

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**HOUSE BILL 645
RATIFIED BILL**

AN ACT TO REVISE THE OUTDOOR ADVERTISING LAWS.

The General Assembly of North Carolina enacts:

SECTION 2. G.S. 136-128 reads as rewritten:

"§ 136-128. Definitions.

As used in this Article:

- (1) Area zoned commercial or industrial. – An area which is zoned for business, industry, commerce, or trade pursuant to a State law or local zoning ordinance or regulation, regardless of how labeled, where uses associated with business, industry, commerce, or trade are permitted. This term does not include "zoning designed primarily for the purpose of permitting outdoor advertising signs," as that term is defined in G.S. 136-133.5(e).
- (1a) Customary use. – Compliance with the specific outdoor advertising standards for size, lighting, and spacing in areas zoned commercial or industrial under authority of State law or in unzoned commercial or industrial areas, as the standards and areas are described and defined in the agreement dated January 7, 1972, as amended, and entered into between the State and the United States Department of Transportation under G.S. 136-138 to implement the provisions of the federal Highway Beautification Act of 1965.
- ~~(1)~~(1b) "Erect" means to Erect or erection. – To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. This term does not include the repair or reconstruction of outdoor advertising, as authorized under G.S. 136-131.2, or the relocation of an outdoor advertising sign as authorized under applicable State law.
- ~~(1a)~~(1c) "Illegal sign" means one Illegal sign. – A sign which was erected and/or maintained in violation of State law.
- ~~(1b)~~(1d) "Information center" means an Information center. – An area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Department of Transportation may consider desirable.
- (2) "Interstate system" means that Interstate system. – The portion of the National System of Interstate and Defense Highways located within the State, as officially designated, or as may hereafter be so designated, by the Department of Transportation, or other appropriate authorities and are also so designated by interstate numbers. As to highways under construction so designated as interstate highways pursuant to the above procedures, the highway shall be a part of the interstate system for the purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal authorities.
- (2a) Main-traveled way or traveled way. – Part of a highway on which through traffic is carried, exclusive of paved shoulders. In the case of a divided



highway, the traveled way of each of the separated roadways for traffic in opposite directions is a traveled way. It does not include frontage roads, turning roadways, or parking areas.

- ~~(2a)(2b)~~ "Nonconforming sign" shall mean a Nonconforming sign. – A sign which was lawfully erected but which does not comply with the provisions of State law customary use or State rules adopted and regulations passed by the Department of Transportation at a later date or which in accordance with this Article, or which, due to changed conditions, later fails to comply with State law customary use or State rules adopted or regulations due to changed conditions. Illegally erected or maintained passed by the Department of Transportation in accordance with this Article. Illegal signs are not nonconforming signs.
- (2c) On-premise or on-property sign. – A sign which advertises the sale or lease of property upon which it is located or which advertises an activity conducted or product for sale on the property upon which it is located. An on-premise sign may not be converted to a permitted outdoor advertising sign unless it meets all rules in effect at the time of the conversion request. An on-premise sign must be located on property contiguous to the property on which the activity is located. Tracts not considered to be contiguous include:
- a. Tracts of land separated by a federal, State, city, or public access maintained road.
 - b. Tracts of land not under common ownership.
 - c. Tracts of land held in different estates or interests.
- (3) ~~"Outdoor advertising" means any~~ Outdoor advertising. – Any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or any other thing which is designed, intended or used to advertise or inform, any part of the advertising or information contents of which is visible from any place on the main-traveled way of the interstate or primary system, whether the same be permanent or portable installation.
- (4) Primary system. – The federal-aid primary system in existence on June 1, 1991, and any highway which is not on that system but which is on the National Highway System. As to highways under construction so designated as primary highways pursuant to the above procedures, the highway shall be a part of the primary system for purposes of this Article on the date the location of the highway has been approved finally by the appropriate federal or State authorities.
- (5) ~~"Safety rest area" means an~~ Safety rest area. – An area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.
- (5a) Sign location or site. – The location or site of an outdoor advertising sign measured to the closest 1/100 of a mile, in conformance with the Department of Transportation methods of measurement for all State roads.
- (6) ~~"State law" means a~~ State law. – A State constitutional provision or statute, or an ordinance, rule or regulation enacted or adopted by a State agency or political subdivision of a State pursuant to a State Constitution or statute.
- (7) ~~"Unzoned area" shall mean an~~ Unzoned commercial or industrial area. – An area where there is no zoning in effect, effect that is within 660 feet of the nearest edge of the right-of-way of the interstate or primary system, in which there is at least one commercial or industrial activity that meets the criteria set forth in G.S. 136-130.1.

