

Rulemaking Hearing Rules
of the
Tennessee Department of Transportation - 1680
Environmental Division

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.

Rule 1680-2-3-.02, Definitions, is amended by adding a new paragraph (7) defining the term destroyed as follows and renumbering all subsequent paragraphs in the rule:

- (7) *Destroyed*, with respect to non-conforming and grandfathered non-conforming devices, means that fifty percent (50%) or more of the device's poles or posts are dislocated or damaged to the extent that any part of the stringers or sign face has fallen to the ground.

Authority: T.C.A. § 54-21-112.

Rule 1680-2-4-.03, Criteria for the Erection and Control of Outdoor Advertising, is amended by changing the citation in the second sentence of subparagraph (1)(a), part 1, from 1680-2-3-.02, Paragraph (26), to 1680-2-3-.02, Paragraph (27).

Authority: T.C.A. § 54-21-112.

Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Devices Along the Interstate and Primary System of Highways, is amended by changing the citations to the rules in paragraph (1) from § 1680-2-3-.02, paragraph 10, to § 1680-2-3-.02, paragraph 11, and from § 1680-2-3-.02, paragraph 14, to § 1680-2-3-.02, paragraph 15, respectively.

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.

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 beyond customary maintenance 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.
- (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.

Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways, is further amended by adding a new paragraph (3) as follows:

- (3) Except as provided in paragraph (2) of this rule above, any previously permitted non-conforming device or grandfathered non-conforming device that is destroyed by natural disaster, natural attrition, or any other cause whatsoever shall not continue to be permitted under this Chapter.

Authority: T.C.A. § 54-21-112.

Rule 1680-2-3-.05, Directional Signs, is amended by changing the citation to the rule in subparagraph (6)(a), part 1, from § 1680-2-3-.02, paragraph 7, to § 1680-2-3-.02, paragraph 8.

Authority: T.C.A. § 54-21-112.

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 21st day of December, 2006, and will become effective on the 3rd day of March, 2007. (12-26-06)