

RULES
OF
TENNESSEE DEPARTMENT OF TRANSPORTATION
MAINTENANCE ENVIRONMENTAL DIVISION

CHAPTER **1680-02-03** 1680-10-01
CONTROL OF OUTDOOR ADVERTISING

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1680-02-03 10-01-.01 **PREFACE PURPOSE.**

~~The purpose of these regulations have been established by the Tennessee Department of Transportation, Maintenance Division, is to provide for the effective control of Outdoor Advertising adjacent to Federal Aid Primary and Federal Aid Interstate highway systems the Interstate and Primary Systems of highways within the State of Tennessee, in accordance with the Billboard Regulation and Control Act of 1972, T.C.A. § 54-21-101, et seq., and as required under 23 U.S.C. § 131 and 23 C.F.R. Part 750.~~

Authority: T.C.A. §54-21-23112 and 23 U.S.C §131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-02-03 10-01-.02 **DEFINITIONS.** ~~(Listed Alphabetically)~~

As used in these Rules:

- (1) ~~“Abandoned Outdoor Advertising Device”~~, means any ~~regulated permitted~~ device which for a twelve-month period has not been actively operated or maintained, as determined under Rule 1680-10-01-.16. ~~falls into one or more of the following classifications:~~
 - ~~(a) a device in substantial need of repair;~~
 - ~~(b) a device whose face or faces is damaged fifty percent or more;~~
 - ~~(c) a device which displays only a message of its availability for advertising purposes;~~
- (2) ~~“Adjacent Area”~~, means that area within six hundred sixty ~~feet~~ (660') feet of the nearest edge of the right-of-way of a highway on the Interstate System and or Primary System highways and visible from the main traveled way of ~~the interstate or primary any such highways.~~

(Rule 1680-~~02-03~~10-01-.02, continued)

- ~~(3) "Agreement" means the agreement entered into, pursuant to T.C.A. §54-21-116, between the Commissioner and the Secretary of Transportation of the United States regarding the definition of unzoned commercial and industrial areas, and size, lighting, and spacing of certain outdoor advertising.~~
- ~~(3) "Back-to-back device" means a single device with sign faces oriented in opposite directions.~~
- ~~(4) "Changeable message sign" means an off-premise outdoor advertising device which displays a series of messages at intervals by means of digital display or mechanical rotating panels.~~
- ~~(5) "Commercial use" means an activity, other than outdoor advertising, devoted to the buying or selling of goods or services at the wholesale or retail level and which, if in a comprehensively zoned political subdivision, is allowed only in areas zoned for commercial use.~~
- (46) "Commissioner" means the Commissioner of the Tennessee Department of Transportation.
- ~~(57) "Comprehensive Zoning" or "comprehensively zoned" means a complete regulatory approach to land use planning and zoning within an entire political subdivision such that each tract of land under the jurisdiction of a zoning authority is given a zoning classification. The mere placing of a label such as "Zoned Commercial" or "Zoned Industrial" on or regarding a tract of land does not constitute comprehensive zoning. For ample, the mere placing of the label "Zoned Commercial or Industrial" on land does not constitute comprehensive zoning but rather, the establishment of a complete set of regulations to govern the land use within the entire political subdivision is required.~~
- ~~(8) "Conforming device" means a device legally permitted in accordance with the current agreement entered into between the Commissioner and the United States Secretary of Transportation on or about April 20, 1983, as authorized in T.C.A. § 54-21-116(b), and which remains in compliance with the zoning, size, lighting and spacing criteria established in the current agreement.~~
- ~~(9) "Customary maintenance" means maintenance of a non-conforming outdoor advertising device, which may include, but shall not exceed, the replacement of the sign face and stringers with like materials, and the replacement with like materials of up to fifty percent (50%) of the device's poles, posts or other support structures; provided, that the replacement of any poles, posts or other support structures is limited to one (1) time within a twenty-four month period.~~
- (610) "Department" means the Tennessee Department of Transportation.
- ~~(711) "Destroyed" means, with respect to a non-conforming and grandfathered non-conforming outdoor advertising devices, means that more than fifty percent (50%) or more of the device's poles, or posts or other support structures are dislocated or damaged to the extent that they will no longer support the sign face, any part of the stringers or sign face has fallen to the ground.~~
- ~~(12) "Device" means a single structure supported by a pole, posts, or other supporting mechanism, including a sign face or faces, that is devised, constructed, or used for the purpose of outdoor advertising.~~
- ~~(13) "Digital display" means a type of changeable message sign that displays a series of messages at intervals through the electronic coding of lights or light emitting diodes or any~~

(Rule 1680-~~02-03~~10-01-.02, continued)

other means that does not use or require mechanical rotating panels.

(814) "Directional Signs"; means a device containing directional information about a public places owned or operated by Federal, State, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation.

~~(9) "Double faced, Back-to-Back, or "V" Type Sign, shall mean those configurations or multiple outdoor advertising structures, as those terms are commonly understood. In no instance shall these terms include two or more devices which are not physically contiguous or connected by the same structure or cross-bracing or, in the case of back-to-back or "V" type signs, located more than 15 feet apart at their nearest points.~~

(15) "Double-faced device" means a single device with side-by-side sign faces oriented in the same direction.

(16) "Edge of pavement" means the white line marking the boundary between the outside of the main traveled way and the shoulder of the highway.

~~(107) "Erect";~~ means to construct, build, raise, assemble, place, affix, attain, create, paint, draw, or in any other way bring into being or establish, but does not apply to changes of copy treatment on an existing permitted outdoor advertising device.

~~(11) "Grandfather Non-Conforming Device, means one which was lawfully erected prior to the passage of the state law which is located in a legal area as defined by the law but which does not meet the size, lighting, or spacing criteria as set forth in the Agreement entered into between the Department of Transportation and the Federal Highway Administration which is part of the law.~~

~~(12) "Information Center, means an area or site established and maintained at a Safety Rest Area for the purpose of informing the public of places of interest within this State and providing such other information as the Commissioner may consider desirable.~~

(18) "Fully access controlled highway" means a highway with full control of access, including grade-separated interchanges rather than at-grade intersections, with no permitted driveway entrances or exits from the main traveled way.

(19) "Height above ground level" (HAGL) means the distance from the ground to the bottom of the sign face.

(20) "Industrial use" means an activity, other than outdoor advertising, devoted to the manufacturing or production of goods from raw materials or component parts or to the transportation or distribution of such goods and which, if in a comprehensively zoned political subdivision, is allowed only in areas zoned for industrial use.

~~(213) "Interstate System";~~ means that portion of the National System of Interstate and Defense Highways located within this State, as officially designated, or as may hereafter be so designated by the Commissioner and approved by the Secretary of Transportation of the United States, pursuant to the provisions of ~~Title 23, United States Code 23 U.S.C. § 103(c).~~

(22) "Like materials" means materials that replicate the materials used (e.g. wood for wood, steel for steel, etc.) to construct each component of the original device.

(23) "Main traveled Way"; means the traveled way of a highway on which through traffic is Carried. In the case of a divided highway, the traveled way of each of the separated

(Rule 1680-~~02-03~~10-01-.02, continued)

roadways for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

- ~~(15) "Non-Conforming Device" means one which was lawfully erected but which does not comply with the provisions of state law or state regulations passed at a later date or which fail to comply with state law or state regulations due to changed conditions.~~
- ~~(24) "Non-conforming device" means an outdoor advertising device that does not conform to the zoning, size, lighting or spacing criteria established by and in accordance with either the current agreement entered into between the Commissioner and the Secretary of Transportation of the United States, or in accordance with the original agreement entered into on or about November 11, 1971, as authorized in T.C.A. § 54-21-116. Any outdoor advertising device that continues to conform to either the current agreement or the original agreement as provided in T.C.A. § 54-21-116 shall not be considered nonconforming.~~
- (25) "Official ~~S~~signs and Notices," means a signs and or 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 purposes of carrying out an official duty or responsibility. Historical markers authorized by ~~s~~State ~~l~~aw and erected by State or local government agencies or non-profit historical societies may be considered official signs.
- ~~(26) "On-premise device" means an outdoor advertising device which displays messages that advertise activities conducted on, or the sale or lease of, the property on which the device is located pursuant to Rule 1680-10-01-.15.~~
- ~~(27) "Original conforming device" means a device that was legally permitted on or after April 4, 1972, in accordance with the original agreement entered into between the Commissioner and the United States Secretary of Transportation on or about November 11, 1971, as authorized in T.C.A. § 54-21-116(a), and which remains in compliance with the zoning, size, lighting and spacing criteria established in the original agreement and the requirements of T.C.A. § 54-21-116(b).~~
- (28) "Outdoor ~~A~~advertising," means any outdoor sign, display, device, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing which is used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area and is visible from any place on the main traveled way of any highway on the Interstate or Primary System of highways~~the state, interstate, or primary highway systems.~~
- (29) "Parkland," means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge, or historic site.
- (30) "Person," means and includes an individual, a partnership, an association, a corporation, or other entity.
- ~~(31) "Primary System," means that portion of connected main highways located within this State, as officially designated, or as may be hereafter be so designated by the Commissioner and approved by the Secretary of Transportation of the United States, pursuant to the provisions of Title 23, United States Code as a Federal-aid primary highway prior to the establishment of the National Highway System in 1991, as well as the National Highway System, meaning the network of nationally significant highways as authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (1991 ISTEA, Public Law 102-240) and approved by Congress in the National Highway Designation Act of 1996, including the Interstate System, and subsequent additions thereto designated pursuant to 23 U.S.C. § 103..~~

(Rule 1680-~~02-03~~10-01-.02, continued)

