regulatory signs.

(B) Size. There are no size limitations.

(C) Lighting. Signs may be illuminated subject to the restrictions of subsection (7)(C) of this rule.

(D) Spacing. There are no spacing limitations.

(4) Standards for Public Utility Signs.

(A) Size. There are no size limitations.

(B) Lighting. Signs may be illuminated subject to the restrictions of subsection (7)(C) of this rule.

(C) Spacing. There are no spacing limitations.

(5) Standards for Service Club and Religious Notices.

(A) Size. Any number of displays or emblems may be secured to a single structure. Each display or emblem shall not exceed eight (8) square feet in area. Note: For multiple emblem signs to be considered fee exempt, the total outdoor advertising display area on each side must be less than seventy-six (76) square feet.

(B) Lighting. Signs may be illuminated subject to the restrictions of subsection (7)(C) of this rule.

(C) Spacing. There are no spacing limitations.

(6) Standards for Public Service Signs.

(A) Size. Each sign may not exceed thirty-two (32) square feet in area.

(B) Lighting. Signs may be illuminated subject to the restrictions of subsection (7)(C) of this rule.

(C) Spacing. There are no spacing limitations except that not more than one (1) sign on each shelter shall face in any one (1) direction.



(7) Standards for Directional Signs. The following standards apply only to directional signs:

(A) General. The following directional signs are prohibited: 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; signs which obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic; signs which move or have any animated or moving parts; signs located in rest areas, parklands, or scenic areas; and signs not lawfully existing under section 226.550.2., RSMo, or unlawful signs under section 226.580, RSMo;

(B) Size. No sign shall exceed the following limits: maximum area—one hundred and fifty (150) square feet; maximum height—twenty feet (20'); and maximum length—twenty feet (20'). All dimensions include border and trim but exclude supports;

(C) Lighting. Signs may be illuminated, subject to the following restrictions: signs which contain, include or are illuminated by any flashing, intermittent, or moving lights are prohibited; signs which are not effectively shielded so as to prevent beams or rays of light from being directed to any portion of the traveled way of an interstate or primary highway or which are of an intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited; and no sign may be so illuminated as to interfere with the effectiveness of or obscure an official traffic sign, device, or signal;

(D) Spacing. No directional sign may be located within two thousand feet (2,000') of an interchange or intersection at grade along the interstate system or freeway primary highway (measured along the interstate or freeway primary highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way). No directional sign may be located within two thousand feet (2,000') of a rest area, parkland, or scenic area; no two (2) directional signs facing the same direction of travel shall be spaced less than one (1) mile apart. Not more than three (3) directional signs facing the same direction of travel may be erected along a single route approaching the activity or attraction. Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity or attraction. Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity or attraction;

(E) Message Content. The message on directional signs shall be limited to the iden-

tification of the attraction or activity and directional messages useful to the traveler in locating the attraction or activity, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or attraction, or its environs are prohibited and disqualify the sign from being maintained as a directional sign; and

(F) Selection Method and Criteria.

1. Criteria. Activities and attractions qualifying for directional signing shall be limited to—public places owned or operated by federal, state, or local governments or their agencies; publicly- or privately-owned natural phenomena, historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation. Privately-owned activities or attractions must be deemed by the commission to be nationally or regionally known and of outstanding interest to the traveling public.

2. Selection. To promote highway safety, the commission shall determine those public and private activities and attractions which qualify for directional signing. After filing an application for a directional sign permit, the applicant may petition the commission to determine whether or not a specific public or private activity or attraction is eligible for directional signing. The petition may be in letter form and shall include: a statement by the owner of the activity or attraction describing the activity or attraction and evidence that the activity or attraction is nationally or regionally known and is of outstanding interest to the traveling public. In the case of any publicly-owned activity or attraction, the petition must also be accompanied by the written consent or approval of the federal, state, or local political subdivision having legal authority or control over the activity or attraction where the authority is not the applicant requesting that the activity or attraction be designated as eligible for directional signing. The commission may grant the applicant, upon request, a public hearing to aid the commission in reaching a decision of whether or not the activity or attraction qualifies for directional signing. This hearing would be informal and would not be subject to the procedural requirements of Chapter 536, RSMo. In exceptional cases, the commission may require review and concurrence by the United States Secretary of Transportation before reaching a decision. Petitions and requests for public hearing must be in writing and addressed to the department's authorized representative.

(8) Permits. See 7 CSR 10-6.070 for state permit requirements.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

### 7 CSR 10-6.030 On-Premises Signs

*PURPOSE: This rule provides criteria for exempting from control on-premises signs authorized by section 226.520(2), RSMo consistent with federal regulations, 23 CFR 750.709, implemented under 23 U.S.C. 131(c).*

(1) Definitions (see 7 CSR 10-6.015).

(2) Criteria. Pursuant to section 226.520(2), RSMo, on-premises signs are exempt from the control of outdoor advertising.

(A) Strips. Land connected to the main portion of the premises by a thin strip of land either owned or leased by the owner of the premises or sign owner is not considered part of the premises unless the strip of land is actually used in connection with or for access to the establishment or activity being advertised. If the strip size is sufficient only for outdoor advertising or is used only for outdoor advertising, the strip does not qualify as a part of the premises.

(B) Intervening Land Use. Signs on land separated from the advertised establishment, activity, or property by an intervening land use such as a highway, another unrelated commercial activity, a residence or an agricultural activity do not qualify as on-premises signs.

(C) Products and Services Not Offered Upon Premises. A sign which advertises in a prominent manner, as determined by the department's authorized representative, a product or service not offered upon the premises upon which the sign is located in addition to a product or service which is offered upon the premises upon which the sign is located, does not qualify as an on-premises sign. A sale or lease sign which also advertises any product or service not offered upon the premises and which is unrelated to the activity conducted on the premises or selling or leasing the land on which the sign is located does not qualify as an on-premises sign.

(D) Changing from On-Premises Advertising to Off-Premises Advertising.



1. An outdoor advertising sign may be converted from advertising on-premises goods and services to advertising off-premises goods and services so long as:

A. The sign meets all requirements for lawful, conforming outdoor advertising signs in effect at the time the advertising changes from advertising on-premises activities to advertising off-premises activities; and

B. The sign owner receives an outdoor advertising permit issued by the commission prior to changing the advertising from advertising on-premises activities to advertising off-premises activities.

