

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40331-ML-72D (02/07)

Short Title: Revisions to Outdoor Advertising Laws. (Public)

Sponsors: Representatives Lewis, Saine, Goodman, and Hanes (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE STANDARDS FOR DETERMINING JUST COMPENSATION
3 FOR THE REMOVAL OF OFF-PREMISES OUTDOOR ADVERTISING.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 136-128 reads as rewritten:

6 "§ 136-128. Definitions.

7 As used in this Article:

- 8 (1) ~~"Erect" means to Erect.~~ – To construct, build, raise, assemble, place, affix,
9 attach, create, paint, draw, or in any other way bring into being or establish.
10 This term does not include the repair or reconstruction of any off-premises
11 outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of
12 an off-premises outdoor advertising sign as authorized by State law.
- 13 (1a) ~~"Illegal sign" means one Illegal sign.~~ – One which was erected and/or
14 maintained in violation of State law.
- 15 (1b) ~~"Information center" means an Information center.~~ – An area or site
16 established and maintained at safety rest areas for the purpose of informing
17 the public of places of interest within the State and providing such other
18 information as the Department of Transportation may consider desirable.
- 19 (2) ~~"Interstate system" means that Interstate system.~~ – That portion of the
20 National System of Interstate and Defense Highways located within the
21 State, as officially designated, or as may hereafter be so designated, by the
22 Department of Transportation, or other appropriate authorities and are also
23 so designated by interstate numbers. As to highways under construction so
24 designated as interstate highways pursuant to the above procedures, the
25 highway shall be a part of the interstate system for the purposes of this
26 Article on the date the location of the highway has been approved finally by
27 the appropriate federal authorities.
- 28 (2a) ~~"Nonconforming sign" shall mean a Nonconforming sign.~~ – A sign which
29 was lawfully erected but which does not comply with the provisions of State
30 law or State rules and regulations passed at a later date or which later fails to
31 comply with State law or State rules or regulations due to changed
32 conditions. Illegally erected or maintained signs are not nonconforming
33 signs.
- 34 (3) Off-premises outdoor advertising. – The use of land consisting of a sign
35 erected and maintained for the purpose of (i) displaying, advertising,
36 identifying, or directing attention to business products, operations, or



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1 services sold or offered at a site other than the site where the sign is erected
 2 or (ii) promoting an attraction, activity, idea, opinion, or other
 3 noncommercial messaging that is unrelated to the site where the sign is
 4 erected. A sign meeting this definition is commonly known as a billboard,
 5 where space is commonly made available or rented to advertisers to display
 6 their messages to the traveling public.

- 7 (3a) ~~"Outdoor advertising" means any~~ Outdoor advertising. – Any outdoor sign,
 8 display, light, device, figure, painting, drawing, message, plaque, poster,
 9 billboard, or any other thing which is designed, intended or used to advertise
 10 or inform, any part of the advertising or information contents of which is
 11 visible from any place on the main-traveled way of the interstate or primary
 12 system, whether the same be permanent or portable installation
- 13 (4) ~~"Primary systems" means the~~ Primary systems. – The federal-aid primary
 14 system in existence on June 1, 1991, and any highway which is not on that
 15 system but which is on the National Highway System. As to highways under
 16 construction so designated as primary highways pursuant to the above
 17 procedures, the highway shall be a part of the primary system for purposes
 18 of this Article on the date the location of the highway has been approved
 19 finally by the appropriate federal or State authorities.
- 20 (5) ~~"Safety rest area" means an~~ Safety rest area. – An area or site established and
 21 maintained within or adjacent to the highway right-of-way by or under
 22 public supervision or control, for the convenience of the traveling public.
- 23 (6) ~~"State law" means a~~ State law. – A State constitutional provision or statute,
 24 or ~~an ordinance, a rule or regulation enacted or adopted by a State agency or~~
 25 ~~political subdivision of a State pursuant to a~~ the State Constitution or a
 26 statute.
- 27 (7) ~~"Unzoned area" shall mean an~~ Unzoned area. – An area where there is no
 28 zoning in effect.
- 29 (8) ~~"Urban area" shall mean an~~ Urban area. – An area within the boundaries or
 30 limits of any incorporated municipality having a population of five thousand
 31 or more as determined by the latest available federal census.
- 32 (9) ~~"Visible" means capable~~ Visible. – Capable of being seen (whether or not
 33 legible) without visual aid by a person of normal visual acuity."

