

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 320

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

Sponsors: Senators Brown, Rabon, Tarte (Primary Sponsors); Hise and B. Jackson.

Referred to: Rules and Operations of the Senate.

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO INCREASE PERMIT FEES FOR OUTDOOR ADVERTISING, TO ESTABLISH A REASONABLE TIMEFRAME FOR MAKING AGENCY DECISIONS REGARDING PERMITS AND APPEALS, TO CLARIFY THE STANDARDS FOR DETERMINING JUST COMPENSATION IN STATE AND LOCAL GOVERNMENT EMINENT DOMAIN ACTIONS THAT CAUSE THE REMOVAL OF LAWFULLY ERECTED OUTDOOR ADVERTISING, TO CLARIFY PROVISIONS OF THE OUTDOOR ADVERTISING CONTROL ACT, AND TO PROMOTE UNIFORMITY OF REGULATION AND MODERNIZATION OF OUTDOOR ADVERTISING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18.7 reads as rewritten:

"§ 136-18.7. Fees.

The fee for a selective vegetation removal permit issued pursuant to G.S. 136-18(5), (7), and (9) is two hundred dollars (\$200.00). The fee for a selective vegetation permit issued pursuant to Article 11 of this Chapter for an outdoor advertising location is (i) six hundred dollars (\$600.00) for the initial three-year period listed in G.S. 136-133.4 and (ii) two hundred dollars (\$200.00) for any subsequent three-year renewal period."

SECTION 2. G.S. 136-127 reads as rewritten:

"§ 136-127. Declaration of policy.

The General Assembly hereby finds and declares that outdoor advertising is a legitimate commercial use of private property adjacent to roads and ~~highways~~ highways. The General Assembly also finds that outdoor advertising is an integral part of the business and marketing function and is an established segment of the national economy that serves to promote and protect investments in commerce and industry and is, therefore, a business that must be allowed to exist and operate where other business and commercial activities are conducted and that a reasonable use of property for outdoor advertising and its visibility to the traveling public must be preserved and fostered. The General Assembly further finds that the erection and maintenance of outdoor advertising signs and devices in areas in the vicinity of the right-of-way of the interstate and primary highway systems within the State should be controlled and regulated as provided in this Article in order to promote the safety, health, welfare and convenience and enjoyment of travel on and protection of the public investment in highways within the State, to prevent unreasonable distraction of operators of motor vehicles and to prevent interference with the effectiveness of traffic regulations and to promote safety on the highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the State, and to preserve and enhance the natural scenic beauty of the highways and



1 areas in the vicinity of the State highways and to promote the reasonable, orderly and effective
2 display of such signs, displays and devices, and to secure the right of validly permitted outdoor
3 advertising to be clearly viewed by the traveling public. It is the intention of the General
4 Assembly to provide and declare herein a public policy and statutory basis for the
5 establishment of a uniform system for the regulation and control of outdoor
6 ~~advertising-advertising~~ throughout the State."

7 **SECTION 3.** G.S. 136-128 reads as rewritten:

8 "**§ 136-128. Definitions.**

9 As used in this Article:

- 10 (1) Customary use. – Compliance with the specific outdoor advertising
11 standards for size, lighting, and spacing in areas zoned industrial or
12 commercial under authority of State law or in unzoned industrial or
13 commercial areas, as the standards and areas are described and defined in the
14 agreement dated January 7, 1972, as amended, and entered into between the
15 State and the United States Department of Transportation under
16 G.S. 136-138 to implement the provisions of the federal Highway
17 Beautification Act of 1965.
- 18 (2) Changeable message sign. – An off-premises advertising sign that displays a
19 series of messages at intervals by means of digital display or mechanical
20 rotating panels.
- 21 (3) ~~"Erect" means to~~Erect. – To construct, build, raise, assemble, place, affix,
22 attach, create, paint, draw, or in any other way bring into being or establish.
23 This term does not include the repair, maintenance, alteration, relocation, or
24 reconstruction of any outdoor advertising, as authorized under
25 G.S. 136-131.2.
- 26 (1a)(4) ~~"Illegal sign" means one~~Illegal sign. – One which was erected and/or
27 maintained in violation of State law.
- 28 (1b)(5) ~~"Information center" means an~~Information center. – An area or site
29 established and maintained at safety rest areas for the purpose of informing
30 the public of places of interest within the State and providing such other
31 information as the Department of Transportation may consider desirable.
- 32 (2)(6) ~~"Interstate system" means that~~Interstate system. – That portion of the
33 National System of Interstate and Defense Highways located within the
34 State, as officially designated, or as may hereafter be so designated, by the
35 Department of Transportation, or other appropriate authorities and are also
36 so designated by interstate numbers. As to highways under construction so
37 designated as interstate highways pursuant to the above procedures, the
38 highway shall be a part of the interstate system for the purposes of this
39 Article on the date the location of the highway has been approved finally by
40 the appropriate federal authorities.
- 41 (2a)(7) ~~"Nonconforming sign" shall mean a~~Nonconforming sign. – A sign which
42 was lawfully erected but (i) which does not comply with the provisions of
43 ~~State law~~this Article or ~~State~~Department of Transportation rules and
44 regulations passed at a later date or (ii) which later fails to comply with ~~State~~
45 ~~law~~the provisions of this Article or ~~State~~Department of Transportation rules
46 or regulations due to changed conditions. ~~Illegally erected or~~
47 ~~maintained~~Illegal signs are not nonconforming signs.
- 48 (3)(8) ~~"Outdoor advertising" means any~~Outdoor advertising. – Any outdoor sign,
49 display, light, device, figure, painting, drawing, message, plaque, poster,
50 billboard, or any other thing which is designed, intended or used to advertise
51 or inform, any part of the advertising or information contents of which is

