



1 TRANSPORTATION CABINET

2 Department of Highways

3 Division of Maintenance

4 (Emergency Amended After Comments)

5 603 KAR 10:040E. Advertising devices.

6 RELATES TO: KRS 177.572 - 177.576, 177.830 - 177.890, 177.990(2), 23 C.F.R. Part 750,

7 23 U.S.C. 131

8 STATUTORY AUTHORITY: KRS 177.860, 23 U.S.C. 131

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 177.860 requires the Commissioner
10 of the Department of Highways to promulgate administrative regulations establishing
11 standards for advertising devices. KRS 177.890 authorizes the Commissioner of the
12 Department of Highways to enter into agreements with the United States Secretary of
13 Transportation in order to carry out national policy relating to interstate, defense, and
14 federal-aid primary highways within the state. 23 U.S.C. 131, the Highway Beautification
15 Act, authorizes retention of additional federal funding on the establishment of controls
16 over the placement of outdoor advertising devices. This administrative regulation
17 establishes the standards for static and electronic advertising devices.

18 Section 1. Definitions.

1 (1) "Abandoned" means that, for a period of one (1) year or more, an advertising
2 device previously lawfully erected has:

3 (a) Not displayed advertising;

4 (b) Displayed obsolete advertising; or

5 (c) Needed substantial repairs due to lack of maintenance.

6 (2) "Activity boundary line" means the delineation on a property of those regularly
7 used buildings, parking lots, storage, and process areas that are integral and
8 essential to the primary business activity that takes place on the property.

9 (3) "Advertiser" means a person or entity entered into a contractual agreement with
10 the owner of an advertising device for advertisement services in the advertiser's
11 interest that is displayed upon the subject advertising device at the time of
12 violation.

13 (4) "Advertising device" is defined by KRS 177.830(5).

14 ~~[(5) "Business device" means a device for advertising for which no compensation~~
15 ~~is derived, received, or exchanged for its use.]~~

16 ~~(5)[(6)]~~ "Centerline of the highway" means a line:

17 (a) Equidistant from the edges of the median separating the main traveled
18 ways of a divided:

19 1. Interstate;

20 2. Parkway;

- 1 3. National highway system; or
- 2 4. Federal-aid primary highway; or

3 (b) That is the centerline of the main traveled way of a non-divided:

- 4 1. Interstate;
- 5 2. Parkway;
- 6 3. National highway system; or
- 7 4. Federal-aid primary highway.

8 **(6)~~(7)~~** "Commercial or industrial activities" is defined by KRS 177.830(9).

9 **(7)~~(8)~~** "Commercial or industrial land use":

10 (a) Means an activity, in a zoned area within 660 feet of the interstate or
11 parkway right-of-way, engaged in for financial gain; and

12 (b) Does not mean:

- 13 1. The leasing of property for residential purposes;
- 14 2. An activity conducted in a building principally used as a residence;
- 15 3. An agricultural, forestry, ranching, grazing, farming, or related
16 enterprise, including a wayside fresh produce stand;
- 17 4. Operation, maintenance, or storage of an advertising device;
- 18 5. A railroad track or minor siding; or
- 19 6. A facility generally recognized as a utility such as a cell tower.

20 **(8)~~(9)~~** "Commercial or industrial zone" means an area adjacent to a highway zoned

1 to allow business, commerce, or trade as established in local ordinance or
2 regulation.

3 **(9)~~[(10)]~~** "Compensation" is defined by KRS 177.830(11).

4 **(10)~~[(11)]~~** "Conversion" or "converted" means to legally modify or change a legal
5 permitted static advertising device to a legal permitted electronic advertising
6 device or a legal permitted electronic advertising device to a legal permitted static
7 advertising device and can include the replacement of the device face, facing, or
8 structure.

9 **(11)~~[(12)]~~** "Department" means the Department of Highways within the Kentucky
10 Transportation Cabinet.

11 **(12)~~[(13)]~~** "Destroyed" means **an** ~~**[a nonconforming]**~~ advertising device damaged
12 beyond substantial repair due to weather related events, vandalism, or other
13 criminal or tortious acts.

14 **(13)~~[(14)]~~** "Electronic advertising device":

15 (a) Means an advertising device that changes its message or copy by
16 programmable electronic or mechanical processes; and

17 (b) Does not mean a numerical display changed by an electronic or mechanical
18 process not exceeding one-half of the face.

19 **(14)~~[(15)]~~** "Enlargement" means an addition to the permitted area of the facing of
20 an advertising device.

1 **(15)[(16)]** "Erect":

2 (a) Means to construct, build, raise, assemble, place, affix, attach, create, paint,
3 draw, or bring into being or establish; and

4 (b) Does not mean routine maintenance, including changing of a message or
5 copy.

6 **(16)[(17)]** "Exchange credit" means a singular allotment of value assigned by the
7 department for the removal of an approved eligible advertising device that can
8 be transferred or redeemed by its owner in exchange for future qualification of
9 an electronic advertising device permit.

10 **(17)[(18)]** "Extension" means a temporary addition to an advertising device for a
11 message or copy.

12 **(18)[(19)]** "Face" means the part of the advertising device including trim and
13 background that contains the message, copy, and informative content.

14 **(19)[(20)]** "Facing" means the face or faces displayed on the same advertising device
15 and oriented in the same direction of travel.

16 **(20)[(21)]** "Federal-aid primary highway" is defined by KRS 177.830(3) and, pursuant
17 to 23 U.S.C.131, refers to the existence of the highway on June 1, 1991.

18 **(21)[(22)]** "FHWA adjusted urban area boundaries" means a boundary, in addition
19 to the urban area boundary, established by the department designed to
20 encompass areas outside municipal boundaries that have urban characteristics

1 with residential, commercial, industrial, or national defense land uses.

2 **(22)[(23)]** "Highway" means:

3 (a) An interstate, parkway, national highway system, or federal-aid primary
4 highway located within the boundaries of the state of Kentucky and being
5 further depicted by the Transportation Cabinet on
6 <http://maps.kytc.ky.gov/PAFOA/>; and

7 (b) A public road maintained by the department.

8 **(23)[(24)]** "Interstate highway" is defined by KRS 177.830(2).

9 **(24)[(25)]** "Lawfully erected" means erected in compliance with law and administrative
10 regulations in effect at the time of erection or as later allowed by law.

11 **(25)[(26)]** "Legal permit" means written authorization granting the erection or
12 continued existence of an advertising device in compliance with current state law
13 and administrative regulation.

14 **(26)[(27)]** "Main traveled way":

15 (a) Means the traveled way of a highway on which through traffic is carried; and

16 (b) Does not mean frontage roads, turning roadways, or parking areas.

17 **(27)[(28)]** "Nit" means a unit of measurement of luminance used to specify the
18 brightness or the intensity of visible light from a device.

19 **(28)[(29)]** ~~"Noncompliant advertising device" means an advertising device that~~
20 ~~was erected within a protected area between the dates of April 24, 2020 and~~

1 ~~March 18, 2021 and that does not comply with current state law or this~~
2 ~~administrative regulation.~~

3 ~~(30) "Noncompliant permit" means written authorization allowing the~~
4 ~~continued existence of a noncompliant advertising device, subject to current~~
5 ~~state law and this administrative regulation.~~

6 ~~(31)~~ "Nonconforming advertising device" means an advertising device that was
7 once lawfully erected but does not comply with:

8 (a) Current state law or this administrative regulation; or

9 (b) Changed conditions such as:

10 1. A change in zoning;

11 2. The relocation or reclassification of a highway;

12 3. A change in restriction on size, space, or distance; or

13 4. The abandonment of required business or businesses.

14 ~~(29)~~~~(32)~~ "Nonconforming permit" means written authorization allowing the
15 continued existence of a nonconforming advertising device, subject to current
16 state law and this administrative regulation.

17 ~~(30)~~~~(33)~~ "Official sign" means a sign located within the highway right-of-way that
18 has been installed by or on behalf of the department or another public agency
19 having jurisdiction.

20 ~~(31)~~~~(34)~~ "Permit" means written authorization allowing the erection or continued

1 existence of an advertising device, subject to current state law and this
2 administrative regulation.

3 **(32)[(35)]** "Protected area" means the area adjacent to the right-of-way of an
4 interstate, parkway, national highway system, or federal-aid primary highway,
5 and being:

6 (a) Within 660 feet from the edge of the right-of-way in an area defined as an
7 urban area; and

8 (b) **Within and extending [Extending]** beyond 660 feet from the edge of the
9 right-of-way outside of an area defined as an urban area.

10 **(33)[(36)]** "Scenic byway" is defined by KRS 177.572.

11 **(34)[(37)]** "Scenic highway" is defined by KRS 177.572.

12 **(35)[(38)]** "Static advertising device" means an advertising device that does not use
13 electric or mechanical technology to change the message or copy but can
14 include a numerical display changed by an electronic or mechanical process that
15 does not exceed one-half of the face.

16 **(36)[(39)]** "Substantial repair" means the cost to repair the advertising device would
17 exceed sixty (60) percent of the costs to replace it with an adverting device of the
18 same basic construction using new materials and at the same location.

19 **(37)[(40)]** "Substantial structure" means an affixed, solid, or strong permanent
20 construction.

1 **(38)[(41)]** "Turning roadway" means a connecting roadway for traffic turning
2 between two (2) intersecting lanes of an interchange.

3 **(39)[(42)]** "Unzoned commercial or industrial area" is defined by KRS 177.830(8).

4 **(40)[(43)]** "Urban area" is defined by KRS 177.830(10) as well as any adjacent
5 geographical area identified as FHWA Adjusted Urban Area Boundaries.

6 **(41)[(44)]** "Visible" means capable of being seen without visual aid by a person of
7 normal visual acuity.

8 Section 2. Conditions Relating to Static and Electronic Advertising Devices Located in a
9 Protected Area.

10 (1) A static or an electronic advertising device located in a protected area of an
11 interstate, parkway, national highway system, or federal-aid primary highway
12 displaying copy or a message, whether or not legible, that is visible from the
13 main traveled way shall require a permit issued by the department.

