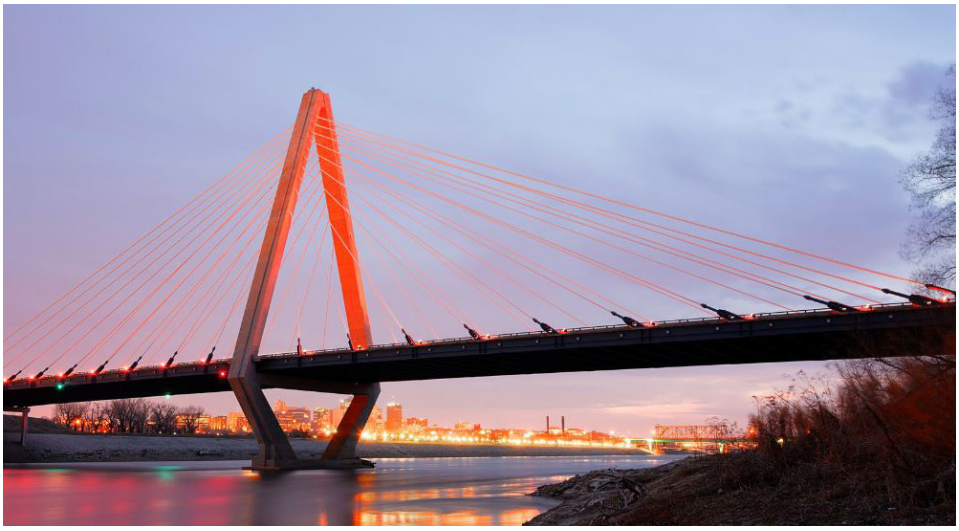
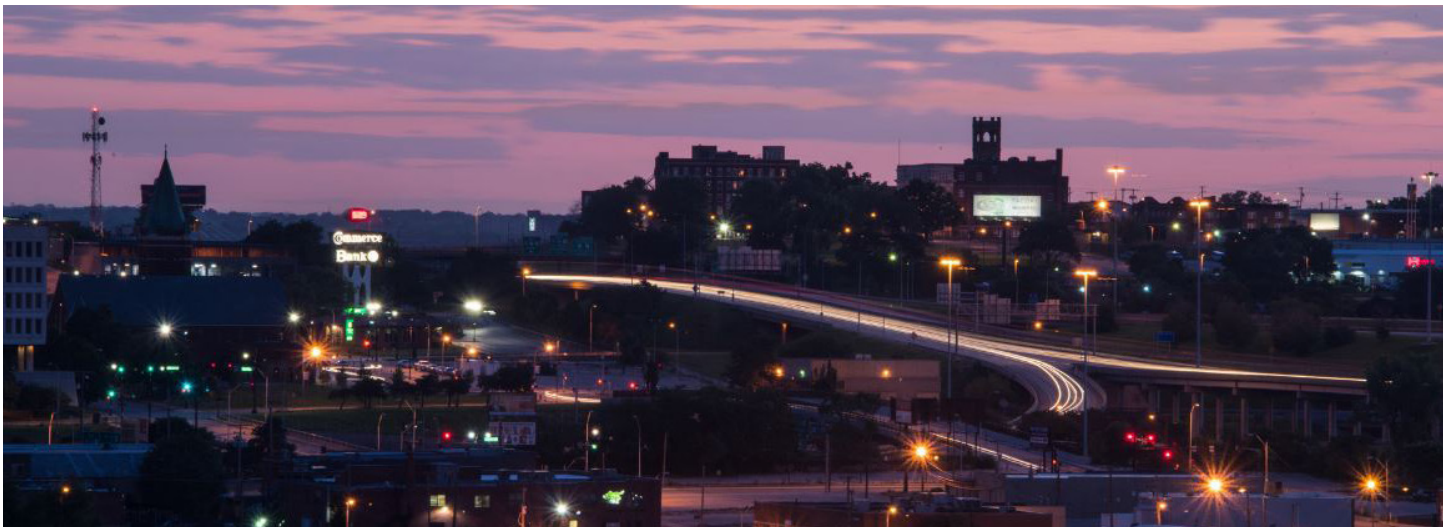


OUTDOOR ADVERTISING

Sections 226.500 to 226.600 RSMo and 7 CSR 10-6



Missouri Department of Transportation

www.modot.org/business/Outdoor_Advertising
May 2018

Contents

Sections 226.500 to 226.600, RSMo

7 CSR 10-6 Outdoor Advertising

ILLUSTRATIONS

MISSOURI REVISED STATUTES RELATING TO BILLBOARDS

226.500. Purpose of law.

The general assembly finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to the interstate and primary highway systems and that it is necessary to regulate and control same to promote highway safety, to promote convenience and enjoyment of highway travel, and to preserve the natural scenic beauty of highways and adjacent areas. The general assembly further declares it to be the policy of this state that the erection and maintenance of outdoor advertising in areas adjacent to the interstate and primary highway systems be regulated in accordance with sections 226.500 to 226.600 and rules and regulations promulgated by the state highways and transportation commission pursuant thereto and may confer with the department of public safety regarding highway safety, the department of economic development and the state division of tourism with regard to promoting the convenience and enjoyment of highway travel, and the departments of conservation and natural resources regarding the preservation of the natural scenic beauty of adjacent areas.

(L. 1965 2d Ex. Sess. p. 900 § 1, A.L. 2012 H.B. 1402)

(2003) Term "outdoor advertising" includes blank billboards as well as billboards that display advertising, and sign is not increased in size by mere addition of a message. Natural Resources, Inc. v. Missouri Highway and Transportation Commission, 107 S.W.3d 451 (Mo.App.S.D.).

226.501. Tenth amendment to United States Constitution quoted.

Be it remembered that the tenth amendment to the United States Constitution reads as follows: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people".

(L. 1972 S.B. 382 § B)

Effective 3-30-72

226.502. Legislative intent--funds to be used.

It is declared that the legislative intent of this act is to improve the safety and convenience of the highways of this state.

(1) It may be determined by the general assembly that funds shall be expended from the state road fund for the purposes of this act, or

(2) Any funds expended by the state hereunder as may be necessary to comply with any federal law or requirement which is or may become a condition to receipt of federal funds for highway purposes shall be appropriated only from state highway funds.

(L. 1972 S.B. 382)

Effective 3-30-72

Note: Material in this section taken from unnumbered paragraphs following 226.580.4 in S.C.S. S.B. 382.

226.510. Definitions.

As used in sections 226.500 to 226.600, the following words or phrases mean:

(1) "Freeway primary highway", that part of a federal-aid primary highway system, as of June 1, 1991, which has been constructed as divided, dual lane fully controlled access facilities with no access to the throughways except the established interchanges. When existing two-lane highways are being upgraded to four-lane limited access, the regulations for freeway primary highways shall apply as of the date the state highways and transportation commission acquires all access rights on the adjoining right-of-way;

(2) "Interstate system", that portion of the national system of interstate highways located within the boundaries of Missouri, as officially designated or may be hereafter designated by the state highways and transportation commission with the approval of the Secretary of Transportation, pursuant to Title 23, United States Code, as amended;

(3) "Outdoor advertising", an outdoor sign, display, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any point of the traveled ways of the interstate or primary systems;

(4) "Primary system", the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System;

(5) "Rest area", an area or site established and maintained within or adjacent to the highway right-of-way under public supervision or control, for the convenience of the traveling public, except that the term shall not include automotive service stations, hotels, motels, restaurants or other commerce facilities of like nature;

(6) "Urban area", an urban place as designated by the Bureau of the Census, having a population of five thousand or more within boundaries to be fixed by the state highways and transportation commission and local officials in cooperation with each other and approved by the Secretary of Transportation, or an urbanized area as designated by the Bureau of the Census within boundaries to be fixed by the state highways and transportation commission and local officials and approved by the Secretary of Transportation. The boundary of the urban area shall, as a minimum, encompass the entire urban place as designated by the Bureau of the Census.