2. For purposes of outdoor advertising control, the date of erection of the outdoor advertising is the date the sign changes from advertising on-premises goods and services to off-premises goods and services.

(E) Cessation of On-Premises Activity. To promote highway safety, upon the cessation or termination of a business activity within the regulated area along the primary and interstate highway system, the sign owner shall have thirty (30) days to remove on-premises advertising. After thirty (30) days, the sign will no longer qualify as an on-premises sign and will be subject to the same conditions and requirements as off-premises outdoor advertising signs. The cessation or termination of a business activity does not constitute a changed condition so as to render an on-premises sign a nonconforming outdoor advertising sign.

(3) Permits. There are no state permit requirements for on-premises advertising, sections 226.530 and 226.550, RSMo.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed Feb. 1, 1973, effective March 2, 1973. Amended: Filed Dec. 20, 1973, effective Jan. 30, 1974. Amended: Filed Sept. 19, 1974, effective Oct. 19, 1974. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

**7 CSR 10-6.040 Outdoor Advertising in Zoned and Unzoned Commercial and Industrial Areas**

*PURPOSE: This rule supplements the requirements for erection and maintenance of outdoor advertising in zoned and unzoned*

*commercial and industrial areas authorized by sections 226.520(3) and 226.520(4), RSMo.*

(1) Definitions (see section 226.541, RSMo, and 7 CSR 10-6.015).

(2) Criteria for Determination of Zoned and Unzoned Commercial and Industrial Areas.

(A) Zoned Commercial and Industrial Areas. The following does not constitute a zoned commercial or industrial area:

1. An area or district which has been spot zoned or strip zoned for outdoor advertising;

2. An area or district which merely allows commercial or industrial activities as well as outdoor advertising as an incident to the primary land use which is other than a zoned commercial or industrial area. Examples are: agricultural, rural, unclassified, greenbelt, buffer zoning, or other similar classifications which may allow specified commercial or industrial land uses including outdoor advertising; and residential and multi-family zoning classifications which may allow outdoor advertising and specified home occupations such as barber shops, beauty shops, kennels, repair shops, or professional offices;

3. An area or district which requires a special use permit, special zoning classification, or variance as a condition to the use of the area for an activity generally considered industrial or commercial.

(B) Unzoned Commercial and Industrial Area. In order to qualify as an unzoned commercial or industrial area, the property on which the qualifying business is located must satisfy the primary use test found in subsection (2)(C).

(C) Primary Use Test.

1. In General. In order for an area to qualify as an unzoned commercial or industrial area, the primary use or activity conducted on the property must be of a type customarily and generally required by local comprehensive zoning authorities in Missouri to be restricted as a primary use to areas which are zoned industrial or commercial. The fact that an activity may be conducted for profit in the area is not determinative of whether or not an area is an unzoned commercial or industrial area. Activities incidental to the primary use of the property, such as a kennel or repair shop in a building or on property which is used primarily as a residence, do not constitute commercial or industrial activities for the purpose of determining the primary use of an unzoned area even though income is derived from the activity. If, however, the activity is primary and local comprehensive zoning authorities in Missouri would customarily and generally require the use to be

restricted to a commercial or industrial area, then the activity constitutes a commercial or industrial activity for purposes of determining the primary use of the property even though the owner or occupant of the land may also live on the property.

2. Visible. The purported commercial or industrial activity must be visible from the main-traveled way within the boundaries of that unzoned commercial or industrial area by a motorist of normal visual acuity traveling at the maximum posted speed limit on the main-traveled way of the highway.

3. Recognizable. The purported commercial or industrial activity must be recognizable as a commercial or industrial enterprise as viewed from both directions of travel of the adjacent interstate or primary highway. In addition, the activity must comply with each of the following:

A. Structure and grounds requirements—

(I) Area. Any structure to be used as a business or office must have an enclosed area of two hundred (200) square feet or more;

(II) Foundation. Any structure to be used as a business or office must be affixed on a slab, piers, or foundation in accordance with minimum local building code requirements;

(III) Access. Any structure to be used as a business or office must have approved access from a roadway and readily accessible by the motorist to a defined customer parking lot adjacent to the business building;

(IV) Utilities. Any structure to be used as a business or office must have normal utilities. Minimum utility service shall include: business telephone, electricity, restroom, water service, and waste water disposal, all in compliance with appropriate local, state, and county rules;

(V) Identification. The purported enterprise must be identified as a commercial or industrial activity which may be accomplished by on-premises signing or outside visible display of product;

(VI) Use. Any structure to be used as a business or office must be used exclusively for the purported commercial or industrial activity; and

(VII) Mobile Home or Recreational Vehicle. All wheels, axles, and springs must be removed;

B. Activity requirements. In order to be considered a commercial or industrial activity for the purpose of outdoor advertising regulation, the following conditions must be met:

(I) An owner or employee must be on the premises for at least twenty (20) hours



per week and these hours must be posted on the premises;

(II) The purported activity or enterprise shall maintain all local business licenses, occupancy permits, sales tax, and other records as may be required by applicable state, county, or local law or ordinance;

(III) A sufficient inventory of products must be maintained for immediate sale or delivery to the consumer. If the product is a service, it must be available for purchase on the premises; and

(IV) The purported activity or enterprise must be in active operation a minimum of one hundred eighty (180) days prior to the issuance of any outdoor advertising permit. The one hundred eighty- (180-) day time frame begins when the business activity is in compliance with all business requirements as set forth in sections 226.500 to 226.600, RSMo and this rule.

(3) Permits (see 7 CSR 10-6.070 for state permit requirements).