14 (2) A permit shall only be issued for a device in a protected area of:

15 (a) An interstate or parkway being erected or maintained fifty (50) feet or
16 more from the edge of the main traveled way or turning roadway that:

17 1. Is zoned commercial or industrial and was an incorporated
18 municipality on or before September 21, 1959; or

19 2. Was zoned commercial or industrial and included a commercial or
20 industrial land use on or before September 21, 1959; or

1 (b) A national highway system or federal-aid primary highway being erected
2 or maintained in:

- 3 1. A commercial or industrial zone; or
- 4 2. An unzoned commercial or industrial area with a commercial or
5 industrial activity that is located on the same side of the highway
6 and within 700 feet of the activity boundary line measured
7 **perpendicular to and along the centerline [~~along or parallel to~~**
8 **the pavement]** of the highway; and

9 (c) Complies with applicable county or city zoning ordinance and
10 regulations.

11 (3) To establish a protected area, the distance from the edge of a state-owned
12 right-of-way shall be measured **perpendicular to and along [~~horizontally and~~**
13 **at a right angle to]** the centerline of the interstate, parkway, national highway
14 system, or federal-aid primary highway.

15 (4) The erection or existence of an advertising device shall be prohibited in a
16 protected area if the device:

- 17 (a) Is abandoned;
- 18 (b) Is not clean and in good repair;
- 19 (c) Is not securely affixed to a substantial structure permanently attached to
20 the ground;

- 1 (d) Directs the movement of traffic;
- 2 (e) Interferes with, imitates, or resembles an official traffic sign, signal, or
3 traffic control device;
- 4 (f) Prevents the driver of a vehicle from having a clear and unobstructed view
5 of an official sign or approaching or merging traffic;
- 6 (g) Is erected or maintained upon a tree;
- 7 (h) Is erected upon or overhanging the right-of-way;
- 8 (i) Is mobile, temporary, or vehicular;
- 9 (j) Is a static advertising device and painted or drawn on rocks or another
10 natural feature; or
- 11 (k) Is a static advertising device and includes or is illuminated by flashing,
12 intermittent, or moving lights.
- 13 (5) The spacing, **measured perpendicular to and along the centerline of the**
14 **highway**, between static and electronic advertising devices **with visible facings**
15 **oriented in the same [per] direction of travel on:**
- 16 (a) Interstates, parkways, national highway systems, or limited access federal-
17 aid primary highways shall be a minimum of:
- 18 1. 2,500 feet between electronic advertising devices;
- 19 2. 500 feet between an electronic advertising device and a static
20 advertising device; or

1 3. 500 feet between a static advertising device and another static
2 advertising device; and

3 (b) Non-limited access federal-aid primary highways shall, pursuant to KRS
4 177.863(2)(a), be a minimum of:

5 1. 300 feet between advertising devices, unless separated by a building,
6 natural obstruction, or roadway, in a manner so that only one (1) sign
7 located within the required spacing distance shall be visible from the
8 highway at any one time; or

9 2. 100 feet between advertising devices if located within an
10 incorporated municipality.

11 (6) An advertising device displaying copy or message, whether or not legible, that is
12 visible from more than one (1) interstate, parkway, national highway system, or
13 federal-aid primary highway shall meet the requirements of this section for each
14 highway independently.

15 (7) An electronic advertising device shall only be erected or maintained within an
16 urban area located within 660 feet of right-of-way of a highway.

17 (8) A static advertising device shall not be converted to an electronic advertising
18 device prior to receiving a permit pursuant to Section **6[8]** of this administrative
19 regulation.

20 (9) An electronic advertising device shall not be converted to a static advertising

1 device prior to receiving a permit pursuant to Section **6[8]** of this administrative
2 regulation.

3 (10) Lighting used for a static advertising device shall be:

4 (a) Only white;

5 (b) Effectively shielded to prevent a beam of light from being directed at the
6 interstate, parkway, national highway system, or federal-aid primary
7 highway;

8 (c) Of low intensity that shall not cause glare or impair the vision of a driver
9 or interfere with the operation of a motor vehicle; and

10 (d) Of a luminance less than 300 nits.

11 (11) An electronic advertising device erected or maintained in a protected area shall:

12 (a) Not have a facing larger than 672 square feet;

13 (b) Not have more than one (1) face per facing;

14 (c) Not contain extensions to the face;

15 (d) Not have interior angles between two (2) facings that exceed forty-five
16 (45) degrees; and

17 (e) Be equipped with a sensor or other device that automatically determines
18 the ambient illumination and shall be programmed to automatically dim
19 to a luminance of 300 nits or less if the ambient light is 1.5 foot candles or
20 less. Software calibration reports or relevant data to determine compliance

1 with this requirement shall be provided to the department upon request.

2 (12) The message or copy on an electronic advertising device shall:

3 (a) Be static for at least eight (8) seconds;

4 (b) Change from one (1) message or copy to another in less than two (2)
5 seconds;

6 (c) Not blink, scroll, or contain animation or video; and

7 (d) Be programmed to freeze in a static display if a malfunction occurs.

8 (13) A static advertising device:

9 (a) Shall not:

10 1. Exceed the maximum size of 1,250 square feet per facing as established
11 in KRS 177.863(3)(a);

12 2. Contain more than two (2) advertisements or faces per facing pursuant
13 to KRS 177.863(3)(b); or

14 3. Have interior angles between two (2) facings that exceed forty-five (45)
15 degrees **if device has more than two (2) faces**; and

16 (b) May contain extensions up to fifteen (15) percent of the face of the
17 advertising device but shall not exceed the maximum size limits of the
18 facing of the device established in KRS 177.863(3)(a).

19 (14) Static advertising devices that are no more than fifteen (15) feet apart at the
20 nearest point between the devices and have the same ownership shall be counted

1 as a single device.

2 (15) The name of the owner of an advertising device shall:

3 (a) Be legible from the main traveled way;

4 (b) Not be larger than twenty (20) square feet;

5 (c) Be shown without other owner information; and

6 (d) Not be considered an advertisement.

7 Section 3. Exchange of Advertising Device for Permit.

8 (1) An advertising device proposed for exchange shall require eligibility approval by
9 the department pursuant to ~~[subsections (3), (4), and (5) of]~~ this section prior to
10 removal.

11 (2) The owner of an approved advertising device exchange shall receive an exchange
12 credit by the department upon verification of removal.

13 (3) An advertising device eligible for exchange shall be:

14 (a) Currently nonconforming as established in Section 4 of this administrative
15 regulation or pursuant to local regulations;

16 (b) Not less than fifty (50) square feet per facing; and

17 (c) Situated in an unpermissible location in a protected area. ~~]; or~~

18 ~~(d) Observable from a scenic highway.]~~

19 (4) The submittal of six (6) exchange credits shall be required for one (1) new electronic
20 advertising device permit located within the protected area of an interstate,

1 parkway, national highway system, or federal-aid primary highway.

2 (5) The submittal of five (5) exchange credits shall be required for the conversion of
3 an existing legal permitted static advertising device in an urban area to an
4 electronic advertising device.

5 (6) If an Application for Electronic Advertising Device is denied by the department, the
6 department shall hold and apply any exchange credits pending the outcome of
7 any subsequent appeal or until exchange credits can be applied toward another
8 approved application.

9 (7) If the permittee voluntarily removes an advertising device and receives an
10 exchange credit, the permittee shall thereby waive any right or claim to any
11 additional compensation from the department for that device.

12 (8) The ownership of an exchange credit may be transferred with acknowledgment of
13 the department and shall be submitted on a completed Advertising Device or
14 Exchange Credit Ownership Transfer, TC Form 99-224.

15 Section 4. Nonconforming Static and Electronic Advertising Devices.

16 (1) A nonconforming advertising device in a protected area shall require a
17 nonconforming permit.

18 (2) A nonconforming advertising device permit shall be required to be renewed
19 annually pursuant to Section **6[8]** of this administrative regulation.

20 (3) A nonconforming advertising device may remain in place if the device:

- 1 (a) Is not abandoned;
- 2 (b) Has been subjected to only routine maintenance as established in
- 3 subsection **(4)**~~[(6)]~~ of this section;
- 4 (c) Was in compliance with state law and KAR Title 603 as well as local zoning,
- 5 sign, or building restrictions at the time of erection; and
- 6 (d) Remains unaltered beyond the extent of routine maintenance as it was on
- 7 the effective date of the state law or requirement of KAR Title 603 that
- 8 made the device nonconforming.
- 9 (4) An owner may conduct routine maintenance of a nonconforming advertising
- 10 device. Routine maintenance shall include:
- 11 (a) In kind replacement of material components with a like material component;
- 12 (b) Painting of supports and frames;
- 13 (c) Changing existing nonstructural light fixtures for energy efficiency;
- 14 (d) Replacement of nuts, bolts, or nails;
- 15 (e) A safety related addition such as a catwalk that does not prolong the life of
- 16 the advertising device but provides protection for workers;
- 17 (f) Rebuilding a destroyed advertising device; or
- 18 (g) Changing an advertising message or copy on an advertising device.
- 19 (5) An owner shall not conduct non-routine maintenance of a nonconforming
- 20 advertising device. Non-routine maintenance shall include:

- 1 (a) Enlargement of the device;
- 2 (b) A change in the structural support including material diameters, dimensions,
3 or type that would result in increased economic life such as replacement of
4 wood posts with steel posts or the replacement of a wood frame with a steel
5 frame;
- 6 (c) The addition of bracing, guy wires, or other reinforcement;
- 7 (d) A change in the location or configuration of the device;
- 8 (e) A change in the direction **or configuration** of the face or faces;
- 9 (f) The addition of a light or lights, either attached or unattached, to help
10 illuminate the nonconforming static advertising device structure that
11 previously had no lighting for illumination; or
- 12 (g) The addition of a variable or changeable message capability including a
13 numerical display that is changed by an electronic or mechanical process on
14 a static advertising device.
- 15 (6) Non-routine maintenance on a nonconforming advertising device shall constitute
16 a violation of this administrative regulation and result in the loss of
17 nonconforming classification and action pursuant to Section **8[10]** of this
18 administrative regulation.