(L. 1965 2d Ex. Sess. p. 900 § 2, A.L. 1972 S.B. 382, A.L. 1976 H.B. 1478, A.L. 1999 S.B. 61)

226.520. Permitted signs--specifications.

On and after March 30, 1972, no outdoor advertising shall be erected or maintained within six hundred sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of any highway which is part of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System in this state except the following:

(1) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic, cultural (including agricultural activities or attractions), scientific, educational, religious sites, and historical attractions, which are required or authorized by law, and which comply with regulations which shall be promulgated by the department relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement sections 226.500 to 226.600, but such regulations shall not be inconsistent with, nor more restrictive than, such national standards as may be promulgated from time to time by the Secretary of the Department of Transportation of the United States, under subsection (c) of Section 131 of Title 23 of the United States Code;

(2) Signs, displays, and devices advertising activities conducted on the property upon which they are located, or services and products therein provided;

(3) Outdoor advertising located in areas which are zoned industrial, commercial or the like as provided in sections 226.500 to 226.600 or under other authority of law;

(4) Outdoor advertising located in unzoned commercial or industrial areas as defined and determined pursuant to sections 226.500 to 226.600;

(5) Outdoor advertising for tourist-oriented businesses, and scoreboards used in sporting events or other electronic signs with changeable messages which are not prohibited by federal regulations or local zoning ordinances. Outdoor advertising which is authorized by this subdivision (5) shall only be allowed to the extent that such outdoor advertising is not prohibited by Title 23, United States Code, Section 131, as now or thereafter amended, and lawful regulations promulgated thereunder. The general assembly finds and declares it to be the policy of the state of Missouri that the tourism industry is of major and critical importance to the economic well-being of the state and that directional signs, displays and devices providing directional information about goods and services in the interest of the traveling public are essential to the economic welfare of the tourism industry. The general assembly further finds and declares that the removal of directional signs advertising tourist-oriented businesses is harmful to the tourism industry in Missouri and that the removal of directional signs within or near areas of the state where there is high concentration of tourist-oriented businesses would have a particularly harmful effect upon the economies within such areas. The state highways and transportation commission is authorized and directed to determine those specific areas of the state of Missouri in which there is high concentration of

tourist-oriented businesses, and within such areas, no directional signs, displays and devices which are lawfully erected, which are maintained in good repair, which provide directional information about goods and services in the interest of the traveling public, and which would otherwise be required to be removed because they are not allowed to be maintained under the provisions of sections 226.500 through 226.600 shall be required to be removed until such time as such removal has been finally ordered by the United States Secretary of Transportation;

(6) The provisions of this section shall not be construed to require removal of signs advertising churches or items of religious significance, items of native arts and crafts, woodworking in native products, or native items of artistic, historical, geologic significance, or hospitals or airports.

(L. 1965 2d Ex. Sess. p. 900 § 3, A.L. 1972 S.B. 382, A.L. 1976 H.B. 1478, A.L. 1999 S.B. 61, A.L. 2011 S.B. 77)

226.525. Natural wonders and historic attractions, signs, how erected--private owners to reimburse commission--rules to be promulgated for tourist-oriented directional signs.

1. The state highways and transportation commission is directed to erect within the right-of-way of all classes of highways within the state signs and notices pertaining to publicly and privately owned natural wonders and scenic and historical attractions under the following conditions:

(1) Such signs shall not violate any federal law, rule, or regulation affecting the allocation of federal funds to the state of Missouri or which violate any safety regulation formally promulgated by the state highways and transportation commission.

(2) Such official signs shall be limited in content to the name of the attraction and necessary travel information.

(3) The state highways and transportation commission shall determine those sites and attractions for which directional and other official signs may be erected as permitted by Section 131 of Title 23, United States Code, which it deems of such importance as to justify such signing, using as a guide those publicly or privately owned natural wonders and scenic, historic, educational, cultural, or recreational sites which have been determined to be of general interest.

(4) The state highways and transportation commission may require reimbursement for the cost of erection and maintenance of the official directional signs authorized hereunder when sites or attractions are privately owned by other than the state or political subdivisions. The state highways and transportation commission shall prescribe the size, number and locations of such signs based upon its determination of the travelers' need for directional information.

2. The commission shall adopt rules to implement a program for the erection and maintenance of tourist-oriented directional signs within the right-of-way of state highways in the state. The tourist-oriented directional signs shall provide business identification and directional information for natural attractions and activities which, during a normal business season, derive a major portion

of the income and visitors for the business or activity from motorists not residing in the immediate area of the business or activity. Natural attractions and activities eligible for such tourist-oriented directional signs shall include, but not be limited to, caves, museums, wineries, antique business districts and tourist-oriented directional signs indicating the location of any veterans' memorial located at any college in such county provided that such signs are located on a highway known as the "Veterans' Memorial Highway" in any county of the first classification with a population of more than one hundred seventy thousand inhabitants but less than two hundred thousand inhabitants.

(L. 1972 S.B. 382, A.L. 1999 S.B. 61)

226.527. Signs not to be visible from main highway--removal, compensation--no removal, when--local law applicable, when, extent.

1. On and after August 13, 1976, no outdoor advertising shall be erected or maintained beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of its message being read from such traveled way, except such outdoor advertising as is defined in subdivisions (1) and (2) of section 226.520.

2. No compensation shall be paid for the removal of any sign erected in violation of subsection 1 of this section unless otherwise authorized or permitted by sections 226.501 to 226.580. No sign erected prior to August 13, 1976, which would be in violation of this section if it were erected or maintained after August 13, 1976, shall be removed unless such removal is required by the Secretary of Transportation and federal funds required to be contributed to this state under Section 131(g) of Title 23, United States Code, to pay compensation for such removal have been appropriated and allocated and are immediately available to this state, and in such event, such sign shall be removed pursuant to section 226.570.

3. In the event any portion of this chapter is found in noncompliance with Title 23, United States Code, Section 131, by the Secretary of Transportation or his representative, and any portion of federal-aid highway funds or funds authorized for removal of outdoor advertising are withheld, or declared forfeited by the Secretary of Transportation or his representative, all removal of outdoor advertising by the Missouri state highways and transportation commission pursuant to this chapter shall cease, and shall not be resumed until such funds are restored in full. Such cessation of removal shall not be construed to affect compensation for outdoor advertising removed or in the process of removal pursuant to this chapter.

4. In addition to any applicable regulations set forth in sections 226.500 through 226.600, signs within an area subject to control by a local zoning authority and wherever located within such area shall be subject to reasonable regulations of that local zoning authority relative to size, lighting, spacing, and location; provided, however, that no local zoning authority shall have authority to require any sign within its jurisdiction which was lawfully erected and which is maintained in good repair to be removed without the payment of just compensation.

5. When a legally erected billboard exists on a parcel of property, a local zoning authority

shall not adopt or enforce any ordinance, order, rule, regulation or practice that eliminates the ability of a property owner to build or develop property or erect an on-premise sign solely because a legally erected billboard exists on the property.

(L. 1976 H.B. 1478, A.L. 2007 S.B. 22)

226.530. Permits--rulemaking.

The state highways and transportation commission is required to issue one-time permanent permits as provided in section 226.550 for the erection and maintenance of outdoor advertising along the interstate and primary highway systems and subject to section 226.540 to promulgate only those rules and regulations of minimal necessity and consistent with customary use to secure to this state any federal aid contingent upon compliance with federal laws, rules and regulations relating to outdoor advertising. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

(L. 1965 2d Ex. Sess. p. 900 § 4, A.L. 1972 S.B. 382, A.L. 1995 S.B. 3)

226.531. Definitions--sexually oriented billboards prohibited, when--existing billboards to be conforming, when--violation, penalty.