1 visible from any place on the main-traveled way of the interstate or primary
2 system, whether the same be permanent or portable installation.

3 ~~(4)(9) "Primary systems" means the~~Primary systems. – The federal-aid primary
4 system in existence on June 1, 1991, and any highway which is not on that
5 system but which is on the National Highway System. As to highways under
6 construction so designated as primary highways pursuant to the above
7 procedures, the highway shall be a part of the primary system for purposes
8 of this Article on the date the location of the highway has been approved
9 finally by the appropriate federal or State authorities.

10 ~~(5)(10) "Safety rest area" means an~~Safety rest area. – An area or site established and
11 maintained within or adjacent to the highway right-of-way by or under
12 public supervision or control, for the convenience of the traveling public.

13 (11) Sign face. – The part of the sign, including trim and background, which
14 contains the message or informative content. For purposes of measuring the
15 maximum area or height of a sign under this Article, embellishments or
16 extended advertising shall be excluded.

17 ~~(6)(12) "State law" means a~~State law. – A State constitutional provision or statute,
18 or ~~an ordinance,~~a rule or regulation enacted or adopted by a State agency or
19 ~~political subdivision of a State~~pursuant to a State Constitution or statute.

20 ~~(7)(13) "Unzoned area" shall mean an~~Unzoned area. – An area where there is no
21 zoning in effect.

22 ~~(8)(14) "Urban area" shall mean an~~Urban area. – An area within the boundaries or
23 limits of any incorporated municipality having a population of five thousand
24 or more as determined by the latest available federal census.

25 ~~(9)(15) "Visible" means capable~~Visible. – Capable of being seen (whether or not
26 legible) without visual aid by a person of normal visual acuity."

27 **SECTION 4.** G.S. 136-129 reads as rewritten:

28 **"§ 136-129. Limitations of outdoor advertising devices.**

29 No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of
30 the right-of-way of the interstate or primary highway systems in this State so as to be visible
31 from the main-traveled way thereof after the effective date of this Article as determined by
32 G.S. 136-140, except the following:

33 ...

34 (4) Outdoor advertising, in conformity with customary use and the rules and
35 regulations promulgated by the Department of ~~Transportation,~~Transportation
36 pursuant to G.S. 136-130, located in areas which are zoned industrial or
37 commercial by the State, or a political subdivision of the State, under
38 authority of State law.

39 (5) Outdoor advertising, in conformity with customary use and the rules and
40 regulations promulgated by the Department of ~~Transportation,~~Transportation
41 pursuant to G.S. 136-130, located in unzoned commercial or industrial
42 areas."

43 **SECTION 5.** G.S. 136-129.2 is amended by adding a new subsection to read:

44 "(d) Nothing in this Article shall be construed to alter or supersede the requirements and
45 limitations set forth in Article 10 of Chapter 113A of the General Statutes."

46 **SECTION 6.** G.S. 136-130 reads as rewritten:

47 **"§ 136-130. Regulation of advertising.**

48 (a) The Department of Transportation is authorized to promulgate rules and regulations
49 in the form of ordinances ~~governing~~governing any of the following:

50 (1) The erection and maintenance of outdoor advertising permitted in
51 ~~G.S. 136-129,~~G.S. 136-129.

- 1 (2) The erection and maintenance of outdoor advertising permitted in
 2 ~~G.S. 136-129.1~~, G.S. 136-129.1.
 3 (2a) The erection and maintenance of outdoor advertising permitted in
 4 ~~G.S. 136-129.2~~, G.S. 136-129.2.
 5 (3) The specific requirements and procedures for obtaining a permit for outdoor
 6 advertising as required in ~~G.S. 136-133~~ this Article and for the administrative
 7 procedures for appealing a decision at the agency level to refuse to grant or
 8 in revoking a permit previously ~~issued~~, and issued.
 9 (4) The administrative procedures for appealing a decision at the agency level to
 10 declare any outdoor advertising illegal and a nuisance as pursuant to
 11 G.S. 136-134, as may be necessary to carry out the policy of the State
 12 declared in this Article.