- (32) "Safety Rest Area"; means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for the convenience of the traveling public or enforcement of safety regulations, including rest areas, welcome centers, weigh stations, and truck parking areas.
- (33) "Scenic Area"; means any area of particular scenic beauty or historical significance as determined by the Federal, State, or local officials having jurisdiction thereof and includes interests in lands which have been acquired for the restoration, preservation, and enhancement of scenic beauty.
- (34) "Service Club and Religious Notices"; means ~~devices~~ signs and notices, whose erection is authorized by law, relating to meetings of non-profit service clubs, or charitable associations, or religious services, which signs do not exceed eight (8) square feet in area.
- (35) "Sign face" means that part of a device on which the advertising message is displayed.
- (36) "Stacked device" means a single device containing separate sign faces displayed one above the other with space between the sign faces.
- (37) "Stringers" means the material used to attach the sign face or faces to the rest of the device.
- ~~(24) Traveled Way, means the portion of roadway for the movement of vehicles, exclusive of shoulders.~~
- ~~(25) Unzoned Commercial or Unzoned Industrial, means those areas in a political subdivision not comprehensively zoned, on which there are located one or more permanent structures within which a commercial or industrial business is actively conducted, and which are equipped with all customary utilities, facilities and open to the public regularly or regularly used by the employees of the business as their principle work station or which due to the nature of the business is equipped, staffed, and accessible to the public as is customary. It includes the area along the highway extended outward 600 feet from and beyond the edge of the regularly used area of said activity in each direction and a corresponding zone directly across a primary highway which is not also a limited or controlled access highway. All measurements shall be from the edge of the regularly used building, parking lots, storage, or processing area of the commercial or industrial activity, not from the property lines of the activity and shall be along or parallel to the edge of the pavement of the highway. The area created by the 600 foot measurement may not infringe upon a public parkland, public playground, public recreation area, scenic area, cemetery, or upon an area that is primarily residential in character. The area shall not include land across the highway from a commercial or industrial activity when said highway is an interstate or controlled access primary highway. None of the following, but not limited to the following, shall be considered commercial or industrial activities for the purpose of outdoor advertising:~~
- ~~(a) outdoor advertising structure.~~
- ~~(b) agricultural, forestry, ranching, grazing, farming, and related activities, including but not limited to wayside fresh produce stands.~~
- ~~(c) transient or temporary businesses and activities. All businesses and activities that qualify must be established at least 10 months before the location is eligible.~~
- ~~(d) businesses not recognizable at anytime of the year as a commercial or industrial activity from the main traveled way.~~
- ~~(e) activities more than 660 feet from the nearest edge of the right of way.~~

(Rule 1680-~~02-03~~10-01-.02, continued)

~~(f) — activities conducted in a building principally used as a residence.~~

~~(g) — railroad tracks and minor sidings.~~

~~Note: The 600 feet shall be measured along the edge of the pavement nearest the commercial activity and from points which are perpendicular to the edge of pavement of the traveled way.~~

~~(38) “Unzoned commercial use area” means an area within a political subdivision without comprehensive zoning in which is located one or more permanent structures within which a commercial use is conducted, as determined in accordance with the criteria established in Rule 1680-10-01-.03(1)(a)1(ii).~~

~~(39) “Unzoned industrial use area” means an area within a political subdivision without comprehensive zoning in which is located one or more permanent structures within which an industrial use is conducted, as determined in accordance with the criteria established in Rule 1680-10-01-.03(1)(a)1(ii).~~

~~(40) “V-type device” means a single device with sign faces configured in a “V” shape.~~

~~(41) “Visible”, means capable of being seen (whether or not readable) without visual aid by a person of normal visual acuity.~~

~~(42) “Void”, means a status in which a permit is in violation of at least one requirement of these Rules or governing statutes and such violation cannot or has not been cured within the applicable cure period, if any, such that the permit is subject to immediate revocation.~~

~~(43) “Voidable”, means a status in which a permit is in violation of at least one requirement of these Rules or governing statutes and eligible to be rendered void and the outdoor advertising device removed by a final administrative action.~~

~~(29) Zoned Commercial or Zoned Industrial, means those areas in a comprehensively zoned political subdivision set aside for commercial or industrial use pursuant to the state or local zoning regulations, but shall not include strip zoning, spot zoning, or variances granted by the local political subdivision strictly for outdoor advertising.~~

(44) “Zoned commercial” means an area within a comprehensively zoned political subdivision that is set aside for commercial uses pursuant to state or local zoning regulations and which, for outdoor advertising control purposes, must meet the criteria established in Rule 1680-10-01-.03(1)(a)1(i).

(45) “Zoned industrial” means an area within a comprehensively zoned political subdivision that is set aside for industrial uses pursuant to state or local zoning regulations and which, for outdoor advertising control purposes, must meet the criteria established in Rule 1680-10-01-.03(1)(a)1(i).

Authority: T.C.A. §§ 54-21-~~104102, 54-21-105,~~ and 54-21-112; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repeal and refiled June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed February 1, 1989; effective March 18, 1989. Public Necessity rule filed August 1, 2006; effective October 1, 2006 through March 15, 2007. Amendment filed December 21, 2006; effective March 6, 2007. Amendment filed September 24, 2008; effective December 8, 2008.

(Rule 1680-~~02-03~~10-01-.02, continued)

1680-~~02-03~~10-01-.03 CRITERIA FOR THE ~~ERECTION AND~~ CONTROL OF OUTDOOR ADVERTISING DEVICES.

(1) Restrictions on ~~Outdoor Advertising adjacent to Interstate and Primary Highways Conforming Devices Within Adjacent Area of Highways on the Interstate and Primary Systems.:~~

(a) ~~Except as provided in Rule 1680-10-01-.09 through Rule 1680-10-01-.15 below, Outdoor Advertising devices erected or maintained within six hundred sixty (660) feet of the nearest edge of the right-of-way and visible from the main traveled way of a highway on the Interstate or Primary Systems may be permitted by the Department subject to the following criteria are subject to the following restrictions:~~

1. Zoning:

~~Outdoor Advertising must be located in areas zoned for commercial or zoned industrial use in a comprehensively zoned political subdivision, or it must be located in an area that qualifies as an unzoned commercial use area or unzoned industrial use area, subject to the following or in areas which qualify for unzoned commercial or industrial use. (See Definition 1680-02-03-.02, Paragraph 27):~~

~~(i) Areas Zoned Commercial or Zoned Industrial in Comprehensively Zoned Political Subdivisions.~~

~~An area zoned commercial or zoned industrial in a comprehensively zoned political subdivision will be accepted for outdoor advertising control purposes, subject to the following:~~

~~(l) Zoning action which is facially part of comprehensive zoning but which is created primarily to permit outdoor advertising is not recognized as zoning that may be accepted for outdoor advertising control purposes. The determination of whether a zoning action was taken primarily to permit outdoor advertising shall be made on the basis of relevant circumstances at the location and the surrounding area including, without limitation, the following:~~

~~I. The time of the zoning change in relation to either the purchase of the property or the time the outdoor advertising permit application was submitted;~~

~~II. The publicly expressed reasons for the zoning change;~~

~~III. The relationship between the requestor of the zoning change and the applicant for the permit;~~

~~IV. The zoning classification(s) of the surrounding area;~~

~~V. The existence of plans for the actual development of commercial and/or industrial uses within the rezoned area in the immediate future;~~

~~VI. The existence or availability of utilities (such as water, electricity, and sewage) within the rezoned area;~~

(Rule 1680-10-01-.03, continued)

VII. The existence of access roads, or dedicated access, to the rezoned area;

VIII. The existence or availability of city or county services within the rezoned area;

IX. The presence of active commercial or industrial uses within one-half (1/2) mile of the proposed outdoor advertising device;

X. The suitability of the topography of the rezoned area for the development of commercial and/or industrial uses; and

XI. The actual use for which the location is employed.

(II) A zone in which limited commercial or industrial uses are permitted as an incident to other primary land uses is not considered to be zoned commercial or zoned industrial for outdoor advertising control purposes.

(III) In comprehensively zoned areas containing an overlay of permitted uses not otherwise allowed in the underlying comprehensive use, the underlying zoning classification must be zoned commercial or zoned industrial to be accepted for outdoor advertising control purposes.

(IV) A mixed-use zoned area which allows uses other than commercial use or industrial use is not considered to be zoned commercial or zoned industrial for outdoor advertising purposes.

(ii) Unzoned Commercial or Unzoned Industrial Use Areas.

In a political subdivision without comprehensive zoning, an area may qualify as an unzoned commercial use area or an unzoned industrial use area for outdoor advertising control purposes under the following criteria:

(I) The area must contain an existing commercial or industrial use that meets the following criteria:

I. The commercial or industrial use must be conducted, at least in part, within a permanent structure that:

A. Contains at least three hundred (300) square feet of floor space devoted to the commercial use, or at least one thousand (1,000) square feet devoted to the industrial use;

B. Is fully equipped as is customary for the commercial or industrial use being conducted;

C. Has customary utilities including electricity and business telephone;

D. Has on-site restroom facilities with toilets and functional plumbing including running water (outhouses and chemical toilets are not acceptable as functional toilets);

(Rule 1680-10-01-.03, continued)

- E. Has heating and cooling in those areas used as principal work stations by employees; and
 - F. Has a duly issued and current business license.
 - II. The commercial or industrial use conducted within the area shall:
 - A. Be visible and clearly recognizable to motorists from the main traveled way as a commercial or industrial use without the aid of any device, including, without limitation, any on-premise device;
 - B. Have adequate parking for employees and patrons;
 - C. Be open or in operation at least thirty (30) hours per week and at least five (5) days per week on a consistent basis; and
 - D. Be staffed by at least one person at the business site performing work during normal business hours.
 - III. The commercial or industrial use must have been established and open for business at its current location for at least one (1) year prior to the application for an outdoor advertising permit within the area.
- (II) The following activities or uses shall not qualify as a commercial or industrial use for the purpose of establishing an unzoned commercial use area or unzoned industrial use area for outdoor advertising control purposes:
 - I. An outdoor advertising device;
 - II. Agricultural, forestry, ranching, grazing, farming, and other related activities including, but not limited to, produce stands;
 - III. An activity in operation for less than one (1) year;
 - IV. An activity more than six hundred sixty (660) feet from the nearest edge of highway right-of-way;
 - V. An activity in any structure used primarily as a residence;
 - VI. Railroad tracks and sidings;
 - VII. Any seasonal or temporary business not in operation year-round;
 - VIII. Any business not visible and clearly recognizable to motorists from the main traveled way year-round as a commercial or industrial use; or
 - IX. Any type of activity or business that is prohibited under Federal, state, or local law.
- (III) The area which may be characterized as an unzoned commercial use area or unzoned industrial use area for outdoor advertising control purposes shall be bounded as follows:
 - I. The proposed sign location must be within six hundred sixty (660) feet of the nearest edge of the right-of-way, as

(Rule 1680-10-01-.03, continued)

measured by establishing a line at a ninety (90) degree angle from the nearest edge of pavement to the center of the device pole nearest the highway. In addition, the edge of the regularly used area of the nearest commercial or industrial use (including buildings, parking lots, storage, or processing area) must be located within a six hundred (600) foot radius of the center of the device pole nearest the highway. (See illustration in the Appendix.)