34 **SECTION 2.** G.S. 136-131 reads as rewritten:

35 **"§ 136-131. Removal of existing ~~noneonforming~~ off-premises outdoor advertising.**

36 (a) The Department of Transportation is authorized to acquire by purchase, gift, or
 37 condemnation all off-premises outdoor advertising and all property rights pertaining thereto
 38 ~~which are prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2, thereto,~~
 39 ~~provided such~~ the off-premises outdoor advertising is in lawful existence on the effective date
 40 of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the
 41 effective date of this Article as determined by G.S. 136-140. Notwithstanding any law to the
 42 contrary, this section shall apply to all acquisitions, purchases, condemnations, or takings by
 43 the Department of Transportation that cause the removal of any lawfully erected off-premises
 44 outdoor advertising, regardless of the outdoor advertising sign's location and proximity to the
 45 interstates or primary systems. The unit rule for valuing property shall not be used in
 46 determining just compensation under this section. For purposes of this section, the term "unit
 47 rule" means paying the undivided interest in real property, rather than the value of each owner's
 48 partial interest.

49 In any acquisition, ~~purchase or condemnation,~~ purchase, condemnation, or taking, just
 50 compensation to the owner of the off-premises outdoor advertising, where the owner of the
 51 off-premises outdoor advertising does not own the fee, shall be limited to the fair market value

1 at the time of the taking of the off-premises outdoor advertising owner's interest in the real
2 property on which the off-premises outdoor advertising is located and such value shall include
3 the value of the off-premises outdoor advertising.

4 In any acquisition, ~~purchase or condemnation, purchase, condemnation, or taking,~~ just
5 compensation to the owner of the fee or other interest in the real property upon which the
6 off-premises outdoor advertising is located where said owner does not own the off-premises
7 outdoor advertising located thereon shall be limited to the difference in the fair market value of
8 the entire tract immediately before and immediately after the taking by the Department of
9 Transportation of the right to maintain such off-premises outdoor advertising thereon and in
10 arriving at the fair market value after the taking, any special or general benefits accruing to the
11 property by reason of the acquisition shall be taken into consideration.

12 In any acquisition, ~~purchase or condemnation, purchase, condemnation, or taking,~~ just
13 compensation to the owner of the fee in the real property upon which the off-premises outdoor
14 advertising is located, where said owner also owns the off-premises outdoor advertising located
15 thereon, shall be limited to the fair market value of the off-premises outdoor advertising plus
16 the difference in the fair market value of the entire tract immediately before and immediately
17 after the taking by the Department of Transportation of the right to maintain such off-premises
18 outdoor advertising thereon and in arriving at the fair market value after the taking, any special
19 or general benefits accruing to the property by reason of the acquisition shall be taken into
20 consideration.

21 The following factors shall be used in determining just compensation for off-premises
22 outdoor advertising and all property rights pertaining thereto:

- 23 (1) The sales price of similar off-premises outdoor advertising and all property
24 rights pertaining thereto.
- 25 (2) The physical condition of the off-premises outdoor advertising sign,
26 including its useful life.
- 27 (3) The income generated by the rental of advertising space on the off-premises
28 outdoor advertising sign.
- 29 (4) The effects of zoning or other land-use restrictions.
- 30 (5) The value of the outdoor advertising permit issued by an appropriate
31 governing body.
- 32 (6) The ability or inability to relocate and reconstruct the off-premises outdoor
33 advertising to a site reasonably comparable to or better than the condemned
34 location within the same zoning jurisdiction, taking into account the
35 similarity of advantages arising from lease terms, visibility, traffic flow, and
36 other criteria that affect the value of outdoor advertising. The factor in this
37 subdivision shall not be considered if the zoning jurisdiction allows for
38 numerical increases in outdoor advertising signs.
- 39 (7) The advantages arising from leasehold or other property interests, including
40 length or term of property interest, renewal rights, options to purchase, or
41 rights of first refusal.
- 42 (8) Reasonable expectations of lease renewal for a period in excess of that stated
43 in the lease for original and renewal terms.
- 44 (9) Any other factor that may affect the value of the property rights affected by
45 the condemnation.

46 (b) Prior to any acquisition by the Department of Transportation under this section, the
47 Department of Transportation shall undertake the project necessitating the acquisition in
48 accordance with G.S. 133-11 to minimize adverse impacts to the displaced off-premises
49 outdoor advertiser and reduce the costs of acquiring the off-premises outdoor advertising and
50 all property rights thereto, including allowing the off-premises outdoor advertising to remain

1 until actual construction or other physical site work is commenced on the project and within
2 100 feet of the off-premises outdoor advertising sign.

3 (c) In addition to receiving just compensation in accordance with this section, the
4 owner of off-premises outdoor advertising shall be entitled to recover from the party causing
5 the removal of the off-premises outdoor advertising the reasonable costs of relocating and
6 reconstructing the displaced off-premises outdoor advertising, including an amount equivalent
7 to the income received by the off-premises outdoor advertiser from the availability or rental of
8 space on the off-premises outdoor advertising sign for a period of up to 30 days if the income is
9 lost during the relocation of the sign."