13 (b) Notwithstanding any law to the contrary, the Department of Transportation shall not
 14 deny or revoke any of the following on the basis that the outdoor advertising fails to conform to
 15 ordinances, rules, or regulations of a municipality, county, local or regional zoning authority, or
 16 other political subdivision of the State:

- 17 (1) Any permit required under this Article for the maintenance of existing
 18 outdoor advertising that is subject to the provisions of this Article as a result
 19 of the extension of the interstate system or the primary systems.
 20 (2) Any other permit required under this Article, except that the Department of
 21 Transportation may (i) deny or revoke any other permit required under this
 22 Article for the outdoor advertising sign's failure to be erected after the
 23 effective date of this Article, as determined by G.S. 136-140, in an area
 24 zoned at the time of erection industrial or commercial as required by
 25 G.S. 136-129(4) or (ii) deny any permit required under this Article for the
 26 erection of outdoor advertising for the outdoor advertising sign's failure to
 27 comply at the time of being erected with regulations adopted and enforced
 28 by a municipality, county, local or regional zoning authority, or other
 29 political subdivision of the State, that are consistent with G.S. 136-131.2(b)."

30 **SECTION 7.** G.S. 136-131 reads as rewritten:

31 **"§ 136-131. Removal of existing ~~nonconforming~~ outdoor advertising.**

32 (a) The Department of Transportation is authorized to acquire by purchase, gift, or
 33 condemnation all outdoor advertising and all property rights pertaining ~~thereto which are~~
 34 ~~prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2; thereto,~~ provided such
 35 outdoor advertising is in lawful existence on the effective date of this Article as determined by
 36 G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as
 37 determined by G.S. 136-140. Notwithstanding any law to the contrary, this section shall apply
 38 to all acquisitions, purchases, or condemnations by the Department of Transportation that cause
 39 the removal of any lawfully erected outdoor advertising or any lawfully erected outdoor
 40 advertising sign, regardless of the outdoor advertising sign's location and proximity to the
 41 interstates or primary systems.

42 In any acquisition, purchase or condemnation, just compensation to the owner of the
 43 outdoor advertising, where the owner of the outdoor advertising does not own the fee, shall be
 44 limited to the fair market value at the time of the taking of the outdoor advertising owner's
 45 interest in the real property on which the outdoor advertising is located and such value shall
 46 include the value of the outdoor advertising.

47 In any acquisition, purchase or condemnation, just compensation to the owner of the fee or
 48 other interest in the real property upon which the outdoor advertising is located where said
 49 owner does not own the outdoor advertising located thereon shall be limited to the difference in
 50 the fair market value of the entire tract immediately before and immediately after the taking by
 51 the Department of Transportation of the right to maintain such outdoor advertising thereon and

1 in arriving at the fair market value after the taking, any special or general benefits accruing to
2 the property by reason of the acquisition shall be taken into consideration.

3 In any acquisition, purchase or condemnation, just compensation to the owner of the fee in
4 the real property upon which the outdoor advertising is located, where said owner also owns the
5 outdoor advertising located thereon, shall be limited to the fair market value of the outdoor
6 advertising plus the difference in the fair market value of the entire tract immediately before
7 and immediately after the taking by the Department of Transportation of the right to maintain
8 such outdoor advertising thereon and in arriving at the fair market value after the taking, any
9 special or general benefits accruing to the property by reason of the acquisition shall be taken
10 into consideration.

11 The following factors shall be used in determining just compensation for outdoor
12 advertising:

- 13 (1) The sales price of similar outdoor advertising.
- 14 (2) The physical condition of the outdoor advertising sign.
- 15 (3) The income generated by the rental of advertising space on the outdoor
16 advertising sign.
- 17 (4) The effects of zoning or other land use restrictions.
- 18 (5) The value of the outdoor advertising permit issued by an appropriate
19 governing body.
- 20 (6) The ability to relocate outdoor advertising as provided in G.S. 136-131.2(c)
21 to a site reasonably comparable to or better than the condemned location,
22 taking into account the similarity of advantages arising from lease terms,
23 visibility, traffic flow, and other criteria that affect the value of outdoor
24 advertising. The factor in this subdivision shall not be considered if the
25 zoning jurisdiction allows for numerical increases in outdoor advertising
26 signs.
- 27 (7) Any other factor that may affect the value of the property rights affected by
28 the condemnation.

29 (b) Prior to any condemnation by the Department of Transportation under this section,
30 the Department of Transportation shall undertake the project necessitating the condemnation in
31 accordance with G.S. 133-11 to minimize adverse impacts to the displaced outdoor advertiser
32 and reduce the costs of acquiring the outdoor advertising and all property rights thereto,
33 including allowing the outdoor advertising to remain until actual construction or other work is
34 commenced on the project and within 100 feet of the outdoor advertising."