19 Section 5. **[Business Devices.**

20 **~~(1) A business device that complies with this administrative regulation shall~~**

1 ~~only be erected in a protected area if the device complies with county or city~~
2 ~~zoning ordinances but shall not require a permit from the department.~~

3 ~~(2) A business device shall only be erected upon the property parcel where the~~
4 ~~business or businesses are located as is demarcated by the unique Parcel~~
5 ~~Identification Number utilized and assigned by the Property Valuation~~
6 ~~Administration Office of jurisdiction and:~~

7 ~~(a) Inside the activity boundary line; or~~

8 ~~(b) No further than 400 feet from the activity boundary line.~~

9 ~~(3) A business device placed within fifty (50) feet of the activity boundary line~~
10 ~~shall not exceed 1,250 square feet, including border and trim excluding~~
11 ~~supports. An entrance or exit on the property shall be considered within the~~
12 ~~activity boundary line.~~

13 ~~(4) If further than fifty (50) feet outside the activity boundary line, a business~~
14 ~~device shall not exceed:~~

15 ~~(a) Twenty (20) feet in length, width, or height; and~~

16 ~~(b) 150 square feet in area, including border and trim and excluding~~
17 ~~supports.~~

18 ~~(5) No more than one (1) business device shall be located at a distance greater~~
19 ~~than fifty (50) feet outside of the activity boundary line.~~

20 ~~(6) If taking measurements for the placement of a business device for an~~

1 ~~industrial park, the service road shall be considered within the activity~~
2 ~~boundary line of the industrial park.~~

3 ~~(7) A business device erected to advertise one (1) of the businesses in a~~
4 ~~shopping center, mall, or other combined business location shall not be~~
5 ~~located more than fifty (50) feet outside the activity boundary line of the~~
6 ~~property parcel.~~

7 ~~(8) If taking measurements for the placement of business device for a shopping~~
8 ~~center, mall, or other combined business location, the combined parking~~
9 ~~area shall be considered within the activity boundary line.~~

10 ~~(9) A business device erected for a shopping center, mall, or other combined~~
11 ~~business location shall either:~~

12 ~~(a) Identify a business or businesses situated upon the same property~~
13 ~~parcel; or~~

14 ~~(b) Display business activities being conducted upon the same property~~
15 ~~parcel.~~

16 ~~(10) A business device shall not:~~

17 ~~(a) Be of such intensity as to cause glare or impair the vision of a driver;~~

18 ~~(b) Move, or have moving or animated parts;~~

19 ~~(c) Be erected or maintained on a tree; or~~

20 ~~(d) Be erected upon or overhanging the right-of-way.~~

1 ~~(11) An electronic business device shall be equipped with a sensor or other device~~
2 ~~that automatically determines the ambient illumination and shall be~~
3 ~~programmed to automatically dim to a luminance of 300 nits or less if the~~
4 ~~ambient light is 1.5 foot candles or less. Software calibration reports or~~
5 ~~relevant data to determine compliance with this requirement shall be~~
6 ~~provided to the department upon request.~~

7 ~~(12) A business device shall not affect the spacing requirements of an advertising~~
8 ~~device as established in Section 2(5) of this administrative regulation.~~

9 ~~(13) Extensions of a facing up to fifteen (15) percent shall be allowed but~~
10 ~~shall not exceed the maximum size of the facing of the device as~~
11 ~~established this section.~~

12 ~~(14) The owner of a business device shall be subject to revolving compensation~~
13 ~~compliance reviews and upon request shall provide to the department all~~
14 ~~requested documentation relevant to certify the continued compliance of a~~
15 ~~business device such as:~~

16 ~~(a) A signed affidavit in which the device owner shall attest to the device's~~
17 ~~compliance to current law and this administrative regulation;~~

18 ~~(b) Financial records or statements relevant to compliance certification;~~
19 ~~and~~

20 ~~(c) PVA parcel data.~~

1 ~~(15) If the device is determined to be an advertising device, paragraphs (a)~~
2 ~~through (d) of this subsection shall apply.~~

3 ~~(a) The department shall send notice by certified letter to the owner of a~~
4 ~~business device that becomes subject to this chapter. If the owner of~~
5 ~~the business device cannot be identified, the department shall send~~
6 ~~notice to the landowner of record.~~

7 ~~(b) The device owner shall apply for and obtain an advertising device~~
8 ~~permit in accordance with the provisions of this administrative~~
9 ~~regulation within sixty (60) days of notice.~~

10 ~~(c) If the device owner cannot be determined or located, the landowner~~
11 ~~shall be required to remove the device.~~

12 ~~(d) If the owner of a device as established in paragraph (a) of this~~
13 ~~subsection does not obtain an advertising device permit within sixty~~
14 ~~(60) days of the notice, the owner shall be subject to:~~

- 15 ~~1. A fine of \$500 per violation pursuant to KRS 177.990(2); and~~
- 16 ~~2. Provisions as established in KRS 177.870.~~

17 ~~(16) If the device is found to be out of compliance with current business device~~
18 ~~requirements, paragraphs (a) through (d) of this subsection shall apply.~~

19 ~~(a) The department shall send notice by certified letter to the owner of a~~
20 ~~business device stating the required corrective action or actions to~~

1 ~~become compliant with the provisions of this section. If the owner of~~
2 ~~the business device cannot be identified, the department shall send~~
3 ~~notice to the landowner of record.~~

4 ~~(b) The device owner shall implement required corrective actions or~~
5 ~~actions within sixty (60) days of notice.~~

6 ~~(c) If the device owner cannot be determined or located, the landowner~~
7 ~~shall be required to remove the device.~~

8 ~~(d) If the owner of a device as established in paragraph (a) of this~~
9 ~~subsection does not correct the violation or violations within sixty (60)~~
10 ~~days of notice, the owner shall be subject to:~~

11 ~~1. A fine of \$500 per violation pursuant to KRS 177.990(2); and~~

12 ~~2. Action pursuant to Section 10 of this administrative regulation.~~

13 ~~Section 6. Noncompliant Static and Electronic Advertising Devices.~~

14 ~~(1) A noncompliant advertising device in a protected area shall require a~~
15 ~~noncompliant permit.~~

16 ~~(2) A noncompliant advertising device permit shall be required to be renewed~~
17 ~~annually pursuant to Section 8 of this administrative regulation.~~

18 ~~(3) A noncompliant advertising device may remain in place if the device:~~

19 ~~(a) Is not abandoned;~~

20 ~~(b) Has been limited to maintenance activities as established in Section~~

1 ~~4(6) (b) through (f) of this administrative regulation to correct~~
2 ~~hazardous conditions determined to be in the interest of the safety of~~
3 ~~the traveling public; and~~

4 ~~(c) Was in compliance with local zoning, sign, or building restrictions at~~
5 ~~time of erection.~~

6 ~~(4) A noncompliant advertising device in a protected area shall be granted a~~
7 ~~legal permit if the device is in compliance with current state law and this~~
8 ~~administrative regulation.~~

9 ~~(5) Except as established in subsection (3)(b) of this section, maintenance on a~~
10 ~~noncompliant advertising device shall constitute a violation of KRS 177 and~~
11 ~~this administrative regulation and shall result in the loss of noncompliant~~
12 ~~classification and action pursuant to Section 10 of this administrative~~
13 ~~regulation.~~

14 ~~(6) Noncompliant advertising devices shall not be eligible as an exchange~~
15 ~~credit.]~~

16 **[Section (7)].** Scenic Highways and Byways.

17 (1) Subsequent to the designation of a scenic highway by the Transportation Cabinet,
18 additional static or electronic advertising devices shall not be erected, allowed, or
19 permitted that are visible from the scenic highway.

20 (2) The sponsor of a scenic byway application may petition the Transportation

1 Cabinet to impose the same administrative regulations for a static or electronic
2 advertising device located on a scenic byway as a static or electronic advertising
3 device located on a scenic highway.

4 (3) Only routine maintenance as established in Section ~~4(4)~~**[4(3)]** shall be performed
5 on a static or electronic advertising device legally in existence on the date of the
6 scenic highway designation.

7 Section ~~(6)~~**[8]**. Permits, Renewals, and Transfers.

8 (1) The requirements of this section shall apply to legal **and[,]** nonconforming~~[, and~~
9 **noncompliant]** advertising devices within a protected area of an interstate,
10 parkway, national highway system, or federal-aid primary highway.

11 (2) A permit shall be required from the department for a legal **and[,]**
12 nonconforming~~[, or noncompliant]~~ advertising device located within a
13 protected area.

14 (3) The initial permit shall be valid until the expiration of the applicable renewal
15 period. If the renewal period falls within three (3) months of the initial permit
16 issuance, the initial permit shall be valid until the next renewal period.

17 (4) An application for a static or an electronic advertising device permit shall be
18 submitted on a completed Application for Static Advertising Device, TC Form 99-
19 221 or Application for Electronic Advertising Device, TC Form 99-222.

20 (5) Application for an advertising device permit and annual permit renewal shall

1 require a fee pursuant to KRS 177.860(1) and as established in Section **7[9]** of this
2 administrative regulation.

3 (6) The timing of issuance of an advertising device permit shall be determined based
4 on the order in which a completed application and payment of applicable fees
5 are made to the department.

6 (7) The permit issued for the erection of a static or electronic advertising device that
7 has not been constructed prior to the renewal date shall be revoked.

8 (8) If an advertising device is erected or maintained without an approved permit, the
9 department shall issue a notice of violation to the owner of the device. If the
10 owner of the device cannot be identified, the department shall send notice to the
11 landowner of record.

12 (9) If a violation is not cured within sixty (60) days of the date of receipt of the notice,
13 the owner or landowner shall be subject to:

14 (a) A fine of \$500 per violation pursuant to KRS 177.990(2); and

15 (b) Action pursuant to Section **8[10]** of this administrative regulation.

