

O.C.G.A. ♦ 32-6-71

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\*\*\* Current through the 2008 Regular Session \*\*\*

TITLE 32. HIGHWAYS, BRIDGES, AND FERRIES  
CHAPTER 6. REGULATION OF MAINTENANCE AND USE OF PUBLIC ROADS  
GENERALLY  
ARTICLE 3. CONTROL OF SIGNS AND SIGNALS  
PART 2. STATE HIGHWAY SYSTEM

O.C.G.A. ♦ 32-6-71 (2008)

♦ 32-6-71. Definitions

As used in this part, the term:

(1) "Defined area" means any area or areas within the state defined by the board, upon request made by the State Department of Transportation and approved by the United States Secretary of Transportation, to be an area where the removal of directional signs, displays, and devices which were lawfully erected under state law in force at the time of their erection, which were in existence on May 5, 1976, and which do not conform to the requirements of paragraphs (1) through (5) of Code Section 32-6-72 and paragraphs (1) through (3) of Code Section 32-6-73 would deprive the traveling public of directional information about goods and services in the specific interest of the traveling public and would work a substantial economic hardship in such defined area or areas.

(2) "Directional and other official signs and notices" means only official signs and notices, public utility signs, service club and religious notices, public service signs, and directional signs.

(3) "Directional signs" means signs containing directional information deemed to be in the interest of the traveling public, including information about public places owned or operated by state, federal, or local governments or their agencies; publicly or privately owned natural phenomena; historic, cultural, scientific, educational, and religious sites; and areas of natural scenic beauty or areas naturally suited for outdoor recreation.

(4) "Directional signs, displays, and devices in the specific interest of the traveling public" means any directional sign, display, or device which was lawfully erected under state law in force at the time of its erection, which was in existence on May 5, 1976, and which provides directional information about goods and services in the specific interest of the traveling public but does not conform to the requirements of paragraphs (1) through (5) of Code Section 32-6-72 and paragraphs (1) through (3) of Code Section 32-6-73.

(5) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,

paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or the normal maintenance or repair of a sign structure.

(6) "Illegal sign" means:

(A) A sign for the maintenance of which a permit is required under this part, or any amendment thereof, which sign is being maintained without a permit;

(B) A sign presently being maintained without a required permit even though it could have been permitted under any outdoor advertising control law in effect at the time of its erection;

(C) A sign presently being maintained without a permit, which sign could not have been permitted under the law in effect at the time of its erection even though the sign may meet the requirements of this part for the issuance of a permit;

(D) A sign on which the permit has been revoked pursuant to this part;

(E) A sign on which a nonconforming application for permit was denied and the denial has become final; and

(F) A nonconforming sign for which no permit was sought as required by Code Section 32-6-79.

(7) "Industrial or commercial activity" means those activities commonly or generally recognized as commercial or industrial except that none of the following activities shall be considered commercial or industrial:

(A) Outdoor advertising structures;

(B) Agricultural, forestry, ranching, grazing, farming, and related activities, including but not limited to wayside fresh produce stands;

(C) Transient or temporary activities;

(D) Activities within 660 feet of the nearest edge of the right of way which from the main traveled way are not visible and are not recognizable as being commercial or industrial activities;

(E) Activities more than 660 feet from the nearest edge of the right of way;

(F) Activities conducted in a building principally used as a residence; and

(G) Railroad tracks and minor sidings.

(8) "Information center" means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the state and providing such other information as the department may consider desirable.

(9) "Interstate system" or "interstate highway" means any road of the state highway system which is a portion of The Dwight D. Eisenhower System of Interstate

and Defense Highways located within this state, as officially designated or as may hereafter be so designated by the department and approved by the United States Secretary of Transportation pursuant to the provisions of Title 23, Section 103, United States Code, or any limited-access highway as officially designated or as may hereafter be so designated by the department and approved by the United States Secretary of Transportation pursuant to the provisions of Title 23, Section 103, United States Code.

(10) "Maintain" means to allow to exist.

(11) "Main traveled way" means the traveled way of a highway on which through traffic is carried; and, in the case of a divided highway, it means the traveled way of each of the separated roadways for traffic traveling in opposite directions. It does not include such facilities as frontage roads, turning roadways, or parking areas.

(11.1) "Multiple message sign" means a sign, display, or device which changes the message or copy on the sign electronically by movement or rotation of panels or slats.