II. Notwithstanding the criteria of this section, the proposed device may not be located across the highway from the commercial or industrial use when it is a fully access controlled highway.

III. Notwithstanding the criteria of this section, the radial area may not infringe upon and shall not include any of the following:

A. Public parkland;

B. A public playground;

C. A public recreation area;

D. A scenic area;

E. A cemetery; or

F. Any area that is predominantly residential in character.

(iii) The following types of advertising signs are not restricted by the zoning criteria:

(I) Directional signs as defined under these Rules;

(II) Official signs as defined under these Rules;

(III) Landmark signs as determined under the Rules;

(IV) On-premise devices as defined under these Rules; and

(V) Service club and religious notices as defined under these Rules.

~~Directional and other official signs and notices including, but not limited to natural wonders, scenic, and historic attractions, which are authorized or required by law.~~

~~(II) Signs, displays, and devices advertising the sale or lease of property on which they are located.~~

~~(III) Signs, displays, and devices advertising activities conducted on the property on which they are located. (See Rule 1680-02-03-.06 for detailed description of an on-premise sign)~~

2. Size:

(Rule 1680-10-01-.03, continued)

- ~~(i) The maximum height of a sign face on any device shall not exceed thirty (30) feet.~~
- ~~(ii) The maximum length of a sign face on any device shall not exceed sixty (60) feet.~~
- ~~(iii) Notwithstanding the maximum height and length established above, the maximum total gross area for one outdoor advertising structure sign face shall be not exceed seven hundred seventy-five (775) square feet in counties having a population of 250,000 or less, and the maximum gross area for one sign face on an outdoor advertising device shall not exceed one thousand two hundred (1,200) square feet in counties having a population greater than 250,000, with a maximum height of 30 feet or maximum length of 60 feet (a 60'x30' sign is not allowed). All measurements shall be inclusive of any border and trim but exclusive of ornamental base or apron supports and other structural members.~~
- ~~In counties having a population greater than 250,000 the state will accept the particular county's standard size, but in no instance shall this standard size, determined by the local governing body, exceed 1200 square feet,~~
- ~~(iv) All measurements of the area of a sign face shall include of any border and trim and but shall exclude of ornamental base or apron supports and other standard structural members.~~
- ~~(iv) The area of the sign face shall be measured by the smallest square, rectangle, circle, or combination thereof which will encompass the entire sign.~~
- ~~(iii) An outdoor advertising structure may contain one device per horizontal facing and may be stacked, back-to-back or V-type, but the total area of any facing may not exceed 775 square feet except as outlined above for counties with a population of 250,000 or greater.~~
- ~~(vi) Diagrams are included in the Appendix to this issuance to further describe the size requirements.~~
- ~~(vii) Size criteria for directional signs is are contained in Rule 1680-10-01-.12§1680-02-03-.05.~~
- ~~(viii) On-premise devices as determined under Rule 1680-10-01-.14 are not subject to these size criteria.~~
 - ~~(I) Signs, displays, and devices advertising the sale or lease of property on which they are located.~~
 - ~~(II) Signs, displays, and device advertising activities conducted on the property on which they are located (on-premise).~~

3. Lighting:

- (i) Outdoor advertising which contains, includes, has attached, or are is illuminated by any flashing lights, video, or continuous scrolling messages

(Rule 1680-10-01-.03, continued)

~~is prohibited intermittent or moving light, or lights which involve moving parts are prohibited, except that which gives public information, such as time, date, temperature, weather, or similar information.~~

- (ii) Outdoor advertising which is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any highway on the Interstate or Federal Aid Primary System Highway and are of such intensity or brilliance as to cause glare or to impair vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle, ~~are~~ is prohibited.
- (iii) No outdoor advertising shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, signal, or other traffic control device, ~~or signal.~~

4. Spacing:

- (i) Fully Access Controlled Highways on the Interstate or Highway Primary Systems and Controlled Access Primary Highways:
 - (I) No two ~~structures~~ devices shall be spaced less than one thousand (1,000) feet apart on the same side of the highway.
 - (II) Outside the corporate limits of an incorporated municipality, ~~or in a county having the metropolitan form of government, outside the urban services district,~~ no ~~structure~~ device may be located adjacent to or within one thousand ~~feet~~ (1,000²) feet of an highway ramp, interchange, or intersection at grade or safety rest area, including but not limited to, any exit or entrance ramp, measured ~~along the interstate or controlled access highway on the primary system~~ from the nearest point of the beginning or ending of pavement widening at the exit or entrance to the main traveled way. (See illustration in the Appendix.) ~~Provided, however, that if the boundaries of the urban services district in a county having the metropolitan form of government, overlap the corporate limits of a municipality, located within any such county, then the corporate limits shall be the prevailing factor for determining spacing of structures, rather than the urban services district boundaries. (See illustration in Appendix, page 90)~~
 - (III) Inside the corporate limits of an incorporated municipality, ramp restrictions do not apply.
 - (IV) The minimum spacing for changeable message signs with a digital display is two thousand (2,000) feet, except as follows:
 - I. An outdoor advertising device that uses a digital display which does not exceed one hundred (100) square feet in total area to give public information such as time, date, temperature, or weather, or to provide the price of a product, the amount of a lottery prize or similar numerical information supplementing the content of a message otherwise displayed on the sign face shall not be subject to the two thousand (2,000) feet minimum spacing requirement in this item (IV).

(Rule 1680-10-01-.03, continued)

(ii) All Other Highways on the Primary Highway System (Non-Controlled Access) Not Having Full Access Control:

- (I) Outside the corporate limits of an incorporated municipality, or in the case of a county having the metropolitan form of government, outside the urban services district, no two structures devices shall be spaced less than five hundred feet (500') feet apart on the same side of the highway. Provided, however, that if the boundaries of the urban services district in a county having the metropolitan form of government, overlap the corporate limits of a municipality located within any such county, then the corporate limits shall be the prevailing factor for determining spacing of structures, rather than the urban services district boundaries.
- (II) Within the corporate limits of an incorporated municipality, or in the case of a county having the metropolitan form of government, within the urban services district boundaries, no two structures devices shall be spaced less than one hundred (100) feet apart on the same side of the highway.

(iii) Transitions Between Portions of a Highway Having Full Access Control and Portions Without Full Access Control on the Primary System:

- (I) Within the portion of the highway having grade-separated interchanges and controlled ingress and egress with no permitted driveway entrances or exits from the main traveled way, the same spacing requirements as apply to fully access controlled highways under Rule 1680-10-01-.03(1)(a)4(i) shall apply.
- (II) Within the portion of the highway having at-grade intersections and/or ingress and egress at permitted driveway entrances or exits from the main traveled way, the spacing requirements for all other highways not having full access control under Rule 1680-10-01-.03(1)(a) 4(ii) shall apply.
- (III) At or near the point that the designation of access control changes, the device shall comply with the spacing requirements for both portions of the highway. (See illustration in the Appendix)

(iv) Municipalities Having a Metropolitan Form of Government:

For the purposes of determining the spacing requirements under this section, the corporate limits of an incorporated municipality in a county having a metropolitan form of government shall be:

- (I) The boundaries of the urban services district, and
- (II) The corporate limits of any incorporated municipality contained within the area of the metropolitan government.

(v) Method of Measuring:

- (I) The minimum distance between outdoor advertising devices shall be measured along the nearest edge of the pavement between

(Rule 1680-10-01-.03, continued)

points where a straight line from the center of the device pole nearest the highway intersects the nearest edge of the pavement at a ninety (90) degree angle. This methodology shall be used to measure the spacing between all devices, including devices located along a curvilinear section of highway. (See illustration in the Appendix.)

(II) To determine whether an outdoor advertising device is within six hundred sixty (660) feet of the nearest edge of the right-of-way, the distance shall be measured by first establishing a straight line from the center of the device pole nearest the highway to the point that intersects the nearest edge of the pavement at a ninety (90) degree angle. The distance shall be measured between the center of the device pole nearest the highway and the point that intersects the nearest edge of pavement at a ninety (90) degree angle. (See illustration in the Appendix.)

(#vi) Spacing Exceptions:

With respect to ~~(i) of (i) and (i) and (ii) of (ii)~~ the one thousand (1,000) foot spacing rule in Rule 1680-10-01-.03(1)(a)4(i)(I), structures devices may be spaced closer together when they are separated by buildings or other obstructions, not including any other outdoor advertising device, so that only one is visible from the main traveled way within the otherwise applicable spacing requirement at any one time.—~~The applies to both Federal Aid Interstate and Federal Aid Primary routes.~~

(#vii) Explanatory Notes Devices Excluded from Spacing Requirements:

~~With respect to spacing requirements on both the Federal Aid Interstate and Primary Highway Systems:~~

~~(i) The following types of signs devices shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements:~~

(I) Directional signs as defined under these Rules;

(II) Official signs as defined under these Rules;

(III) Landmark signs as determined under these Rules;

(IV) On-premise devices as defined under these Rules, and

(V) Service club and religious notices as defined under these Rules.

~~I. Directional and other official signs and notices.~~

~~II. Signs, displays, and devices advertising the sale or lease of the property on which they are located.~~

~~III. Signs, displays, and devices advertising activities conducted on the property on which they are located. (On Premise)~~

(Rule 1680-10-01-.03, continued)

~~(II) The minimum distance between outdoor advertising devices shall be measured along the nearest edge of pavement to the advertising device between points directly opposite the signs along each side of the highway. (See illustration in Appendix — page 91)~~

5. ~~[reserved]~~ Changeable Message Signs:

Changeable message signs are permissible, subject to the following restrictions:

- (i) The message display time shall remain static for a minimum of eight (8) seconds with a maximum change time of two (2) seconds.
- (ii) Video, animation, and continuous scrolling messages are prohibited.
- (iii) Non-conforming devices shall not be converted to a changeable message sign.
- (iv) The changeable message sign shall contain a default design that will freeze the sign face to one position if a malfunction occurs.
- (v) The structure for a changeable message sign may contain sign faces that are in a double-faced, back-to-back, or V-type configuration.
- (vi) The minimum spacing for changeable message signs with a digital display is as provided in Rule 1680-10-.03(1)(a)4.(i)(IV).

(2) Restrictions on Outdoor Advertising Beyond Adjacent Area of Highways on the Interstate and Primary Systems Outside of Urban Areas.