16 (10) **Between [Beginning in 2023, between]** the renewal period of November 1 and
17 December 31, a completed Advertising Device Annual Permit Renewal Request,
18 TC Form 99-223, and applicable photographs shall be submitted **beginning in**
19 **2023**. An incomplete or inaccurate submission shall not be considered by the
20 department.

- 1 (11) Annual permit renewals shall require a fee in the amount of \$100 per each static
2 or electronic advertising device pursuant to KRS 177.860(1).
- 3 (12) Failure to submit a completed Advertising Device Annual Permit Renewal
4 Request, TC Form 99-223, applicable photographs, and payment of applicable
5 fees within thirty (30) days of the expiration of the permit shall result in:
- 6 (a) The owner of the legal and~~;~~ nonconforming ~~[,—or noncompliant]~~
7 advertising device being fined \$500 per permit violation pursuant to KRS
8 177.990(2); and
- 9 (b) Conditional suspension of the permit.
- 10 (13) Upon receipt of a completed Advertising Device Annual Permit Renewal Request,
11 TC Form 99-223, applicable photographs, and payment of applicable fees and
12 fines within sixty (60) days of the expiration, the suspended permit shall be
13 reinstated if compliant with current law and this administrative regulation.
- 14 (14) Failure to submit a completed Advertising Device Annual Permit Renewal
15 Request, TC Form 99-223, applicable photographs, and payment of applicable
16 fees and fines within sixty (60) days of the expiration of the permit shall result in:
- 17 (a) Revocation of the permit;
- 18 (b) Loss of nonconforming ~~[or noncompliant]~~ classification for a
19 nonconforming ~~[or noncompliant]~~ advertising device; and
- 20 (c) Action pursuant to Section ~~8~~**10** of this administrative regulation.

1 (15) A static or electronic advertising device may be sold, leased, or otherwise
2 transferred without affecting its status, but its location or configuration shall not
3 be changed. A transfer of ownership for an advertising device shall be submitted
4 on a completed Advertising Device or Exchange Credit Ownership Transfer, TC
5 Form 99-224.

6 (16) Notification of a substantial change to an approved static or electronic
7 advertising device permit shall be submitted **and approved by [tø]** the
8 department prior to work being performed. Substantial change to an advertising
9 device shall include:

10 (a) Enlargement of the device;

11 (b) Replacement, rebuilding, or re-erection of a device that has not been
12 destroyed;

13 (c) A change in the structural support including material diameters, dimensions,
14 or type that would result in increased economic life such as replacement of
15 wood posts with steel posts or the replacement of a wood frame with a steel
16 frame;

17 (d) The addition of bracing, guy wires, or other reinforcement;

18 (e) A change in the location of the device;

19 (f) A change in the direction or configuration of the face or faces; or

20 (g) The addition of a light or lights, either attached or unattached, to help

1 illuminate a static advertising device structure that previously had no
2 lighting for illumination. The addition of lights may include a numerical
3 display that is changed by an electronic or mechanical process that was not
4 included in the original permit.

5 (17) Making a substantial change to a device without **prior approval from [first**
6 **submitting notification to]** the department constitutes a violation of this
7 administrative regulation and shall result in action pursuant to Section **8[10]** of
8 this administrative regulation.

9 (18) Issuance of a permit under this administrative regulation shall not create a
10 contract or property right in the permit holder.

11 Section **7[(9)]**. Permit Fees.

12 (1) **Permit fees and annual renewal fees shall be assessed pursuant to KRS**
13 **177.860 beginning on January 1, 2023**~~[Beginning on January 1, 2023,~~
14 ~~pursuant to KRS 177.860, permit fees and annual renewals fees shall be~~
15 **assessed]**, including:

16 (a) \$250 for an Application for Electronic Advertising Device permit;

17 (b) \$150 for an Application for Static Advertising Device permit; and

18 (c) \$100 for the Advertising Device Annual Permit Renewal Request.

19 (2) A fee established by this section shall be payable by cashier's check or electronic
20 payment.

1 (3) A fee paid to the department established in this section shall be nonrefundable.

2 Section **8[(10)]**. Notice of Violations; Appeals.

3 (1) The department shall notify the owner of an advertising device by certified letter
4 that the device is in violation of KRS Chapter 177 or this administrative regulation.

5 (2) If device continues to be in violation thirty (30) days after notice, the department
6 shall notify the landowner, the advertiser, and the owner of an advertising device
7 by certified letter that the device is in violation of KRS Chapter 177 or this
8 administrative regulation.

9 (3) The landowner, the advertiser, or the owner of an advertising device aggrieved by
10 the findings of the department may request an administrative hearing. An
11 administrative hearing shall be pursuant to KRS Chapter 13B.

12 (a) The request shall be in writing and within thirty (30) days of the certified
13 letter.

14 (b) A request for a hearing shall thoroughly state the grounds upon which the
15 hearing is requested.

16 (c) The hearing request shall be addressed to the Transportation Cabinet, Office
17 of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622.

18 (4) If the landowner, the advertiser, or the owner of an advertising device fails to
19 request an administrative hearing or fails to cure the violation within thirty (30)
20 days of notice, the department shall proceed pursuant to KRS 177.870.

1 Section ~~9~~(11). Penalties.

2 (1) The owner of an advertising device in violation of a provision of KRS Chapter 177
3 or of this administrative regulation shall be assessed a penalty of \$500 per violation
4 pursuant to KRS 177.990(2).

5 (2) The department shall deny or revoke a permit if the permit application or renewal
6 contains false or materially misleading information.

7 Section ~~10~~(12). Incorporation by Reference.

8 (1) The following material is incorporated by reference:

9 (a) "Application for Static Advertising Device", TC Form 99-221, July 2021;

10 (b) "Application for Electronic Advertising Device", TC Form ~~99-221, July~~ **99-222, October**
11 **[99-221, July]** 2021;

12 (c) "Advertising Device Annual Permit Renewal Request", TC Form 99-223,
13 **October [July]** 2021;

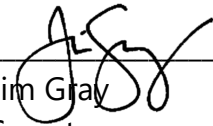
14 (d) "Advertising Device or Exchange Credit Ownership Transfer", TC Form 99-
15 224, **October [July]** 2021; and

16 (e) The formal designation of interstates, parkways, national highway system,
17 and federal-aid primary highways by the Kentucky Transportation Cabinet
18 may be found on the department's website at:
19 <http://maps.kytc.ky.gov/PAFOA/>.

20 (2) This material may be inspected, copied, or obtained, subject to applicable

1 copyright law, at the Transportation Cabinet Building, Department of Highways,
2 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8:00 a.m. to
3 4:30 p.m.

APPROVED:



Jim Gray
Secretary
Kentucky Transportation Cabinet

10/14/2021

Date

APPROVED:




James Ballinger
State Highway Engineer
Department of Highways
Kentucky Transportation Cabinet

10/13/21

Date

APPROVED AS TO FORM
AND LEGALITY:



Jon Johnson
Staff Attorney Manager/Assistant General Counsel
Office of Legal Services
Kentucky Transportation Cabinet

10-13-21

Date

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
603 KAR 10:040E

CONTACT PERSON: Jon Johnson
Staff Attorney Manager/Assistant General Counsel
Transportation Cabinet, Office of Legal Services
200 Mero Street
Frankfort, Kentucky 40622
Telephone: (502) 564-7650
Fax: (502) 564-5238
Email: jon.johnson@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes amended provisions to correct first amendment constitutional issues as prescribed by the 6th Circuit Federal Court and defines prohibited and conforming activities relative to outdoor advertising in protected areas.

(b) The necessity of this administrative regulation: The administrative regulation is required by KRS 177.860 and as further demonstrated by directive of the General Assembly to promulgate the amended regulation herein.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation conforms to KRS 177.860 by establishing parameters of both prohibited and conforming activities relative to advertising devices and the safety of the users of the highways.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the regulatory requirements of advertising devices located within the protected area.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amended regulation removes the elements found by the court as being unconstitutional and provides the framework for an alternative, content-neutral compensation based regulatory model.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish the framework of an enacted content neutral compensation based regulatory model.

(c) How the amendment conforms to the content of the authorizing statutes: The administrative regulation amendment furthers the statutory intent of establishing a content neutral, compensation based regulatory scheme.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will further establish parameters of both prohibited and conforming activities relative to advertising devices in protected areas.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Advertising Device Owners, Landowners, Advertisers, KYTC, County & City Municipalities

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment:

Advertising Device Owners will be required to submit annual permit renewal documentation and the associated annual device renewal fee.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities:

Advertising Device Owners: Applicable fees as established by KRS 177.860.

Landowners: There are no known direct financial impacts

Advertisers: There are no known direct financial impacts

KYTC: Approximately \$350,000 annually

County & City Municipalities: There are no know direct financial impacts.

(c) As a result of compliance, what benefits will accrue to the entities: Compliant industry stakeholders will be provided the benefit and protection of conducting business within a regulated industry.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: \$350,000.

(b) On a continuing basis: \$350,000.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Statutory authority providing for the assessment of permit fees, pursuant to KRS 177.860.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

This administrative regulation will continue be administered pursuant to terms of the Federal/State Agreement. The statutory authorization to assess permit fees for advertising devices is expected to cover the administrative costs relative to regulating advertising devices.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Statutory authority providing for the assessment of permit fees, KRS 177.860 was enacted. This administrative regulation further prescribes the application of the fee assessment.

(9) TIERING: Is tiering applied? Explain why or why not. No, all advertising devices will be treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT
603 KAR 10:040E

CONTACT PERSON: Jon Johnson
Staff Attorney Manager/Assistant General Counsel
Transportation Cabinet, Office of Legal Services
200 Mero Street
Frankfort, Kentucky 40622
Telephone: (502) 564-7650
Fax: (502) 564-5238
Email: jon.johnson@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

KYTC Department of Highways, Division of Maintenance, KYTC District Offices, KYTC Office of Legal Services, and County and City Local Municipalities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 177.860 and 23 U.S.C. 131.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. For local government, costs should be minimal as the process is administratively driven and the regulatory actions will be performed within the context of DUI prosecutions.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Approximately \$300,000.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Approximately \$300,000.