- (8) ~~"Urban area" shall mean an~~ Urban area. – An area within the boundaries or limits of any incorporated municipality having a population of five thousand or more as determined by the latest available federal census.
- (9) ~~"Visible" means capable~~ Visible. – Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity."

SECTION 3. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-130.1. Unzoned commercial or industrial area criteria for outdoor advertising signs.

(a) Criteria. – To qualify as an unzoned commercial or industrial area for purposes of this Article, one or more commercial or industrial activities shall meet all of the following criteria prior to submitting an outdoor advertising permit application to the Department of Transportation:

- (1) The activity shall maintain all necessary business licenses as may be required by applicable State law.
- (2) The property used for the activity shall be listed for ad valorem taxes with the county and municipal taxing authorities as required by law.
- (3) The activity shall have all basic utilities, including electricity, telephone, water, and sewer or septic service.
- (4) The activity shall have direct or indirect vehicular access and be a generator of vehicular traffic.
- (5) The activity shall have a building designed with a permanent foundation, built or modified for its current commercial or industrial use, and the building must be located within 660 feet from the nearest edge of the right-of-way of the controlled route. Where a mobile home unit or recreational vehicle is used as a business or office, the following conditions and requirements also apply:
 - a. The unit or vehicle shall meet the State Building Code criteria for commercial or business use.
 - b. All wheels, axles, and springs on the unit or vehicle shall be removed.
 - c. The unit or vehicle shall be permanently secured on piers, pad, or foundation.
 - d. The unit or vehicle shall be tied down in accordance with State or local requirements.
 - e. A self-propelled vehicle shall not qualify for use as a business or office under this subdivision.
- (6) The activity must be in active operation a minimum of six months prior to the date of submission of an application for an outdoor advertising permit.
- (7) The activity shall be open to the public during hours that are normal and customary for that type of activity in the same or similar communities, but for not less than 20 hours per week.
- (8) One or more employees shall be available to serve customers during the hours the activity is open to the public.
- (9) The activity shall be visible and recognizable as commercial or industrial from the main-traveled way. An activity is visible when that portion on which the permanent building designed, built, or modified for its current commercial use can be clearly seen 12 months a year by a person of normal visual acuity while traveling at the posted speed on the main-traveled way adjacent to the activity. An activity is recognizable as commercial or industrial when its visibility from the main-traveled way is sufficient for the activity to be identified as commercial or industrial.

(b) Guidelines. – When making a determination as to whether an activity meets the criteria set forth in subsection (a) of this section, both of the following guidelines shall apply:

- (1) Each side of the highway shall be considered separately.
- (2) All measurements shall begin from the outer edges of regularly used buildings, parking lots, storage, or processing areas of the commercial or industrial activity, not from the property line of the activity, and shall be along the nearest edge of the main-traveled way.

(c) Nonqualifying Activities. – The following are not considered activities for the purpose of qualifying an unzoned commercial or industrial area under this Article:

- (1) Outdoor advertising structures.
- (2) On-premise or on-property outdoor advertising signs, if the on-premise or on-property sign is the only part of the commercial or industrial activity that is visible from the main-traveled way.
- (3) Agricultural, forestry, ranching, grazing, farming, and related activities, including temporary wayside fresh produce stands.
- (4) Transient or temporary activities.
- (5) Activities not visible and recognizable as commercial or industrial from the traffic lanes of the main-traveled way.
- (6) Activities more than 660 feet from the nearest edge of the right-of-way.
- (7) Activities conducted in a building principally used as a residence.
- (8) Railroad tracks and minor sidings.
- (9) Any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity.
- (10) Illegal junkyards, as defined in G.S. 136-146, and nonconforming junkyards, as described in G.S. 136-147."

SECTION 4. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-131.3. Relocation of lawfully existing outdoor advertising sign.