1. As used in this section the following terms mean:

(1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity, as defined in section 573.500, or seminudity, in the performance of their duties;

(2) "Seminudity", a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Seminudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(3) "Sexually oriented business", any business which offers its patrons goods of which a substantial portion are sexually oriented materials. Any business where more than ten percent of display space is used for sexually oriented materials shall be presumed to be a sexually oriented business;

(4) "Sexually oriented materials", any textual, pictorial, or three-dimensional material that depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors.

2. No billboard or other exterior advertising sign for an adult cabaret or sexually oriented business shall be located within one mile of any state highway except if such business is located

within one mile of a state highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving notice that the premises are off limits to minors. The identification sign shall be no more than forty square feet in size and shall include no more than the following information: name, street address, telephone number, and operating hours of the business.

3. Signs existing on* August 28, 2004, which did not conform to the requirements of this section, may be allowed to continue as a nonconforming use, but should be made to conform within three years from August 28, 2004.

4. Any owner of such a business who violates the provisions of this section shall be guilty of a class C misdemeanor. Each week a violation of this section continues to exist shall constitute a separate offense.

5. This section is designed to protect the following public policy interests of this state, including but not limited to: to mitigate the adverse secondary effects of sexually oriented businesses, to improve traffic safety, to limit harm to minors, and to reduce prostitution, crime, juvenile delinquency, deterioration in property values, and lethargy in neighborhood improvement efforts.

(L. 2004 S.B. 870)

*Word "on" does not appear in original rolls.

(2005) Section does not violate First Amendment protection of commercial speech, is not an unconstitutional taking without compensation, and does not violate the Equal Protection Clause. Passions Video, Inc. v. Nixon, 375 F.Supp.2d 866 (W.D.Mo.).

(2006) Statutory restriction on advertising by sexually oriented businesses was unconstitutional infringement on commercial speech. Passions Video, Inc. v. Nixon, 458 F.3d 837 (8th Cir.).

226.532. Attorney general to represent the state in certain actions.

The attorney general shall represent the state in all actions and proceedings arising from this section 573.510*. Also, all costs incurred by the attorney general to defend or prosecute this section 573.510*, including payment of all court costs, civil judgments and, if necessary, any attorneys fees, shall be paid from the general revenue fund.

(L. 2004 S.B. 870 § 1)

*Section 573.510 does not exist.

226.535. Travel information signs, where erected--rules to be consistent with national standards.

Signs, displays, and devices giving specific information of interest to the traveling public shall be

erected and maintained within the right-of-way in such areas, in an appropriate distance from interchanges on the interstate system as shall conform with the rules and regulations promulgated by the highway department. Such rules shall be consistent with national standards promulgated from time to time by the appropriate authority of the federal government, pursuant to Title 23, section 131, paragraph f, of the United States Code.

(L. 1972 S.B. 382)

Effective 3-30-72

226.540. Signs permitted on certain highways--lighting restrictions--size, location--zones--specifications.

Notwithstanding any other provisions of sections 226.500 to 226.600, outdoor advertising shall be permitted within six hundred and sixty feet of the nearest edge of the right-of-way of highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended in areas zoned industrial, commercial or the like and in unzoned commercial and industrial areas as defined in this section, subject to the following regulations which are consistent with customary use in this state:

(1) Lighting:

(a) No revolving or rotating beam or beacon of light that simulates any emergency light or device shall be permitted as part of any sign. No flashing, intermittent, or moving light or lights will be permitted except scoreboards and other illuminated signs designating public service information, such as time, date, or temperature, or similar information, will be allowed; tri-vision, projection, and other changeable message signs shall be allowed subject to Missouri highways and transportation commission regulations;

(b) External lighting, such as floodlights, thin line and gooseneck reflectors are permitted, provided the light source is directed upon the face of the sign and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the main traveled way of the federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System and the lights are not of such intensity so as to cause glare, impair the vision of the driver of a motor vehicle, or otherwise interfere with a driver's operation of a motor vehicle;

(c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal;

(2) Size of signs:

(a) The maximum area for any one sign shall be eight hundred square feet with a maximum height of thirty feet and a maximum length of seventy-two feet, inclusive of

border and trim but excluding the base or apron, supports, and other structural members. The area shall be measured as established herein and in rules promulgated by the commission. In determining the size of a conforming or nonconforming sign structure, temporary cutouts and extensions installed for the length of a specific display contract shall not be considered a substantial increase to the size of the permanent display; provided the actual square footage of such temporary cutouts or extensions may not exceed thirty-three percent of the permanent display area. Signs erected in accordance with the provisions of sections 226.500 to 226.600 prior to August 28, 2002, which fail to meet the requirements of this provision shall be deemed legally nonconforming as defined herein;

(b) The maximum size limitations shall apply to each side of a sign structure, and signs may be placed back to back, double faced, or in V-type construction with not more than two displays to each facing, but such sign structure shall be considered as one sign;

(c) After August 28, 1999, no new sign structure shall be erected in which two or more displays are stacked one above the other. Stacked structures existing on or before August 28, 1999, in accordance with sections 226.500 to 226.600 shall be deemed legally nonconforming and may be maintained in accordance with the provisions of sections 226.500 to 226.600. Structures displaying more than one display on a horizontal basis shall be allowed, provided that total display areas do not exceed the maximum allowed square footage for a sign structure pursuant to the provisions of paragraph (a) of this subdivision;

(3) Spacing of signs:

(a) On all interstate highways, freeways, and nonfreeway federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System:

a. No sign structure shall be erected within one thousand four hundred feet of an existing sign on the same side of the highway;

b. Outside of incorporated municipalities, no structure may be located adjacent to or within five hundred feet of an interchange, intersection at grade, or safety rest area. Such five hundred feet shall be measured from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way. For purpose of this subparagraph, the term "incorporated municipalities" shall include "urban areas", except that such "urban areas" shall not be considered "incorporated municipalities" if it is finally determined that such would have the effect of making Missouri be in noncompliance with the requirements of Title 23, United States Code, Section 131;

(b) The spacing between structure provisions of this subdivision do not apply to signs which are separated by buildings, natural surroundings, or other obstructions in such manner that only one sign facing located within such distance is visible at any one time.

Directional or other official signs or those advertising the sale or lease of the property on which they are located, or those which advertise activities on the property on which they are located, including products sold, shall not be counted, nor shall measurements be made from them for the purpose of compliance with spacing provisions;

(c) No sign shall be located in such manner as to obstruct or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

(d) The measurements in this section shall be the minimum distances between outdoor advertising sign structures measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to outdoor advertising sign structures located on the same side of the highway involved;

(4) As used in this section, the words "unzoned commercial and industrial land" shall be defined as follows: that area not zoned by state or local law or ordinance and on which there is located one or more permanent structures used for a commercial business or industrial activity or on which a commercial or industrial activity is actually conducted together with the area along the highway extending outwardly seven hundred fifty feet from and beyond the edge of such activity. All measurements shall be from the outer edges of the regularly used improvements, buildings, parking lots, landscaped, storage or processing areas of the commercial or industrial activity and along and parallel to the edge of the pavement of the highway. Unzoned land shall not include:

(a) Land on the opposite side of the highway from an unzoned commercial or industrial area as defined in this section and located adjacent to highways located on the interstate, federal-aid primary system as it existed on June 1, 1991, or the national highway system as amended, unless the opposite side of the highway qualifies as a separate unzoned commercial or industrial area; or

(b) Land zoned by a state or local law, regulation, or ordinance;

(5) "Commercial or industrial activities" as used in this section means those which are generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including seasonal roadside fresh produce stands;

(c) Transient or temporary activities;

(d) Activities more than six hundred sixty feet from the nearest edge of the right-of-way or not visible from the main traveled way;

(e) Activities conducted in a building principally used as a residence;

(f) Railroad tracks and minor sidings;