(c) How much will it cost to administer this program for the first year?
Approximately \$350,000.

(d) How much will it cost to administer this program for subsequent years?
Approximately \$350,000.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

STATEMENT OF CONSIDERATION
Relating to 603 KAR 10:040E

TRANSPORTATION CABINET
Department of Highways
Division of Maintenance

(Amended After Comments)

I. Statement Regarding Public Hearing and Public Comments

The public hearing on 603 KAR 10:040E scheduled for September 22, 2021 at 10:00 a.m. at the Transportation Cabinet Building was cancelled; however, written comments were received during the comment period.

II. List of Individuals Who Submitted Comments

The following people submitted written comments:

<u>Name</u>	<u>Affiliation</u>
Edie Wooton	Executive Director Scenic Kentucky P.O. Box 7083 Louisville, KY 40257
Marlene Grissom	President Scenic Kentucky P.O. Box 7083 Louisville, KY 40257
Adam Voth	General Partner Scrollodex Marketing 118 Highland Court

	Danville, KY 40422
Tyler Isaacs	General Partner Scrollodex Marketing 118 Highland Court Danville, KY 40422
Steven Barr	Co-Owner Barr Media, LLC 879 Hillcrest Drive Brandenburg, KY 40108
Steve Hensley	President Frontier Outdoor 2508 Browns Lane Louisville, KY 40220
Leigh Ann Thacker	Executive Director Outdoor Advertising Association of Kentucky 302 Shelby Street Frankfort, KY 40601
Hon. Gary Napier	Law Offices of Napier & Associates, P.S.C. Counsel for United Outdoor Media, LLC; Huntington Outdoor, LLC; Summit Locations, LLC; and J.R. Promotions, LLC 300 West Fifth Street P.O. Drawer 5087 London, KY 40745

III. List of Individuals from Agency Responding to Comments

The following people from the promulgating administrative body responded to the written comments:

<u>Name</u>	<u>Title</u>
Jon H. Johnson	Assistant General Counsel Office of Legal Services

Larisa Plecha	Staff Attorney III Office of Legal Services
Ricky Sizemore	Transportation Engineering Branch Manager Department of Highways
Mark McCoy	Transportation Engineering Assistant I Department of Highways

IV. Summary of Comments and Responses

(1) Subject Matter: The Exchange of Static to Electronic Advertising Devices under Section 3

(a) Comment by Commenter Leigh Ann Thacker, Outdoor Advertising Association of Kentucky:

"The entirety of 603 KAR 10:040E Section 3 is illegal and unconstitutional, and it should be eliminated. Section 3 purports to allow electronic advertising devices in exchange for eliminating existing static advertising devices. It requires the exchange of six existing static advertising devices for one newly erected electronic advertising device, and the exchange of five existing static advertising devices for conversion of an existing advertising device to electronic. But there is no statutory basis empowering any such exchange requirements." Additionally, "KYTC's exchange program ... infringes the right of just compensation for the taking of private property" and fails to achieve the removal of unsightly billboards.

(b) Response of the Transportation Cabinet: It is the obligation of the government to regulate the time, place, and manner of advertising devices, and the statutory authority given to the cabinet to regulate advertising devices is constitutional. As such, the exchange rate is a policy that the cabinet has adopted and utilized for many years and is permitted by way of the authorizing statutes. The exchange program does not infringe on the right of just compensation for the taking of private property, as the issue of just compensation is sufficiently addressed through the Eminent Domain Act. Finally, the cabinet is confident that this proposed administrative regulation will facilitate the removal of unsightly billboards. In result, the cabinet will not amend this proposed administrative regulation in response to this comment.

(c) Comment by Commenter Steve Hensley, Frontier Outdoor: "I submitted applications for two electronic billboards on behalf of my company ... I received an email from KYTC stating the issues that need to be addressed before a permit would be issued." One of the issues impacting my permit applications is the exchange program, which "keeps a new company from doing business in Kentucky" because "[i]t gives an unfair

advantage to established companies who have static billboards to exchange. It also gives an unfair advantage to established companies in acquiring leases.”

(d) Response of the Transportation Cabinet: This comment addresses an individual case related to specific permit applications and should therefore be resolved administratively with the agency rather than in this forum. Notwithstanding, the exchange program, as above mentioned, is a legitimate and reasonable function of the government as it attempts to regulate time, place, and manner of advertising devices. Additionally, the exchange rate is a matter of policy, which the cabinet is free to adopt and utilize. In result, the cabinet will not amend this proposed administrative regulation in response to this comment.

(e) Comment by Joint Commenters Adam Voth and Tyler Isaacs, Scrollodex Marketing: “The Government’s job is prevent monopolies, not facilitate them” and “[e]nabling and rewarding monopolistic behavior only benefits the elite...” The exchange program creates “inequitable implications of a (6:1) trade-in ratio” since “we can’t afford to buy an existing company’s non conforming billboard(s)” in order to “play the same digital billboard game as” bigger companies.

(f) Response of the Transportation Cabinet: The cabinet is tasked by the authorizing statutes to promulgate an administrative regulation related to advertising devices. The exchange rate is a legitimate and reasonable function of the government in regulating time, place, and manner of advertising devices. Moreover, the specific exchange rate is a policy decision that the cabinet is free to adopt and utilize. In result, the cabinet will not amend this proposed administrative regulation in response to this comment.

(2) Subject Matter: Notification to Advertisers and Landowners under Section 10

(a) Comment by Commenter Leigh Ann Thacker, Outdoor Advertising Association of Kentucky:

“Several provisions of 603 KAR 10:040E Section 10 purport to require the KYTC to notify advertisers and landowners of regulatory violations allegedly committed by advertising device owners. It even purports to allow advertisers and landowners to request an administrative hearing when they would otherwise have no legal standing to do so. There is no legal basis for this notification provision, and it would encourage unjustified and illegal interference with advertising device owners’ contractual relations... Because the penalties in Section 11 only apply to an advertising device owner, there is no justification to notify an advertiser or landowner of alleged violations...” Additionally, KYTC’s provision could be considered tortious interference in a contract.

(b) Response of the Transportation Cabinet: The cabinet does not anticipate any liability in tort in this given context. All parties who may potentially be affected or involved in litigation due to a financial interest in a lease, advertising device, property, etc., must be notified, as those individuals may welcome become necessary parties in litigation and have a right to be notified prior to the legal action. Moreover, the cabinet does not

anticipate incurring any liability in tort in this given context, and, as above mentioned, just compensation is afforded through the Eminent Domain Act. In result, the cabinet will not amend this proposed administrative regulation in response to this comment.

(3) Subject matter: Digital billboards are a danger to people and the environment

(a) Comment by Joint Commenters Edie Wooton and Marlene Grissom, Scenic Kentucky: We are concerned about “the transition of a static billboard to an electronic one. ... The biggest threat now facing America’s communities and highways is the proliferation of digital billboards [because they] ... distract drivers, throw off huge amounts of light into neighboring homes and the night sky, and ... [are a] blight on the landscape. ... [T]he billboard industry as a whole is a dying industry that considers electronic devices their only hope for the future. ... If we don’t find ways to limit and/or remove billboards, they will outlive the last American to ever make a purchase based on a billboard.”

(b) Response of the Transportation Cabinet: The cabinet is obligated to regulate billboards pursuant to the authorizing statutes enacted by the General Assembly. In promulgating this regulation, the Transportation Cabinet intends to provide reasonable balance and necessary guardrails to ensure the safe application of digital billboards while still maintaining the first amendment rights of advertisers seeking to utilize billboards, digital or otherwise, in the state. The cabinet will not amend or withdraw this proposed administrative regulation in response to this comment.

(4) Subject matter: Enforcement of the laws and standards

(a) Comment by Joint Commenters Edie Wooton and Marlene Grissom, Scenic Kentucky: “We appreciate the clarify of the word ‘abandoned’ billboard as outlined ... and we are very much impressed with *Section 2, (4)(c)* ... This is precisely the root of our concern over the specific advertisement for the Lion’s Den that is still occupying space along Interstate 65 South, on the side of a semi-tractor trailer. Our concern is not regarding the messaging/imaging, it is precisely the way in which it has been erected that is in direct violation of the rules and regulations. [Our concern is] the enforcement of such rules and regulations as some devices ... are most definitely out of compliance ... we just want to be certain that there is adequate attention given to upholding these rules and regulations. ... [T]he estimated revenue to be generated by permit fees would not cover the estimated cost of administering the legislation. There’s no reason *any* taxpayer dollars should be used to enable outdoor advertising companies to do business. We would like to argue for higher fees to ensure a vigorous enforcement effort.”

(b) Response of the Transportation Cabinet: The cabinet is confident that the proposed amended administrative regulation will sufficiently serve to establish the standards for advertising devices in Kentucky and allow for sufficient enforcement of the standards. Additionally, the cabinet has adopted the fees put into statute by the General

Assembly, and the cabinet believes these fees to be reasonable so as to permit the erection of advertising devices without significant financial burden. The cabinet will not amend or withdraw this proposed administrative regulation in response to this comment.

(5) Subject matter: Non-compliant billboards erected during a time when no law existed to regulate these billboards

(a) Comment by Commenter Leigh Ann Thacker, Outdoor Advertising Association of Kentucky: "There is no statutory basis for the separate treatment of purported 'noncompliant advertising devices within the emergency regulations when those advertising devices as defined have constitutional and statutory rights as nonconforming uses of property."

(b) Response of the Transportation Cabinet: The cabinet agrees with this comment and will amend the proposed administrative regulation to remove any reference to "noncompliant" advertising devices.

(c) Comment by Commenter Steven Barr, Barr Media, LLC: Concerning noncompliant devices, "routine maintenance should be allowed, especially regarding safety for workers, such as catwalks, safety cables, and ladders. ... We do not think a court will allow Section 7 to remain if challenged and that all devices should be classified as Nonconforming. ... We suggest creating a 'Maintenance Application' for Nonconforming Devices. ... There were no statewide sign regulations in place from April 24, 2020 to March 18, 2021. Any device built in that time period should be allowed to remain."