35 **SECTION 8.** G.S. 136-131.2 reads as rewritten:

36 **"§ 136-131.2. Modernization of outdoor advertising devices.**

37 (a) Notwithstanding any law to the contrary, no municipality, county, local or
38 regional zoning authority, or other political subdivision shall, without the payment of just
39 compensation as provided for in G.S. 136-131.1, regulate or prohibit the ~~repair~~repair,
40 maintenance, alteration, relocation, or reconstruction of any outdoor advertising for which there
41 is in effect a valid permit issued by the Department of Transportation at the time of the repair,
42 maintenance, alteration, relocation, or reconstruction so long as for multi-faced signs
43 conforming to customary use, the cumulative square footage of ~~its~~the advertising surface area is
44 not increased. As used in this section, reconstruction includes the changing of an existing
45 multipole outdoor advertising structure to a new monopole structure. ~~increased and no sign face~~
46 exceeds 672 square feet. One additional sign face may be added to a single-face sign
47 conforming to customary use so long as the additional face does not exceed the size of the
48 existing sign face. As used in this section, "repair, maintenance, alteration, relocation, or
49 reconstruction" includes the following:

- 50 (1) The changing of an existing multi-pole outdoor advertising structure to a
51 new monopole structure.

1 (2) The changing of wooden poles to steel poles.

2 (3) The increase in the height of the sign, not to exceed 80 feet measured from
3 the adjoining road grade or base of the sign, whichever allows for the
4 greatest visibility, except that a sign may be 50 feet above the top of a sound
5 wall or noise barrier constructed between the sign and the main-traveled
6 way.

7 (4) The changing of an outdoor advertising sign to a changeable message sign
8 under subsection (e) of this section.

9 (b) Nothing in this section shall prohibit a municipality, county, local or regional zoning
10 authority, or other political subdivision, from using its zoning authority to regulate (i) the initial
11 erection of an outdoor advertising sign that has not been relocated pursuant to subsection (c) of
12 this section or (ii) outdoor advertising in which a permit issued by the Department of
13 Transportation pursuant to this Article has been voluntarily cancelled or lawfully revoked and
14 any appeals under G.S. 136-134.1 have been exhausted. No decision of an administrative
15 official charged with enforcement of a local ordinance, rule, or regulation shall be effective
16 against an owner or operator of outdoor advertising for any activity authorized by this section,
17 and no appeal under G.S.153A-345.1 or G.S. 160A-388 shall be required to protect the outdoor
18 advertiser's rights under this section.

19 (c) Any outdoor advertising adjacent to a highway on the National System of Interstate
20 and Defense Highways or a highway on the Federal-aid Primary Highway System for which
21 there is in effect a valid permit issued by the Department of Transportation pursuant to this
22 Article shall be permitted to be relocated subject to all of the requirements listed in
23 subdivisions (1) through (3) of this subsection. The right provided under this subsection to
24 relocate outdoor advertising may be assigned or conveyed by the permittee.

25 (1) The new site for relocation shall be any area within the same zoning
26 jurisdiction adjacent to a highway on the National System of Interstate and
27 Defense Highways or a highway on the Federal-aid Primary Highway
28 System.

29 (2) The outdoor advertising sign at the relocated site shall conform with
30 customary use in areas zoned industrial or commercial under authority of
31 State law, subject to the advertising space and height limitations set in
32 subsection (a) of this section.

33 (3) The construction work related to the relocation of the outdoor advertising
34 sign at the new location shall commence within one year after the later of the
35 date of removal or the effective date of this Article.

36 (d) A new site for relocation shall not be denied by the Department of Transportation
37 due to the presence of vegetation obstructing the visibility of the outdoor advertising from the
38 viewing zone. Notwithstanding any law to the contrary, the owner or operator of the outdoor
39 advertising sign shall be permitted to improve the visibility of the sign by removing any
40 vegetation (i) on private property upon receiving written consent of the landowner and (ii) on
41 the right-of-way of the interstate or primary highway systems in this State pursuant to a
42 selective vegetation removal permit issued under this Article.

43 (e) Any outdoor advertising adjacent to a highway on the National System of Interstate
44 and Defense Highways or a highway on the Federal-aid Primary Highway System for which
45 there is in effect a valid permit issued by the Department of Transportation, including any sign
46 relocated pursuant to subsection (c) of this section, shall be permitted to be altered or
47 reconstructed to a changeable message sign, subject to all of the following requirements:

48 (1) The sign is conforming to customary use. A changeable message sign that
49 complies with the requirements set forth in this subsection shall not be
50 considered flashing, intermittent, or moving and shall otherwise satisfy the
51 lighting restrictions set forth in the agreement entered into pursuant to

1 G.S. 136-138 between the State and the United States Department of
2 Transportation to implement the provisions of the federal Highway
3 Beautification Act of 1965.

4 (2) The changeable message sign shall not alternate displays more frequently
5 than once every eight seconds, with a maximum change time of two seconds.

6 (3) The changeable message sign shall not display video, continuous scrolling
7 messages, or animation.

