

RULEMAKING HEARINGS

TENNESSEE DEPARTMENT OF TRANSPORTATION - 1680 ENVIRONMENTAL DIVISION

The Tennessee Department of Transportation will hold a public hearing to receive comments concerning the promulgation of amendments to Chapter 1680-2-3, Control of Outdoor Advertising, with respect to the control of non-conforming and grandfathered non-conforming advertising devices along the Interstate and primary system of highways. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the Auditorium of the Main Administrative Building (Building "A") at the Tennessee Department of Transportation, Region III Office Complex, located at 6601 Centennial Boulevard, Nashville, Tennessee 37243 at 1:30 p.m. CDT on Thursday, September 21, 2006. (Take Interstate 40 to Exit 204 and take Briley Parkway northbound to Exit 26B, Centennial Boulevard West.)

Written comments will be considered if received by the close of business (4:30 p.m.) on September 21, 2006, in the Office of General Counsel, Tennessee Department of Transportation, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, or if received at the public rulemaking hearing on September 21, 2006.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Department of Transportation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone or other appropriate means, and should be made no less than ten (10) days prior to the public hearing (September 21, 2006) or the date the party intends to review such filings to allow time to provide such aid or service. Such contact may be made with the Department of Transportation's ADA Coordinator at Suite 400, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, or by telephone at (615) 741-4984.

For a copy of this notice of rulemaking hearing, contact: John Reinbold, Tennessee Department of Transportation, Office of General Counsel, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, telephone number (615) 741-2941.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1680-2-3 CONTROL OF OUTDOOR ADVERTISING

AMENDMENTS

Rule 1680-2-3-.02, Definitions, is amended by deleting paragraph (10), Extraordinary Maintenance, in its entirety and renumbering all subsequent paragraphs in the rule.

Authority: T.C.A. § 54-21-112.

Subparagraph (1)(b) of Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways, is amended by deleting the subparagraph in its entirety.

Authority: T.C.A. § 54-21-112.

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Paragraph (2) of Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways, is amended by deleting the current wording of the paragraph in its entirety and substituting the following language in its place:

- (2) A lawfully permitted non-conforming device or grandfathered non-conforming device that has been destroyed or damaged beyond what may be repaired through customary maintenance may be rebuilt or repaired and continue to be permitted only if all of the following conditions are satisfied:
- (a) The destruction of or damage to the device must have been caused by vandalism or some other criminal or tortious acts, excluding any negligent or intentional acts of the permit holder or any party acting by permission of, with the knowledge of, or in concert with the permit holder and/or sign owner.
 - (b) No device may be rebuilt and/or repaired without the prior written approval of the Regional Highway Beautification Office for the administrative region of the Tennessee Department of Transportation in which the device is located.
 - (c) The current holder of the permit or sign owner, if different, must submit a written request for approval to the appropriate Regional Highway Beautification Office, which written request must provide, at a minimum:
 - 1. Proof of the date and cause of the destruction of and/or damage to the device, including a copy of the police report made with respect to the vandalism or other criminal or tortious act causing such destruction or damage; and
 - 2. A general description of the manner in which it is proposed to rebuild and/or repair the device.
 - (d) No post, pole or other support structure, or any component of the device other than the sign face or stringers, will be approved for replacement or repair without proof that such post, pole, support structure, or other component of the device was destroyed or damaged by an act of vandalism or some other criminal or tortious act.
 - (e) The device must be rebuilt and/or repaired in such manner that it replicates the original device, including specifically as follows:
 - 1. The rebuilt and/or repaired device must remain or be rebuilt in the exact same location as the original device; and
 - 2. The rebuilt and/or repaired device must have the same height, size, and dimensions as the original device; and
 - 3. Each post, pole, other support structure, or other component of the device, including the sign face and stringers, must be rebuilt and/or repaired with materials that replicate the materials used to construct that same component in the original device (e.g., wood for wood, steel for steel, etc.); and
 - 4. No component may be added to the original device, including no lighting if the original sign was not illuminated, no reflective material if the original sign was not reflectorized, and no changeable message technology on the sign face if not included on the original sign.

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- (f) The rebuilding and/or repair of the device must be completed within twelve (12) months after the date on which the original device was destroyed and/or damaged or the device will be treated as an abandoned outdoor advertising device.

Authority: T.C.A. § 54-21-112.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of July, 2006. (07-32)