(d) Response of the Transportation Cabinet: The cabinet agrees with this comment and will amend the proposed administrative regulation to remove any reference to "noncompliant" advertising devices.

(e) Comment by Commenter Steve Hensley, Frontier Outdoor: "I recently submitted applications for two electronic billboards ... on property where I have acquired long term leases. ... I received an email from [KYTC] stating the issues that need to be addressed before a permit would be issued. ... [T]hese issues should not apply to either of my permit applications since the applications were submitted before the Emergency Regulations were enacted and signed by the Governor."

(f) Response of the Transportation Cabinet: It is believed that this commenter is remarking that the billboards mentioned in his comment were erected during the period of time when no law was enacted concerning the erection of advertising devices. While the commenter will need to work out the specifics of his permit application with the Department of Highways, the cabinet does agree that "noncompliant devices," otherwise recognized as billboards erected during the window of time when no law was in effect, should be removed from this regulation. In result, the cabinet will amend the proposed administrative regulation to remove reference to "noncompliant" advertising devices.

(g) Comment by Commenter Hon. Gary Napier, Law Offices of Napier & Associates, P.S.C.: The regulation should be amended throughout to remove any reference to

"noncompliant" devices and that category of device should be completely eliminated. This should include changes the forms. Additionally, "[i]n order to cure ambiguity and confusion as to the proper mechanism and timing of applications for any signs installed during the period when Kentucky outdoor advertising regulations were not being enforced, the sentence should be added to the end of Line 7 on Page 25: 'Applications for nonconforming advertising devices erected since April 24, 2020 shall be submitted on a completed Application for Static Advertising Device, TC Form 99-221, or Application for Electronic Advertising Device, TC Form 99-222, within 60 days of these updated forms become final.'"

(h) Response of the Transportation Cabinet: The cabinet agrees with this comment and will amend the proposed administrative regulation to remove any reference of "noncompliant" devices.

(6) Subject matter: Business devices

(a) Comment by Commenter Hon. Gary Napier, Law Offices of Napier & Associates, P.S.C.: "In order to discourage gaming of the regulatory system and reduce administrative workload, the regulations specific to 'business devices' should be deleted ... Having this term defined – and having such devices exempt from state regulation in certain very specific circumstances – will create the perverse incentive for sign owners or developers to designate signs as 'business devices' even though such signs are used in the same or similar manner as traditional billboards. It will be better to simply regulate all such signs as 'advertising devices' and to leave signs that do not meet the definition of 'advertising devices' outside of the Cabinet's regulatory purview."

(b) Response of the Transportation Cabinet: The cabinet agrees with this comment and will amend the proposed administrative regulation to remove any reference to "business devices."

(7) Subject matter: Additional Legal Violations

(a) Comment by Commenter Leigh Ann Thacker, Outdoor Advertising Association of Kentucky: "The Outdoor Advertising Association of Kentucky has numerous additional concerns about other improper and illegal provisions within the emergency regulations that are not addressed in this letter. ... The Outdoor Advertising Association of Kentucky reserves all rights to raise other legal deficiencies if necessary in the future. The Outdoor Advertising Association of Kentucky's goals are to work with the KYTC to achieve fair and equitable regulations ..."

(b) Response of the Transportation Cabinet: This general comment does not provide enough feedback for the agency to recognize a specific issue within the regulation and therefore will not amend the proposed administrative regulation as a result of this comment.

(8) Subject matter: Scenic Highways and Byways and devices built between April 24, 2020 and March 18, 2021

(a) Comment by Commenter Steven Barr, Barr Media, LLC: This comment concerns Section 8 and Scenic Highways and Byways. Since there were no regulations in place from April 24, 2020 to March 18, 2021, any device built during that time should be allowed to remain.

(b) Response of the Transportation Cabinet: KRS 177.576 prohibits the erection of advertising devices along scenic highways and byways. In result, the cabinet will not amend this proposed administrative regulation in response to this comment.

(9) Subject matter: Space from right of way

(a) Comment by Commenter Steven Barr, Barr Media, LLC: "Section 2, 2(b). Is (20) ft. from the right of way the location of the closest pole of the device?"

(b) Response of the Transportation Cabinet: The cabinet is uncertain as to what this comment means, but recognizes that there is an inquiry from the public that can be answered by contacting the Department of Highways and inquiring. As the cabinet does not recognize a specific comment or change requested by this commenter and the cabinet is satisfied with the standards established in this proposed administrative regulation, the cabinet will not amend the proposed administrative regulation in response to this comment.

(10) Subject matter: Regulation becomes more restrictive over time.

(a) Comment by Commenter Steve Hensley, Frontier Outdoor: "the device location is required ... was an incorporated municipality on or before September 21, 1959." The leases are located in a municipality that was incorporated forty-seven years ago on March 28, 1974. The current regulation requires that the municipality in question be incorporated a minimum of 62 years ago. This regulation needs to be updated. The regulation becomes more restrictive over time."

(b) Response of the Transportation Cabinet: This standard is a component of the Highway Beautification Act, and the cabinet has included this standard in this regulation due to the requirements of federal law. The cabinet does not believe that the regulation becomes more restrictive over time. Rather, the regulation is meant to apply a fair and universal standard to all applicants and participants through the duration of time. In result, the cabinet will not amend the proposed administrative regulation in response to this comment.

V. Summary of Statement of Consideration and Action Taken By Promulgating Administrative Body

The public hearing on this administrative regulation was canceled; however, six written comments on multiple subjects were received. The Transportation Cabinet responded to these comments and will amend the administrative regulation, as follows:

Page 2

Section 1(5)

Lines 14 through 16

After "(5)", delete the following:

"Business device" means a device for advertising for which no compensation is derived, received, or exchanged for its use.

(6)

Reorder subsections (7) through (28) accordingly.

Page 4

Section 1(12)

Line 11

After "(13) 'Destroyed' means", insert "an".

Delete "a nonconforming".

Pages 6-7

Sections 1(29), (30)

Lines 19 through 5

Before "(29)", insert "(28)", delete the following:

(29) "Noncompliant advertising device" means an advertising device that was erected within a protected area between the dates of April 24, 2020 and March 18, 2021 and that does not comply with current state law or this administrative regulation.

(30) "Noncompliant permit" means written authorization allowing the continued existence of a noncompliant advertising device, subject to current state law and this administrative regulation.

Reorder the subsequent subsections accordingly.

Page 8

Section 1(32)(b)

Line 8

After "(b)", insert "Within and extending".
Delete "Extending".

Page 10

Section 2(2)(b)2.

Lines 7-8

After "activity boundary line measured", insert "perpendicular to and along the centerline".

Delete "along or parallel to the pavement".

Page 10

Section 2(3)

Lines 12-13

After "way shall be measured", insert "perpendicular to and along".

Delete "horizontally and at a right angle to".

Page 11

Section 2(5)

Lines 13, 14, 15

After "(5) The spacing", insert:

, measured perpendicular to and along the centerline of the highway,

After "between static and electronic advertising devices, insert:

with visible facings oriented in the same

Delete "per".

Page 12

Section 2(8)

Line 18

After "pursuant to Section", insert "6".

Delete "8".

Page 13

Section 2(9)

Line 1

After "pursuant to Section", insert "6".

Delete "8".

Page 14

Section 2(13)(a)3.

Line 15

After "exceed forty-five (45) degrees", insert "if device has more than two (2) faces".

Page 15

Section 3(1)

Line 9

After "department pursuant to", delete "subsections (3), (4), and (5) of".

Page 15

Section 3(3)(c), (d)

Lines 17-18

After "in a protected area", insert ":

Delete "; or

(c) Observable from a scenic highway."

Page 16

Section 4(2)

Line 19

After "pursuant to Section", insert "6".

Delete "8".

Page 17

Section 4(3)(b)

Line 3

After "subsection", insert "(4)".

Delete "(6)".

Page 18

Section 4(5)(e)

Line 8

After "in the direction", insert "or configuration".

Page 18

Section 4(6)

Line 17

After "and action pursuant to Section", insert "8".

Delete "10".

Pages 18 through 24

Sections (5) through (7)

Lines 19 through 15

After "Section 5.", delete the remainder of Section 5 and the entirety of Section 6.

Page 24

Section 7

Line 16

Before ". Scenic Highways", delete "Section 7".

Re-number subsequent Sections accordingly.

Page 25

Section 5(3)

Line 4

After "established in Section", insert "4(4)".

Delete "4(3)".

Page 25

Section 6(1)

Line 8

After "shall apply to legal", insert "and".

Delete ", ".

Page 25

Section 6(1)

Lines 8-9

After "nonconforming", delete ", and noncompliant".

Page 25

Section 6(2)

Line 11

After "for a legal", insert "and".

Delete ", ".

Page 25

Section 6(2)

Line 12

After "nonconforming", delete ", or noncompliant".

Page 26

Section 6(5)

Line 1

After "established in Section", insert "7".
Delete "9".

Page 26
Section 6(9)(b)
Line 15

After "pursuant to Section", insert "8".
Delete "10".

Page 26
Section 6(10)
Line 16

After "(10)", insert "Between".
Delete "Beginning in 2023, between".

Page 26
Section 6(10)
Lines 18-19

After "photographs shall be submitted", insert "beginning in 2023".

Page 27
Section 6(12)(a)
Line 6

After "owner of the legal", insert "and".
Delete ",,".

Page 27
Section 6(12)(a)
Line 6

After "nonconforming", delete ", or noncompliant".

Page 27
Section 6(14)(b), (c)
Lines 18, 19, 20

After "nonconforming", delete "or noncompliant".

After "pursuant to Section", insert "8".
Delete "10".

Page 28

Section 6(16)

Line 7

After "shall be submitted", insert "and approved by".

Delete "to".

Page 29

Section 6(17)

Lines 5-6

After "to a device without", insert "prior approval from".