8 (4) The changeable message sign shall contain a default design that either
9 freezes the message display in one position, displays a full blank screen, or
10 turns off if a malfunction occurs.

11 (5) The light produced does not exceed 0.3 footcandles over ambient light levels
12 as measured at a distance of:

13 a. 150 feet, if the display surface is 12 feet by 25 feet;

14 b. 200 feet, if the display surface is 10.5 feet by 36 feet; or

15 c. 250 feet, if the display surface is 14 feet by 48 feet.

16 (6) The changeable message sign structure shall be a steel monopole.

17 (7) The changeable message sign shall not be located within 1,000 feet of any
18 other changeable message sign permitted by the Department of
19 Transportation that is facing to the same direction of traffic on the same side
20 of the highway. The 1,000-foot distance shall be measured along the nearest
21 edge of the main-traveled way and between points directly opposite the
22 applicable signs along each side of the highway.

23 (f) The Department of Transportation may adopt or enforce rules that restrict the rights
24 set forth in this section for outdoor advertising that (i) does not conform to customary use and
25 (ii) the failure to conform to customary use cannot be eliminated through any repair,
26 maintenance, alteration, relocation, or reconstruction authorized under this section.

27 (g) The Department of Transportation shall not require additional permits, nor revoke
28 any existing permits, for any action taken pursuant to this section. The Department of
29 Transportation may require within 30 days of the completion of any action taken pursuant to
30 this section an addendum to an existing permit showing or describing the changes to the
31 conditions of the outdoor advertising sign. The rights set forth in this section shall attach to a
32 permit issued by the Department of Transportation and shall expire with the voluntary
33 cancellation of such permit or after the permit has been lawfully revoked and any appeals
34 pursuant to G.S. 136-134.1 have been exhausted."

35 **SECTION 9.** G.S. 136-133 reads as rewritten:

36 **"§ 136-133. Permits required.**

37 (a) No person shall erect or maintain any outdoor advertising within 660 feet of the
38 nearest edge of the right-of-way of the interstate or primary highway system, except those
39 allowed under G.S. 136-129, subdivisions (2) and (3) in this Article, or beyond 660 feet of the
40 nearest edge of the right-of-way of the interstate or primary highway system, except those
41 allowed under G.S. 136-129.1, subdivisions (2) and (3), without first obtaining a permit from
42 the Department of Transportation or its agents pursuant to the procedures set out by rules
43 adopted by the Department of Transportation. The permit shall be valid until revoked for
44 nonconformance with this Article or rules adopted by the Department of Transportation. Any
45 person aggrieved by the decision of the Department of Transportation or its agents in refusing
46 to grant or in revoking a permit may appeal the decision in accordance with the rules adopted
47 by the Department of Transportation pursuant to this Article to the Secretary of Transportation
48 who shall make the final decision ~~on the agency appeal to~~ affirm or reject the appeal within 90
49 days after the Secretary receives the agency appeal. Failure to provide written notice to the
50 aggrieved party of the Secretary's decision to affirm or reject the agency appeal within the
51 90-day period shall result in the appeal being affirmed, entitling the aggrieved party to issuance

1 of the outdoor advertising permit or reversal of the Department of Transportation's decision to
2 revoke. The Department of Transportation shall have the authority to charge permit fees to
3 defray the costs of administering the permit procedures under this Article. The fees for
4 directional signs as set forth in G.S. 136-129(1) and G.S. 136-129.1(1) shall not exceed a forty
5 dollar (\$40.00) initial fee and a thirty dollar (\$30.00) annual renewal fee. The fees for outdoor
6 advertising structures, as set forth in G.S. 136-129(4) and (5) shall not exceed a ~~one hundred~~
7 ~~twenty dollar (\$120.00)~~ two hundred forty dollar (\$240.00) initial fee and fee, a sixty dollar
8 ~~(\$60.00)~~ seventy-five dollar (\$75.00) annual renewal fee. fee, and a two hundred forty dollar
9 (\$240.00) fee for an addendum to an existing outdoor advertising permit for (i) relocating
10 outdoor advertising beyond the existing lot or parcel that the outdoor advertising was located
11 on or (ii) altering or reconstructing to a changeable message sign, in accordance with
12 G.S. 136-131.2.

13 ...

14 (c) No electrical or building permit shall be denied to an outdoor advertising sign
15 described in G.S. 136-129(4) and G.S. 136-129(5) for which the Department has issued a
16 permit which has not been revoked, and the electrical or building permit is otherwise compliant
17 with technical utility or building code standards."

18 **SECTION 10.** G.S. 136-133.1 reads as rewritten:

19 **"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

20 (a) The owner of an outdoor advertising sign permitted under
21 ~~G.S. 136-129(a)(4)~~ G.S. 136-129(4) or ~~G.S. 136-129(a)(5)~~ G.S. 136-129(5) who obtains a
22 selective vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove
23 vegetation in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The
24 maximum cut or removal zone for vegetation for each sign face shall be determined as follows:

25 ...