(4) A permit may be granted for an automatic changeable display or digital technology. To promote highway safety, automatic changeable displays and digital technology shall meet the following conditions:

(A) The static display time for each message is a minimum of ten (10) seconds;

(B) The time to completely change from one (1) message to the next for an automatic changeable display is a maximum of two (2) seconds, and the time to completely change from one (1) message to the next for digital technology shall be instantaneous with no discernible time gaps between displays;

(C) The change of message must occur simultaneously for the entire sign face;

(D) The outdoor advertising structure meets all other requirements in sections 226.500 to 226.600, RSMo, and this rule. Any such sign shall be designed such that the sign will freeze in one (1) position if a malfunction occurs;

(E) The image does not flash or flicker in accordance with section 226.540(1)(A), RSMo;

(F) The image is projected onto a securely fixed, substantial structure and in accordance with the provisions in sections 226.500 to 226.600, RSMo;

(G) No projected image(s) or message(s) shall appear to move or be animated;

(H) The sign luminance shall not exceed three hundred (300) candelas per square meter in full white mode between the periods of sunset to sunrise as calculated by the United States Naval Observatory; and

(I) In accordance with section 226.541, RSMo, if allowed by local regulations, a con-

forming out of standard sign may be upgraded with digital technology provided—

1. Up to twenty percent (20%) of the sign face, not to exceed one hundred sixty (160) square feet of area may be upgraded with digital technology for displaying text or numbers; or

2. More than twenty percent (20%) of the sign face may be upgraded with digital technology only if it maintains a distance of at least one thousand four hundred feet (1,400') from any other such digital technology display sign in which more than twenty percent (20%) of the sign face contains digital technology. Permit owners shall submit a written request to upgrade more than twenty percent (20%) of the sign face with digital technology and obtain approval prior to making any changes to the sign. Written upgrade requests will be time and date stamped upon their receipt and priority in contested areas will be assigned in chronological order. If granted, the approval to upgrade to digital technology will expire twelve (12) months from the date it is issued.

(5) Reconstruction or Repair of Conforming out of Standard Signs. Conforming out of standard signs shall not be substantially rebuilt as provided in section 226.541, RSMo. A conforming out of standard sign that is substantially rebuilt shall be considered unlawful and any permit issued by the commission for the sign shall be voided and the fee shall be retained by the commission.

(6) Moratorium of New Outdoor Advertising Permits.

(A) A moratorium of new outdoor advertising permits will be imposed within the outdoor advertising control area for that section of highway scheduled for construction where funding for right-of-way acquisition is approved by the commission under the Statewide Transportation Improvement Program;

(B) For purposes of the moratorium, completion of construction as used in section 226.541, RSMo, shall mean when a final inspection is performed by the commission and all construction is determined to be completed to the satisfaction of the commission without any requested changes or corrections.

(C) New applications for permit to erect and/or maintain outdoor advertising will not be accepted for any phase or portion of construction or reconstruction of any street or highway imposed by a moratorium until said moratorium is lifted.

(7) Sign Reset Agreement Program. For the purposes of implementing the sign reset

agreement program pursuant to section 226.541, RSMo, the following shall apply:

(A) A sign permit amendment shall be issued only to qualifying signs that are displaced within the construction limits of any phase or portion of construction of any street or highway where funding for right-of-way acquisition is approved by the commission under the Statewide Transportation Improvement Program;

(B) Reset signs must be reconstructed of the same type materials and may not exceed the square footage of the original sign structure as it existed on the date of the Notice of the Intended Acquisition.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed Feb. 6, 1974, effective March 8, 1974. Amended: Filed June 9, 1975, effective July 9, 1975. Rescinded and readopted: Filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed Feb. 4, 1991, effective Aug. 30, 1991. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

*State ex rel State Highway Commission v. Heil, 597 SW2d 257 (Mo. App. 1980). The selling of gravel by a farmer from his/her gravel pit is a “commercial” pursuit in contemplation of section 226.540, RSMo (Supp. 1976).*

### 7 CSR 10-6.050 Outdoor Advertising Beyond Six Hundred Sixty Feet (660') of the Right-of-Way

*PURPOSE: This rule applies to outdoor advertising erected or maintained beyond six hundred sixty feet (660') of the right-of-way visible from the main-traveled way of the interstate or primary highway system and erected with the purpose of its message being read from the traveled way. This outdoor advertising is regulated under section 226.527, RSMo and 23 U.S.C. 131(c).*

(1) Definitions (see 7 CSR 10-6.015).

(2) Determination of Urban Areas. The term urban area is defined by section 226.510(6), RSMo.



(3) Determination of Purpose. The department's authorized representative shall determine under section 226.527, RSMo, when a sign is erected with the purpose of its message being read from the main-traveled way of an interstate or primary highway.

(A) Criteria. The determination shall be made after consideration of, but not limited to, the following and any other relevant criteria:

1. Angle. The positioning or angle of a sign to an adjacent highway;

2. Size. The distance of the sign from the controlled highway in relation to the size of the sign. If a sign is large enough so that its message can be read from the highway, it may be assigned to that highway;

3. Message content. Whether or not the sign's message is applicable to a particular highway;

4. Physical obstructions. The presence of or selective removal of physical obstructions, natural or man-made, impairing a motorist's view of the sign from the highway; and

5. Exposure time. The period of time a motorist traveling on the adjacent highway at the maximum posted speed limit would be exposed to the sign's message. A sign which cannot be read from the adjacent highway should not be assigned to that highway.

(B) Multiple Highways. A sign may be visible or erected, or both, with the purpose of its message being read from two (2) or more interstate or primary highways. These signs must comply with the sizing, lighting, spacing, location, and permit requirements applicable to each interstate or primary highway. To promote highway safety, where there is a conflict between sizing, lighting, spacing, or location requirements of sections 226.500–226.600, RSMo, the most restrictive requirements shall prevail.

(4) Permits (see 7 CSR 10-6.070 for state permit requirements).

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

### 7 CSR 10-6.060 Nonconforming Signs

*PURPOSE: This rule, consistent with 23 CFR 750.707, categorizes and establishes criteria for the maintenance and removal of nonconforming signs under sections 226.500–226.600, RSMo which were lawfully erected but which fail to conform to the sizing, lighting, spacing, or location requirements of state statutes enacted at a later date or because of changed conditions. Included in this rule are standards for the selection and exemption from removal of specific tourist area signs, which are authorized to be maintained by section 226.520(5), RSMo, 23 U.S.C. 131(o) and 23 CFR 750.501, and landmark signs, which are authorized to be maintained by section 226.545, RSMo, 23 U.S.C. 131(c)(4) and 23 CFR 750.710. This rule does not apply to signs erected on state right-of-way by the State Highway Commission under sections 226.525 and 226.535, RSMo or to directional and official signs authorized by section 226.520(1), RSMo. This rule also does not apply to signs not lawfully in existence under section 226.550.2, RSMo and unlawful signs under section 226.580, RSMo.*

(1) Definitions (see 7 CSR 10-6.015).