(12) "Nonconforming sign" means a sign which was lawfully erected but which does not comply with state law or state regulations due to changes in state law or changes in rules and regulations since the date of erection of the sign.

(13) "Official signs and notices" means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in state, federal, or local law for the purpose of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies shall be considered official signs.

(14) "Outdoor advertising" or "sign" means any outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which are visible from any place on the main traveled way of the interstate or primary highway systems.

(15) "Parkland" means any publicly owned land which is designated or used as a public park, recreation area, wildlife or waterfowl refuge, or historic site.

(16) "Primary system" or "primary highway" means the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system, but which is on the National Highway System, as officially designated or as may hereafter be so designated by the department and approved by the United States Secretary of Transportation pursuant to the provisions of Title 23, Section 103, United States Code.

(17) "Private" shall not mean, through the effect of this part, publicly owned property leased to others.

(18) "Public service signs" means signs located on school bus stop shelters, which signs identify the donor, sponsor, or contributor of said shelters and which contain safety slogans or messages which occupy not less than 60 percent of the sign area.

(19) "Public utility signs" means warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities as essential to their operations.

(20) "Safety rest area" or "rest area" means 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.

(21) "Scenic area" means any area of particular scenic beauty or historical significance, as determined by the state, federal, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty.

(22) "Service club and religious notices" means signs or notices, whose erection is authorized by law, relating to religious services or to meetings of nonprofit service clubs or charitable associations, which signs do not exceed eight square feet in area.

(23) "Specific interest of the traveling public" means information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor vehicle service and repair facilities, or any other service or product available to the general public, including, but not limited to, publicly or privately owned natural phenomena; historic, cultural, scientific, educational, or religious sites; and areas of natural scenic beauty or areas naturally suited for outdoor recreation.

(24) "Traveled way" means the portion of a roadway used for the movement of vehicles, exclusive of shoulders.

(25) "Unzoned commercial or industrial areas" means those areas which are not zoned by state law or local ordinance and on which there is located one or more permanent structures devoted to an industrial or commercial activity or on which an industrial or commercial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 600 feet from and beyond the edge of the activity in each direction and a corresponding zone directly across a primary highway which is not also a limited-access highway, when the same is not a public park, public playground, public recreational area, public forest, parkland, scenic area, cemetery, primarily residential, or locally zoned. All measurements shall be from the outer edges of the regularly used buildings, parking lots, or storage, processing, or landscaped areas of the commercial or industrial activity and not from the property lines of the activity and shall be along or parallel to the edge of the pavement of the highway.

(26) "Urban area" means an area included within the boundaries of an incorporated municipality having a population of 5,000 or more as determined by the latest available federal census and any area adjacent to such municipality, provided that such adjacent area is included within boundaries presently designated and fixed by the outdoor advertising urban area boundary maps and written records attached thereto on file in the office of the treasurer of the Department of Transportation.

(27) "Visible" means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

(28) "Would work a substantial economic hardship" means having the potential to cause a substantial negative economic effect in a defined area or areas, as may be

demonstrated by a projected reduction in gross business sales, state and local sales taxes, and employment opportunities within the defined area or areas.

(29) "Zoned commercial or industrial areas" means those areas which are zoned for industrial or commercial activities pursuant to state or local zoning laws or ordinances as part of a comprehensive zoning plan. Strip zoning shall not be considered as a bona fide comprehensive zoning plan. Comprehensive zoning plans for the purposes of outdoor advertising only shall be approved by the board when an application for a permit has been made.

32-6-72. Designation of outdoor advertising which may be erected or maintained within 660 feet of nearest edge of right of way

No outdoor advertising shall be erected or maintained within 660 feet of the nearest edge of the right of way and visible from the main traveled way of the interstate or primary highways in this state, except the following:

- (1) Directional and other official signs and notices;
- (2) Signs advertising the sale or lease of the property upon which they are located;
- (3) Signs advertising activities conducted or maintained within 100 feet of the nearest part of the activity as the dimensions of said activity are determined by department regulations, which regulations need not take into consideration the property lines of said activity;
- (4) Signs located in areas zoned commercial or industrial, which signs provide information in the specific interest of the traveling public;
- (5) Signs located in unzoned commercial or industrial areas, which signs provide information in the specific interest of the traveling public; and
- (6) Directional signs, displays, and devices about goods and services in the specific interest of the traveling public located in a defined area or areas approved by the United States Secretary of Transportation.