26 (a1) Notwithstanding any law to the contrary, in order to promote the outdoor
27 advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of
28 Transportation, at the request of a selective vegetation removal permittee, may approve plans
29 for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone
30 defined in subsection (a) of this section along ~~acceleration or deceleration ramps~~ or within
31 gores, medians, or other areas of the primary highway system so long as the view to the
32 outdoor advertising sign will be improved and the ~~total aggregate area of cutting or removal~~
33 ~~does not exceed the maximum allowed in subsection (a) of this section.~~ safety of the traveling
34 public is protected.

35 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
36 tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree
37 that was in existence at the time that an outdoor advertising structure was erected shall only be
38 eligible for removal in accordance with subsections (c), (d), and (e) of this section. ~~Native~~ To
39 the extent possible, Native dogwoods and native redbuds shall be ~~preserved.~~ preserved. A
40 selective vegetation removal permittee may relocate, and replace if necessary, any native
41 dogwoods or native rosebuds existing within the cut or removal zone established in subsection
42 (a) of this section to a location within 500 feet on either side of the outdoor advertising
43 structure, as measured along the edge of the pavement of the main travel way of the nearest
44 controlled route. If a native dogwood or native rosebud cannot be preserved during relocation, a
45 selective vegetation removal permittee shall replace the native dogwood or native rosebud with
46 native dogwoods or native rosebuds of the same cumulative caliper inches. For the purposes of
47 this section, an existing tree is defined as a tree that had a diameter of four inches or greater as
48 measured six inches from the ground at the time that the outdoor advertising structure was
49 erected. An outdoor advertising sign is considered erected when the sign is completely
50 constructed with a sign face.

51"

1 **SECTION 11.** G.S. 136-133.2 reads as rewritten:

2 "**§ 136-133.2. Issuance or denial of a selective vegetation removal permit.**

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

13 (b) Notwithstanding the two-year period required in subsection (a) of this section,
14 permits to remove vegetation may be granted for outdoor advertising locations (i) where
15 outdoor advertising has been relocated pursuant to G.S. 136-131.2 and (ii) that otherwise
16 comply with the requirements of this section and rules adopted by the Department in
17 accordance with this section."

18 **SECTION 12.** G.S. 136-133.4 reads as rewritten:

19 "**§ 136-133.4. Selective vegetation removal permits.**

20 ...

21 (b) Permits are valid for a period of ~~one year~~three years. The permittee may cut, thin,
22 prune, or remove vegetation more than one time per year. A 48-hour notification shall be
23 provided to the Department by the permittee before entering the right-of-way.

24 ...

25 (d) Any damage to vegetation designated to remain at the site, to highway fences, signs,
26 paved areas, or other facilities shall be repaired or replaced by the permittee to the condition
27 prior to the occurrence of the damage caused by the permittee or the permittee's agent. ~~All~~
28 ~~trimmings, laps, and debris~~Except for authorized chips or when the Department and the
29 permittee or the permittee's agent agree in writing to the contrary, all cut vegetation shall be
30 removed from the right-of-way and disposed of in areas provided by the permittee
31 prior to the conclusion of the selective vegetation removal project described in the permit
32 issued by the Department. No burning or burying of trimmings, laps, or debriscut vegetation
33 shall be permitted on the highway right-of-way. When chipping is used to dispose of
34 trimmings, cut vegetation, chips may be neatly spread on a right-of-way at locations which the
35 Department determines will not be harmful to the environment or affect traffic safety.

36 "

37 **SECTION 13.** G.S. 136-133.5 reads as rewritten:

38 "**§ 136-133.5. Denial of a permit for proposed outdoor advertising.**

39 ...

40 (d) ~~The~~Except for relocations authorized under G.S. 136-131.2, the Department shall
41 not issue permits for new outdoor advertising signs at a sign location where existing trees, if
42 they were to reach the average mature size for that species, would make the proposed sign
43 faces, when erected, not completely visible from the viewing zone. "Existing trees" are those
44 trees that at the time of the permit application are four inches or greater in diameter as
45 measured six inches from the ground. "Viewing zone" means the area which is 500 feet as
46 measured along the edge of the main travel way of the controlled route on each side of the
47 proposed sign structure which will have a sign face.

48 (e) An outdoor advertising permit requested pursuant to
49 ~~G.S. 136-129(a)(4)~~G.S. 136-129(4) shall not be issued to a location if the zoning to commercial
50 or industrial zones was adopted within one year prior to the filing of the permit application and
51 is not part of comprehensive zoning or constitutes spot zoning, which, for purposes of this

1 subsection, shall be defined as zoning designed primarily for the purpose of permitting outdoor
2 advertising signs and in an area which would not normally permit outdoor advertising. Zoning
3 shall not be considered "primarily for the purpose of permitting outdoor advertising signs" if
4 the zoning would permit more than one principal commercial or industrial use, other than
5 outdoor advertising, and the size of the land being zoned can practically support any one of the
6 commercial or industrial uses.