(a) In order to minimize the amount of just compensation due, whenever property on which an outdoor advertising sign is located is acquired by a public or private condemnor, as defined in G.S. 40A-3, or the Department of Transportation, and the acquiring party requires removal of the sign, any lawfully erected outdoor advertising sign is permitted to be relocated and reconstructed within a two-mile radius from the existing sign location subject to all of the following requirements:

- (1) The new site for relocation is permitted to be any area within 660 feet of the nearest edge of the right-of-way of a highway on the National System of Interstate and Defense Highways or the federal aid primary highway system within the following, as applicable:
 - a. An area zoned commercial or industrial located within the same zoning jurisdiction.
 - b. The same unzoned city territorial limits or the same unzoned county territorial limits if the initial outdoor advertising sign was located in an unzoned area prior to the relocation.
 - c. Notwithstanding the remainder of this section, outdoor advertising shall not be relocated adjacent to any highway as provided in G.S. 136-129.2, except within the same sign location or site.
- (2) The new site for relocation shall not be within a historic district lawfully established by a city or county pursuant to Part 3C of Article 19 of Chapter 160A of the General Statutes, unless consented to by a resolution adopted by the applicable local governing board.
- (3) The construction work related to the relocation of the outdoor advertising sign shall commence within one year after the date of removal.

- (4) The reconstruction of any relocated outdoor advertising shall be in accordance with G.S. 136-131.2. In addition to other sign characteristic changes or alterations resulting from the relocation, the height of the sign may be increased not to exceed 50 feet measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility.
- (5) The express allowances of relocation and reconstruction in this section shall apply to any lawfully erected outdoor advertising sign anywhere within this State that is required to be removed as a result of action taken by a public or private condemnor, as defined in G.S. 40A-3, or the Department of Transportation, including such signs that are not subject to the jurisdiction of the Department of Transportation.

(b) Any outdoor advertising sign that does not otherwise qualify for relocation as provided in subsection (a) of this section and for which there is in effect a valid permit issued by the Department of Transportation pursuant to this Article is permitted to be relocated and reconstructed subject to all of the requirements listed in subdivisions (1) through (4) of subsection (a) of this section, except that the sign shall not be relocated a distance greater than 250 feet from the lot boundaries on which the sign was previously located. No sign shall be relocated pursuant to this subsection within 10 years from the date of the last relocation pursuant to this subsection; however, this temporal limitation does not apply to relocations on the same sign location or site.

(c) Any outdoor advertising sign that is lawfully erected but would not be conforming to customary use if relocated on the same sign location or site is permitted to be relocated on the same sign location or site, subject to the following requirements:

- (1) The structural members of the sign at the relocated site are of like material.
- (2) The size of the sign face or faces is not increased.
- (3) The height of the sign at the relocated site does not exceed 50 feet measured from the adjoining road grade or base of the sign, whichever allows for the greatest visibility, except that a sign may be 50 feet above the top of a sound wall or noise barrier constructed between the sign and the main-traveled way.
- (4) The relocation on the same sign location or site is not denied by the Federal Highway Administrator or such other federal official delegated the responsibility for enforcing the federal State agreement referenced in the definition of customary use in G.S. 136-128.

(d) A new site for relocation shall not be denied by the Department of Transportation due to the presence of vegetation obstructing the visibility of the outdoor advertising sign from the viewing zone. The owner or operator of the outdoor advertising sign shall be permitted to improve the visibility of the sign by removing any vegetation on private property upon receiving written consent of the landowner and on the right-of-way of the interstate and primary systems of the State pursuant to a selective vegetation removal permit issued under this Article. A city or county shall not enforce any ordinance or regulation in conflict with the rights set forth in this subsection or to otherwise cause the withholding of consent by the landowner.

(e) If any outdoor advertising is relocated pursuant to subsection (a) of this section, the Department of Transportation shall issue a new outdoor advertising permit to the owner of the outdoor advertising if the relocation complies with the requirements of subdivisions (1) through (4) of subsection (a) of this section and with the spacing standards set out by the Department of Transportation. If any outdoor advertising is relocated pursuant to subsections (b) or (c) of this section, or if the height of any outdoor advertising is raised as a result of a sound wall pursuant to subsection (f) of this section, a new outdoor advertising permit is not required; provided, however, the Department of Transportation may require an addendum to an existing permit be submitted by the owner of the outdoor advertising.

(f) The express allowances of relocation and reconstruction in this section shall apply whenever any lawfully erected outdoor advertising is affected by the construction of a sound

wall. In lieu of relocation, any lawfully erected outdoor advertising that is affected by the construction of a sound wall may raise the height of the sign not to exceed 50 feet above the top of the wall.