- (a) For purposes of Paragraphs (2) and (3) of this section, an Urban Area, as defined in 23 U.S.C. § 101, means an urbanized area or urban place as designated by the Bureau of the Census having a population of five thousand (5,000) or more, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation.
- (b) Control of outdoor advertising extends to outdoor advertising devices located beyond six hundred sixty (660) feet of the nearest edge of the right-of-way of highways on the Interstate and Primary Systems outside of urban areas where such devices are erected with the purpose of their message being read from the main traveled way of highways on these systems. Such devices are prohibited, whether or not in areas zoned commercial or zoned industrial or within unzoned commercial or in zoned industrial use areas, unless the device was erected with the purpose of the message being read from a highway that is not on the Interstate or Primary System.

(3) Outdoor Advertising Beyond Adjacent Area of Highways on the Interstate and Primary Systems Inside Urban Areas.

Outdoor advertising devices located beyond six hundred and sixty (660) feet of the nearest edge of the right-of-way of highways on the Interstate and Primary Systems inside urban areas do not require a permit, whether or not they are visible from the main traveled way.

(4) Prohibited Devices.

(Rule 1680-10-01-.03, continued)

(a) Separated Devices.

Separated devices arranged in a back-to-back or V-type configuration shall not be permitted. (See illustration in the Appendix.)

(b) Imitation of or Interference with Official Signs.

Advertising messages which attempt or appear to attempt to direct the movement of traffic, or which interfere with, imitate, or resemble any official sign, signal or traffic control device, are prohibited. The permit for any outdoor advertising device having, containing, or portraying such a message shall be voidable.

Authority: T.C.A. §§ 54-21-103, 54-21-109, 54-21-112, 54-21-116, 54-21-122; 23 U.S.C. § 131.
Administrative History: Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-.04 APPLICATIONS FOR OUTDOOR ADVERTISING PERMITS.

(1) Application Requirements for New Outdoor Advertising Permits.

(a) Except as provided in Rules 1680-10-01-.13 through 1680-10-01-.15 for landmark signs, service club and religious notices, and on-premise devices,

~~No~~ person shall construct, erect, operate, use, maintain, or cause or ~~permit allow~~ to be constructed, erected, operated, used or maintained, any outdoor advertising device visible from the main traveled way of the Interstate System, ~~Federal Aid or Primary System, or National Highway System~~ and subject to regulation under Title 54, Chapter 21 of the Tennessee Code without first obtaining from the Department a permit and tag ~~authorizing the same~~. An outdoor advertising device that is erected prior to obtaining the required permit ~~and tag~~ shall be considered illegal and subject to removal at the expense of the owner as provided in ~~Tennessee Code Annotated T.C.A.~~ § 54-21-105.

~~(b)~~ The outdoor advertising permit application form and related forms may be viewed on the Department's Beautification Office website at <http://www.tdot.state.tn.us/environment/beautification/>. An original permit application form and related forms may be obtained from any of the following Beautification Offices:

Headquarters - Beautification Office
 Suite 400, James K. Polk Bldg.
 505 Deaderick Street
 Nashville, TN 37243-0333
 Telephone No. 615-741-2877
 Fax No. 615-532-5995

Region I - Beautification Office
 7345 Region Lane
 Knoxville, TN. 37901
 Telephone No. 865-594-2451
 Fax No. 865-594-6341

Region II - Beautification Office
 P. O. Box 22368
 4005 Cromwell Road
 Chattanooga, TN. 37422-2368
 Telephone No. 423-892-3430, Ext. 2293
 Fax No. 423-899-1636

(Rule 1680-10-01-.04, continued)

Region III - Beautification Office
 6601 Centennial Blvd.
 Nashville, TN. 37243-0360
 Telephone No. 615-350-4389
 Fax No. 615-350-3966

Region IV - Beautification Office
 300 Benchmark Place
 Jackson, TN. 38301-0429
 Telephone No. 731-935-0170
 Fax No. 731-935-0208

(~~iii~~c) A complete original application for an outdoor advertising permit must be hand delivered or mailed to the Department's Headquarters Beautification Office in Nashville at the address indicated above. The application must have an original signature. No faxed application materials will be accepted.

(~~iv~~d) In addition to a completed application form, a complete application for an outdoor advertising permit shall also include the following:

(~~i~~)1. Payment of the application fee by check or money order made payable to the Tennessee Department of Transportation and in the amount established in T.C.A. § 54-21-104 (provided that payment in cash will be accepted if personally delivered to the Headquarters Beautification Office);

(~~ii~~)2. A map or scaled drawing which shows:

~~I~~-(i) The property lines of the real property within which the outdoor advertising device is to be located;

~~II~~-(ii) The location of the highway along which the outdoor advertising permit is requested and any other public roads adjacent to the property;

~~III~~-(iii) The location and property lines of the State's highway right-of-way;

~~IV~~-(iv) The location of the proposed outdoor advertising device within the property; and

~~V~~-(v) The public road, driveway, or other means by which the applicant can obtain access to the real property where the proposed outdoor advertising device is to be located without using direct ingress and egress across or using any part of the state highway right-of-way.

(~~iii~~)3. A signed and notarized affidavit from the property owner (on a form provided by any of the Beautification Offices listed above), as follows:

(i) If the applicant is the property owner or the owner of a permanent easement granting the applicant the right to construct and operate an outdoor advertising device on the property, the affidavit shall:

~~A~~-(I) Certify the applicant's ownership interest in the property; and

~~B~~-(II) Attach a copy of the applicant's most recent property record in the Assessor of Property's Office of the county in which the property is located. If this record is available online, the Department will accept a print-out of this document.

~~II~~-(ii) If the applicant is not the property owner or owner of a permanent easement granting the applicant the right to construct and operate an outdoor advertising device on the property, the affidavit shall:

(Rule 1680-10-01-.04, continued)

(l) Certify that the property owner has given the applicant permission to construct and operate the proposed outdoor advertising device at the proposed location; and

~~B-(II)~~ Attach a copy of the property owner's most recent property record in the Assessor of Property's Office of the county in which the property is located. If this record is available online, the Department will accept a print-out of this document.

~~(iii) The affidavit must be signed and notarized on the same date.~~

~~(ve)~~ The applicant shall mark the proposed location of the outdoor advertising device in the field by placing a stake in the ground, ~~the top of which shall be not less than four (4) feet above ground level, which must be visible from the main traveled way,~~ at the precise location on the owner's property where the device is proposed to be located; ~~provided, h~~ However, ~~that if it is not possible to place a stake at the proposed location of the device which is visible from the main traveled way is in a paved area, the applicant shall indicate this fact on the map or scaled drawing submitted with the application. Further, if the proposed location of the device is in a paved area, the~~ precise location shall be marked on the pavement in paint. The stake or mark shall identify the applicant.

~~7-(2)-~~ Processing of Applications.

~~(ia)~~ No application for an outdoor advertising permit will be considered unless the completed application form and all other documents required by these Rules have been filed in the Headquarters Beautification Office. An incomplete application will not be considered.

~~(#b)~~ All documents included with an incomplete application shall be returned to the applicant without being processed, and the application fee shall be returned or refunded. If the incomplete application is accompanied by any other documents pertaining to the permitting of any outdoor advertising device, including without limitation a request to cancel another outdoor advertising permit or the cancellation of a previous request for hearing, the entire package will be returned to the applicant with the incomplete application without being processed.

~~(#c)~~ If an application is withdrawn or returned for any reason, and the applicant chooses to resubmit the application, the subsequently filed application, if complete, shall be processed as a new application as of the date it is received and shall be given a new application number.

~~(ivd)~~ The return of an incomplete application, and any accompanying materials, without processing in accordance with these Rules is not a final administrative action subject to appeal or an administrative hearing.

~~(ve)~~ Complete applications will be considered on a first come, first served basis and processed in order of time stamped at the Headquarters Beautification Office upon receipt.

~~(vif)~~ Upon determining that an application is complete, the Headquarters Beautification Office will forward the complete application to the Beautification Office personnel assigned to conduct a field inspection.

(Rule 1680-10-01-.04, continued)

- (vii) Upon receiving a complete application, the assigned Beautification personnel will initiate a field inspection of the proposed location for the outdoor advertising device.
- (viii) If Beautification personnel find that the actual proposed location is not marked on the pavement or staked in the field by a stake as required in these Rules, the Beautification personnel will so notify the Headquarters Beautification Office and the application will be denied. Prior to denying an application, the Beautification personnel will attempt to contact the applicant so that the defect may be cured.
- (ix) If Beautification personnel find that the proposed outdoor advertising location would fail to meet the minimum spacing required by law due to a conflict with the location of an earlier filed application, or with the location of an existing permit that the Department has deemed voidable under these Rules, the Beautification personnel shall not complete the field inspection on the later filed application and shall notify the Headquarters Beautification Office that a minimum spacing conflict exists.
- (x) Because applications must be considered on a first come, first served basis, the Headquarters Beautification Office shall proceed as follows upon being notified that a minimum spacing conflict exists:
 - (1) If an application is submitted for a proposed location that has a minimum spacing conflict with the location proposed in an earlier filed application, the Headquarters Beautification Office shall first determine whether to grant or deny the permit requested in the earlier filed application and proceed as follows:
 - (i) If the earlier filed application is granted, the Headquarters Beautification Office shall deny the later filed application.
 - (ii) If the earlier filed application is denied, the later filed application will not be processed until such time as the earlier applicant has an opportunity to request a hearing on the denial and then as follows:
 - (I) If the earlier applicant makes a timely request for a hearing, the later filed application, including the application fee and all documents accompanying the application, shall be returned to the applicant without processing.
 - (II) If the earlier applicant does not make a timely request for hearing, the later filed application will be processed and either granted or denied in accordance with these Rules.
 - (2) If an application is submitted for a proposed location that has a minimum spacing conflict with the location of an existing outdoor advertising device having a permit that the Department has deemed voidable under these Rules, but which remains in a pending status because the holder of the permit still has the opportunity to undertake remedial action or to request a hearing, or because the holder of the permit has requested a hearing but the case has not been finally adjudicated, the application for the new outdoor advertising permit, including the application fee and all documents accompanying the application, shall be returned to the applicant without processing.
- (xi) If the proposed location is properly marked on the pavement or staked in the field and there does not appear to be any minimum spacing conflict with a pending application or permit, Beautification personnel will complete the field inspection in consideration

(Rule 1680-10-01-.04, continued)

of the zoning, spacing and other requirements for permitting an outdoor advertising device under these Rules.