Delete "first submitting notification to".

Page 29

Section 6(17)

Line 7

After "pursuant to Section", insert "8".

Delete "10".

Page 29

Section 7(1)

Lines 12-15

After "(1)", insert:

Permit fees and annual renewal fees shall be assessed pursuant to KRS 177.860 beginning on January 1, 2023

Delete:

Beginning on January 1, 2023, pursuant to KRS 177.860, permit fees and annual renewals fees shall be assessed

Page 31

Section 10(1)(b)

Lines 10-11

After "TC Form", insert "99-222, October".

Delete "99-221, July".

Page 31

Section 12(1)(c)

Line 13

After "TC Form 99-223", insert "October".

Delete "July".

Page 31

Section 12(1)(d)

Line 13

After "TC Form 99-224", insert "October".

Delete "July".

Application for Electronic Advertising Device, TC Form 99-222, July 2021

Page 1

After "Rev.", insert "10".

Delete "07".

Application for Electronic Advertising Device, TC Form 99-222, July 2021

Page 1

Section 3(1)(b)

After "Local permit or", insert the following:

a letter from the local governing agency stating no permit required

Delete the following:

variance from the local governing body meeting the requirements of 603
KAR 10:021

Application for Electronic Advertising Device, TC Form 99-222, July 2021

Page 2

After "Rev.", insert "10".

Delete "07".

Advertising Device Annual Permit Renewal Request, TC Form 99-223, July 2021

Page 1

After "Rev.", insert "10".

Delete "07".

Advertising Device Annual Permit Renewal Request, TC Form 99-223, July 2021

Page 1

Section 3(4)

After "603 KAR 10:040, Section", insert "4(4)".

Delete "4(6)".

Advertising Device Annual Permit Renewal Request, TC Form 99-223, July 2021

Page 1

Section 3(5)

Delete in its entirety.

Advertising Device Annual Permit Renewal Request, TC Form 99-223, July 2021

Page 1

Section 3(6)

Insert "5.".

Delete "6."

Advertising Device Annual Permit Renewal Request, TC Form 99-223, July 2021

Page 1

Section 3(6)

After "established in", insert "603 KAR 10:040, Section 6(16)".

Delete "603 KAR Section 8(16)".

Advertising Device or Exchange Credit Ownership Transfer, TC Form 99-224, July 2021

Page 1

After "Rev.", insert "10".

Delete "07".

Advertising Device or Exchange Credit Ownership Transfer, TC Form 99-224, July 2021

Page 1

Section titled "For Official Use Only"

Delete "Noncompliant".



APPLICATION FOR STATIC ADVERTISING DEVICE

PURSUANT TO KRS 177.830 TO 177.890, KRS 177.576, and 603 KAR 10.040

KYTC KEPT #: _____

SECTION 1: APPLICANT INFORMATION

NAME OF APPLICANT		CONTACT NAME	
ADDRESS	CITY	STATE	ZIP
EMAIL ADDRESS	PHONE (office)	PHONE (mobile)	

SECTION 2: DEVICE INFORMATION

COUNTY	ROUTE	MILE POINT
LATITUDE (DD)	LONGITUDE (DD)	MAX SQ FT PER FACING
# OF POLES	# OF FACES	DEVICE FACING CONFIGURATION

SECTION 3: DEVICE REQUIREMENTS

1. Provide the following for all devices:
 - a. Location of the advertising device in relation to:
 - i. The Department right of way (measured from the nearest portion of the device)
 - ii. The edge of the traveled way (measured from the nearest portion of the device)
 - b. Local permit or a letter from the local governing agency stating no permit required
 - c. Drawing of the proposed sign showing sign faces, size, and directional orientation
 - d. Drawing showing the location of the required businesses, industrial/commercial area, and municipal lines
 - e. Copy of the lease agreement with the property owner
 - f. Documentation that verifies required business, industrial/commercial area, and municipal lines
 - g. Required applicable fee
2. The latitude and longitude provided on this form, [Decimal Degrees (DD,GRS 1980,NAD83)], shall be obtained from the "KYTC Protected Areas for Outdoor Advertising" map (<https://maps.kytc.ky.gov/PAFOA/>). This point is for general location purposes only. The permittee shall ensure that the permitted device does not encroach upon the Kentucky Transportation Cabinet's right of way.

SECTION 4: SIGNATURE AUTHORIZATION

Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's permits manual, and all applicable regulations and statutes as to and in effect on the date of issuance of the permit. This information and application is certified to be correct to the best knowledge and belief of the undersigned. This application does not become a permit without KYTC form TC 99-230 signed and present. This application shall become void if not approved by the cancellation date. The cancellation date shall be 60 days from the date the applicant submits the application.

 NAME (print)

 TITLE

 SIGNATURE

 DATE



APPLICATION FOR ELECTRONIC ADVERTISING DEVICE

PURSUANT TO KRS 177.830 TO 177.890, KRS 177.576, and 603 KAR 10.040

KYTC KEPT #: _____

SECTION 1: APPLICANT INFORMATION

NAME OF APPLICANT		CONTACT NAME	
ADDRESS	CITY	STATE	ZIP
EMAIL ADDRESS	PHONE (office)	PHONE (mobile)	

SECTION 2: DEVICE INFORMATION

COUNTY	ROUTE	MILE POINT
LATITUDE (DD)	LONGITUDE (DD)	DEVICE FACING CONFIGURATION
# OF POLES	# OF FACES	MAX SQ FT PER FACING
		LOCATED IN URBAN AREA <input type="checkbox"/> YES <input type="checkbox"/> NO

SECTION 3: DEVICE REQUIREMENTS

1. Provide the following for all devices where applicable:
 - a. Location of the advertising device in relation to:
 - i. The Department right of way (measured from the nearest portion of the device)
 - ii. The edge of the traveled way (measured from the nearest portion of the device)
 - b. Local permit or a letter from the local governing agency stating no permit required
 - c. Drawing of the proposed sign showing sign faces, size, and directional orientation
 - d. Drawing showing the location of the required businesses, industrial/commercial area, and municipal lines
 - e. Copy of lease agreement with the property owner
 - f. Documentation that verifies required business, industrial/commercial area, and municipal lines
 - g. Provide manufacturer's certification for luminance
 - h. Identification of devices used for exchange credits
 - i. Required applicable fee

Required Exchange Credits				Official Use Only		
	KEPT #	Credited Device (Yes or No)	Latitude	Longitude	Current Status	Approved for this application
1		<input type="checkbox"/> Yes <input type="checkbox"/> No				
2		<input type="checkbox"/> Yes <input type="checkbox"/> No				
3		<input type="checkbox"/> Yes <input type="checkbox"/> No				
4		<input type="checkbox"/> Yes <input type="checkbox"/> No				
5		<input type="checkbox"/> Yes <input type="checkbox"/> No				
6 (if required)		<input type="checkbox"/> Yes <input type="checkbox"/> No				

2. The latitude and longitude provided on this form, [Decimal Degrees (DD, GRS 1980, NAD83)], shall be obtained from the "KYTC Protected Areas for Outdoor Advertising" map (<https://maps.kytc.ky.gov/PAFOA/>). This point is for general location purposes only. The permittee shall ensure that the permitted device does not encroach upon the Kentucky Transportation Cabinet's right of way.



APPLICATION FOR ELECTRONIC ADVERTISING DEVICE

SECTION 4: SIGNATURE AUTHORIZATION

Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's permits manual, and all applicable regulations and statutes as to and in effect on the date of issuance of the permit. This information and application is certified to be correct to the best knowledge and belief of the undersigned. This application does not become a permit without KYTC form TC 99-230 signed and present. This application shall become void if not approved by the cancellation date. The cancellation date shall be 60 days from the date the applicant submits the application.

NAME (*print*)

TITLE

SIGNATURE

DATE



KENTUCKY TRANSPORTATION CABINET
 Department of Highways
 DIVISION OF MAINTENANCE - PERMITS BRANCH

APPLICATION FOR ELECTRONIC ADVERTISING DEVICE

PURSUANT TO KRS 177.830 TO 177.890, KRS 177.576, and 603 KAR 10.040

KYTC KEPT #: _____

SECTION 1: APPLICANT INFORMATION

NAME OF APPLICANT		CONTACT NAME	
ADDRESS		CITY	STATE ZIP
EMAIL ADDRESS		PHONE (office)	PHONE (mobile)

SECTION 2: DEVICE INFORMATION

COUNTY	ROUTE	MILE POINT	
LATITUDE (DD)	LONGITUDE (DD)	DEVICE FACING CONFIGURATION	
# OF POLES	# OF FACES	MAX SQ FT PER FACING	LOCATED IN URBAN AREA

Local permit or a letter from the local governing agency stating no permit required

SECTION 3: DEVICE REQUIREMENTS

1. Provide the following for all devices where applicable:
 - a. Location of the advertising device in relation to:
 - i. The Department right of way (measured from the nearest portion of the device)
 - ii. The edge of the traveled way (measured from the nearest portion of the device)
 - b. Local permit or variance from the local governing body meeting the requirements of 603 KAR 10:021
 - c. Drawing of the proposed sign showing sign faces, size, and directional orientation
 - d. Drawing showing the location of the required businesses, industrial/commercial area, and municipal lines
 - e. Copy of lease agreement with the property owner
 - f. Documentation that verifies required business, industrial/commercial area, and municipal lines
 - g. Provide manufacturer's certification for luminance
 - h. Identification of devices used for exchange credits
 - i. Required applicable fee

Required Exchange Credits		Official Use Only				
	KEPT #	Credited Device (Yes or No)	Latitude	Longitude	Current Status	Approved for this application
1		<input type="checkbox"/> Yes <input type="checkbox"/> No				
2		<input type="checkbox"/> Yes <input type="checkbox"/> No				
3		<input type="checkbox"/> Yes <input type="checkbox"/> No				
4		<input type="checkbox"/> Yes <input type="checkbox"/> No				
5		<input type="checkbox"/> Yes <input type="checkbox"/> No				
6 (if required)		<input type="checkbox"/> Yes <input type="checkbox"/> No				

2. The latitude and longitude provided on this form, [Decimal Degrees (DD, GRS 1980, NAD83)], shall be obtained from the "KYTC Protected Areas for Outdoor Advertising" map (<https://maps.kytc.ky.gov/PAFOA/>). This point is for general location purposes only. The permittee shall ensure that the permitted device does not encroach upon the Kentucky Transportation Cabinet's right of way.