(g) In the event of a taking of an outdoor advertising location, the fact that the outdoor advertising is not relocated shall not prejudice the determination of compensation owed to the owner of the outdoor advertising as provided by North Carolina law."

SECTION 4.5. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-131.4. View corridors.

(a) All of the following shall apply to a relocation of outdoor advertising:

- (1) A sign not located within a view corridor prior to relocation shall not be relocated into a view corridor without the approval of the applicable municipality or county.
- (2) Signs previously located within a view corridor are permitted to be relocated within the same view corridor, subject to the requirements listed in subdivisions (1) through (4) of G.S. 136-131.3(a).
- (3) If a municipality or county has an established view corridor, a sign relocated under G.S. 136-131.3(a) is permitted to be relocated within a five-mile radius from the existing sign location, subject to all of the requirements listed in subdivisions (1) through (4) of G.S. 136-131.3(a).

(b) For purposes of this subsection, a "view corridor" shall mean any overlay district or equivalent area established prior to April 1, 2019, by a municipality or county which designates on a zoning map, or a similar map established by ordinance, specific thoroughfares or segments of thoroughfares within its territorial limits, in which the construction of newly permitted signage, including outdoor advertising, is exclusively prohibited."

SECTION 4.7. Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-131.5. Relocation within five miles of a military base.

(a) Notwithstanding G.S. 136-131.3, if any outdoor advertising sign is to be relocated to a site located five miles or less from the perimeter boundary of a military base, the owner of the outdoor advertising sign shall notify and consult the commander of the military base or the commander's designee, the Department, the county board of commissioners of the county in which the military base lies, and the city council of the city in which the military base lies, if any, of the proposed relocation of the outdoor advertising sign. Such notification shall include a detailed map and explanation of the proposed relocation and reconstruction.

(b) The commander of the military base or the commander's designee, the board of county commissioners, and the city council, if applicable, shall have 30 days from receipt of the notice to submit comments or analysis regarding the compatibility of the proposed relocation and reconstruction with military operations at the base to the Department. If the Department does not receive a response within 30 days of the notice, the military, board of commissioners, and city council, if applicable, are deemed to waive the comment period."

SECTION 6. G.S. 136-133.2 reads as rewritten:

"§ 136-133.2. Issuance or denial of a selective vegetation removal permit.

(a) Except as provided in subsection (b) of this section and G.S. 136-133.1(g), permits to remove vegetation may be granted for outdoor advertising locations that have been permitted for at least ~~two years~~ one year prior to the date of application. The Department shall approve or deny an application submitted pursuant to this section, including the fee required by G.S. 136-18.7 and all required documentation, within 30 days of the receipt of an application for a selective vegetation removal permit. If written notice of approval or denial is not given to the applicant within the 30-day period, then the application shall be deemed approved. If the application is denied, the Department shall advise the applicant, in writing, by registered or certified mail,

return receipt requested, addressed to the party to be noticed, and delivering to the addressee, the reasons for the denial.

(b) Notwithstanding the one-year period required in subsection (a) of this section, permits to remove vegetation may be granted for outdoor advertising locations, if the outdoor advertising has been relocated, as allowed by law, and the outdoor advertising otherwise complies with the requirements of this section and rules adopted by the Department in accordance with this section."

SECTION 7. G.S. 136-133.5(d) reads as rewritten:

"(d) ~~The~~ Except for relocations authorized under G.S. 136-131.3, the Department shall not issue permits for new outdoor advertising signs at a sign location where existing trees, if they were to reach the average mature size for that species, would make the proposed sign faces, when erected, not completely visible from the viewing zone. "Existing trees" are those trees that at the time of the permit application are four inches or greater in diameter as measured six inches from the ground. "Viewing zone" means the area which is 500 feet as measured along the edge of the main travel way of the controlled route on each side of the proposed sign structure which will have a sign face."

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and, to this end, the provisions of this act are severable.

SECTION 9. This act is effective when it becomes law. Section 4 of this act applies to outdoor advertising signs removed on or after July 1, 2019. Section 7 of this act applies to outdoor advertising signs relocated on or after the effective date.

In the General Assembly read three times and ratified this the 9th day of August, 2019.

s/ Carl Ford
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2019