

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1262

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AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 8-23-20-25.6, AS ADDED BY P.L.222-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 25.6. **(a) As used in this section, "market area" means a point within the same county as the prior location of an outdoor advertising sign.**

~~(a)~~ **(b)** This section applies only to a ~~conforming an~~ outdoor advertising sign located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

~~(b)~~ **(c)** If a ~~conforming an~~ outdoor advertising sign is no longer visible or becomes obstructed, or must be moved or removed, due to a noise abatement or safety measure, grade changes, construction, directional sign, highway widening, or aesthetic improvement made by any agency of the state along the interstate and primary system or any other highway, the owner or operator of the outdoor advertising sign, to the extent allowed by federal or state law, may:

- (1) elevate ~~the a conforming~~ outdoor advertising sign; or
- (2) relocate ~~the a conforming or nonconforming~~ outdoor advertising sign to a point within ~~five the market area, if the new location of~~ **hundred (500) feet of its prior location, if the**

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outdoor advertising sign complies with the applicable spacing requirements and is located in land zoned for commercial or industrial purposes or unzoned areas used for commercial or industrial purposes.

**(d) If within one (1) year of an action being filed under IC 32-24, an owner can demonstrate that the owner has made good faith efforts to relocate a conforming or nonconforming outdoor advertising sign to a conforming location within the market area, but the owner has not obtained a new conforming location, the outdoor advertising sign will be treated as if it cannot be relocated within the market area. Notwithstanding subsection (e) and IC 8-23-20.5, if an outdoor advertising sign cannot be elevated or relocated to a conforming location and elevation within the market area, the removal or relocation of the outdoor advertising sign constitutes a taking of a property interest and the owner must be compensated under section 27 of this chapter. Notwithstanding subsections (d) and (g), if a conforming outdoor advertising sign cannot be elevated or relocated within the market area, the removal or relocation of the conforming outdoor advertising sign constitutes a total taking of a real property interest, including the sign structure, and the owner must be compensated under section 27 of this chapter.**

~~(e)~~ **(e)** Subject to subsection ~~(f)~~, The county or municipality, under IC 36-7-4, may, if necessary, provide for the elevation or relocation by ordinance for a special exception to the zoning ordinance of the county or municipality.

~~(f)~~ **(f)** The elevated outdoor advertising sign or outdoor advertising sign to be relocated shall be the same size as the previous outdoor **relocated**, advertising sign and; to the extent allowed by federal or state law, may be modified: ~~to:~~

(1) **to** elevate the sign to make the entire advertising content of the sign visible; ~~and~~

(2) **to** an angle to make the entire advertising content of the sign visible; **and**

**(3) in size or material type, at the expense of:**

**(A) the owner, if the modification in size or material type of the outdoor advertising sign is by choice of the owner;**  
**or**

**(B) the department, if the modification in size or material type of the outdoor advertising sign is required for the outdoor advertising sign to comply with IC 22-13.**

~~(e)~~ **(g)** This section does not exempt an owner or operator of a sign



from submitting to the department any application or fee required by law.

(f) If the county or municipality does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance under subsection (c); notwithstanding IC 8-23-20-10; the county or municipality is responsible for the payment for just and full compensation to an owner under IC 32-24.

(h) At least twelve (12) months before the filing of an eminent domain action to acquire an outdoor advertising sign under IC 32-24, the department must provide written notice to the representative of the sign owner identified on the outdoor advertising sign permit that is on file with the Indiana department of transportation that a project has been planned that may impact the outdoor advertising sign.

(i) If the agency fails to provide notice required by subsection (h) within twelve (12) months of an action being filed against an owner under IC 32-24, the owner may receive reasonable compensation for losses associated with the failure to receive timely notice. However, failure to send notice required by subsection (h) is not a basis of an objection to a proceeding under IC 32-24-1-8.

SECTION 2. IC 8-23-20-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 25.7. The department may adopt emergency rules under IC 4-22-2 to implement this chapter. A rule adopted under this section expires only with the adoption of a new superseding rule.**

SECTION 3. IC 8-23-20-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 27. (a) This section applies to a taking of an outdoor advertising sign through:**

- (1) the power of eminent domain under IC 32-24; or
  - (2) a change that prohibits a conforming outdoor advertising sign from being elevated or relocated under section 25.6 of this chapter.
- (b) As used in this section, "condemnor" means:
- (1) any person authorized by Indiana law to exercise the power of eminent domain; and
  - (2) an agency of the state that must provide compensation to the owner of a conforming outdoor advertising sign under section 25.6 of this chapter.
- (c) As used in this section, "outdoor advertising sign" means a



sign that is located along the interstate and primary system, as defined in 23 U.S.C. 131(t) on June 1, 1991, or any other highway where control of outdoor advertising signs is required under 23 U.S.C. 131.

