

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 173
Feb 22, 2017
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30078-MLf-72E (02/07)

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

Sponsors: Representatives J. Bell, Shepard, McElraft, and Wray (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE PERMIT FEES FOR OUTDOOR ADVERTISING, 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, AND TO MAKE VARIOUS REVISIONS TO THE LAWS GOVERNING OUTDOOR ADVERTISING MODERNIZATION AND OUTDOOR ADVERTISING VEGETATION CUTTING OR REMOVAL.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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).~~ 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 1.(b) G.S. 136-133.4(b) reads as rewritten:

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

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

"§ 136-131. **Removal of lawfully existing noneonforming outdoor advertising.**

(a) The Department of ~~Transportation~~ Transportation, or any municipality, county, local or regional zoning authority, or other political subdivision, is authorized to acquire by purchase, gift, or condemnation all outdoor advertising and all property rights pertaining ~~thereto which are prohibited under the provisions of G.S. 136-129, 136-129.1 or 136-129.2,~~ thereto, provided such outdoor advertising is in lawful existence on the effective date of this Article as determined by G.S. 136-140, or provided that it is lawfully erected after the effective date of this Article as determined by G.S. 136-140. Notwithstanding any law to the contrary, this section shall apply to all acquisitions, purchases, or condemnations by the Department of Transportation that cause the removal of any lawfully erected outdoor advertising, regardless of the outdoor advertising's location and proximity to the interstates or primary systems.

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



* D R H 3 0 0 7 8 - M L F - 7 2 E *

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

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

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

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

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

38 **SECTION 3.** G.S. 136-131.2 reads as rewritten:

39 "**§ 136-131.2. Modernization of outdoor advertising devices.**

40 (a) No municipality, county, local or regional zoning authority, or other political
41 subdivision shall, without the payment of just compensation as provided for in G.S. 136-131.1,
42 regulate or prohibit the repair or reconstruction of any outdoor advertising for which there is in
43 effect a valid permit issued by the Department of Transportation so long as the square footage of
44 its advertising surface area is not increased. As used in this section, reconstruction includes the
45 changing of an existing multipole outdoor advertising structure to a new monopole structure.

46 (b) Nothing in this section shall prohibit a municipality, county, local or regional zoning
47 authority, or other political subdivision from using its zoning authority to regulate (i) the initial
48 erection of outdoor advertising that has not been relocated pursuant to subsection (c) of this
49 section or (ii) outdoor advertising in which a permit issued by the Department of Transportation
50 pursuant to this Article has been voluntarily cancelled or lawfully revoked, and any appeals under
51 G.S. 136-134.1 have been exhausted. No decision of an administrative official charged with

1 enforcement of a local ordinance, rule, or regulation shall be effective against an owner or
 2 operator of outdoor advertising for any activity authorized by this section, and no appeal under
 3 G.S. 153A-345.1 or G.S. 160A-388 shall be required to protect the outdoor advertiser's rights
 4 under this section.

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

11 (1) The new site for relocation shall be any area within the same zoning jurisdiction
 12 adjacent to a highway.

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

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

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

26 **SECTION 4.** G.S. 136-133.1 reads as rewritten:

27 "**§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

28 (a) The owner of an outdoor advertising sign permitted under
 29 ~~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 selective
 30 vegetation removal permit, and the owner's designees, may cut, thin, prune, or remove vegetation
 31 in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4. The maximum cut or
 32 removal zone for vegetation for each sign face shall be determined as follows:

33 ...

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

42 (b) Vegetation permitted to be cut, thinned, pruned, or removed shall be defined as any
 43 tree, shrub, or underbrush within the zone created by points A, B, D, and E. Any existing tree that
 44 was in existence at the time that an outdoor advertising structure was erected shall only be eligible
 45 for removal in accordance with subsections (c), (d), and (e) of this section. ~~Native~~To the extent
 46 possible, native dogwoods and native redbuds shall be preserved. A selective vegetation removal
 47 permittee may relocate, and replace if necessary, any native dogwoods or native redbuds existing
 48 within the cut or removal zone established in subsection (a) of this section to a location within
 49 2,500 feet on either side of the outdoor advertising structure, as measured along the edge of the
 50 pavement of the main travel way of the nearest controlled route. If a native dogwood or native
 51 redbud cannot be preserved during relocation, a selective vegetation removal permittee shall

1 replace the native dogwood or native redbud with native dogwoods or native redbuds of the same
2 cumulative caliper inches. For the purposes of this section, an existing tree is defined as a tree that
3 had a diameter of four inches or greater as measured six inches from the ground at the time that
4 the outdoor advertising structure was erected. An outdoor advertising sign is considered erected
5 when the sign is completely constructed with a sign face.

6"

7 **SECTION 5.** Section 1 of this act is effective when this act becomes law and applies
8 to applications for permits received on or after that date. Section 2 of this act is effective when this
9 act becomes law and applies to determinations of just compensation made on or after that date.

10 The remainder of this act is effective when this act becomes law.