(6) The words "unzoned commercial or industrial land" shall also include all areas not specified in this section which constitute an "unzoned commercial or industrial area" within the meaning of the present Section 131 of Title 23 of the United States Code, or as such statute may be amended. As used in this section, the words "zoned commercial or industrial area" shall refer to those areas zoned commercial or industrial by the duly constituted zoning authority of a municipality, county, or other lawfully established political subdivision of the state, or by the state and which is within seven hundred fifty feet of one or more permanent commercial or industrial activities. Commercial or industrial activities as used in this section are limited to those activities:

(a) In which the primary use of the property is commercial or industrial in nature;

(b) Which are clearly visible from the highway and recognizable as a commercial business;

(c) Which are permanent as opposed to temporary or transitory and of a nature that would customarily be restricted to commercial or industrial zoning in areas comprehensively zoned; and

(d) In determining whether the primary use of the property is commercial or industrial pursuant to paragraph (a) of this subdivision, the state highways and transportation commission shall consider the following factors:

a. The presence of a permanent and substantial building;

b. The existence of utilities and local business licenses, if any, for the commercial activity;

c. On-premise signs or other identification;

d. The presence of an owner or employee on the premises for at least twenty hours per week;

(7) In zoned commercial and industrial areas, whenever a state, county or municipal zoning authority has adopted laws or ordinances which include regulations with respect to the size, lighting and spacing of signs, which regulations are consistent with the intent of sections 226.500 to 226.600 and with customary use, then from and after the effective date of such regulations, and so long as they shall continue in effect, the provisions of this section shall not apply to the erection of signs in such areas. Notwithstanding any other provisions of this section, after August 28, 1992, with respect to any outdoor advertising which is regulated by the provisions of subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527:

(a) No county or municipality shall issue a permit to allow a regulated sign to be newly erected without a permit issued by the state highways and transportation commission;

(b) A county or municipality may charge a reasonable one-time permit or inspection fee to assure compliance with local wind load and electrical requirements when the sign is first erected, but a county or municipality may not charge a permit or inspection fee for such sign after such initial fee. Changing the display face or performing routine maintenance shall not be considered as erecting a new sign;

(8) The state highways and transportation commission on behalf of the state of

Missouri, may seek agreement with the Secretary of Transportation of the United States under Section 131 of Title 23, United States Code, as amended, that sections 226.500 to 226.600 are in conformance with that Section 131 and provides effective control of outdoor advertising signs as set forth therein. If such agreement cannot be reached and the penalties under subsection (b) of Section 131 are invoked, the attorney general of this state shall institute proceedings described in subsection (1) of that Section 131.

(L. 1965 2d Ex. Sess. p. 900 § 5, A.L. 1972 S.B. 382, A.L. 1976 H.B. 1478, A.L. 1992 S.B. 652, A.L. 1999 S.B. 61, A.L. 2002 H.B. 1196 merged with H.B. 1508)

226.541. Conforming out of standard signs treated as conforming, when--definitions--duties of owners--local zoning authorities may prohibit resetting of signs--inspections.

1. As used in this section, the following words or phrases mean:

(1) "Conforming out of standard signs", signs that fail to meet the current statutory and administrative rule requirements for outdoor advertising but currently comply with the terms of the federal/state agreement and meet the August 27, 1999, statutory and administrative rule requirements that governed outdoor advertising and the Highway Beautification Act of 1965;

(2) "Federal/state agreement", an agreement executed between the United States Department of Transportation and the state highways and transportation commission on February 22, 1972, for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system;

(3) "Qualifying signs", signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement;

(4) "Reset", movement of a sign structure from one location to another location on the same or adjoining property, if the adjoining property is zoned commercial or industrial or in an unzoned commercial or industrial area and the owner of the sign has obtained the legal right to erect a sign on the adjoining property from its owner, as authorized by a sign permit amendment and the terms of an executed written partial waiver and reset agreement between the permit owner and the state highways and transportation commission;

(5) "Substantially rebuilt", any reconstruction or repair of a sign that requires the replacement of more than fifty percent of the sign structure's support poles in a twelve-month period.

2. Subject to the provisions of this section, and if allowed by applicable local regulations, conforming out of standard signs shall be treated as conforming signs under commission administrative rules, including new display technologies, lighting, cutouts, and extensions, except that such signs shall not be substantially rebuilt except in accordance with the provisions of this section. If allowed by applicable local regulations, new technologies, lighting, cutouts, and extensions may be utilized on conforming and conforming out of standard signs in accordance with Missouri department of transportation regulations.

3. If allowed by applicable local regulations, a conforming out of standard sign may be upgraded:

(1) Up to twenty percent of the sign face, not to exceed one hundred sixty square feet of area, with digital technology for displaying text or numbers in accordance with current law and rules; or

(2) More than twenty percent only if it maintains a distance of at least one thousand four hundred feet from any other such digital technology display sign.

4. Notwithstanding any provision of the law to the contrary, a conforming out of standard sign may be unstacked by closing the gap between the signs or by replacing the faces with one display area. The resulting sign face square footage shall not exceed the square footage of the original stacked structure. A conforming out of standard sign structure height may be lowered.

5. On the date the commission approves funding for any phase or portion of construction or reconstruction of any street or highway, the rules in effect for outdoor advertising on August 27, 1999, shall be reinstated for that section of highway scheduled for construction and there shall immediately be a moratorium imposed on the issuance of state sign permits for new sign structures.

6. Owners of existing signs which meet the requirements for outdoor advertising in effect on August 27, 1999, and the requirements of the federal/state agreement and who voluntarily execute a partial waiver and reset agreement may reset such signs on the same or adjoining property. Such reset agreements shall be contingent upon obtaining any required local approval to reset the sign structure. Any sign which has been reset must still comply with the August 27, 1999, outdoor advertising regulations after it has been reset.

7. Owners of existing signs who elect to reset qualifying signs shall receive compensation from the state highways and transportation commission or in accordance with a cost sharing agreement representing the actual cost to reset the existing sign. Signs which have been reset under these provisions must be reconstructed of the same type materials and may not exceed the square footage of the original sign structure.

8. Sign owners may elect to reset existing qualifying signs by executing a partial waiver and reset agreement with the commission. Such agreement shall specify the size, type, and location of the rebuilt sign and the reset expenses to be paid to the owner by the commission. The commission may consider the impact of a potential reset upon scenic, natural, historic, or other features in the surrounding area in its determination of whether to enter into a reset agreement.

9. Immediately upon the completion of construction on any section of highway, the moratorium on new permits shall be lifted and the rules for outdoor advertising in effect on the date the construction is completed shall apply to such section of highway.

10. Local zoning authorities may prohibit the resetting of qualifying signs which fail to comply with local regulations.

11. The state highways and transportation commission, in accordance with section 226.500, shall review its current rules and regulations and solicit industry, stakeholder, and public comments regarding digital technology upgrades, including but not limited to, ad copy duration, distance from interchanges, brightness controls, including light sensors and timers, and distance from other billboards prior to implementing the sign reset agreement program or digital upgrade regulations described in this section.

12. All signs shall be subject to the biennial inspection fees under section 226.550.

(L. 2012 H.B. 1402)

226.545. Landmark signs, permitted when.

Notwithstanding any other provision of sections 226.500 to 226.600, outdoor advertising signs lawfully in existence on October 22, 1965, determined by agreement between the state highways and transportation commission and the Secretary of Transportation to be landmark signs, including signs on farm structures or natural surfaces, of historical or artistic significance may be maintained.

(L. 1976 H.B. 1478)

226.550. Permits, fees for, exemption--permits to be issued for existing signs, exceptions--biennial inspection fees, collection, deposit, exceptions--permit to erect sign lapses, when.

1. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 shall be erected or maintained on or after August 28, 1992, without a one-time permanent permit issued by the state highways and transportation commission. Application for permits shall be made to the state highways and transportation commission on forms furnished by the commission and shall be accompanied by a permit fee of two hundred dollars for all signs; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, service organizations as defined in subdivision (12) of section 313.005, veterans' organizations as defined in subdivision (14) of section 313.005, and fraternal organizations as defined in subdivision (8) of section 313.005 shall be granted a permit for signs less than seventy-six square feet without payment of the fee. In the event a permit holder fails to erect a sign structure within twenty-four months of issuance, said permit shall expire and a new permit must be obtained prior to any construction.