KENTUCKY TRANSPORTATION CABINET
Department of Highways
DIVISION OF MAINTENANCE - PERMITS BRANCH

TC 99-222
Rev. 07/2021
18
Page 2 of 2

APPLICATION FOR ELECTRONIC ADVERTISING DEVICE

SECTION 4: SIGNATURE AUTHORIZATION

Permittee, its successors and assigns, shall comply with and agree to be bound by the requirements and terms of this application and all related documents making up the approved permit, by the Department's permits manual, and all applicable regulations and statutes as to and in effect on the date of issuance of the permit. This information and application is certified to be correct to the best knowledge and belief of the undersigned. This application does not become a permit without KYTC form TC 99-230 signed and present. This application shall become void if not approved by the cancellation date. The cancellation date shall be 60 days from the date the applicant submits the application.

NAME (print)

TITLE

SIGNATURE

DATE



KENTUCKY TRANSPORTATION CABINET
 DIVISION OF MAINTENANCE
 PERMITS

TC 99-223
 Rev. 10/2021
 Page 1 of 1

ADVERTISING DEVICE ANNUAL PERMIT RENEWAL REQUEST

DATE: _____

SECTION 1: PERMITTEE INFORMATION

PERMITTEE	CONTACT NAME	
MAILING ADDRESS	CITY	ZIP
EMAIL ADDRESS	PHONE NUMBER(S) Office: _____ Mobile: _____	

SECTION 2: PERMIT INFORMATION

KEPT #	ADVERTISING DEVICE TYPE	STATUS	EXPIRATION DATE
DISTRICT	COUNTY	LATITUDE	LONGITUDE

SECTION 3: DEVICE INFORMATION

Please confirm the following for this device:

1.	The device continues to operate as permitted and is maintained in accordance with 603 KAR 10:040 and/or remains compliant with the original permit requirements/authorizations?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*
2.	For a static device, is lighting compliant with 603 KAR 10:040, Section 2(10)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*
3.	For an electronic device, is lighting and messaging compliant with 603 KAR 10:040, Section 2(11) and 2(12)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*
4.	For a nonconforming device, has the device remained unaltered without change to location or configuration and only subjected to routine maintenance as established in 603 KAR 10:040, Section 4(4)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*
5.	Has KYTC Department of Highways been notified of all work performed resulting in substantial change to the device as established in 603 KAR 10:040 Section 6(16)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No*

*For any items marked [No] above, please attach a written explanation and include any additional information that may help to understand the non-compliance situation.

Each year, electronically submit this documentation between the renewal period of November 1 and December 31.

Every 2 years, additionally submit current-year dated photographs of the front and back of each facing, including the supporting structure and all appurtenances associated with the device.

Check here [] if photographs of the device provided within the last 2 years continue to accurately and completely represent the current state of the device.

SECTION 4: SIGNATURE AUTHORIZATION

As an authorized representative for the above permittee, I certify that the referenced device has been maintained in accordance with and currently meets all applicable advertising device statutes and regulations. I further understand that if the information submitted and certified on this form is found to be materially false or misleading, the permit for the device may be revoked and enforcement action taken pursuant to 603 KAR 10:040 and KRS 177.990(2).

 NAME (Print.)

 SIGNATURE

 DATE



KENTUCKY TRANSPORTATION CABINET
DIVISION OF MAINTENANCE
PERMITS

ADVERTISING DEVICE ANNUAL PERMIT RENEWAL REQUEST

DATE: _____

SECTION 1: PERMITTEE INFORMATION

PERMITTEE	CONTACT NAME	
MAILING ADDRESS	CITY	ZIP
EMAIL ADDRESS	PHONE NUMBER(S) Office:	Mobile:

SECTION 2: PERMIT INFORMATION

KEPT #	ADVERTISING DEVICE TYPE	STATUS	EXPIRATION DATE
DISTRICT	COUNTY	LATITUDE	LONGITUDE

SECTION 3: DEVICE INFORMATION

Please confirm the following for this device:

- Yes No*
The device continues to operate as permitted and is maintained in accordance with 603 KAR 10:040 and/or remains compliant with the original permit requirements/authorizations?
- Yes No*
For a static device, is lighting compliant with 603 KAR 10:040, Section 2(10)?
- Yes No*
For an electronic device, is lighting and messaging compliant with 603 KAR 10:040, Section 2(11) and 2(12)?
- Yes No*
For a nonconforming device, has the device remained unaltered without change to location or configuration and only subjected to routine maintenance as established in 603 KAR 10:040, Section 4(6)? *4(4)*
- Yes No* *remove*
For a noncompliant device, has the device remained unaltered without change to location or configuration and only subjected to maintenance activities as established in 603 KAR 10:040, Section 4(6) (b) through (f)?
- Yes No*
Has KYTC Department of Highways been notified of all work performed resulting in substantial change to the device as established in 603 KAR Section 8(16)? *603 KAR 10:040 5 6(16) keep*

*For any items marked [No] above, please attach a written explanation and include any additional information that may help to understand the non-compliance situation.

Each year, electronically submit this documentation between the renewal period of November 1 and December 31.

Every 2 years, additionally submit current-year dated photographs of the front and back of each facing, including the supporting structure and all appurtenances associated with the device.

Check here if photographs of the device provided within the last 2 years continue to accurately and completely represent the current state of the device.

SECTION 4: SIGNATURE AUTHORIZATION

As an authorized representative for the above permittee, I certify that the referenced device has been maintained in accordance with and currently meets all applicable advertising device statutes and regulations. I further understand that if the information submitted and certified on this form is found to be materially false or misleading, the permit for the device may be revoked and enforcement action taken pursuant to 603 KAR 10:040 and KRS 177.990(2).

NAME (Print.)	SIGNATURE	DATE
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ADVERTISING DEVICE OR EXCHANGE CREDIT OWNERSHIP TRANSFER

SECTION 1: TRANSFEROR INFORMATION

NAME		CONTACT PERSON		
ADDRESS		CITY	STATE	ZIP
EMAIL	PHONE (office)	PHONE (mobile)		

SECTION 2: TRANSFEREE INFORMATION

NAME		CONTACT PERSON		
ADDRESS		CITY	STATE	ZIP
EMAIL	PHONE (office)	PHONE (mobile)		

SECTION 3: DEVICE INFORMATION

KEPT PERMIT #		DISTRICT	COUNTY
ROUTE	MILE POINT	LATITUDE (DD)	LONGITUDE (DD)

The latitude and longitude provided on this form, [Decimal Degrees (DD, GRS 1980, NAD 83)], shall be obtained from the "KYTC Protected Areas for Outdoor Advertising" map (<https://maps.kytc.ky.gov/PAFOA/>).

SECTION 4: CERTIFICATION OF REPRESENTATIVES

The above information is certified to be correct to the best knowledge and belief of the undersigned representatives. The transferee acknowledges that all applicable advertising device statutes and regulations shall be followed.

_____	_____
TRANSFEROR NAME (print)	TITLE
_____	_____
TRANSFEROR SIGNATURE	DATE
_____	_____
TRANSFEREE NAME (print)	TITLE
_____	_____
TRANSFEREE SIGNATURE	DATE

FOR OFFICIAL USE ONLY

KYTC APPROVER SIGNATURE	TITLE	DATE
KYTC APPROVED STATUS	ADVERTISING DEVICE	
	<input type="checkbox"/> Legal	
	<input type="checkbox"/> Illegal	
	<input type="checkbox"/> Nonconforming	
	EXCHANGE CREDIT	
<input type="checkbox"/> Transferred		<input type="checkbox"/> other



KENTUCKY TRANSPORTATION CABINET
 Department of Highways
 DIVISION OF MAINTENANCE - PERMITS BRANCH

ADVERTISING DEVICE OR EXCHANGE CREDIT OWNERSHIP TRANSFER

SECTION 1: TRANSFEROR INFORMATION

NAME		CONTACT PERSON	
ADDRESS		CITY	STATE ZIP
EMAIL	PHONE (office)	PHONE (mobile)	

SECTION 2: TRANSFEREE INFORMATION

NAME		CONTACT PERSON	
ADDRESS		CITY	STATE ZIP
EMAIL	PHONE (office)	PHONE (mobile)	

SECTION 3: DEVICE INFORMATION

KEPT PERMIT #		DISTRICT	COUNTY
ROUTE	MILE POINT	LATITUDE (DD)	LONGITUDE (DD)

The latitude and longitude provided on this form, [Decimal Degrees (DD, GRS 1980, NAD 83)], shall be obtained from the "KYTC Protected Areas for Outdoor Advertising" map (<https://maps.kytc.ky.gov/PAFOA/>).

SECTION 4: CERTIFICATION OF REPRESENTATIVES

The above information is certified to be correct to the best knowledge and belief of the undersigned representatives. The transferee acknowledges that all applicable advertising device statutes and regulations shall be followed.

_____ TRANSFEROR NAME (print)	_____ TITLE
_____ TRANSFEROR SIGNATURE	_____ DATE
_____ TRANSFEREE NAME (print)	_____ TITLE
_____ TRANSFEREE SIGNATURE	_____ DATE

FOR OFFICIAL USE ONLY

KYTC APPROVER SIGNATURE	TITLE	DATE
KYTC APPROVED STATUS	ADVERTISING DEVICE <input type="checkbox"/> Legal <input type="checkbox"/> Nonconforming <input type="checkbox"/> Illegal <input checked="" type="checkbox"/> Noncompliant <i>Remove</i>	
	EXCHANGE CREDIT <input type="checkbox"/> Transferred <input type="checkbox"/> Other	