7 ...

8 (h) The Department shall approve or deny an application for a permit for a new outdoor
9 advertising sign within 30 days of the receipt of an application, including any fee required by
10 G.S. 136-133 and any other required documentation. Failure to provide written notice to the
11 applicant of the Department's decision to approve or deny the application within the 30-day
12 period shall result in the appeal being affirmed, entitling the applicant to issuance of the permit
13 for a new outdoor advertising structure."

14 **SECTION 14.** G.S. 136-138 reads as rewritten:

15 **"§ 136-138. Agreements with United States authorized.**

16 The Department of Transportation is authorized to enter into agreements with ~~other~~
17 ~~governmental authorities~~ the United States government, or any department or agency thereof,
18 relating to the control of outdoor advertising in areas adjacent to the interstate and primary
19 highway systems, including the establishment of information centers and safety rest areas, and
20 to take action in the name of the State to comply with the terms of the agreements. Any
21 changes to the agreement dated January 7, 1972, and entered into between the State and the
22 United States Department of Transportation to implement the provisions of the federal
23 Highway Beautification Act of 1965 shall require the approval of the General Assembly in
24 order to be effective. Notwithstanding any law to the contrary, the Department shall not enter
25 into any agreement or otherwise transfer or delegate the Department's regulatory authority set
26 forth in this Article to any other governmental authority."

27 **SECTION 15.** Article 11 of Chapter 136 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 136-140.2. Public notification plan.**

30 (a) The Department of Transportation shall work together with owners of changeable
31 message signs, the North Carolina Division of Emergency Management, the Department of
32 Public Safety, the Secretary of State, the State Highway Patrol, the North Carolina Center for
33 Missing Persons, the Federal Emergency Management Agency, and any other federal, State, or
34 local agencies the Department of Transportation determines may be of assistance, to develop a
35 public notification plan for the purpose of using changeable message signs to display
36 notifications to the traveling public related to public safety and emergencies. Public
37 notifications include information about Silver Alerts, Amber Alerts, inclement weather, natural
38 disasters, and other emergencies.

39 (b) The public notification plan established under subsection (a) of this section shall be
40 in writing and shall, at a minimum, address all of the following:

41 (1) The criteria to be applied in determining when it is appropriate to request
42 that an owner of a changeable message sign display a public notification.

43 (2) The procedures used to determine the expiration of a notification and to
44 recall the request once the information is no longer needed."

45 **SECTION 16.** G.S. 153A-143 reads as rewritten:

46 **"§ 153A-143. Regulation of outdoor advertising.**

47 ...

48 (d) No county may ~~enact or amend an ordinance of general applicability to cause or~~
49 require the removal of any nonconforming, lawfully erected off-premises outdoor advertising
50 sign without the payment of monetary compensation to the owners of the off-premises outdoor

1 advertising, except as provided below. The payment of monetary compensation is not required
2 if:

- 3 (1) The county and the owner of the nonconforming off-premises outdoor
4 advertising enter into a relocation agreement pursuant to subsection (g) of
5 this section.
6 (2) The county and the owner of the nonconforming off-premises outdoor
7 advertising enter into an agreement pursuant to subsection (k) of this section.
8 (3) The off-premises outdoor advertising is determined to be a public nuisance
9 or detrimental to the health or safety of the populace.
10 (4) The removal is required for establishing, extending, enlarging, or improving
11 any of the public enterprises listed in G.S. 153A-274, and the county allows
12 the off-premises outdoor advertising to be relocated to a comparable
13 location.
14 (5) The off-premises outdoor advertising is subject to removal pursuant to
15 statutes, ordinances or regulations generally applicable to the demolition or
16 removal of damaged structures.

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

22 (e) Monetary compensation is the fair market value of the off-premises outdoor
23 advertising in place immediately prior to its ~~removal~~removal, including consideration of the
24 value of (i) the outdoor advertising owner's interest in the real property on which the outdoor
25 advertising is located, (ii) the outdoor advertising sign structure, and (iii) any rights, including
26 permits, appurtenant to the outdoor advertising use, and without consideration of the effect of
27 the ordinance or any diminution in value caused by the ordinance requiring its removal.
28 Monetary compensation shall be determined ~~based on:~~

- 29 ~~(1) The factors listed in G.S. 105-317.1(a); and~~
30 ~~(2) The listed property tax value of the property and any documents regarding~~
31 ~~value submitted to the taxing authority in accordance with G.S. 136-131.~~

32 (f) If the parties are unable to reach an agreement on monetary compensation to be paid
33 by the county to the owner of the nonconforming off-premises outdoor advertising sign for its
34 removal, and the county elects to proceed with the removal, the county may bring an action in
35 superior court for a determination of the monetary compensation to be paid. In determining
36 monetary compensation, the court shall consider the factors set forth in subsection (e) of this
37 section. Upon payment of monetary compensation for the sign, the county shall own the sign.

38 ...