2. No outdoor advertising which is regulated by subdivision (1), (3) or (4) of section 226.520 or subsection 1 of section 226.527 which was erected prior to August 28, 1992, shall be maintained without a one-time permanent permit for outdoor advertising issued by the state highways and transportation commission. If a one-time permanent permit was issued by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, it is not necessary for a new permit to be issued. If a one-time permanent permit was not issued for a lawfully erected and lawfully existing sign by the state highways and transportation commission after March 30, 1972, and before August 28, 1992, a one-time permanent permit shall be issued by the commission for each sign which is lawfully in existence on the day prior to August 28, 1992, upon application

and payment of a permit fee of two hundred dollars. All applications and fees due pursuant to this subsection shall be submitted before December 31, 1992.

3. For purposes of sections 226.500 to 226.600, the terminology "structure lawfully in existence" or "lawfully existing" sign or outdoor advertising shall, nevertheless, include the following signs unless the signs violate the provisions of subdivisions (3) to (7) of subsection 1 of section 226.580:

(1) All signs erected prior to January 1, 1968;

(2) All signs erected before March 30, 1972, but on or after January 1, 1968, which would otherwise be lawful but for the failure to have a permit for such signs prior to March 30, 1972, except that any sign or structure which was not in compliance with sizing, spacing, lighting, or location requirements of sections 226.500 to 226.600 as the sections appeared in the revised statutes of Missouri 1969, wheresoever located, shall not be considered a lawfully existing sign or structure;

(3) All signs erected after March 30, 1972, which are in conformity with sections 226.500 to 226.600;

(4) All signs erected in compliance with sections 226.500 to 226.600 prior to August 28, 2002.

4. On or after August 28, 1992, the state highways and transportation commission may, in addition to the fees authorized by subsections 1 and 2 of this section, collect a biennial inspection fee every two years after a state permit has been issued. Biennial inspection fees due after August 28, 2002, and prior to August 28, 2003, shall be fifty dollars. Biennial inspection fees due on or after August 28, 2003, shall be seventy-five dollars. Biennial inspection fees due on or after August 28, 2004, shall be one hundred dollars; except that, tax-exempt religious organizations as defined in subdivision (11) of section 313.005, service organizations as defined in subdivision (12) of section 313.005, veterans' organizations as defined in subdivision (14) of section 313.005, and fraternal organizations as defined in subdivision (8) of section 313.005 shall not be required to pay such fee.

5. In order to effect the more efficient collection of biennial inspection fees, the state highways and transportation commission is encouraged to adopt a renewal system in which all permits in a particular county are renewed in the same month. In conjunction with the conversion to this renewal system, the state highways and transportation commission is specifically authorized to prorate renewal fees based on changes in renewal dates.

6. Sign owners or owners of the land on which signs are located must apply to the state highways and transportation commission for biennial inspection and submit any fees as required by this section on or before December 31, 1992. For a permitted sign which does not have a permit, a permit shall be issued at the time of the next biennial inspection.

7. The state highways and transportation commission shall deposit all fees received for

outdoor advertising permits and inspection fees in the state road fund, keeping a separate record of such fees, and the same may be expended by the commission in the administration of sections 226.500 to 226.600.

(L. 1965 2d Ex. Sess. p. 900 § 6, A.L. 1972 S.B. 382, A.L. 1992 S.B. 652, A.L. 1996 H.B. 937, A.L. 1999 S.B. 61, A.L. 2002 H.B. 1196 merged with H.B. 1508)

226.560. Certain provisions to affect subsequently erected signs only.

The provisions contained herein relating to size, spacing and lighting in zoned and unzoned commercial and industrial areas shall apply only to signs erected subsequent to March 30, 1972.

(L. 1965 2d Ex. Sess. p. 900 § 7, A.L. 1972 S.B. 382)

Effective 3-30-72

226.570. Highways and transportation commission to remove and pay for signs, order of removal--funds must be available before removal--removal of certain signs must be ordered by Secretary of Transportation.

1. The state highways and transportation commission is directed to acquire by purchase, exchange, agreement, eminent domain, gift or condemnation, and shall pay just compensation for the removal of lawfully existing outdoor advertising signs, displays and devices not permitted to be maintained under sections 226.500 to 226.600, but any signs advertising tourist oriented type business will be the last to be removed. Eminent domain shall be exercised in accordance with the provisions of chapter 523.

(1) Just compensation shall be paid for outdoor advertising and all property rights pertaining to same which are acquired including the taking from the owner of such sign, display, or device, and in his leasehold or other interest in the land; and the taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(2) Despite any contrary provision in sections 226.500 to 226.600, no lawfully existing sign shall be required to be removed unless at the time of removal there are sufficient funds, from whatever source, appropriated and allocated and available to this state with which to pay the just compensation required under this section, and unless at such time the federal funds required to be contributed to this state under section 131(g) of Title 23, United States Code, have been appropriated and allocated and are immediately available to this state.

2. Any outdoor advertising in existence along the interstate or primary system on March 30, 1972, which is not subject to removal pursuant to section 226.580 and which is not in conformity with the provisions of sections 226.500 to 226.600 shall not be required to be removed until such removal is required by the Secretary of Transportation. Outdoor advertising within six hundred sixty feet of the right-of-way of an interstate or primary highway shall not be required to be removed unless such removal is pursuant to this section or section 226.580.

(L. 1965 2d Ex. Sess. p. 900 § 8, A.L. 1972 S.B. 382)

Effective 3-30-72

226.573. Rulemaking--new technology in outdoor advertising.

The state highways and transportation commission is authorized to adopt administrative rules regulating the use of new technology in outdoor advertising as allowed under federal regulations for federal-aid primary highways as of June 1, 1991, and all highways designated as part of the National Highway System by the National Highway System Designation Act of 1995 and those highways subsequently designated as part of the National Highway System. Any rule or portion of a rule, as that term is defined in section 536.010, that is promulgated pursuant to the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

(L. 1999 S.B. 61, A.L. 2002 H.B. 1196 merged with H.B. 1508)

226.580. Unlawful signs defined--removal authorized--notice--owner may proceed, how--removal costs, how paid--review of order, how--order of removal--reimbursement to owner, when.

1. The following outdoor advertising within six hundred sixty feet of the right-of-way of interstate or primary highways is deemed unlawful and shall be subject to removal:

(1) Signs erected after March 30, 1972, contrary to the provisions of sections 226.500 to 226.600 and signs erected on or after January 1, 1968, but before March 30, 1972, contrary to the sizing, spacing, lighting, or location provisions of sections 226.500 to 226.600 as they appeared in the revised statutes of Missouri 1969; or

(2) Signs for which a permit is not obtained or a biennial inspection fee is more than twelve months past due; or

(3) Signs which are obsolete. Signs shall not be considered obsolete solely because they temporarily do not carry an advertising message; or

(4) Signs that are not in good repair; or

(5) Signs not securely affixed to a substantial structure; or

(6) Signs which attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with, imitate, or resemble any official traffic sign, signal, or device; or

(7) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

2. Signs erected after August 13, 1976, beyond six hundred sixty feet of the right-of-way outside of urban areas, visible from the main traveled way of the interstate or primary system and erected with the purpose of their message being read from such traveled way, except those signs described in subdivisions (1) and (2) of section 226.520 are deemed unlawful and shall be subject to removal.