(2) Categories of Nonconforming Signs. Unless these signs are unlawful signs under section 226.580, RSMo, the following nonconforming signs, subsections (2)(A)–(D) of this rule, may be maintained under the specified conditions to promote highway safety:

(A) Signs Located Within Commercial or Industrial Areas. Any signs within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system which were lawfully erected and which are located within zoned or unzoned commercial or industrial areas but which under state statutes enacted at a later date or because of changed conditions fail to meet the sizing, lighting, spacing, or location requirements of sections 226.500–226.600, RSMo or 7 CSR 10-6.020 are nonconforming signs. These signs may be maintained subject to the criteria for maintenance of nonconforming signs, in section (3);

(B) Signs Located Outside Commercial or Industrial Areas. Any signs within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system which were lawfully erected and which are not located in zoned or unzoned commercial or industrial areas but which under state statutes

enacted at a later date or because of changed conditions fail to meet the sizing, lighting, spacing, or location requirements of sections 226.500–226.600, RSMo or 7 CSR 10-6.020 are nonconforming signs. These signs may be maintained subject to the criteria for maintenance of nonconforming signs listed in section (3), only until removed by the commission upon the payment of just compensation under section 226.570, RSMo; except, those signs qualifying as specific tourist area signs or as landmark signs may be maintained subject to the criteria for maintenance of nonconforming signs, in section (3);

(C) Signs Located Beyond Six Hundred Sixty Feet (660') of the Right-of-Way. Any signs lawfully erected, either outside of urban areas prior to August 13, 1976, or inside urban areas at any time which are located beyond six hundred sixty feet (660') of the right-of-way, visible from the main-traveled way of the interstate or primary system and erected with the purpose of its message being read from the traveled way, except that outdoor advertising as is defined in sections 226.520(1) and (2), RSMo, but which under state statutes enacted at a later date or which because of changed conditions fail to meet the location requirements of sections 226.500–226.600, RSMo or 7 CSR 10-6.020 are nonconforming signs. These signs may be maintained subject to the criteria for maintenance of nonconforming signs, listed in section (3), only until removed by the commission upon the payment of just compensation under section 226.570, RSMo; except those signs qualifying as landmark signs may be maintained subject to the criteria for maintenance of nonconforming signs, in section (3);

(D) Landmark Signs. Any signs lawfully erected on or before October 22, 1965, including signs on farm structures or natural surfaces regardless of their advertising message at the date of erection, which are determined by the commission with the approval of the United States Secretary of Transportation to have been of historical or artistic significance on August 13, 1976, but which under state statutes enacted after these signs were erected or because of changed conditions fail to meet the sizing, spacing, lighting, or location requirements of sections 226.500–226.600, RSMo, or 7 CSR 10-6.020 are nonconforming signs. Landmark signs may be located either within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system or beyond six hundred sixty feet (660') of the right-of-way, visible from the main-traveled way of the interstate or primary system and erected with



the purpose of its message being read from the traveled way. These landmark signs may be maintained subject to the criteria for maintenance of nonconforming signs in section (3).

(3) Criteria for Maintenance of Nonconforming Signs. Reasonable maintenance and repair of nonconforming signs is permissible, however, violation of any one (1) or more of the following subsections (3)(A)–(F) of this rule disqualifies any sign from being maintained as a nonconforming sign and subjects it to removal by the commission without the payment of just compensation:

(A) Message Content. Changes of advertising message content are permissible subject to the following:

1. Landmark signs. In order to continue to qualify as a landmark sign after August 13, 1976, the sign's advertising message shall not be substantially changed, except that a change in mileage, address, routing, course, or direction is permissible;

2. On-premises signs. Switching advertising from on-premises activities to off-premises activities does not constitute a changed condition so as to render the sign as nonconforming. A sign that switches from advertising on-premises goods and services to off-premises goods and services must meet all requirements of the law in effect at the time the advertising is changed from on-premises to off-premises activities;

(B) Type of Materials. The type of materials used in the construction of a sign shall not be changed after the date the sign becomes a nonconforming sign, except that a change of facing, panels, message, or advertising does not constitute a change of type of materials. The routine replacement of border and trim shall be permitted;

(C) Size. The size or area of a sign shall not be increased after the date the sign becomes a nonconforming sign. A net decrease in the face of the sign will be permitted.

1. Temporary cutouts and extensions will not be considered a substantial increase in size provided the cutout or extension meets the following criteria:

A. The cutout or extension area is thirty-three percent (33%) or less of the total display area for each side of the sign, prior to the cutout or extension addition. The commission shall determine the method used in calculating the percentage of the temporary cutout or extension; and

B. A cutout or extension may be added to either side of a structure for a period of time of no more than three (3) years for each side or the term of the display contract,

whichever is the shortest. After a side of an outdoor advertising structure has had a cutout or extension for that time period, a cutout or extension cannot be placed on that side of the structure for a period of six (6) months.

(D) Relocation or Repair of Nonconforming Signs. Relocation of a nonconforming sign or repair of a deteriorated or damaged nonconforming sign is a new erection as of the date the relocation or repair is completed and these signs must then comply with the then effective sizing, lighting, spacing, location, and permit requirements of sections 226.500–226.600, RSMo. Relocation of a nonconforming sign or repair of a deteriorated or damaged nonconforming sign voids any permit issued by the commission for the sign and the fee shall be retained by the commission.

1. Repair of any deteriorated or damaged nonconforming sign after the date the sign becomes a nonconforming sign is prohibited. A deteriorated or damaged nonconforming sign is a sign upon which more than fifty percent (50%) of the support pole(s) have been damaged or replaced within a twelve- (12-) month period. A deteriorated or damaged nonconforming sign shall be considered unlawful and any permit issued by the commission for the sign shall be voided and the fee shall be retained by the commission. A nonconforming sign which has only a deteriorated or damaged face shall not constitute a deteriorated or damaged nonconforming sign but shall remain subject to section 226.580.1(4), RSMo. A nonconforming sign damaged by vandalism may be repaired without being in violation of this section. The sign owner has the burden to prove that the nonconforming sign was damaged by vandalism. Proof of vandalism can be timely reports or complaints to sheriff or proper police departments. Vandalism for purposes of this rule is the willful destruction of a nonconforming sign by a party other than the sign owner, property owner, or lessor of the sign or business which is advertised on the sign. Any damage to the nonconforming sign due to carelessness or negligence of any party shall not constitute vandalism.