- (~~xiii~~) Apart from the failure to meet any other requirement of these Rules, if it is determined by the Beautification personnel that the applicant is unable to obtain access to the proposed location to erect and maintain an outdoor advertising device except by direct ingress and egress across the state highway right of way, or by breaching the State's right of access control, if any, or by using some part of the State's right-of-way, then the application shall be denied.
- (~~xiiim~~) Upon completing the field inspection, Beautification personnel will submit a written field inspection report to the Headquarters Beautification Office.
- (~~xivn~~) The Headquarters Beautification Office will review the field inspection report for completeness and accuracy. The Headquarters Beautification Office shall make the determination to grant or deny the requested outdoor advertising permit and shall notify the relevant Beautification Office of its decision.
- (~~xvo~~) If the Headquarters Beautification Office grants the permit, a ~~serially numbered~~ permit and serially numbered metal tag will be issued to the applicant. The permit and metal tag shall be issued only for the specific outdoor advertising sign face identified on the approved application and only for the precise location footprint as marked on the pavement or as staked in the field. Under no circumstances shall a permit and/or tag be used for or moved to any other location.
- (~~xvip~~) If the Headquarters Beautification Office decides to deny the permit, the Department will send a copy of the disapproved application to the applicant with a letter explaining the reason for the permit denial. The application fee shall not be refunded in the event of permit denial.

Authority: T.C.A. §§ 54-21-104 and 54-21-112; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-.05 REQUIREMENTS FOR CONSTRUCTION OF CONFORMING DEVICES.

~~8.—Requirements for Construction of a Permitted Outdoor Advertising Device.~~

- (~~i1~~) If a permit is issued, the permit holder must erect the ~~support structure device, and~~ attach the sign face, and display outdoor advertising on the device at the approved location within one hundred and eighty (180) days from the date the permit is issued. A copy of the approved application must be on-site in the possession of the permit holder, or any person acting on behalf of the permit holder, during the construction of the device. If the device is not fully constructed within the one hundred eighty (180) day period, the permit shall be voidable.
- (~~ii2~~) The dimensions of the sign face on the outdoor advertising device, as built, must conform to the dimensions of the proposed sign face as described in the approved application. If the permit holder does not construct the sign face in accordance with the approved application, the permit shall be voidable.
- (~~iii3~~) The tag must be affixed to the outdoor advertising device and visible from the main traveled way of the highway on which the outdoor advertising device is permitted. If the tag is not attached and visible as required, the outdoor advertising permit for that device shall be

(Rule 1680-10-01-.05, continued)

voidable; provided, however, if the growth of vegetation on the highway right-of-way subsequently prevents visibility of the tag from the main traveled way of the highway, the Department may waive this visibility requirement.

- (~~iv~~4) Neither the permit holder nor any person acting on behalf of the permit holder shall obtain access to the site of the outdoor advertising device by direct ingress and egress across the state highway right-of-way, nor shall the permit holder or any such person use any part of the State's highway right-of-way, to erect or maintain the outdoor advertising device. No equipment used by the permit holder or any such person to construct or maintain the outdoor advertising device shall encroach upon the right-of-way. Removal of any access control fence or any breach of the Department's right of access control is strictly prohibited. If any of these provisions are violated, the permit shall be voidable.
- (~~v~~5) It is the responsibility of the permit holder to locate the state highway right-of-way property line. No outdoor advertising device shall under any circumstances be allowed on the State's highway right-of-way. Any outdoor advertising device located partly or entirely on the State's highway right-of-way shall be considered an encroachment subject to removal at the owner's expense under the provisions of Tennessee Code Annotated § 54-5-136.

Authority: T.C.A. § 54-21-112 and 23 U.S.C. § 131. Administrative History: Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-.06 VOIDING OF PERMITS.

9.—Voiding of Permits.

- (~~i~~1) The Commissioner has the authority to void an outdoor advertising permit under the following conditions:
 - (~~la~~a) Any negligent or intentional misrepresentation of material fact on any application submitted pursuant to these Rules;
 - (~~lb~~b) Any violation of one or more of the requirements for a permit under Federal or State law or these Rules.
- (~~ii~~2) In the event the Department deems a permit voidable under these Rules, the Department shall give notice either by certified mail or other form of return receipt mail or by personal service to the permit holder; provided, however, that notice shall be deemed effective if the permit holder refuses to accept delivery of the certified mail or other return receipt mail. Such notice shall identify the alleged violation that renders the permit voidable; specify the remedial action, if any, which is required to correct the violation; and advise that failure to complete the remedial action within thirty (30) days or to request a hearing to contest the alleged violation within thirty (30) days will result in the permit becoming void, the right to a hearing waived, and the outdoor advertising device subject to removal.
- (~~iii~~3) Once a permit is issued for a location, the Department will not void a permit based on a change in property ownership or the lack of consent of the property owner for the permit owner to operate and maintain an outdoor advertising device at this location unless the permit holder requests that the permit be voided or there is a court order stating, in effect, that the permit holder has no legal right to operate or maintain an outdoor advertising device at that location.

Authority: T.C.A. § 54-21-112 and 23 U.S.C. § 131. Administrative History: Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

(Rule 1680-10-01-.07, continued)

1680-102-01-.07 ADMINISTRATIVE HEARINGS.**10.—Administrative Hearings.**

- (i1) If an application for an outdoor advertising permit is processed by the Department and subsequently denied, or if the permit for an existing device has been deemed void~~or voidable~~ under these Rules, the applicant shall have thirty (30) days from the date of the receipt of the denial letter or notice to request, in writing, an administrative hearing concerning the grounds upon which the permit was denied or is deemed to be void~~able~~. The request for hearing shall state the specific facts and provisions of law upon which the applicant relies to contest the denial or voiding of the permit.
- (ii2) If an administrative hearing is requested in the allotted time to contest the denial of an application for a permit, the application shall remain in a pending status until the matter has been finally adjudicated by a final administrative order, a final court order upon judicial review, or by agreement of the parties.
- (iii3) If an administrative hearing is requested in the allotted time to contest the grounds upon which the Department has deemed a permit to be void~~able~~, the permit shall not be eligible for renewal and shall be placed in a pending status until the matter has been finally adjudicated by a final administrative order, a final court order upon judicial review, or by agreement of the parties. If the final order or agreement results in reinstatement of the permit, the permit holder shall be responsible for payment of all annual permit renewal back fees from the date of the hearing request. After the back fees are paid, the permit will be returned to active status and shall be eligible for renewal. Likewise, if an administrative hearing is requested, any corresponding vegetation control permit or maintenance permit or application shall be placed in a pending status subject to the process stated herein.
- (iv4) A hearing on the denial or~~proposed~~ voiding of an outdoor advertising permit shall be conducted as provided in the Uniform Administrative Procedures Act,~~Tennessee Code Annotated T.C.A. § 4-5-101~~, et seq., and the Rules of the Tennessee Department of State, Administrative Procedures Division, Chapter 1360-04-01.
- (v5) The return of an application~~r~~ and any accompanying materials~~r~~ without processing in accordance with these Rules is not a final administrative action subject to appeal or an administrative hearing. Accordingly, the Department shall not initiate or accept any request for an administrative hearing based on the return of an application or any accompanying materials without processing.
- (vi6) The Department has no authority to resolve any dispute between the permit holder and the current property owner concerning the terms of the permit holder's lease or any other claim the permit holder may have to remain on the property. Accordingly, the Department shall not initiate or accept any request for an administrative hearing to resolve any such dispute.

Authority: T.C.A. § 54-21-112 and 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-.08 REPLACEMENT TAGS; RENEWAL AND TRANSFER OF PERMITS.**11.—Replacement Tags for Outdoor Advertising Devices:**

- (1) Replacement Tags for Outdoor Advertising Devices:

(Rule 1680-~~02-03-03~~10-01-09, continued)

Replacements for stolen, vandalized, lost, or illegible tags may be obtained from the Headquarters Beautification Office. Requests for replacement tags must be made in writing and accompanied by a check or money order, payable to the Tennessee Department of Transportation, for the amount of the replacement tag fee as provided in ~~Tennessee Code Annotated T.C.A.~~ § 54-21-104 (provided that payment in cash will be accepted if personally delivered to the Headquarters Beautification Office).

~~42-~~(2) Annual Renewal of Permits for Outdoor Advertising Devices:

- (~~ia~~) Permits shall be renewed annually between November 1st and December 31st.
- (~~ib~~) For each permit that is to be renewed, the permit holder shall return the signed renewal form together with payment of the annual renewal fee by check or money order made payable to the Tennessee Department of Transportation and in the amount provided in ~~Tennessee Code Annotated T.C.A.~~ § 54-21-104 (provided that payment in cash will be accepted if personally delivered to the Headquarters Beautification Office).
- (~~ic~~) The permit holder shall notify the Headquarters Beautification Office of any change in the permit holder's mailing address.
- (~~id~~) Permits and tags shall be voidable on January 1 of each year if not renewed by December 31 of the prior year.
- (~~ve~~) In the event that a permit holder fails to renew as provided in these Rules, the Department shall notify the permit holder of the violation, as provided in ~~subparagraph (1)(a), part 9(ii) of this~~ Rule 1680-10-01-06(2). The notice shall state that the permit holder has thirty (30) days after receipt of the notice either to remove the device, request an administrative hearing to contest the violation, or ~~to~~ remedy the violation by applying for a new permit for the same location.

~~43-~~(3) Transfer of Outdoor Advertising Permits.

- (~~ia~~) If a permit holder chooses to transfer a permit to another company or individual, the transfer request must be in writing and signed by the current permit holder and sent to the Headquarters Beautification Office. It must include a check or money order payable to the Tennessee Department of Transportation for the amount of the transfer fee as provided in ~~Tennessee Code Annotated T.C.A.~~ § 54-21-104 (provided that payment in cash will be accepted if personally delivered to the Headquarters Beautification Office). It must also include the name, mailing address, and telephone number of the new permit holder.
- (~~ib~~) Permits and tags are issued for a particular sign face and outdoor advertising location and may not be moved to or used for any other location.

Authority: T.C.A. §§ 54-21-104, 54-21-112; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-09 STACKED DEVICES

No permits shall be issued for any new stacked devices. Stacked devices that were legally erected on or before July 1, 2001 shall be unaffected by this Rule. However, the holder of a legal permit for a stacked device may move the device to a conforming location after being granted a new permit for the new location.

