CHAPTER 14

South Carolina Landowner and Advertising Protection and Property Valuation Act

**SECTION 39‑14‑10.** Citation of chapter.

 This chapter may be cited as the ‘South Carolina Landowner and Advertising Protection and Property Valuation Act”.

HISTORY: 2006 Act No. 235, Section 2, eff February 22, 2006.

Editor’s Note

2006 Act No. 235, Section 1, provides as follows:

“The General Assembly finds that it is the policy of this State to protect the rights of private property owners and to encourage local governing bodies, off‑premises outdoor advertising sign owners, and landowners with signs on their property to enter into relocation and reconstruction agreements that allow governmental entities to undertake public projects and accomplish public goals while allowing the continued maintenance of private investment in signage as a medium of commercial and noncommercial communication. The General Assembly further finds that it is the policy of this State to promote arbitration as a means of settling disputes regarding the valuation of off‑premises outdoor advertising signs instead of litigation.”

2006 Act No. 235, Section 6, provides as follows:

“This act takes effect upon approval by the Governor. Nothing in this act preempts or otherwise alters, modifies, applies to, or effects relocation or removal of any off‑premises outdoor advertising signs pursuant to an ordinance or regulation enacted by a local governing body prior to April 14, 2005. It is the intent of the General Assembly that nothing in this act may be construed to require the payment of monetary compensation for any off‑premises outdoor advertising signs relocated or removed pursuant to an ordinance enacted before the effective date of this act unless the ordinance otherwise requires the payment of monetary compensation.”

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 39‑14‑20.** Definitions.

 As used in this chapter:

 (1) “Local governing body” means a municipality, county, local zoning authority, or political subdivision.

 (2) “Off‑premises outdoor advertising sign” means a lawfully erected, permanent sign which relates in its subject matter to products, accommodations, services, or activities sold or offered elsewhere other than upon the premises on which the sign is located. For the purposes of this chapter, the related leasehold or other property interests together with the lawfully issued permit is considered to be part of the off‑premises outdoor advertising sign.

 (3) “Just compensation” means the cash payment of the fair market value of the off‑premises outdoor advertising sign in place immediately before its removal and without consideration of the effect of the ordinance or a diminution in value caused by the ordinance requiring its removal. The Uniform Standards of Professional Appraisal Practices (USPAP) must be used in determining the fair market value for just compensation and includes the following factors:

 (a) the sale price of similar off‑premises outdoor advertising signs;

 (b) the physical condition of the off‑premises outdoor advertising sign;

 (c) the productivity of the off‑premises outdoor advertising sign;

 (d) the economic utility of the property on which the off‑premises outdoor advertising sign is located, or the usability and adaptability for industrial, commercial, or other purpose;

 (e) the value of the off‑premises outdoor advertising sign permit issued by an appropriate governing body;

 (f) replacement cost of the off‑premises outdoor advertising sign;

 (g) the age of the off‑premises outdoor advertising sign;

 (h) the remaining life of the off‑premises outdoor advertising sign;

 (i) the effect of obsolescence on the off‑premises outdoor advertising sign;

 (j) the listed property tax value of the off‑premises outdoor advertising sign; and

 (k) any other factor that may affect the value of the property on which the off‑premises outdoor advertising sign is located.

 (4) “Sign owner” means the owner of an off‑premises outdoor advertising sign.

HISTORY: 2006 Act No. 235, Section 2, eff February 22, 2006.

**SECTION 39‑14‑30.** Regulation of off‑premises outdoor advertising signs by local government; removal or relocation; notice; compensation.

 (A) A local governing body may require the removal of an off‑premises outdoor advertising sign that is nonconforming under a local ordinance and may regulate the use of off‑premises outdoor advertising signs within the jurisdiction of the local governing body in accordance with the applicable provisions of this chapter.

 (B) A local governing body may enact or amend an ordinance of general applicability to require the removal of any nonconforming, lawfully erected off‑premises outdoor advertising sign only if the ordinance requires the payment of just compensation to the sign owners, except as provided in this subsection. The payment of just compensation is not required if the:

 (1) local governing body and the owner of the nonconforming off‑premises outdoor advertising sign enter into a relocation agreement pursuant to subsections (D) and (F);

 (2) local governing body and the owner of the nonconforming off‑premises outdoor advertising sign enter into an agreement pursuant to subsection (I);

 (3) off‑premises outdoor advertising sign is adjudicated to be a public nuisance or detrimental to the health or safety of the populace; or

 (4) removal is required for opening, widening, extending or improving streets or sidewalks, or for establishing, extending, enlarging, or improving a public enterprise, and the local governing body allows the off‑premises outdoor advertising sign to be relocated to a comparable or better location as determined by the criteria as provided in Section 39‑14‑30(D)(1)(a) through (c) and the local governing body pays the costs of the relocation of the sign as provided in Section 39‑14‑30(D)(2)(a) through (d).

 (C) A local governing body shall give written notice of its intent to require removal of an off‑premises outdoor advertising sign by sending a letter by certified mail to the last known address of the sign owner and the owner of the property on which the off‑premises outdoor advertising sign is located.

 (D) If a local governing body requires removal of an off‑premises outdoor advertising sign, the local governing body may enter into an agreement with the owner of a nonconforming off‑premises outdoor advertising sign to relocate and reconstruct the sign. The relocated sign must comply with the provisions of Title 57. The agreement must include provisions for:

 (1) relocation of the sign to a site reasonably comparable to or better than the existing location. In determining whether a location is comparable or better, the following factors must be taken into consideration, the:

 (a) size and format of the sign;

 (b) characteristics of the proposed relocation site, including visibility, traffic count, area demographics, zoning, and any uncompensated differential in the sign owner’s cost to lease the replacement site; and

 (c) timing of the relocation.