A. For monopole signs no more than fifty percent (50%) of the single support pole may be repaired or replaced within a twelve- (12-) month period.

B. The fifty percent (50%) rule applies to the height of the support pole(s) above ground.

2. Any movement of a sign structure shall be considered a relocation;

(E) Other Improvements. The following shall be prohibited for nonconforming signs:

1. Illumination of the sign structure by a light(s) either attached or detached, for the purpose of illuminating the display;

2. Raising or lowering of the height of any sign structure;

3. Changing the mode of advertising or message transition to a trivision, digital, projection, or other changeable message sign;

4. Filling in the open space between stacked signs and/or side-by-side signs with advertisement resulting in only one (1) display area, except if the result would cause the sign to become a lawful conforming sign under section 226.540, RSMo; and

5. Adding to the stabilization of the sign by attaching guys, struts, or other strengthening devices.

(F) Abandonment and Discontinuance. A nonconforming sign shall not be abandoned or discontinued after the date the sign becomes nonconforming. Abandonment or discontinuance occurs whenever—

1. The sign, for a continuous period of twelve (12) months or more, advertises services or products no longer available to the traveling public because the services or products have been discontinued or cannot be obtained at the destination or by the directions indicated on the sign; or

2. The sign, for a continuous period of twelve (12) months or longer, is maintained without an advertising message. The following are examples of signs maintained without an advertising message: A sign with a message which is partially obliterated so as not to identify a particular service or product, a sign which is blank or painted out, a sign structure with no face or a sign with a message consisting solely of the name of the sign owner;

(G) Notice to Terminate Nonconforming Signs. When a sign is maintained in violation of any one (1) or more of subsections (3)(A)–(F), the department's authorized representative shall issue a notice to terminate nonconforming sign to the sign owner and the owner or occupant of the real property on which the sign is located. The notice to terminate the nonconforming sign shall identify the violation of the criteria for maintenance of the nonconforming sign and the available remedial action to correct the violation which may include removal of the sign. The notice to terminate the nonconforming sign shall also establish the length of time with a maximum time of sixty (60) days for remedial action or removal of the sign (if a remedial action other than removal of the sign is not available). The notice to terminate the nonconforming sign may designate a time of less than sixty (60) days for remedial action. Any time which is stated in a notice to terminate





the nonconforming sign for taking remedial action shall not change the time period to request an administrative hearing. Any person given a notice to terminate the nonconforming sign by the department's authorized representative shall be entitled to an administrative hearing pursuant to the provisions of sections 536.067–536.090, RSMo by filing a written request for hearing with the Secretary of the Missouri Highways and Transportation Commission, PO Box 270, Jefferson City, MO 65102. The request for hearing must be received by the commission secretary within thirty (30) days after receipt of the notice to terminate the nonconforming sign by the applicant. The request for hearing must be sufficient to identify the applicant requesting the hearing and each outdoor advertising structure for which a hearing is requested. The act of mailing the request for hearing does not constitute receipt by the commission secretary. No answer or other response by the commission is necessary. An applicant will not be entitled to a hearing if the applicant fails to request a hearing within thirty (30) days after receipt of the notice to terminate the nonconforming sign. Upon receipt of a request for hearing, the commission secretary shall forward the request to the hearing examiner for the commission and notify the department's authorized representative. Hearings for notices to terminate the nonconforming sign shall be conducted pursuant to 7 CSR 10-6.090. The permit for any nonconforming sign as defined in 7 CSR 10-6.060 shall be surrendered upon removal of the sign.

(4) Permits (see 7 CSR 10-6.070 for state permit requirements).

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Emergency amendment filed Nov. 15, 2007, effective Dec. 3, 2007, expired May 30, 2008. Amended: Filed Nov. 15, 2007, effective May 30, 2008. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

### 7 CSR 10-6.070 Permits for Outdoor Advertising

*PURPOSE: This rule provides a uniform procedure for sign owners to obtain and maintain permits issued by the Missouri Highways and Transportation Commission for outdoor advertising specified by section 226.530, RSMo.*

(1) Definitions (see section 226.541, RSMo, and 7 CSR 10-6.015).

(2) Outdoor Advertising Subject to Permit Requirements.

(A) Permit Required. To promote highway safety, a sign owner or the owner of the land on which the sign is located, regardless of when the sign was erected, must obtain a permit from the commission for the following outdoor advertising erected or maintained within six hundred sixty feet (660') of the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the interstate or primary system:

1. Directional and other official signs. (see sections 226.550.1 and .2 and 226.520(1), RSMo, and 7 CSR 10-6.020). Only one (1) permit will be issued for sign structures with multiple displays;

2. Signs located in areas zoned commercial and industrial except on-premises signs (see sections 226.550.1 and .2, RSMo, and 7 CSR 10-6.040(2)(A));

3. Signs located in unzoned commercial or industrial areas except on-premises signs (see sections 226.520(4), 226.540(4) and 226.550.1 and .2, RSMo, and 7 CSR 10-6.040(2)(B)). Only one (1) permit will be issued for multiple sign structures as back-to-back signs, double-faced signs, and V-type signs;

4. Conforming out of standard signs wherever located except on-premises signs (see sections 226.541, RSMo, and 7 CSR 10-6.040); and

5. Nonconforming signs wherever located except on-premises signs (see sections 226.550.1 and .2, RSMo, and 7 CSR 10-6.060).

(B) Multiple Highways. A sign may be visible or erected, or both, with the purpose of its message being read from two (2) or more interstate or primary highways. These signs must comply with the sizing, lighting, spacing, location, and permit requirements applicable to each interstate or primary highway. Where there is a conflict between the sizing, lighting, spacing, or location requirements of sections 226.500–226.600, RSMo, the most restrictive requirements shall prevail.

(3) Outdoor Advertising Not Eligible for Permits. Unlawful signs are not eligible for permits from the commission.

(4) Permit Applications and Fees.