3. If a sign is deemed to be unlawful for any of the reasons set out in subsections 1 to 7 of this section, the state highways and transportation commission shall give notice either by certified mail or by personal service to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure. Such notice shall specify the basis for the alleged unlawfulness, shall specify the remedial action which is required to correct the unlawfulness and shall advise that a failure to take the remedial action within sixty days will result in the sign being removed. Within sixty days after receipt of the notice as to him, the owner of the land or of the structure may remove the sign or may take the remedial action specified or may file an action for administrative review pursuant to the provisions of sections 536.067 to 536.090 to review the action of the state highways and transportation commission, or he may proceed under the provisions of section 536.150 as if the act of the highways and transportation commission was one not subject to administrative review. Notwithstanding any other provisions of sections 226.500 to 226.600, no outdoor advertising structure erected prior to August 28, 1992, defined as a "structure lawfully in existence" or "lawfully existing", by subdivision (1), (2) or (3) of subsection 3* of section 226.550, shall be removed for failure to have a permit until a notice, as provided in this section, has been issued which shall specify failure to obtain a permit or pay a biennial inspection fee as the basis for alleged unlawfulness, and shall advise that failure to take the remedial action of applying for a permit or paying the inspection fee within sixty days will result in the sign being removed. Signs for which biennial inspection fees are delinquent shall not be removed unless the fees are more than twelve months past due and actual notice of the delinquency has been provided to the sign owner. Upon application made within the sixty-day period as provided in this section, and accompanied by the fee prescribed by section 226.550, together with any inspection fees that would have been payable if a permit had been timely issued, the state highways and transportation commission shall issue a one-time permanent permit for such sign. Such signs with respect to which permits are so issued are hereby determined by the state of Missouri to have been lawfully erected within the meaning of "lawfully erected" as that term is used in Title 23, United States Code, Section 131(g), as amended, and shall only be removed upon payment of just compensation, except that the issuance of permits shall not entitle the owners of such signs to compensation for their removal if it is finally determined that such signs are not "lawfully erected" as that term is used in Section 131(g) of Title 23 of the United States Code.

4. If actual notice as provided in this section is given and neither the remedial action specified is taken nor an action for review is filed, or if an action for review is filed and is finally adjudicated in favor of the state highways and transportation commission, the state highways and transportation commission shall have authority to immediately remove the unlawful outdoor advertising. The owner of the structure shall be liable for the costs of such removal. The commission shall incur no

liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

5. If notice as provided in this section is given and an action for review is filed under the provisions of section 536.150, or if administrative review pursuant to the provisions of sections 536.067 to 536.090 is filed and the state highways and transportation commission enters its final decision and order to remove the outdoor advertising structure, the advertising message contained on the structure shall be removed or concealed by the owner of the structure, at the owner's expense, until the action for judicial review is finally adjudicated. If the owner of the structure refuses or fails to remove or conceal the advertising message, the commission may remove or conceal the advertising message and the owner of the structure shall be liable for the costs of such removal or concealment. 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, the 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 until the judicial review is final.

6. Any signs advertising tourist-oriented type business will be the last to be removed.

7. Any signs prohibited by section 226.527 which were lawfully erected prior to August 13, 1976, shall be removed pursuant to section 226.570.

8. The transportation department shall reimburse to the lawful owners of any said nonconforming signs that are now in existence as defined in sections 226.540, 226.550, 226.580 and 226.585, said compensation calculated and/or based on a fair market value and not mere replacement cost.

(L. 1965 2d Ex. Sess. p. 900 § 9, A.L. 1972 S.B. 382, A.L. 1976 H.B. 1478, A.L. 1992 S.B. 652, A.L. 2002 H.B. 1196 merged with H.B. 1508)

*Words "subsection 2" appear in original rolls (S.B. 652, 1992).

226.585. Vegetation along right-of-way, cutting of--transportation department, duties.

The state transportation department may cut and trim any vegetation on the highway right-of-way which interferes with the effectiveness of or obscures a lawfully erected billboard, or the highways and transportation commission shall promulgate reasonable rules and regulations to permit the cutting and trimming of such vegetation on the highway or right-of-way by the owner of such billboard. The right to a vegetation permit by an outdoor advertising permit holder shall be issued in accordance with the current rules and regulations promulgated by the highways and transportation commission and shall not be denied without good cause. Such rules and regulations shall be promulgated within twelve months after August 28, 1992, or the commission shall suspend the collection of the biennial inspection fees prescribed by section 226.550 until such rules are promulgated, and such rules may include authority to charge a reasonable fee for such permit. This section shall not apply if its implementation would have the effect of making Missouri be in noncompliance with requirements of Title 23, United States Code, Section 131.

(L. 1992 S.B. 652, A.L. 2002 H.B. 1196 merged with H.B. 1508)

226.590. Matching funds--source.

The state highways and transportation commission is authorized to use any funds, appropriated to it or received by it from other than the state road fund for matching federal funds or for other lawful purposes of sections 226.500 to 226.600.

(L. 1965 2d Ex. Sess. p. 900 § 10)

226.600. Penalty.

Any person, firm, or corporation violating the provisions of sections 226.500 to 226.600 shall upon conviction be deemed guilty of a misdemeanor, and each day of violation shall be considered a separate offense.

(L. 1965 2d Ex. Sess. p. 900 § 12)

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/.

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 that identify the donor, sponsor, or contributor of the shelters; contain public service messages occupying not less than fifty percent (50%) of the area of the sign; contain no other message; and are located on school bus shelters which are authorized or approved by city, county, or state law, regulation, or ordinance 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 will 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 not allowed: 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 may 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 not allowed; 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 not allowed; 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 may 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 will be within seventy-five (75) air miles of the activity or attraction. Signs located adjacent to the primary system will be within fifty (50) air miles of the activity or attraction;

(E) Message Content. The message on directional signs is limited to the identification 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 not authorized and will 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 are 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.

2. Selection. To promote highway safety, the commission determines those public and private activities and attractions that are nationally or regionally known and of outstanding interest to the traveling public, 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 will 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 will also have 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. The commission may require review and concurrence by the United States Secretary of Transportation before reaching a decision. Petitions and requests for public hearing will be in writing and addressed to the department's authorized representative.

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

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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 Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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 has 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: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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 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 for business or office—

(I) An enclosed area of two hundred (200) square feet or more;

(II) Affixed on a slab, piers, or foundation in accordance with minimum local building code requirements;

(III) Approved access from a roadway and readily accessible by the motorist to a defined customer parking lot adjacent to the business building;

(IV) 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) Identified as a commercial or industrial activity which may be accomplished by on-premises signing or outside visible display of product;

(VI) Used exclusively for the purported commercial or industrial activity; and

(VII) Removal of all wheels, axles, and springs on mobile home or recreational vehicles;

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 on the premises for at least twenty (20) hours per week and these hours posted on the premises;

(II) The purported activity or enterprise maintains 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 maintained for immediate sale or delivery to the consumer. If the product is a service, it will be available for purchase on the premises; and

(IV) The purported activity or enterprise will 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 266.600, 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 will meet the following conditions:

(A) The static display time for each message is a minimum of eight (8) 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 is instantaneous with no discernible time gaps between displays;

(C) The change of message occurs 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 will 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) appears to move or be animated;

(H) The sign luminance will 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 conforming 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 will 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 will not be substantially rebuilt as provided in section 226.541, RSMo. A conforming out of standard sign that is substantially rebuilt will be considered unlawful and any permit issued by the commission for the sign voided and the fee 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 Pro-gram.

(B) For purposes of the moratorium, completion of construction as used in section 226.541, RSMo, will 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 will 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 will 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: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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.

(A) Criteria. 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 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 prevail.

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

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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 non- conforming 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 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 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 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 will 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 is permitted;

(C) Size. The size or area of a sign 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 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, 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 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 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 is unlawful and any permit issued by the commission for the sign will be voided and the fee will be retained by the commission. A nonconforming sign which has only a deteriorated or damaged face is not a deteriorated or damaged nonconforming sign but 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 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 is 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 will 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 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 will 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 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 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 forwards the request to the hearing examiner for the commission and notifies the department's authorized representative. Hearings for notices to terminate the nonconforming sign are conducted pursuant to 7 CSR 10-6.090. The permit for any nonconforming sign as defined in 7 CSR 10-6.060 will be surrendered upon removal of the sign.

