

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

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

7 CSR 10-6.090 Administrative Review of Notices to Remove Outdoor Advertising and to Terminate Nonconforming Signs. The Missouri Highways and Transportation Commission is amending sections (1), (2)(B), (3), (4), (5), (6), and (9) through (12).

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PURPOSE: This amendment removes unnecessary restrictive language.

(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]* **will** 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)]* **sixty (60)** days after receipt of the notice to remove outdoor advertising by the applicant. *The request for hearing* **and** 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]* **will** 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:

(B) When the applicant has withdrawn the request for administrative review.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

(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]* **her/him** from rendering an objective report and order to the commission, s/he *[shall]* **will** immediately cease to act and the commission *[shall]* **will** provide an alternate hearing examiner.

(4) Notice of Hearing. The hearing examiner *[shall]* **will** 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]* **will** 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]* **may** sign any pleading or brief or *[shall]* appear at any administrative hearing *[in a representative capacity for]* as a legal representative of a

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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]* **will** rule on all matters concerning discovery.

(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]* **will** 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]* **has** 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]* **is** entitled to present oral argument at the hearing. If oral argument is presented, it *[shall]* **will** 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]* **will** 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]* submits 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]* **will** 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]* **will** 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. 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. 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.*