10 **SECTION 3.** G.S. 153A-143 reads as rewritten:

11 **"§ 153A-143. Regulation of outdoor advertising.**

12 ...

13 (d) No county may ~~enact or amend an ordinance of general applicability to cause or~~
14 ~~require the removal of any nonconforming, lawfully erected off-premises outdoor advertising~~
15 ~~sign without the payment of monetary compensation to the owners of the off-premises outdoor~~
16 ~~advertising, except as provided below. The payment of monetary compensation is not required~~
17 ~~if:~~

- 18 (1) The county and the owner of the nonconforming off-premises outdoor
19 advertising enter into a relocation agreement pursuant to subsection (g) of
20 this section.
- 21 (2) The county and the owner of the nonconforming off-premises outdoor
22 advertising enter into an agreement pursuant to subsection (k) of this section.
- 23 (3) The off-premises outdoor advertising is determined to be a public nuisance
24 or detrimental to the health or safety of the populace.
- 25 (4) The removal is required for establishing, extending, enlarging, or improving
26 any of the public enterprises listed in G.S. 153A-274, and the county allows
27 the off-premises outdoor advertising to be relocated to a comparable
28 location.
- 29 (5) The off-premises outdoor advertising is subject to removal pursuant to
30 statutes, ordinances or regulations generally applicable to the demolition or
31 removal of damaged structures.

32 (d1) No county may condition the grant of any development approval on the removal of
33 off-premises outdoor advertising without the payment of monetary compensation as prescribed
34 by this section. For purposes of this section, the term "development approval" includes
35 approval for rezoning, variances, building permits, and permits authorized by quasi-judicial
36 proceedings.

37 (e) Monetary compensation is the fair market value of the off-premises outdoor
38 advertising in place immediately prior to its ~~removal~~ removal, including consideration of the
39 value of (i) the off-premises outdoor advertising owner's interest in the real property on which
40 the off-premises outdoor advertising is located, (ii) the off-premises outdoor advertising sign
41 structure, and (iii) any rights, including permits, appurtenant to the off-premises outdoor
42 advertising use, and without consideration of the effect of the ordinance or any diminution in
43 value caused by the ordinance requiring its removal. Monetary compensation shall be
44 determined based on: in accordance with G.S. 136-131.

45 ~~(1) The factors listed in G.S. 105-317.1(a); and~~

46 ~~(2) The listed property tax value of the property and any documents regarding~~
47 ~~value submitted to the taxing authority.~~

48 (f) If the parties are unable to reach an agreement on monetary compensation to be paid
49 by the county to the owner of the nonconforming off-premises outdoor advertising sign for its
50 removal, and the county elects to proceed with the removal, the county may bring an action in
51 superior court for a determination of the monetary compensation to be paid. In determining

1 monetary compensation, the court shall consider the factors set forth in subsection (e) of this
2 section. Upon payment of monetary compensation for the sign, the county shall own the sign.

3 ...
4 ~~(m) This section does not apply to any ordinance in effect on the effective date of this~~
5 ~~section. A county may repeal or amend an ordinance in effect on the effective date of this~~
6 ~~section so long as an amendment to the existing ordinance does not reduce the period of~~
7 ~~amortization in effect on the effective date of this section.~~

8 ~~(n) The~~ Except as specifically provided otherwise in this section, the provisions of this
9 section shall not be used to interpret, construe, alter, or otherwise modify ~~(i) the exercise of the~~
10 ~~power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General~~
11 ~~Statutes. Statutes or (ii) the rights of off-premises outdoor advertising set forth in Article 11 of~~
12 ~~Chapter 136 of the General Statutes. The standards set forth in G.S. 136-131 shall apply to any~~
13 ~~county that causes the removal of off-premises outdoor advertising through exercise of its~~
14 ~~power of eminent domain.~~

15"

16 **SECTION 4.** G.S. 160A-199 reads as rewritten:

17 **"§ 160A-199. Regulation of outdoor advertising.**

18 ...
19 (d) No city may ~~enact or amend an ordinance of general applicability to cause or require~~
20 ~~the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign~~
21 ~~without the payment of monetary compensation to the owners of the off-premises outdoor~~
22 ~~advertising, except as provided below. The payment of monetary compensation is not required~~
23 ~~if:~~

- 24 (1) The city and the owner of the nonconforming off-premises outdoor
25 advertising enter into a relocation agreement pursuant to subsection (g) of
26 this section.
- 27 (2) The city and the owner of the nonconforming off-premises outdoor
28 advertising enter into an agreement pursuant to subsection (k) of this section.
- 29 (3) The off-premises outdoor advertising is determined to be a public nuisance
30 or detrimental to the health or safety of the populace.
- 31 (4) The removal is required for opening, widening, extending or improving
32 streets or sidewalks, or for establishing, extending, enlarging, or improving
33 any of the public enterprises listed in G.S. 160A-311, and the city allows the
34 off-premises outdoor advertising to be relocated to a comparable location.
- 35 (5) The off-premises outdoor advertising is subject to removal pursuant to
36 statutes, ordinances, or regulations generally applicable to the demolition or
37 removal of damaged structures.