(Rule 1680-02-03-0310-01-09, continued)

Authority: T.C.A. §§ 54-21-112, 54-21-121; 23 U.S.C. § 131. Administrative History: Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

~~(2) Restrictions on Outdoor Advertising adjacent to Interstate and Primary Highway Systems beyond 660 feet of the nearest edge of the right-of-way outside of urban limits are as follows: Effective as of July 1, 1976.~~

~~(a) Control of outdoor advertising devices and displays extends to outdoor advertising devices and displays located beyond 660 feet of the nearest edge of the right-of-way of the Federal-Aid Interstate and Primary Systems outside of urban areas erected with the purpose of their message being read from the main traveled way of such systems. Such signs, displays, or devices are prohibited, whether or not in commercial or industrial areas, unless they are of a class or type allowed within 660 feet of the nearest edge of the right-of-way of such systems outside of commercial or industrial areas.~~

~~Explanatory Note:~~

~~Art Urban Area, as defined in Title 23, United States Code, Section 101, means an urbanized area, or an urban place as designated by the Bureau of the Census having a population of five thousand (5000) or more and not within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary of the United States Department of Transportation.~~

~~(3) Landmark Signs~~

~~Signs lawfully in existence on October 22, 1965, determined by the Commissioner, subject to the concurrence of the Secretary of Transportation of the United States, to be landmark signs, including signs on farm structures, or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the purposes of this section, are not required to be removed. Landmark signs are exempt from permit and fee requirements.~~

~~Explanatory Note:~~

~~Reasonable maintenance, repair, and restoration of a landmark sign is permitted. Substantial change in the size, lighting, or message content will terminate its exempt status.~~

~~**Authority:** T.C.A. § 54-21-104, 54-21-105, and 54-21-112. **Administrative History:** Original rule certified June 10 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed December 21, 2006; effective March 6, 2007. Amendment filed September 24, 2008; effective December 8, 2008.~~

~~**1680-02-03-0410-01-10 CONTROL OF NON-CONFORMING AND GRANDFATHERED NON-CONFORMING ADVERTISING DEVICES ALONG THE INTERSTATE AND PRIMARY SYSTEM OF HIGHWAYS.** Those outdoor advertising devices legally in existence on April 4, 1972 shall be entitled to remain in place and in use until compensation for removal has been made.~~

~~(1) Grandfathered non-conforming devices as defined in § 1680-02-03-.02, paragraph 11, and permitted non-conforming devices, as defined in § Rule 1680-02-03-10-01.02, paragraph 15,~~

(Rule 1680-10-01-.10, continued)

may be allowed to remain in place, subject to restrictions set forth herein, ~~until such time as they may be purchased.;~~

(a) ~~Restrictions on non-conforming and grandfathered non-conforming devices are as follows:~~

~~1. Maintenance beyond customary maintenance will shall not be allowed. Customary maintenance is defined as the replacement of the sign face or stringers, but not the replacement of any pole, post, or support structure.~~

~~2.(b) Under no circumstances may the location be changed. Any movement of a pole, post, or support structure (regardless of distance) shall constitute a change in location.~~

~~3.(c) Extension or changing height above ground level or enlargement of the sign face will shall not be allowed. Advertising which extends past the height or width of the sign face shall not be allowed.~~

~~4.(d) Lighting cannot shall not be added to an unilluminated sign.~~

~~5.(e) Reflective material cannot shall not be added to an unreflectorized sign.~~

~~(f) A changeable message sign shall not be added to the sign face if not included on the original device.~~

(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 Headquarters~~ 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 from the permit holder), must submit a written request for approval to the ~~appropriate Regional Highway Headquarters~~ 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.

(Rule 1680-10-01-.10, continued)

- (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 be rebuilt and/or 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 like materials ~~that replicate~~ being the materials used to construct that same component ~~in~~ on 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 sign may be added to~~ the sign face if not included on the original ~~sign device~~.
- (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~~ A destroyed device that is not rebuilt within twelve (12) months will be treated as an abandoned outdoor advertising device.
- (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, 54-21-112, 54-21-122, and 54-21-123; 23 U.S.C. § 131.
Administrative History: Original rule certified June 10, 1974. Repealed and refiled June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed February 1, 1989; effective March 18, 1989. Public Necessity rule filed August 1, 2006; effective October 1, 2006 through March 15, 2007. Amendment filed December 21, 2006; effective March 6, 2007.

1680-10-01-.11 CONTROL OF ORIGINAL CONFORMING DEVICES.

- (1) An original conforming device, as defined in Rule 1680-10-01-.02, may remain in place or may be rebuilt, reconstructed, or upgraded, subject to the following restrictions:
- (a) A valid permit must be maintained for the device;
 - (b) The permit holder must notify and obtain approval from the Headquarters Beautification Office before rebuilding, reconstructing, or upgrading the device;
 - (c) The device must remain in place or be rebuilt in the exact previous location.
- (2) A violation of one or more of the restrictions provided above in this rule above will result in the permit becoming voidable.
- (3) If an original conforming device is removed without prior approval from the Headquarters Beautification Office to rebuild, reconstruct, or upgrade the device, no new permit shall be issued for another outdoor advertising device at that location, except as provided in paragraph (4) of this Rule below.

(Rule 1680-02-03-.04, continued)

- (4) The precise sign location of an original conforming device located within the corporate limits of Memphis, Nashville, Knoxville, or Chattanooga shall be subject to the issuance of an outdoor advertising permit for a period of eighteen (18) months following the removal of the device, as follows:
- (a) The owner or any person having a legal interest in the real property where the original conforming device was located shall notify the Headquarters Beautification Office of the date on which the device was removed, together with such proof thereof as the Beautification Office may reasonably require.
- (b) To preserve the location of the original conforming device as a potentially permissible location for a period of eighteen (18) months following removal, the Department shall not issue any outdoor advertising permit for a new outdoor advertising device within one thousand (1,000) feet of that location on the same side of a fully access controlled highway or within one hundred (100) feet of that location on the same side of a highway without full access control.
- (c) Notwithstanding any other provision of this Rule, no permit may be issued for the location of the original conforming device if the location of the removed device does not meet the zoning criteria established in Rule 1680-10-01-.03.
- (d) Any device permitted in accordance with this paragraph shall be permitted as an original conforming device unless the location and device meet all the criteria for a conforming device established in Rule 1680-10-01-.03.
- (e) Any device permitted in accordance with this paragraph must meet the construction requirements of Rule 1680-10-01-.05.

Authority: T.C.A. §§ 54-21-112 and 54-21-116; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repealed and refiled June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed February 1, 1989; effective March 18, 1989.

1680-02-03-.0510-01-.12 DIRECTIONAL SIGNS.

Directional ~~devices~~ signs, as defined in Rule 1680-10-01-.02 ~~must~~, must meet the following criteria:

- (1) Directional Signs shall not exceed the following size limits:
- (a) Maximum area ~~is~~ one hundred fifty (150) square feet;
- (b) Maximum height ~~is~~ twenty (20) feet;
- (c) Maximum length ~~is~~ twenty (20) feet.
- (2) All dimensions include border and trim, but exclude supports.
- (3) Directional signs shall comply with ~~the~~ lighting requirements ~~are explained~~ established in ~~§1680-02-03-.03~~ Rule 1680-10-01-.03.
- (4) Spacing of Directional Signs:
- (a) Each location of a directional sign must be approved by the Department.

(Rule 1680-10-01-.12, continued)

- (b) No directional sign may be located within two thousand (2,000) feet of an ~~intersection or interchange at grade~~ measured along the edge of pavement of an interstate system or other fully access controlled ~~access~~ highway. Measurement shall be made from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.
- (c) No directional sign may be located within two thousand (2,000) feet of a safety rest area, parkland, or scenic area as measured in subparagraph (b) above.
- (d) No two directional signs facing in the same direction of travel shall be spaced less than one (1) mile apart:
1. Not more than three (3) directional signs pertaining to the same activity facing the same direction of travel shall be erected along a single ~~route~~ highway approaching the activity.
 2. Signs located adjacent to the Interstate System shall be within seventy-five (75) air miles of the activity.
 3. Signs located adjacent to all other highways on the Primary System shall be within fifty (50) air miles of the activity.
- (5) Message Content - Directional Signs

The message on a directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, and exit-numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited.

(6) Selection Methods and Criteria

- (a) In determining whether privately owned attractions or activities ~~can be~~ are eligible for directional signing, the following criteria must be met:
1. ~~The site must fall into one of the categories as listed in §1680-02-03-.02, paragraph 8 attraction or activity must pertain to: natural phenomena; scenic attractions; historical, educational, cultural, scientific, or religious sites; or outdoor recreational areas.~~
 2. The attraction or activity must document that it is nationally or regionally known in the Southeastern United States, which shall be determined by, but not limited to, the following:
 - (i) The attraction or activity has been in operation for at least five (5) years.
 - (ii) The attraction or activity has been featured in nationally and/or regionally distributed magazines or local and/or regional news media, including newspapers and television.
 - (iii) The attraction or activity advertises in national or regional newspapers, magazines, brochures, billboards, and/or state tourism magazines or vacation guides.

(Rule 1680-10-01-.12, continued)

- (iv) The attraction or activity maintains a website that receives traffic from visitors throughout the nation or the Southeastern United States.
3. It must be determined that the activity or attraction is of outstanding interest to the traveling public. Visitation records evidencing at least twelve hundred (1,200) guests annually shall be used to establish this criterion.
- (b) All applications for directional signing must be submitted to the ~~Highway Headquarters Beautification Headquarters Office in Nashville, Tennessee~~, whose personnel will determine eligibility.
- (c) If an application is approved, a metal identification tag will be issued at no cost to the directional sign owner. This tag will be displayed on the pole nearest the highway, at least four (4) feet off the ground and must be visible from the highway main traveled way. This tag is a permanent identification of the sign.
- (7) The following directional ~~devices~~ signs are prohibited:
- (a) Signs advertising activities that are illegal under Federal or State Laws or regulations in effect at the location of such devices or at the location of such activities.
- (b) ~~Devices~~Signs located in such manner as to obscure or otherwise interfere with the effectiveness of an official ~~traffic~~ sign, signal or other traffic control device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.
- (c) ~~Devices~~Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (d) Obsolete signs.
- (e) ~~Devices~~Signs which are structurally unsafe or in disrepair.
- (f) ~~Devices~~Signs which move or have any animated or moving parts.
- (g) ~~Devices~~Signs located in safety rest areas, parklands, or scenic areas.
- (8) Any device permitted in accordance with this paragraph must meet the requirements of Rule 1680-10-01-.05.
- ~~(8) Civic or Service Club Signs~~
- ~~(a) Any civic or service club sign that is requested shall be approved by the Regional Engineer. Such requests shall be rejected if they encroach any primary or interstate right-of-way.~~
- ~~(b) Criteria for civic or service signs are as follows:~~
- ~~1. The sign must be no larger than eight (8) square feet.~~
 - ~~2. The message must pertain only to a religious, charitable, or civic organization.~~
 - ~~3. Such signs will not be placed in any intersection or in any other location that would block sight distance.~~

(Rule 1680-10-01-.12, continued)

Authority: T.C.A. §§ 54-21-103 and 54-21-112. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed December 21, 2006; effective March 6, 2007.