(A) Filing of Permit Applications and Permit Fees. Sign owners or owners of the land on which outdoor advertising is located must apply for permits from the commission for outdoor advertising specified by section 226.550, RSMo, (see 7 CSR 10-6.070(2)). Permit applications must be:

1. Timely submitted. For new outdoor advertising to be erected, the application for permit and the permit application fee of two hundred dollars (\$200) shall be submitted before erecting or starting construction of any sign requiring a permit from the commission. For all nonconforming outdoor advertising requiring a permit from the commission and for any other existing outdoor advertising lawfully erected, but for failure to obtain a permit prior to its erection from the commission, the application for permit must be submitted to and received by the department's authorized representative within thirty (30) days of receipt by the applicant of a notice to remove outdoor advertising under section 226.580, RSMo, from the commission specifying the failure to obtain or maintain a permit for a sign for which a permit and biennial inspection is required by section 226.550, RSMo. Failure of the applicant to timely submit an application for permit shall be cause for the department's authorized representative to reject and return the application for permit;

2. Biennial inspection fees. Biennial inspection fees are due in accordance with section 226.550.4, RSMo. Religious organizations, service organizations, veteran organizations, and fraternal organizations, as defined in section 313.005, RSMo, upon submission of a copy of their certification of Internal Revenue Service tax exempt status, may be granted a fee exempt permit provided the display area of the sign is less than seventy-six (76) square feet.

3. Payment Failure. Failure to submit the correct amount of fee by check, draft, or money order payable to "Director of Revenue—Credit State Road Fund" shall be cause for the department's authorized representative to reject and return the application for permit.

4. Documentation and assistance required upon request. Any applicant must submit to the department's authorized representative upon written request, written information or documentation, as specified in the request, sufficient for the department's authorized representative to determine whether or



not a permit should be issued under section 226.550, RSMo. Also, any applicant may be asked to assist the department's authorized representative in locating the sign location described in an application for permit. Refusal by or failure of an applicant to comply with a request for information, documentation, or assistance shall be grounds for the department's authorized representative to reject and return the application for permit.

5. Misrepresentation of fact. Any misrepresentation of material fact by an applicant on any application for permit shall be grounds for the department's authorized representative to reject and return the application for permit.

6. All fees must be paid. No permit shall be granted to any applicant who is delinquent in the payment of any outdoor advertising fees to the commission, including any removal costs or biennial inspection fees associated with any sign.

(5) Informal Hearing on Denial of Permit.

(A) Request for Informal Hearing. If denied a permit, the applicant shall have twenty (20) working days to request an informal hearing for the purpose of appealing the denial. The applicant shall submit its request for an informal hearing to the Outdoor Advertising Manager, Missouri Department of Transportation, PO Box 270, Jefferson City, MO 65102.

(B) Procedure. If the applicant requests an informal hearing, the department's authorized representative shall advise the applicant of the time, date, and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the hearing.

(6) Permits.

(A) Issuance of the Permit. Upon proper application and payment of fee for any sign eligible for a permit, the department's authorized representative shall issue a permit. The permit owner must erect the sign, if not already in existence within two (2) years of the date the permit was issued by the commission and the erected outdoor advertising structure must comply with all current sections of 226.500 through 226.600, RSMo, and 7 CSR 10-6.010 through 7 CSR 10-6.100. This permit is for the erection of a lawful conforming outdoor advertising structure.

(B) Transfer of Permit. When a sign owner transfers ownership of a sign for which a permit is required by section 226.550, RSMo, the new sign owner shall notify the commission by filing an application for transfer, along with a ten dollar (\$10) fee on a form

supplied by the department's authorized representative. Applications must be completed in full. Incomplete or incorrectly completed application forms may be rejected or returned by the department's authorized representative to the applicant.

(C) Voiding of Permits Without Compensation. Permits may be voided without compensation to be paid to the permit holder under the following conditions:

1. When there has been any misrepresentation of a material fact by the applicant on a permit application and the sign is removed under section 226.580, RSMo;

2. The permit for any unbuilt structure shall be voided if the sign, complete with message, is not in existence within two (2) years of the date the permit was issued by the commission;

3. When the commission determines that a change has been made to a conforming sign by the sign owner and the sign has been removed under section 226.580, RSMo, or that a conforming out of standard sign has been substantially rebuilt under section 226.541, RSMo; or

4. When the commission determines that a substantial change has been made to a nonconforming sign by the sign owner such that the sign's nonconforming status was terminated and the sign was removed under the commission's administrative rules for maintenance of nonconforming signs.

(D) Voiding of Permits With Compensation. The commission is also authorized to void any permit when the commission determines that such permit has been erroneously issued by department staff in violation of any state law or administrative rule and the outdoor advertising shall be subject to removal and compensation shall be paid pursuant to section 226.570, RSMo.

(7) Biennial Inspection Fee. A biennial inspection fee shall be collected every two (2) years as set forth in section 226.550, RSMo. The biennial inspection fee must be received by the due date on the statement issued from the Missouri Department of Transportation and will be considered delinquent if not paid within sixty (60) days after the due date on the statement. Fees received from any sign owner that owes delinquent fees to the department will be credited to the past due accounts before applying the remainder, if any, toward issuance of a new permit for: outdoor advertising, vegetation cutting and trimming, or transfer of ownership of an outdoor advertising permit.

(8) Relocation. Relocation of any sign for any reason whatsoever is a new erection as of the

date the relocation is completed and these signs must then comply with the then effective sizing, lighting, spacing, location, and permit requirements of sections 226.500–226.600, RSMo. Relocation of any sign voids any permit issued by the commission for that sign and the fee shall be retained by the commission. The department's authorized representative shall issue a notice to remove outdoor advertising under section 226.580, RSMo. A new application for permit must be filed with the department's authorized representative and the sign can only be relocated in compliance with the sizing, lighting, spacing, and location requirements of sections 226.500–226.600, RSMo.

*AUTHORITY: sections 226.150 and 226.530, RSMo 2000.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Feb. 8, 2007, effective Aug. 30, 2007. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.530, RSMo 1965, amended 1972, 1995.*

### 7 CSR 10-6.080 Removal of Outdoor Advertising Without Compensation

*PURPOSE: This rule provides criteria for the removal of unlawful signs and signs not lawfully existing without compensation by the State Highway Commission under sections 226.550 and 226.580, RSMo.*

(1) Definitions (see 7 CSR 10-6.015).

(2) Removal of Unlawful Signs. The department's authorized representative shall serve a notice to remove outdoor advertising under section 226.580, RSMo, and for conforming out of standard signs that have been substantially rebuilt pursuant to section 226.541, RSMo and 7 CSR 10-6.040(5).

(3) Removal of Nonconforming Signs. The department's authorized representative shall issue a notice to terminate a nonconforming sign pursuant to 7 CSR 10-6.060(3)(G).