 (2) payment by the local governing body of the reasonable costs of relocating and reconstructing the sign including:

 (a) the actual cost of removing the sign;

 (b) the actual cost of necessary repairs to the real property for damages caused in the removal of the sign;

 (c) the actual cost of installing the sign at the new location; and

 (d) an amount of money equivalent to the income received from the lease of the sign for a period of up to thirty days if income is lost during the relocation of the sign.

 (E) For the purposes of relocating and reconstructing a nonconforming off‑premises outdoor advertising sign pursuant to subsection (D), a local governing body, consistent with the welfare and safety of the community as a whole, may adopt a resolution or adopt or modify its ordinances to provide for the issuance of a permit or other approval, including conditions as appropriate, or to provide for dimensional, spacing, setback, or use variances as it considers appropriate as long as it does not affect the provisions of Section 57‑25‑190(E).

 (F) If a local governing body has offered to enter into an agreement to relocate a nonconforming off‑premises outdoor advertising sign pursuant to subsection (D), and within one hundred twenty days after the initial notice by the local governing body the parties have not been able to agree that the site or sites offered by the local governing body for relocation of the sign are reasonably comparable to or better than the existing site, the parties, by mutual agreement, may enter into binding arbitration to determine the comparability of the site offered for relocation. Unless a different method of arbitration is agreed upon by the parties, the arbitration must be conducted by a panel of three arbitrators. Each party shall select one arbitrator and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules apply to the arbitration unless the parties agree otherwise. Unless the parties agree otherwise, each party shall pay his respective share of the costs for the arbitration, including the costs of the services of his attorneys and witnesses, plus his proportionate share of the costs associated with the arbitration.

 (G) If the arbitration proceeding pursuant to the provision of subsection (F) results in a determination that the site or sites offered by the local governing body for relocation of the nonconforming sign are not comparable to or better than the existing site, and the local governing body elects to proceed with the removal of the sign, the parties shall determine just compensation pursuant to Section 39‑14‑20(3) to be paid to the sign owner. If the parties are unable to reach an agreement regarding just compensation within thirty days of the receipt of the arbitrators’ determination regarding relocation, and the local governing body elects to proceed with the removal of the sign, the parties, by mutual agreement, may enter into binding arbitration to determine the amount of just compensation to be paid pursuant to the factors provided in Section 39‑14‑20(3). Unless a different method of arbitration is agreed upon by the parties, the arbitration must be conducted by a panel of three arbitrators. Each party shall select one arbitrator, and the two arbitrators chosen by the parties shall select the third member of the panel. The American Arbitration Association rules apply to the arbitration unless the parties agree otherwise. Unless the parties agree otherwise, each party shall pay his respective share of the costs for the arbitration, including the costs of the services of his attorneys and witnesses, plus his proportionate share of the costs associated with the arbitration.

 (H) If the parties choose not to enter into binding arbitration for the purposes of either relocation or just compensation and the local governing body elects to proceed with the removal of the sign, the local governing body shall bring an action in circuit court for a determination of the just compensation to be paid by the local governing body to the sign owner for the removal of the sign. In determining just compensation, the court shall consider the factors as provided in Section 39‑14‑20(3). The court also shall determine and award reasonable attorneys’ fees and expert witness fees incurred by the sign owner in the proceedings to determine the amount of just compensation.

 (I) Notwithstanding the provisions of this section, a local governing body and sign owner may enter into a voluntary agreement allowing for the removal of the sign after a set period of time instead of just compensation.

 (J) A local governing body shall not prevent the repositioning of a nonconforming sign on the same parcel of land to facilitate the development of the parcel so long as the repositioning of the sign does not increase the degree of the sign’s nonconformity.

 (K) The requirement by a local governing body that a lawfully erected sign be removed or altered as a condition precedent to the issuance or continued effectiveness of a zoning ordinance or issuance of a license or permit constitutes a compelled removal that is prohibited without prior payment of just compensation.

 (L) An off‑premises outdoor advertising sign may not be removed until the owner of the property on which it is located has been compensated fully by the local governing body requiring the sign’s removal for a loss which may be suffered as a result of the removal of the off‑premises outdoor advertising sign through the termination of a lease or other financial arrangement with the sign owner. The compensation must include damage to the landowner’s property occasioned by removal of the off‑premises outdoor advertising sign.

 (M) The provisions of this section may not be used to interpret, construe, alter, or otherwise modify the exercise of the power of eminent domain by an entity pursuant to Article 3, Chapter 25, Title 57 or the manner in which outdoor advertising is valued by the South Carolina Department of Transportation.

 (N) Nothing in this section limits a local governing body’s authority to use amortization as a means of phasing out nonconforming uses other than off‑ premises outdoor advertising.

HISTORY: 2006 Act No. 235, Section 2, eff February 22, 2006.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Advertising Section 11, Permitted Signs.

S.C. Jur. Advertising Section 12, Illegal Signs.

**SECTION 39‑14‑40.** Compensation; payment in installments.

 If a local governing body requires the removal of an off‑premises outdoor advertising sign pursuant to the provisions of this chapter and through a voluntary agreement, arbitration, or a court proceeding is required to pay just compensation to a sign owner, the local governing body is authorized to elect to pay the amount due to the sign owner in regular mutually agreed upon installments over three years before the final removal of the sign.

HISTORY: 2006 Act No. 235, Section 2, eff February 22, 2006.