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

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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 Sept. 8, 2017, effective April 30, 2018*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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. 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 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 will 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) will be submitted before erecting or starting construction of any sign. For all nonconforming outdoor advertising needing 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 necessary by section 226.550, RSMo. Failure of the applicant to timely submit an application for permit will authorize 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" may cause the department's authorized representative to reject and return the application for permit;

4. Documentation and assistance upon request. Any applicant will give 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 will 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 will be grounds for the department's authorized representative to reject and return the application for permit;

6. Fees. No permit will 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 will have twenty (20) working days to request an informal hearing for the purpose of appealing the denial. The applicant will 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 will advise the applicant of the time, date, and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence will 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 will 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 will 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 Compen-sation. 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. When the sign, including 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 is subject to removal and compensation is subject to be paid pursuant to section 226.570, RSMo.

(7) Biennial Inspection Fee. A biennial inspection fee will be collected every two (2) years as set forth in section 226.550, RSMo and received by the due date on the statement issued from the Missouri Department of Transportation. The fee 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 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 will be retained by the commission. The department's authorized representative will 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 2016. 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. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

**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 will 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 will specify any available remedial action to correct the violation and establish the length of time which is available to take the remedial action. Any length of time specified for taking remedial action cannot 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 is notice that any permit for that outdoor advertising structure will be surrendered upon removal of the structure. No other notice is necessary under these conditions.

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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 Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes**, 2016 and Supp. 2017.*

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. 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) Performance Bond. A performance bond in an amount up to one thousand dollars ($1,000) is required to ensure restoration of highway right-of-way.

(B) Duration. All permits expire after three hundred sixty-five (365) 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 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 is responsible for any damage to the right-of-way. Any destruction of turf requires 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 will 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 revoked, 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 will have twenty (20) working days to request an informal hearing for the purpose of appealing the denial by submitting 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 will advise the applicant of the time, date, and place. This is not a contested case under Chapter 536, RSMo. The rules of evidence will not apply at the hearing.

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977; and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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 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 sixty (60) days after receipt of the notice to remove outdoor advertising by the applicant 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 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:

(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 will submit the withdrawal request 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 her/him from rendering an objective report and order to the commission, s/he will immediately cease to act and the commission will provide an alternate hearing examiner.

(4) Notice of Hearing. The hearing examiner 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 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. After the request for administrative review is filed with the commission secretary, no person may sign any pleading or brief or appear at any administrative hearing as a legal representative of 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 will 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 will present its evidence first at the hearing in support of its notice to remove outdoor advertising or notice to terminate nonconforming sign. After the department presents its evidence, the applicant may present evidence. Any party 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 is entitled to present oral argument at the hearing. If oral argument is presented, it 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 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 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 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 will render its final decision in writing supported by competent and substantial evidence upon the whole record subject to judicial review under section 536.100, RSMo.

AUTHORITY: sections 226.150, and 226.500–226.600, RSMo 2016 and RSMo Supp. 2017. 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 Sept. 8, 2017, effective April 30, 2018.*

Original authority: 226.150, RSMo 1939, amended 1977 and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

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 will 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 is responsible for ensuring the safety of the general public as a result of any such act of removal or concealment. The owner will remove or conceal all sign panels which contain any portion of the advertising message.

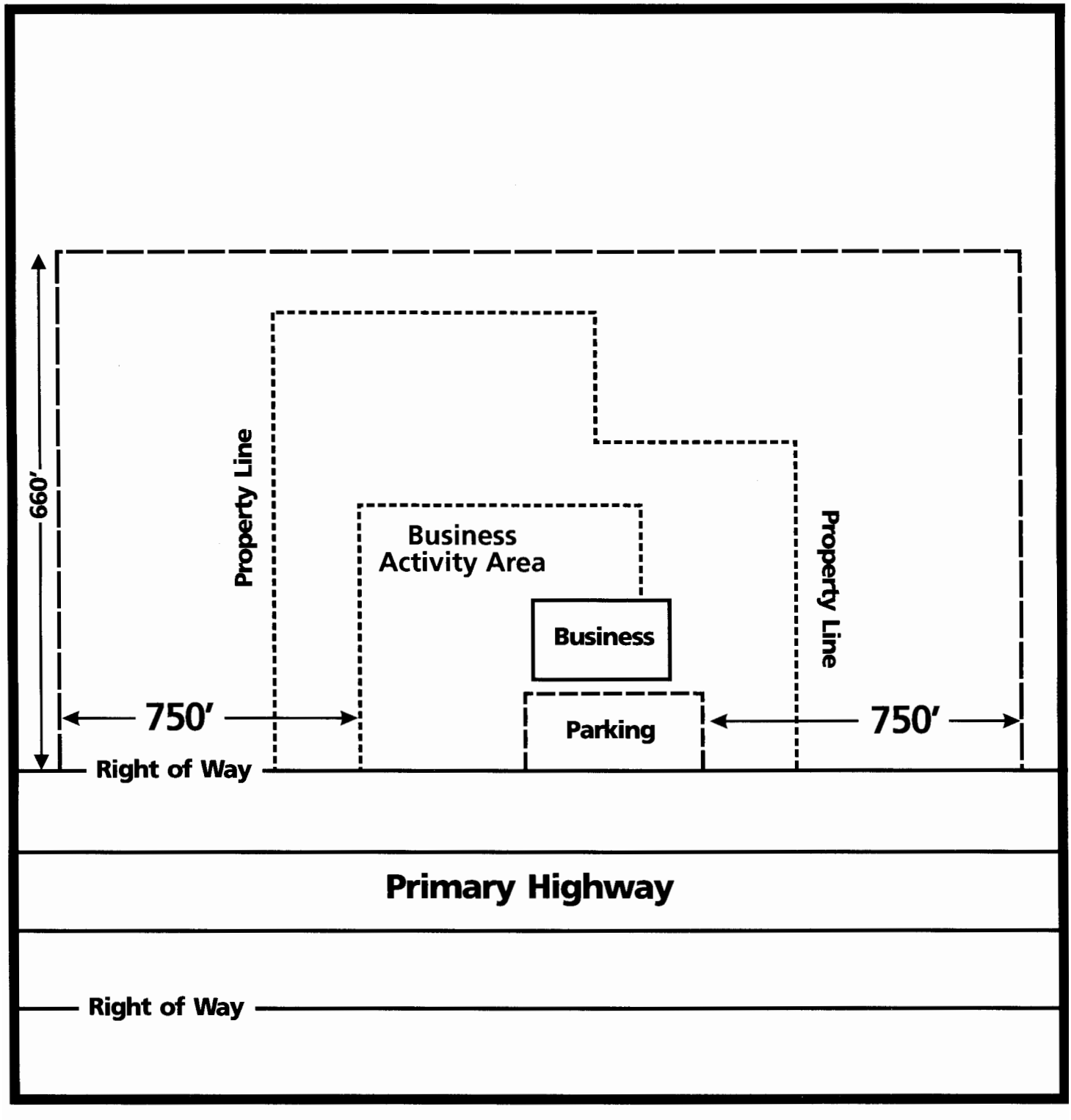
(2) Removal or Concealment of Advertising Message by Commission. If the owner of the structure refuses or fails to remove or conceal the advertising message within thirty (30) days of filing a petition for judicial review, the commission may remove or conceal all sign panels which contain any portion of the advertising message and the owner of the structure is 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 may 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 will be at fair rental value 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 2016 and RSMo Supp. 2017. Original rule filed June 15, 1993, effective Jan. 31, 1994. Amended: Filed April 15, 2003, effective Nov. 30, 2003. Amended: Filed Sept. 8, 2017, effective April 30, 2018.*