(4) Authority to Withdraw Notices. The department's authorized representative is authorized to withdraw any notice to remove outdoor advertising issued by the department under section 226.580, RSMo, or any notice to terminate a nonconforming sign issued by



the department under 7 CSR 10-6.060(3)(G) for any one (1) of the following reasons: where the notice to remove was improperly issued by the department because of a mistake of law or fact, where the sign has been removed or the basis of unlawfulness has been corrected or has ceased to exist, or where it is finally adjudicated that the notice to remove was not authorized by sections 226.500–226.600, RSMo. If a timely request for administrative review of notice to remove outdoor advertising or a notice to terminate nonconforming sign has been made, the department’s authorized representative shall advise the hearing examiner of any withdrawal of a notice to remove outdoor advertising or a notice to terminate nonconforming sign.

(5) Structures Which Have Never Displayed an Advertising Message. Structures, including poles, which have never displayed advertising or informative content are subject to control and removal when advertising content visible from the main-traveled way is added or affixed.

(6) Remedial Action. Any notice to remove outdoor advertising which is issued by the department’s authorized representative shall specify any available remedial action to correct the violation. The notice to remove outdoor advertising shall also establish the length of time which is available to take the remedial action. Any length of time specified for taking remedial action shall not lengthen the time available for requesting an administrative hearing. The remedial action which is specified in the notice to remove outdoor advertising may include the removal of the violating sign.

(7) Status of Permit. The issuance of a notice to remove outdoor advertising or a notice to terminate nonconforming outdoor advertising shall be notice that any permit for that outdoor advertising structure shall be surrendered upon removal of the structure. No other notice is necessary under these conditions.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes, 2000 and Supp. 2013.*

**7 CSR 10-6.085 Cutting and Trimming of Vegetation on Right-of-Way**

*PURPOSE: This rule provides for the cutting and trimming of vegetation under controlled conditions on highway right-of-way when this vegetation obscures a lawful sign under sections 226.130 and 226.585, RSMo.*

(1) Permits. To promote highway safety, a permit issued by the department’s authorized representative is required to cut or trim any vegetation in front of any lawful sign. Permits to cut vegetation will be issued only for lawful signs which are at least five (5) years old. Permits to trim trees will be issued only after a lawful sign is at least two (2) years old. A vegetation permit may be denied or limited if the plan is deemed to be detrimental to the stability of the state right-of-way as determined by the department’s authorized representative.

(A) Fee. The cost of a permit for trimming and cutting is determined on the basis of the vegetation to be removed. All diameter measurements contained in this rule shall be measured at four and one-half feet (4 1/2') above ground level. There is no fee to trim trees or remove brush and trees with a diameter of less than six inches (6"), but a permit will still be required. The fee to remove each tree with a diameter equal to or greater than six inches (6") is one hundred dollars (\$100) plus an additional one hundred dollars (\$100) for every inch of diameter greater than six inches (6"). A performance bond in an amount up to one thousand dollars (\$1,000) shall be required to ensure restoration of highway right-of-way. All fees must be paid prior to the commencement of any tree trimming.

(B) Scope. Permits will only allow the cutting of vegetation necessary to clear the sign’s visibility zone as determined by the department’s authorized representative and the applicant at the time the permit is issued. This visibility zone is an area on the right-of-way four hundred fifty feet (450') on interstate and freeway and nonfreeway primary highways. The length is from the edge of the sign face closest to the highway pavement in a direction parallel to the pavement.

(C) Duration. All permits shall expire after one hundred twenty (120) days.

(2) Access. To promote highway safety, access to the cutting or trimming area shall be from private property or outer roadways and cannot be made from the through traffic roadway of

any highway maintained by the department without written permission from the department. Parking of equipment or placement of materials on the traffic lanes or shoulders is strictly prohibited.

(3) Conditions. To promote highway safety, the following conditions shall apply to trimming and cutting of vegetation on highway right-of-way:

(A) Removal. All vegetation trimmed or cut will be removed from the right-of-way and no burning on the right-of-way is permitted. Trees are to be cut to ground level;

(B) Damage to Right-of-Way. The applicant will be held responsible for any damage to the right-of-way. Any destruction of turf will require the applicant to restore the right-of-way to a like or better condition, which may require seeding, mulching or sodding of the right-of-way which has been disturbed;

(C) Herbicides. Only herbicides approved by the department’s authorized representative may be used to trim or remove vegetation. The applicant must comply with the Missouri Pesticide Use Act, sections 281.005 through 281.115, RSMo.

(D) Destruction of Vegetation. A vegetation permit will be revoked if an applicant destroys desired vegetation due to excessive cutting, trimming, or inappropriate use of herbicides on vegetation. If the permit is revoked due to excessive cutting, trimming, or inappropriate use of herbicides, the department will retain and collect against any bonds filed.

(4) Informal Hearing on Denial of Permit to Cut or Trim.

(A) Request for Informal Hearing. If denied a permit to cut or trim vegetation, the applicant shall have twenty (20) working days to request an informal hearing for the purpose of appealing the denial. The applicant shall submit its request for an informal hearing to the Outdoor Advertising Manager, Missouri Department of Transportation, PO Box 270, Jefferson City, MO 65102.

(B) Procedure. If the applicant requests an informal hearing, the department’s authorized representative shall advise the applicant of the time, date, and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence shall not apply at the hearing.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed Aug. 31, 1999, effective March 30, 2000. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*



*\*Original authority: 226.150, RSMo 1939, amended 1977; and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

### 7 CSR 10-6.090 Administrative Review of Notices to Remove Outdoor Advertising and to Terminate Nonconforming Signs

*PURPOSE: This rule provides a uniform procedure for administrative review of notices to remove outdoor advertising issued by the State Highway Commission under section 226.580, RSMo.*

(1) Request for Administrative Review. Any person given a notice to remove outdoor advertising under section 226.580, RSMo, by the department's authorized representative shall be entitled to an administrative hearing under Chapter 536, RSMo, by filing a written request for hearing with the Secretary of the Missouri Highways and Transportation Commission, PO Box 270, Jefferson City, MO 65102. This request for hearing must be received by the commission secretary within thirty (30) days after receipt of the notice to remove outdoor advertising by the applicant. The request for hearing must be sufficient to identify the person(s) requesting the hearing and the outdoor advertising structure for which the hearing is requested. No answer or other response by the commission is necessary. Upon receipt of the request for hearing, the commission secretary shall forward the request to the hearing examiner for the commission.