38 ~~(d1) No city may condition the grant of any development approval on the removal of~~
39 ~~off-premises outdoor advertising without the payment of monetary compensation as prescribed~~
40 ~~by this section. For purposes of this section, the term "development approval" includes~~
41 ~~approval for rezoning, variances, building permits, and permits authorized by quasi-judicial~~
42 ~~proceedings.~~

43 (e) Monetary compensation is the fair market value of the off-premises outdoor
44 advertising in place immediately prior to its ~~removal~~ removal, including consideration of the
45 value of (i) the off-premises outdoor advertising owner's interest in the real property on which
46 the off-premises outdoor advertising is located, (ii) the off-premises outdoor advertising sign
47 structure, and (iii) any rights, including permits, appurtenant to the off-premises outdoor
48 advertising use, and without consideration of the effect of the ordinance or any diminution in
49 value caused by the ordinance requiring its removal. Monetary compensation shall be
50 determined ~~based on:~~ in accordance with G.S. 136-131.

- 51 (1) ~~The factors listed in G.S. 105-317.1(a); and~~

1 (2) ~~The listed property tax value of the property and any documents regarding~~
2 ~~value submitted to the taxing authority.~~

3 ...

4 (m) ~~This section does not apply to any ordinance in effect on the effective date of this~~
5 ~~section. A city may amend an ordinance in effect on the effective date of this section to extend~~
6 ~~application of the ordinance to off-premises outdoor advertising located in territory acquired by~~
7 ~~annexation or located in the extraterritorial jurisdiction of the city. A city may repeal or amend~~
8 ~~an ordinance in effect on the effective date of this section so long as the amendment to the~~
9 ~~existing ordinance does not reduce the period of amortization in effect on the effective date of~~
10 ~~this section.~~

11 (n) ~~The~~ Except as specifically provided otherwise in this section, the provisions of this
12 ~~section shall not be used to interpret, construe, alter or otherwise modify (i) the exercise of the~~
13 ~~power of eminent domain by an entity pursuant to Chapter 40A or Chapter 136 of the General~~
14 ~~Statutes. Statutes or (ii) the rights of off-premises outdoor advertising set forth in Article 11 of~~
15 ~~Chapter 136 of the General Statutes. The standards set forth in G.S. 136-131 shall apply to any~~
16 ~~city that causes the removal of off-premises outdoor advertising through exercise of its power~~
17 ~~of eminent domain.~~

18 "

19 **SECTION 5.** Notwithstanding any provision of Article 2A of Chapter 150B of the
20 General Statutes, no later than six months after the effective date of this act, the Department of
21 Transportation shall adopt rules to implement the provisions of this act. The Department of
22 Transportation shall use the following procedure to adopt rules to implement the provisions of
23 this act:

- 24 (1) At least 15 business days prior to adopting a rule, submit the rule and a
25 notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
26 publish the proposed rule and the notice of public hearing on the Internet
27 within five business days.
- 28 (2) At least 15 business days prior to adopting a rule, notify persons on the
29 mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
30 interested parties of the Department of Transportation's intent to adopt a rule
31 and of the public hearing.
- 32 (3) Accept written comments on the proposed rule for at least 15 business days
33 prior to adoption of the rule.
- 34 (4) Hold at least one public hearing on the proposed rule no less than five days
35 after the rule and notice have been published.

36 A rule adopted in accordance with this section becomes effective on the first day of
37 the month following the month the Department of Transportation adopts the rule and submits
38 the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any
39 rule adopted more than six months after the effective date of this act shall comply with the
40 requirement of Article 2A of Chapter 150B of the General Statutes.

41 **SECTION 6.** Any rule or policy adopted by the Department of Transportation that
42 does not comply with the provisions of this act shall be null, void, and without effect.

43 **SECTION 7.** If any provision of this act or its application is held invalid, the
44 invalidity does not affect other provisions or applications of this act that can be given effect
45 without the invalid provisions or applications, and to this end, the provisions of this act are
46 severable.

47 **SECTION 8.** Section 2 of this act, G.S. 153A-143(e), as amended by Section 3 of
48 this act, and G.S. 160A-199(e), as amended by Section 4 of this act, are effective when this act
49 becomes law and apply to determinations of just compensation on or after that date. The
50 remainder of Sections 3 and 4 of this act are effective when this act becomes law and apply to

1 outdoor advertising that has not been removed as of that date. The remainder of this act is
2 effective when it becomes law.