32-6-73. Designation of outdoor advertising which may be erected or maintained beyond 660 feet of nearest edge of right of way

No outdoor advertising shall be erected or maintained beyond 660 feet of the nearest edge of the right of way of the interstate or primary highways in this state outside of urban areas so as to be visible and intended to be read from the main traveled way, except the following:

- (1) Directional and other official signs and notices;
- (2) Signs advertising the sale or lease of the property upon which they are located;
- (3) Signs advertising activities conducted or maintained within 100 feet from the nearest part of the activity as the dimensions of said activity are determined by

department regulations, which regulations need not take into consideration the property lines of said activity; and

(4) Directional signs, displays, and devices about goods and services in the specific interest of the traveling public located in a defined area or areas approved by the United States Secretary of Transportation.

#### 32-6-74. Applications for permits generally; fees; renewals; transfer of permits

(a) Applications for permits and the renewal thereof authorized by subsections (a) through (d) of Code Section 32-6-79 shall be made to the department upon forms prescribed by the department. The applications shall contain the signature of the applicant and such other information as may be required by the department and shall be verified under oath by the person, firm, or corporation making the application. Permits and renewals thereof shall be issued for and shall be valid only if the sign is erected and maintained in accordance with this part during the 12 month period next following the date of issuance. The fee for the initial issuance of a permit shall be \$50.00. The fee for the renewal of a permit shall be \$25.00. The money received from permit fees shall be used to help defray the expenses of administering this part, Code Section 48-2-17 to the contrary notwithstanding. Upon receipt of a properly executed application and the appropriate fee for the erection or maintenance of a sign which may be lawfully erected or maintained pursuant to this part, the department shall, within 60 days, issue a permit or renewal authorizing the erection or maintenance, or both, of the sign for which application was made except when a person, firm, or corporation is maintaining or allowing the maintenance of an illegal sign as provided for in subsection (f) of Code Section 32-6-79. Application for the renewal of a permit shall be made to the department not more than 90 nor less than 60 days before the expiration date of the permit for which renewal is sought. If the department fails to receive the renewal application before the expiration date of the permit, the department will notify the applicant that the renewal application is overdue when the applicant's address is known or reasonably available to the department and shall give the applicant 30 days after the expiration date to send the department the renewal application. If the applicant does not send the properly executed application and the appropriate fee within the specified 30 day period, the sign shall then become an illegal sign. No permit shall be renewed if the application for the renewal thereof has not been made in accordance with this Code section.

(b) Permits shall be transferable. An application to have the permit specified in subsection (a) of this Code section transferred shall be made within 30 days of the change in ownership of the sign; shall be made to the department upon forms prescribed by the department; shall contain the signature of the applicant and such other information as may be required by the department; and shall be verified under oath by the person, firm, or corporation making application for transfer. Failure to comply in a timely and proper manner with this subsection shall be grounds for revocation of the permit.

32-6-75. Restrictions on outdoor advertising authorized by Code Sections 32-6-72 and 32-6-73; multiple message signs on interstate system, primary highways, and other highways

(a) No sign authorized by paragraphs (4) through (6) of Code Section 32-6-72 and paragraph (4) of Code Section 32-6-73 shall be erected or maintained which:

(1) Advertises an activity that is illegal under Georgia or federal laws or regulations in effect at the location of such sign or at the location of such activity;

(2) Is obsolete;

(3) Is not structurally safe, clean, and in good repair;

(4) Is not securely affixed to a substantial structure which is permanently attached to the ground;

(5) Is attached to, drawn, or painted upon trees, rocks, or other natural features;

(6) Moves or has any moving or animated parts, except as expressly allowed under subsection (c) of this Code section;

(7) Emits or utilizes in any manner any sound capable of being detected on the main traveled way by a person with normal hearing;

(8) If illuminated, contains, includes, or is illuminated by any flashing, intermittent, or moving light or lights except those giving public service information such as time, date, temperature, weather, or other similar information except as expressly permitted under subsection (c) of this Code section. The illumination of mechanical multiple message signs is not illumination by flashing, intermittent, or moving light or lights, except that no multiple message sign may include any illumination which is flashing, intermittent, or moving when the sign is in a fixed position;