1680-10-01-.13 LANDMARK SIGNS

- (1) Devices lawfully in existence on October 22, 1965, which are determined by the Commissioner, subject to the concurrence of the Secretary of Transportation of the United States, to be landmark signs, including sign faces on farm structures or natural surfaces, of historic or artistic significance, the preservation of which would be consistent with the purposes of this section, are not required to be removed.
- (2) Landmark signs are exempt from permit and fee requirements.
- (3) Reasonable maintenance, repair, or restoration of a landmark sign is permitted. Substantial change in the size, lighting, or message content will terminate its exempt, landmark sign status.

Authority: T.C.A. §§ 54-21-109 and 54-21-112; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-10-01-.14 SERVICE CLUB AND RELIGIOUS NOTICES

- (1) Service club and religious notices are exempt from permit and fee requirements.
- (2) Criteria for service club or religious notices are as follows:
 - (a) The device must be no larger than eight (8) square feet.
 - (b) The message must pertain only to the meetings of non-profit service clubs or charitable associations, or religious services.
 - (c) Such devices shall not be placed in any intersection or in any other location that would block the sight distance of drivers on the highway.
 - (d) Such devices shall not encroach on the right-of-way of any highway on the State's system of highways.

Authority: T.C.A. §§ 54-21-112 and 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-02-03-.0610-01-.15 ON-PREMISE SIGNS DEVICES.

- (1) General

Signs advertising the sale or lease of the property on which they are located and signs advertising activities conducted on the property upon which they are located are called "on-premise" signs. These On-premise devices are not required to be permitted as discussed in §§1680-02-03-.03, 5, and 6., under the criteria established in Rule 1680-10-01-.03, but are subject to the criteria listed below when determining whether a sign is an on-premise-sign device.

(Rule 1680-02-03-.06, continued)

(2) Characteristics of an On-Premise ~~Sign Device~~

A ~~sign device~~ will be considered to be an on-premise ~~sign device~~ if it meets the following requirements:

- (a) Premises - The ~~sign device~~ must be located on the same premises as the activity or property advertised.
- (b) Purpose - The ~~sign device~~ must have as its purpose (1) the identification of the activity, or its products or services, or (2) the sale or lease of the property on which the sign is located, rather than the purpose of general advertising.

(3) Premises Test

The following criteria shall be used in determining whether a device is located on the same premises as the activity or property advertised:

~~(a)~~ (a)—The premises on which an activity is conducted ~~is shall be~~ determined by ~~physical facts function and use~~ rather than property lines. Generally, ~~it is the premises are~~ defined as the land occupied by the buildings or other physical uses essential to the activity including such areas as are arranged and designed to be used in connection with such buildings or uses.

(b) ~~On-premise advertising may extend to fifty (50) feet from the principal activity as set forth herein unless the area extends across a public roadway. Any outdoor advertising device located across a public roadway from the principal activity shall not be considered an on-premise device.~~

~~(c)~~ (c) The following ~~will shall~~ not be considered to be a part of the premises on which the activity is conducted, and any ~~signs device~~ located on such land will ~~not~~ be considered ~~an "off-premise" advertising on-premise device~~:

1. Any land which is not used as an integral part of the ~~principal~~ activity. This would include, but is not limited to, land which is separated from the activity, by a roadway, highway, or other obstructions and not used ~~by as an integral part of~~ the ~~principal~~ activity, and extensive undeveloped highway frontage contiguous to the land actually used by a commercial facility even though it might be under the same ownership.
2. Any land which is used for, or devoted to, a separate purpose unrelated to the advertised activity. For example, land adjacent to or adjoining a service station, but devoted to raising of crops, residence, or farmstead uses or other than commercial or industrial uses having no relationship to the service station activity would not be part of the premises of the service station, even though under the same ownership.
3. Any land which is:
 - (i) at some distance from the ~~principal~~ activity, and
 - (ii) in closer proximity to the highway than the ~~principal~~ activity, and
 - (iii) developed or used only in the area of the ~~sign device~~ site or between the ~~sign device~~ site and the ~~principal~~ activity, and

(Rule 1680-02-03-.06, continued)

- (iv) occupied solely by structures or uses which are only incidental to the principal activity, and which serve no reasonable or integrated purpose related to the activity other than to attempt to qualify the land for ~~signing advertising~~ purposes. ~~Generally, these will be~~ Examples of incidental uses include, but are not limited to: facilities such as picnic, playground, or camping areas; dog kennels; golf driving ranges; skeet ranges; common or private roadways or easements; walking paths; fences; and sign maintenance sheds.

(ed) Narrow Strips

Where the ~~sign device~~ site is located at or near the end of a narrow strip contiguous to the advertised activity, the ~~sign device~~ site shall not be considered part of the premises on which the activity being advertised is conducted unless the on-premise advertising is within fifty (50) feet from the principal activity as set forth herein, provided the area does not extend across a roadway. A narrow strip shall include any configurations of land which is such that it cannot be put to any reasonable use related to the activity other than for ~~signing advertising~~ purposes. In no event shall a ~~sign device~~ site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land:

1. Which is non-building land, such as swamp land, marsh land, or other wet land, or
2. Which is a common or private roadway, or
3. Which is Hheld by easement or other lesser real property interest than the premises where the advertised activity is located.

~~Note: On-premise advertising may extend to fifty (50) feet from the principle activity as set forth above unless the area extends across a roadway.~~

(4) Purpose Test

The following criteria shall be used for determining whether a ~~sign device~~ has as its purpose (1) the identification of the activity located on the premises or its products or services, or (2) the sale or lease of the property on which the sign is located, rather than the business of outdoor advertising.

(a) General

1. ~~Any sign face which consists solely of~~ contains only the name and/or contact information (e.g., telephone number, website address) of the establishment located on the same premises is ~~may be considered~~ an on-premise sign device.
2. ~~A sign which identifies the establishment's principle or accessory product or services offered on the premises is an on-premise sign.~~ Generic greetings and holiday messages such as "Happy Mothers' Day" and "Have a Happy and Safe Fourth of July," may be displayed on an on-premise device. A time/date/temperature display may also be displayed on an on-premise device.
3. ~~An example of an accessory product would be a brand of tires offered for sale at a service station.~~ Directional information may not be displayed on an on-premise device.

(Rule 1680-02-03-.06, continued)

(b) Principal Business of Outdoor Advertising Activity

1. When an outdoor advertising device (1) brings rental income to the property owner, or (2) consists principally of brand name or trade name advertising, or (3) the product or service advertised is only incidental to the principal activity, it shall be considered the business of outdoor advertising and not an on-premise ~~sign device~~. An example would be a ~~typical billboard device~~ located on the top of a service station building that advertised a brand of cigarettes or chewing gum which is incidentally sold in a vending machine on the property.
2. An outdoor advertising device which advertises activities conducted on the premises, but which also advertises, ~~in a prominent manner,~~ activities not conducted on the premises, is not an on-premise ~~sign device~~. ~~An example would be a sign advertising a motel or restaurant not located on the premises with a notation or attachment stating "Skeet Range Here," or "Dog Kennels Here." The on-premise activity would only be the skeet range or dog kennels.~~
3. A sign face which identifies the establishment's principal or accessory product or services offered on the premises may be considered an on-premise device. An example of an accessory product would be a brand of tires offered for sale at a service station.
4. All messages, other than those listed in Paragraph (a) of this Rule, must be directly connected to the business' products or services by way of a sale, discount, special promotion, or the like.

(c) Sale or Lease Signs

1. A sale or lease ~~sign device~~ which also advertises any product or service not located upon and related to the business of selling or leasing the land on which the sign is located is not an on-premise sign. An example of this would be a ~~typical billboard device~~ which states "This property for sale...Smith's Motel; 500 rooms, air conditioned, turn right three blocks at Main Street."
2. A device advertising only the sale or lease of property on which it is located is not subject to the "premises test" in these Rules and may be located on any portion of the property which is for sale or lease.

Authority: T.C.A. § 54-21-~~23112~~ and 23 U.S.C. §131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

~~1680-02-03-.07 REMOVAL OF ABANDONED SIGNS.~~

~~The permit for an abandoned outdoor advertising device shall be voidable after a twelve-month period of abandonment.~~

1680-10-01-.16 ABANDONED OUTDOOR ADVERTISING DEVICES.

- (1) An outdoor advertising device containing one sign face shall be considered abandoned, and the permit shall be voidable, if it falls in one or more of the following categories for a period of twelve (12) months or more:

(Rule 1680-10-01-.15, continued)

(a) The sign face of the device is blank or does not contain any outdoor advertising message;

(Rule 1680-02-03-.08, continued)

- (b) The message on the sign face of the device is torn, soiled, faded, or otherwise damaged to the extent that it interferes with the reading of a clear and complete message;
- (c) The sign face of the device displays only a message of its availability for advertising purposes;
- (d) The sign face of the device advertises a product or service which is no longer available; or
- (e) The device is removed, if it is a conforming or original conforming device. If a non-conforming device is removed, it shall be considered abandoned and the permit void immediately upon removal, except as provided in Rule 1680-10-01-.10(2).

(See illustrations in the Appendix.)

- (2) A back-to-back device or V-type device will not be considered abandoned if only one of the sign faces meets one or more of the criteria stated in this Rule. However, the permit for the sign face which meets one or more of the criteria stated in this Rule shall be voidable after a twelve (12) month period of abandonment. If both sign faces meet one or more of the criteria stated in this Rule, the device shall be considered abandoned. The permits for the sign faces shall be voidable after a twelve (12) month period of abandonment.
- (3) If a permit is deemed voidable by the Department under this section, the Department shall give notice as described in Rule 1680-10-01-.06(2).

Authority: T.C.A. § 54-21-104, 54-21-105 and 54-21-112 and 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989. Amendment filed September 24, 2008; effective December 8, 2008.

1680-02-03-0810-01-17 VEGETATION CONTROL.