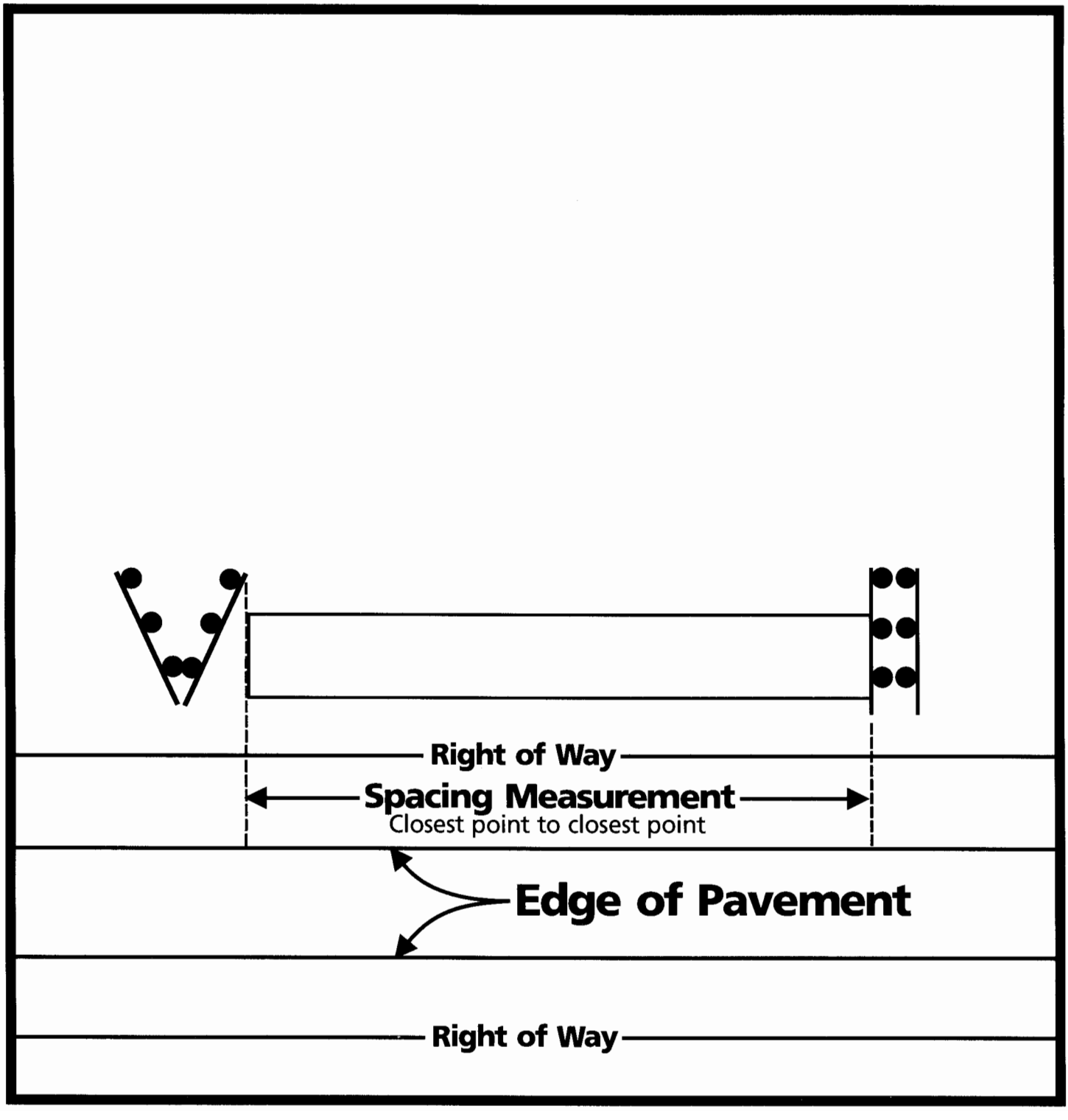
Original authority: 226.150, RSMo 1939, amended 1977; and 226.500–226.600, see* ***Missouri Revised Statutes* *2016 and Supp. 2017.*

Zoned or Unzoned Commercial or Industrial Area

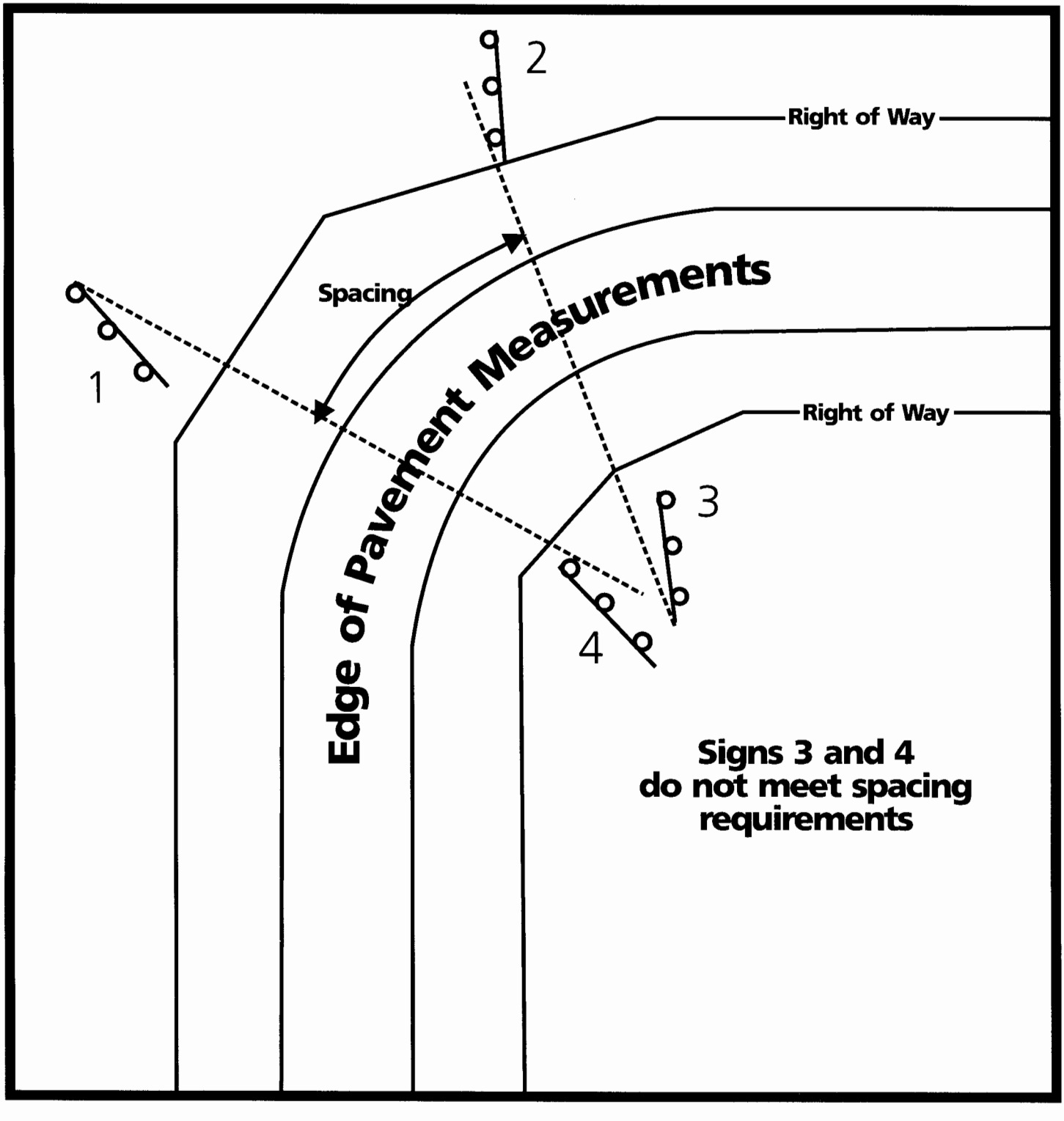


Note: Sign must be placed in areas zoned commercial or industrial in zoned municipalities

Spacing Measurement



Spacing Measurement Along Curves



Off-premise Signs Within an Interchange Area
Outside of Incorporated Municipalities (Urban Areas)