(d) A condemnor that acquires an outdoor advertising sign and its associated rights under this section shall pay full and just compensation to the owner of the outdoor advertising sign in an amount equal to the fair market value of the interests associated with the outdoor advertising sign, including, but not limited to, leasehold interests and access rights.

(e) An appraiser shall calculate the fair market value by considering all valuation approaches based upon the standards governing recognized valuation approaches to fair market value.

SECTION 4. IC 8-23-20.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

**Chapter 20.5. Relocation of Conforming Billboards**

**Sec. 1.** This chapter applies to an outdoor advertising sign that is eligible to be relocated as a conforming sign under IC 8-23-20-25.6(c) and IC 8-23-20-25.7.

**Sec. 2.** As used in this chapter, "market area" has the meaning set forth in IC 8-23-20-25.6(a).

**Sec. 3. (a)** If a county or municipality either:

- (1) subject to IC 8-23-20-10, does not amend its zoning ordinance as necessary to provide for a special exception to the zoning ordinance for the relocation of an outdoor advertising sign; or
- (2) does not approve a variance to the zoning ordinance filed by the outdoor advertising sign's owner that conforms to the filing requirements;

the county or municipality is responsible for the payment of full and just compensation for the outdoor advertising sign under IC 8-23-20-27, including any costs and fees associated with a variance application, if applicable, to the outdoor advertising sign's owner.

(b) A county or municipality's consideration of a special exception or variance may not be a basis to delay the appointment of appraisers under IC 32-24-1-9.

(c) If a county or municipality has not approved the relocation of an outdoor advertising sign located within its jurisdiction before the date an action under IC 32-24 is filed, the county or municipality must be named as a party to the action.



**Sec. 4. (a) If an outdoor advertising sign cannot be relocated within the market area, a court presiding over an action under IC 32-24 shall order, subject to IC 32-24-1-9:**

- (1) if an appraisal has not already been submitted to the court, an appraisal; or**
- (2) if an appraisal has already been submitted to the court, a new appraisal;**

**with instructions to the appraisers that the outdoor advertising sign is not capable of relocation and must be appraised using the method described in IC 8-23-20-27.**

**(b) If a new appraisal is ordered under subsection (a), the new appraisal may not affect any possession rights obtained under IC 32-24-1-10.**

**(c) If a new appraisal is ordered under subsection (a), any party to the action may file exceptions to the new appraisal with the court not later than forty-five (45) days after the appraisal report is mailed.**

**Sec. 5. The following apply to the removal of an outdoor advertising sign:**

- (1) The removal of an outdoor advertising sign by the outdoor advertising sign's owner to allow for construction may not be considered a waiver of the owner's rights under this chapter.**
- (2) An outdoor advertising sign must be removed by the owner once the amount of damages assessed in the appraisal is deposited with the court pursuant to IC 32-24-1-10.**
- (3) If the outdoor advertising sign is removed by the owner, the owner is responsible for the cost of the removal, subject to assistance provided under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655).**
- (4) If an outdoor advertising sign is removed by the condemnor, the condemnor is responsible for the cost of the removal.**

**Sec. 6. The department may adopt emergency rules under IC 4-22-2 to implement this chapter. A rule adopted under this section expires only with the adoption of a new superseding rule.**

**SECTION 5. IC 36-1-28-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) This section applies only to a county having a consolidated city.**

**(b) As used in this section, "board" refers to the:**

- (1) board of directors of an agricultural fair society,**



association, or corporation that is organized under IC 15-14-5; or

(2) county legislative body;

that owns a county fairgrounds or, by agreement with the owner, operates the county fairgrounds and is the owner's authorized agent in the placement of a digital billboard under this chapter.

(c) As used in this section, "property" means the real property that is part of a county fairgrounds.

(d) Notwithstanding any ordinance adopted under IC 36-7-4, but subject to subsection (e), the board may place one (1) digital billboard on the property at a location that is:

(1) selected by the board; and

(2) outside the public right-of-way.

(e) The board is subject to any restriction, approval, or other requirement of IC 8-23-20 that applies to the placement of the digital billboard.

(f) The board must provide written notice at least ninety (90) days before installation of the billboard to the following:

(1) The plan commission, if the property is within the jurisdiction of a plan commission.

(2) The legislative body of:

(A) any municipality in which the property is located; and

(B) the county in which the property is located, in the case of a board described in subsection (b)(1).

(g) The board must conduct a public hearing in which the board receives public comment regarding the digital billboard not earlier than ninety (90) days before the digital billboard is installed.

(h) The owner of the property shall receive any revenue from a lease of the property to the digital billboard's owner for the placement of the digital billboard on the property.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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