(9) If illuminated, is not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way, which beams or rays are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interfere with the operation of a motor vehicle;

(10) If illuminated, is illuminated so that it obscures or interferes with the effectiveness of an official traffic sign, device, or signal;

(11) Contains an area, to be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire sign, in excess of 1,200 square feet or exceeding 30 feet in height or 60 feet in length, inclusive of any border and trim but excluding the base, apron, supports, and other structural members; provided, however, that, in counties having a population greater than 500,000 according to

the United States decennial census for 1970 or any such future census, the maximum size of 1,200 square feet, the maximum height of 30 feet, and the maximum length of 60 feet may be exceeded, but in no event shall any such sign exceed 3,000 square feet; provided, further, that no such oversize signs shall be erected after July 1, 1973;

(12) Contains more than two faces visible from the same direction on the main traveled way; provided, however, that after July 1, 2006, no sign shall be erected that contains more than one face vertically stacked visible from the same direction on the main traveled way. Double-faced, back-to-back, and V-type constructed signs shall, for the purpose of determining compliance with size and spacing limitations, be considered as one sign;

(13) Is in an area not zoned for commercial or industrial activity and within 300 feet of a residence without the written consent of the owner;

(14) Is within 500 feet in any direction of a public park, public playground, public recreation area, public forest, scenic area, or cemetery; provided, however, that such sign may be located within 500 feet of a public park, public playground, public recreation area, public forest, scenic area, or cemetery when the sign is separated by buildings or other obstructions so that the sign located within the 500 foot zone is not visible from the public park, public playground, public recreation area, public forest, scenic area, or cemetery;

(15) Is located so as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device;

(16) Is located so as to obscure or otherwise interfere with a motor vehicle operator's view of approaching, merging, or intersecting traffic;

(17) Is located adjacent to an interstate highway and which is within 500 feet of another sign on the same side of the highway; provided, however, that such sign may be located within 500 feet of another sign when the signs are separated by buildings or other obstructions so that only one sign face located within the 500 foot zone is visible from the interstate highway at any time;

(18) Is located outside of the corporate limits of a municipality and adjacent to an interstate highway within 500 feet of an interchange, intersection at grade, or safety rest area. The foregoing 500 foot zone shall be measured along the interstate highway from the point at which the pavement commences or ceases to widen at exits from or entrances to the main traveled way. In circumstances where both the exit and entrance ramps on one side of an interchange constitute continuous lanes of travel to the exit and entrance ramps of the adjacent interchange, this side of the interchange shall be treated as if no ramps exist and the foregoing 500 foot zone on this side of the interchange shall be measured from the survey centerline of the main traveled way and crossroad forming the interchange or intersecting road. In all circumstances where this definition conflicts with any agreement with the United States secretary of transportation pursuant to Code Section 32-6-87, said agreement shall be deemed to control for purposes of this Code section;

(19) Is located outside of the corporate limits of a municipality and adjacent to a highway on the primary system and which is within 300 feet of another sign on the same side of the highway; provided, however, that such sign may be located within 300 feet of another sign when the signs are separated by buildings or other obstructions so that only one sign face located within the 300 foot zone is visible from the primary system highway at any one time;

(20) Is located within the corporate limits of a municipality and adjacent to a highway on the primary system and which is within 100 feet of another sign on the same side of the highway; provided, however, that such sign may be located within 100 feet of another sign when the signs are separated by buildings or other obstructions so that only one sign face located within the 100 foot zone is visible from the primary system highway at any one time; or

(21) Depicts any material which is obscene as such term is defined in Code Section 16-12-80.

(b) Reserved.

(c) (1) Multiple message signs shall be permitted on the interstate system, primary highways, and other highways under the following conditions:

(A) Each multiple message sign shall remain fixed for at least ten seconds;

(B) When a message is changed mechanically, it shall be accomplished in three seconds or less;

(C) No such multiple message sign shall be placed within 5,000 feet of another mechanical multiple message sign on the same side of the highway;

(D) Any such sign shall contain a default design that will freeze the sign in one position if a malfunction occurs;

(E) Any maximum size limitations shall apply independently to each side of a multiple message sign; and

(F) Nonmechanical electronic multiple message signs that are otherwise in compliance with this subsection and are illuminated entirely by the use of light emitting diodes, back lighting, or any other light source shall be permitted under the following circumstances:

(i) Each transitional change occurs within two seconds;

(ii) If the department finds an electronic sign or any display or effect thereon to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with the safe operation of a motor vehicle, then, upon the department's request, the owner of the sign shall promptly and within not more than 48 hours reduce the intensity of the sign to a

level acceptable to the department; and

(iii) The owner of any existing or nonconforming electronic sign shall have until October 31, 2006, to bring the electronic sign in compliance with this subparagraph and to request a permit from the department.