No person shall remove, cut, or trim vegetation located on the highway right-of-way adjacent to, and on the same side of the highway as, an outdoor advertising device without first obtaining a vegetation control permit from the Headquarters Beautification Office. Removing, cutting, and/or trimming vegetation may be allowed only in right-of-way adjacent to an outdoor advertising device along the outside edge of the pavement of a highway, and it shall not be allowed in any median areas or interchange quadrants.

(1) Definitions

- (a) For the purpose of T.C.A. § 54-21-119 and this Rule, “generally visible” or “general visibility” is defined as ~~capable of being~~ visible to occupants of vehicles using the main traveled way for some of the distance between the point where such capacity occurs and the location perpendicular to the outdoor advertising.
- (b) For the purpose of T.C.A. § 54-21-119 and this Rule, “clearly visibility” is defined as capable of advising of the message.
- (c) For the purpose of T.C.A. § 54-21-119 and this Rule, “vegetation control permit” is defined as the first permit obtained for the removal, cutting, or trimming of vegetation for a particular outdoor advertising device location which establishes the specific parameters for where vegetation may be cut.

(Rule 1680-02-03-.08, continued)

(d) For the purpose of T.C.A. § 54-21-119 and this Rule, "maintenance permit" is defined as any subsequent permit obtained for the removal, cutting, or trimming of vegetation in strict conformance with the specific parameters of the vegetation control permit for that particular outdoor advertising location.

(2) Administration

~~(a) T.C.A. §54-21-119, is construed as being in contemplation of an increase in the amount or size of vegetation within those portions of the right-of-way from which the face of outdoor advertising is capable of being visible to occupants of vehicles using the main traveled way existing on the date of erection of the outdoor advertising, whereby such visibility becomes less than general.~~

~~(b) When applications are made for vegetation control permits, the area of general visibility on the date of erection will be reviewed to determine whether such an increase in the amount and size thereof has occurred since the date of erection to warrant the issuance of a permit to attain clear visibility for an area of up to 500 feet within the area of general visibility. Vegetation which blocked the view of the outdoor advertising device on the date of erection will not be eligible for removal.~~

(a) Vegetation shall not be eligible for removal under a vegetation control permit if, on the date the outdoor advertising device was erected, the vegetation blocked the view of the outdoor advertising, in whole or in part, for a distance not to exceed fifteen hundred (1,500) feet, to occupants of vehicles using the main traveled way.

(b) A vegetation control permit to remove, cut, and/or trim vegetation located on the highway right-of-way adjacent to, and on the same side of the highway as, the outdoor advertising and replace the vegetation pursuant to these Rules may be issued to the owners or holders of lawfully issued outdoor advertising permits:

1. If the sign face of the outdoor advertising was generally visible to occupants of vehicles on the main traveled way of the highway on the date the outdoor advertising device was erected; and

2. The subsequent growth of vegetation prevents clear visibility for a distance not to exceed fifteen hundred (1,500) feet to occupants of vehicles using the main traveled way of the adjacent highway.

(c) No more than one vegetation control permit may be issued for any particular outdoor advertising location, even if that location is subsequently re-permitted.

(d) Each subsequent year, a maintenance permit may be issued during a twelve-month period for each outdoor advertising permit consistent with the original vegetation control permit.

(e) A vegetation control permit or maintenance permit shall encompass a contiguous area of up to five hundred (500) feet within the area of general visibility. The area of general visibility extends fifteen hundred (1,500) feet from the leading edge of the sign. (See illustration in the Appendix.)

(3) Application for Vegetation Control Permit or Maintenance Permit

~~No person shall begin to cut, trim, or remove vegetation located on the right-of-way adjacent to outdoor advertising without first obtaining a permit from the Highway Beautification Office.~~

(Rule 1680-02-03-.08, continued)

The following procedure will be followed in order to obtain a ~~permit for~~ vegetation control permit or maintenance permit:

- (a) ~~Request a vegetation control permit application form or maintenance permit application from any of the Beautification Offices listed in these Rules.~~
- (b) ~~Return completed application to Highway Headquarters Beautification Office, Department of Transportation, Maintenance Environmental Division, Suite 400, James K. Polk Building, 505 Deaderick Street, Nashville, TN, 3724349. Enclose a check or money order made payable to the Tennessee Department of Transportation in the amount of one hundred (\$100.00) dollars established by T.C.A. § 54-21-119. This is a non-refundable fee.~~
- (c) ~~attach to application a copy of the current permit renewal form for the outdoor advertising around which vegetation control is requested.~~
- ~~(d)~~ a In addition to the completed application, the applicant for a vegetation control permit must also attach the following information:
 1. a An 8"x10" or larger photograph showing the area in which vegetation control is proposed;
 2. a scaled drawing showing the vegetation, identified by species, proposed to be cut, trimmed, or removed. ~~Such vegetation should be labeled.~~
 3. a written proposal identifying the vegetation to be cut, trimmed or removed and the method and extent of such cutting, trimming or removal;
 4. a scaled drawing showing the proposed vegetation replacement ~~vegetation plan;~~ and
 5. A copy of the permit renewal form for the device for which the vegetation control is requested.
- (d) The applicant for a maintenance permit must attach a copy of the vegetation control permit and all its supporting documentation in addition to providing all the information required under subparagraph (c) of this paragraph.
- (e) If the vegetation control permit or maintenance permit is ~~granted~~ approved, the applicant ~~must~~ shall provide the following:
 1. A check or money order ~~in the amount of one hundred fifty (\$150.00) dollars made payable to the Tennessee Department of Transportation in the amount established by T.C.A. § 54-21-119;~~
 2. A surety bond. ~~(a form for this will be provided by the Department), in form and substance approved by the Department, in the amount of five thousand dollars (\$5,000) for a vegetation control permit, or in the amount of two thousand five hundred dollars (\$2,500.00) for a maintenance permit, which shall remain in full force and effect until all work has been completed and approved by the Department; or in the alternative, the applicant may provide a running surety bond in the amount of twenty-five thousand dollars (\$25,000.00) that will cover five (5) initial vegetation control locations or maintenance work at ten (10) locations;~~

(Rule 1680-02-03-.08, continued)

3. A certificate of insurance in the amount of not less than \$1300,000 for each person injured per claimant and \$31,000,000 for each accident, plus \$50,000 total property damage for each accident per occurrence, identifying the Department as an additional insured, such which insurance to shall remain in full force and effect until at least one year after work has been completed and approved by the Department; and

4. A signed agreement to indemnify and hold harmless the State of Tennessee, its officers and/or employees from any and all claims, costs and expenses that may arise by virtue of the work performed by the permit holder, its employees and/or agents.

~~(f) Furthermore if a vegetation control permit is issued the applicant shall abide by all conditions imposed by the Tennessee Department of Transportation, as set forth on the face of the permit, or suffer permit revocation and other consequences of law.~~

~~(ef) The Headquarters Beautification Office will accept vegetation control permit applications only between September 1 and March 31 annually. Vegetation control permits will be issued each year from October 1 through April 15 annually. All work performed under a vegetation control permit must shall be completed by before the following April 15th. Vegetation control permits shall be valid for forty-five (45) days from the date of issuance provided it does not extend past the April 15th deadline. The Highway Beautification Office will accept vegetation control applications on September 1 of each year.~~

~~Note: Vegetation control maintenance permits will be issued between April 15 and October 1 provided no replacement vegetation is required.~~

~~(g) Maintenance permits shall be issued year-round provided no replacement vegetation is required. If replacement vegetation is required, permits shall be issued between October 1 and April 7 each year. All work shall be completed by the following April 15th.~~

~~(h) Vegetation control permit applications and maintenance permit applications shall be held in abeyance until any pending outdoor advertising litigation concerning that specific outdoor advertising permit location is resolved.~~

~~(4) If a vegetation control permit or a maintenance permit is issued, the applicant must abide by the following conditions or the vegetation control or maintenance permit shall be voidable:~~

~~(a) Vegetation control must be performed in the area for which the permit was issued in strict conformance with the written proposal, photographs, and scaled drawing, as approved or amended by the Department.~~

~~(b) The Regional Beautification Office shall be informed in advance as to those days and hours on which the permit holder will be working.~~

~~(c) The permit or a copy of the permit shall be kept on the site while the work is being performed.~~

~~(d) The permit holder shall adhere to the requirements of the Manual on Uniform Traffic Control Devices that relate to work being performed adjacent to highways.~~

~~(e) Work shall be performed on week days and during daylight hours only between 8:30 A.M. to 3:30 P.M. local time unless further restricted for reasons of safety.~~

(Rule 1680-02-03-.08, continued)

- (f) Parking on or working from the paved shoulder shall only be permitted by special written permission from the Department.
- (g) Access control fences shall not be cut, damaged, or removed during the execution of a vegetation control permit or maintenance permit. Repair of any damage shall be the responsibility of the permit holder.
- (h) The work area shall not exceed five hundred (500) feet along the highway.
- (i) In the event that replacement vegetation is required, nursery stock which is tagged and labeled shall be used as directed by the Department.
- (j) Should trimmed or replacement vegetation die for any reason within one (1) year of the issuance of a permit, the permit holder shall replace the same at the permit holder's expense.
- (k) Overnight parking of equipment on state right-of-way is not allowed.
- (l) Stumps above ground level shall be removed by the permit holder.
- (m) Upon completion of the work, all plant refuse resulting from the work shall be removed and the work area left in an orderly condition. This requirement may entail the use of sod, grass seed or other restoration materials if equipment used in performing the work mars State property.
- (n) Upon completion of the work, the permit holder shall notify the Regional Beautification Office. Department personnel will then make an on-site inspection. The performance bond will be released upon final approval of the Department.

~~**Authority:** T.C.A. §54-21-23 and U.S.C. §131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.~~

~~**Authority:** T.C.A. §§ 54-21-112, 54-21-119, and 54-21-120; 23 U.S.C. § 131. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.~~

1680-10-01-.18 APPENDIX.

1680-02-03-.09 APPENDIX.

THIS PAGE HAS BEEN UPDATED

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

(Rule 1680-02-03-.09, continued)

Authority: T.C.A. §54-21-23 and U.S.C §131. **Administrative History:** Original rule filed June 9, 1977; effective July 11, 1977. Repeal and new rule filed January 27, 1989; effective March 13, 1989.

1680-02-03-.10 THROUGH 1690-2-3-.13 REPEALED.

Authority: T.C.A. §54-21-23 and U.S.C §131. **Administrative History:** Original rule filed October 10, 1984; effective November 9, 1984. Repeal filed January 27, 1989; effective March 13, 1989.