(2) Authority to Dismiss Request for Administrative Review. The hearing examiner is authorized to dismiss any request for administrative review and terminate any further proceedings for the following reason:

(A) When the notice to remove outdoor advertising or notice to terminate a nonconforming sign has been withdrawn under 7 CSR 10-6.080(4);

(B) When the applicant has withdrawn the request for administrative review. The applicant must submit the withdrawal in writing to the hearing examiner; or

(C) When the applicant fails to appear at the time and place for a hearing as scheduled under section (4) of this rule.

(3) Bias. If the hearing examiner determines at any stage of the proceeding that s/he has prior knowledge of specific facts of a case that s/he deems would prevent the hearing examiner from rendering an objective report and order to the commission, s/he shall immediately cease to act and the commission shall provide an alternate hearing examiner.

(4) Notice of Hearing. The hearing examiner shall give written notice of hearing to the applicant and department's authorized representative fixing a time and place for a hearing, at which time the applicant and department's authorized representative may appear and present evidence. The hearing examiner shall issue this notice not less than fifteen (15) days prior to the date fixed for hearing. In instances where more than one (1) request for hearing is received from the same person, the hearing examiner may consolidate those hearings in the interest of economy.

(5) Legal Representation Required. After the request for administrative review is filed with the commission secretary, no person shall sign any pleading or brief or shall appear at any administrative hearing in a representative capacity for a corporation, partnership or another individual unless this person is a licensed attorney in good standing in Missouri.

(6) Discovery. Any party may take and use depositions under section 536.073, RSMo. The hearing examiner shall rule on all matters concerning discovery.

(7) Subpoenas. Witnesses may be summoned to appear to give testimony or to give testimony and produce documents at the hearing by a subpoena issued by the hearing examiner, the secretary to the commission or by a notary public at the request of any party.

(8) Continuances. Any hearing that is scheduled by the hearing examiner may be continued at the discretion of the hearing examiner pursuant to Supreme Court Rule 65.

(9) Evidence, Argument, and Briefs. The sole issue in a hearing is whether or not a particular sign is an unlawful sign under section 226.580, RSMo or is being maintained in violation of the rules for maintenance of nonconforming signs under 7 CSR 10-6.060. The department shall present its evidence first at the hearing in support of its notice to remove outdoor advertising or notice to terminate nonconforming sign which must specify the reason the department deems the outdoor advertising to be unlawful. After the department presents its evidence, the applicant may present evidence. Any party shall have the right of cross-examination. Oral or written evidence must be received in the record to be considered by the commission in reaching its final decision. Any party shall be entitled to present oral argument at the hearing. If oral argument is presented, it shall be preserved and transcribed in the record for the use of the commission in reaching a final

decision. Any party may file a written brief or the hearing examiner may require written briefs to be filed within the time set by the hearing examiner for the use of the commission in reaching a final decision. The hearing examiner may rule on all objections and motions to facilitate submission of the case to the commission for its final decision.

(10) Transcript. At the conclusion of the hearing, the hearing examiner shall cause the entire record to be transcribed in sufficient quantities that the original may remain a permanent part of the record. Any party may obtain a copy of the record at the party's expense.

(11) Report and Order. As soon as practical after receipt of the transcript and briefs of the parties, if any, the hearing examiner shall submit to each member of the commission a suggested report and order for consideration by the commission.

(12) Final Decision. The members of the commission shall render a final decision. If briefs or oral arguments are submitted, the members of the commission, in lieu of reading the entire record, may consider those portions of the record cited or referred to in the arguments or briefs to arrive at a final decision. The commission shall render its final decision in writing which shall be supported by competent and substantial evidence upon the whole record and which shall be subject to judicial review under section 536.100, RSMo.

*AUTHORITY: section 226.150, RSMo 2000, and sections 226.500–226.600, RSMo 2000 and Supp. 2013.\* Original rule filed May 16, 1977, effective Oct. 15, 1977. Amended: Filed Jan. 16, 1990, effective June 11, 1990. Amended: Filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Oct. 3, 2013, effective May 30, 2014.*

*\*Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2013.*

### 7 CSR 10-6.100 Removal or Concealment of Outdoor Advertising Pending Judicial Review

*PURPOSE: This rule provides a uniform procedure for removal or concealment of outdoor advertising pending judicial review of notices to remove outdoor advertising issued by the commission under section 226.580, RSMo.*



(1) Removal or Concealment of Advertising Message by Owner. If the commission enters its final decision and order to remove the outdoor advertising structure and a petition for judicial review is filed pursuant to sections 226.580 and 536.100, RSMo, the advertising message contained on the structure shall be removed or concealed within thirty (30) days of the date of filing by the owner of the structure at the owner's expense until the action for judicial review is finally adjudicated. The owner shall be responsible for ensuring the safety of the general public as a result of any such act of removal or concealment. The owner shall remove or conceal all sign panels which contain any portion of the advertising message.

*effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003.*

*\*Original authority: 226.150, RSMo 1939, amended 1977; and 226.500–226.600, see Missouri Revised Statutes 2000 and Supp. 2002.*

(2) Removal or Concealment of Advertising Message by Commission. If the owner of the structure refuses or fails to remove or conceal the advertising message within thirty (30) days of filing a petition for judicial review, the commission may remove or conceal all sign panels which contain any portion of the advertising message and the owner of the structure shall be liable for the costs of this process. If the owner refuses to accept the panels after the removal, the commission will store them for a period not to exceed sixty (60) days and recover all costs of transporting and storing the panels from the owner. If after sixty (60) days the owner has not paid all costs associated with the commission's transporting and storing the panels and taken custody of the panels, the commission shall dispose of them as it sees fit with no compensation to the owner.

(3) Commission Liability. The commission shall incur no liability for causing the removal or concealment of the advertising message while an action for review is pending, except if the owner finally prevails in its action for judicial review, commission will compensate the owner at the rate the owner is actually receiving income from the advertiser pursuant to written lease from the time the message is removed or concealed until the judicial review is final. In the case of a sign carrying its owner's advertising message, or a lease the commission determines was not entered into pursuant to an arm's length transaction, compensation shall be at fair rental value. Fair rental value shall be determined by comparing signs of similar size, location and condition for the period at issue.

*AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2000 and Supp. 2002.\* Original rule filed June 15, 1993,*