

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

RECEIVED

SEP 08 2017

SECRETARY OF STATE  
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

**7 CSR 10-6.060 Nonconforming Signs.** The Missouri Highways and Transportation Commission is amending sections (3)(A) through (3)(D), and (3)(G).

COPY

*PURPOSE: This amendment removes unnecessary restrictive language.*

(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]* **cannot** 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]* **is** permitted;

(C) Size. The size or area of a sign *[shall]* **will** 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]* **will** 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.

JOINT COMMITTEE ON

SEP 08 2017

ADMINISTRATIVE RULES

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]* **will** 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]* **not authorized**. 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]* **is** 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]* **is** not *[constitute]* a deteriorated or damaged nonconforming sign but *[shall]* remains 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's 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]* **does** 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]* **is** considered a relocation;

(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]* identifying 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]* **cannot** 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]* **is** 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]* forwards the request to the hearing examiner for the commission and *[notify]* **notifies** the department's authorized representative. Hearings for notices to terminate the nonconforming sign *[shall be]* **are** 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.

*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. Amended: Filed September 8, 2017.*

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

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, Missouri 65102 or [Pamela.Harlan@modot.mo.gov](mailto:Pamela.Harlan@modot.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*