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

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

49"

50 **SECTION 17.** G.S. 160A-199 reads as rewritten:

51 **"§ 160A-199. Regulation of outdoor advertising.**

1 ...
2 (d) No city may ~~enact or amend an ordinance of general applicability to~~ cause or require
3 the removal of any nonconforming, lawfully erected off-premises outdoor advertising sign
4 without the payment of monetary compensation to the owners of the off-premises outdoor
5 advertising, except as provided below. The payment of monetary compensation is not required
6 if:

- 7 (1) The city and the owner of the nonconforming off-premises outdoor
8 advertising enter into a relocation agreement pursuant to subsection (g) of
9 this section.
- 10 (2) The city and the owner of the nonconforming off-premises outdoor
11 advertising enter into an agreement pursuant to subsection (k) of this section.
- 12 (3) The off-premises outdoor advertising is determined to be a public nuisance
13 or detrimental to the health or safety of the populace.
- 14 (4) The removal is required for opening, widening, extending or improving
15 streets or sidewalks, or for establishing, extending, enlarging, or improving
16 any of the public enterprises listed in G.S. 160A-311, and the city allows the
17 off-premises outdoor advertising to be relocated to a comparable location.
- 18 (5) The off-premises outdoor advertising is subject to removal pursuant to
19 statutes, ordinances, or regulations generally applicable to the demolition or
20 removal of damaged structures.

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

26 (e) Monetary compensation is the fair market value of the off-premises outdoor
27 advertising in place immediately prior to its ~~removal~~removal, including consideration of the
28 value of (i) the outdoor advertising owner's interest in the real property on which the outdoor
29 advertising is located, (ii) the outdoor advertising sign structure, and (iii) any rights, including
30 permits, appurtenant to the outdoor advertising use, and without consideration of the effect of
31 the ordinance or any diminution in value caused by the ordinance requiring its removal.
32 Monetary compensation shall be determined based on:

- 33 (1) ~~The factors listed in G.S. 105-317.1(a); and~~
- 34 (2) ~~The listed property tax value of the property and any documents regarding~~
35 ~~value submitted to the taxing authority in accordance with G.S. 136-131.~~

36 ...
37 ~~(m) This section does not apply to any ordinance in effect on the effective date of this~~
38 ~~section. A city may amend an ordinance in effect on the effective date of this section to extend~~
39 ~~application of the ordinance to off-premises outdoor advertising located in territory acquired by~~
40 ~~annexation or located in the extraterritorial jurisdiction of the city. A city may repeal or amend~~
41 ~~an ordinance in effect on the effective date of this section so long as the amendment to the~~
42 ~~existing ordinance does not reduce the period of amortization in effect on the effective date of~~
43 ~~this section.~~

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

50 "

1 **SECTION 18.** Notwithstanding any provision of Article 2A of Chapter 150B of
2 the General Statutes, no later than 12 months after the effective date of this act, the Department
3 of Transportation shall adopt rules to implement the provisions of this act. The Department of
4 Transportation shall use the following procedure to adopt rules to implement the provisions of
5 this act:

- 6 (1) At least 15 business days prior to adopting a rule, submit the rule and a
7 notice of public hearing to the Codifier of Rules. The Codifier of Rules shall
8 publish the proposed rule and the notice of public hearing on the Internet
9 within five business days.
- 10 (2) At least 15 business days prior to adopting a rule, notify persons on the
11 mailing list maintained pursuant to G.S. 150B-21.2(d) and any other
12 interested parties of the Department of Transportation's intent to adopt a rule
13 and of the public hearing.
- 14 (3) Accept written comments on the proposed rule for at least 15 business days
15 prior to adoption of the rule.
- 16 (4) Hold at least one public hearing on the proposed rule no less than five days
17 after the rule and notice have been published.

18 A rule adopted in accordance with this section becomes effective on the first day of
19 the month following the month the Department of Transportation adopts the rule and submits
20 the rule to the Codifier of Rules for entry into the North Carolina Administrative Code. Any
21 rule adopted more than 12 months after the effective date of this act shall comply with the
22 requirement of Article 2A of Chapter 150B of the General Statutes.

23 **SECTION 19.** If any provision of this act or its application is held invalid, the
24 invalidity does not affect other provisions or applications of this act that can be given effect
25 without the invalid provisions or applications and to this end the provisions of this act are
26 severable.

27 **SECTION 20.** Sections 1 and 12 of this act are effective when this act becomes
28 law, and apply to applications for permits received on or after that date. Section 7 of this act is
29 effective when this act becomes law, and applies to determinations of just compensation made
30 on or after that date. Section 9 of this act is effective when this act becomes law and applies to
31 appeals filed on or after that date. Section 14 of this act is effective when this act becomes law
32 and applies to changes to the agreement made on or after that date. Sections 16 and 17 of this
33 act are effective when this act becomes law and apply to outdoor advertising that has not been
34 removed as of that date. The remainder of this act is effective when this act becomes law.