

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 and 7 CSR 10-6.080(2), the following nonconforming signs, subsections (2)(A)–(D) of this rule, may be maintained under the specified conditions:
 - (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 maintraveled 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 maintraveled 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 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)–(E) 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. For the purpose of determining the percentage of a temporary cutout or extension, the area of the smallest square, rectangle, triangle, circle, or contiguous combination of shapes that will encompass the cutout or extension will be calculated and divided by the area of the smallest square, rectangle, triangle, circle or contiguous combination of shapes that will encompass the permanent display area of the outdoor advertising structure;

(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;

(c) Proof regarding the dates the cutouts or extensions were installed and will be removed shall be provided to Missouri Department of Transportation (MoDOT), upon request;

(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 fifty percent (50%) or more of the pole(s)

or vertical support(s) have been damaged or replaced within a twelve (12)-month period. 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 less 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%) or more rule applies to the height of the pole(s) or vertical support(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 right-of-way director or designee 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 right-of-way director or designee 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 outdoor advertising manager. Hearings for notices to terminate the nonconforming sign shall be conducted pursuant to 7 CSR 10-6.090. The permit for any nonconforming signs as defined in 7 CSR 10-6.060 shall be surrendered upon removal of the sign; and

(H) All permit holders should contact the outdoor advertising area permit specialist for the outdoor advertising area in which the permitted outdoor advertising structure is located in writing prior to making any changes to that structure. If they do not make this

contact with the specialist before making such changes, the department shall not be liable for any loss due to the removal of and loss of the permit for the outdoor advertising structure.

- (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. 2007. 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*

**Original authority: 226.150. RSMo 1939, amended 1977 and 226.500-226.600, see Missouri Revised Statutes 2000 and Supp. 2007.*