(2) If a multiple message sign on a primary highway or other highway is in violation of any of the above conditions, its permit shall be revoked and the sign shall be removed. During the appeal of any violations of paragraph (1) of this subsection, the sign shall remain fixed until the matter is resolved. The commissioner may allow the continued operation of a multiple message sign during part or all of the appeals process.

(3) After April 15, 1996, all persons, firms, or corporations who have signs that were illegal signs under previous law, but which are legal signs under the provisions of this subsection, shall have a one-year period during which time they shall be required to file an application for a permit issued by the department. Applications for such permits shall be made upon forms prescribed and provided by the department and shall contain the signature of the applicant and such other information as may be required by the department rules and regulations. The department shall have a period of 60 days from the date such an application is received to process it. If, at the end of this 60 day period, the department has failed to approve or deny an application in proper form, it shall be conclusively presumed for all purposes that the sign can be permitted and the department must issue the permit within a reasonable time. Should the department deny the application, the applicant may seek relief in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." In cases where the applicant fails to exhaust the procedures prescribed by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," the department's denial of the permit request will be final and the sign shall then become an illegal sign as defined by paragraph (6) of Code Section 32-6-71 and shall be subject to removal under the terms of this part. If the owner of the sign fails to apply properly for a permit and it is conclusively presumed that the sign has been abandoned, the sign shall remain an illegal sign as defined by paragraph (6) of Code Section 32-6-71 and the sign shall be subject to removal under the terms of this part.

32-6-75.1. Roadside Enhancement and Beautification Council; membership; purpose; compensation

(a)(1) The Governor shall appoint a Roadside Enhancement and Beautification Council composed of 12 members. The council shall include the chairperson of the Senate Transportation Committee; the chairperson of the House Transportation Committee; a member from the Georgia Conservancy; a member from the Garden Clubs of Georgia, Inc.; a member of the faculty of the School of Environmental Design at the University of Georgia; a member from the Sierra Club; a member from the Georgia Wildlife Federation; four members of the Outdoor Advertising Association of Georgia, Inc.; and the deputy commissioner of the Georgia Department of Transportation or the designee thereof. The commissioner shall submit recommendations to the Governor for purposes of selecting members to the council.

(2)(A) Terms of those members representing the Georgia Conservancy, the Garden Clubs of Georgia, and the School of Environmental Design and of two of those members representing the Outdoor Advertising Association shall expire on January 1, 2001, and quadrennially thereafter. Such members may be appointed to successive terms.

(B) Terms of those members representing the Sierra Club and the Georgia Wildlife Federation and of two of those members representing the Outdoor Advertising Association shall expire on January 1, 2003, and quadrennially thereafter. Such members may be appointed to successive terms.

(3) A landscape architect employed by the department and designated by the commissioner shall serve as an adviser to the council.

(b) The council shall aid the commissioner in formulating policies and discussing problems related to the administration of this article. In addition, the council shall:

(1) Review, comment upon, and make recommendations to the commissioner on the standards and policies to be used in the trimming and removal of vegetation on state rights of way in front of legally erected and maintained outdoor advertising signs;

(2) Make recommendations to the department regarding standards for vegetation removal and landscape and maintenance plans submitted by permittees including without limitation the use of viewing zones under Code Section 32-6-75.3;

(3) Review the performance of permittees holding current tree and vegetation trimming permits issued under Code Section 32-6-75.3 for compliance with the requirements of such permits including without limitation the implementation of landscaping plans;

(4) Encourage the contribution of funds from appropriate sources to support roadside enhancement and beautification;

(5) Submit to the commissioner annually not later than 30 days after the date of its fourth quarter meeting a written report of findings based upon its reviews of permittees' performances and recommendations including without limitation any recommendations for expenditures for roadside enhancement and beautification; and

(6) Perform such other functions as may be specified for the council by the department.

The council shall have full and complete access to all department records necessary for the performance of its duties.

(c) The council shall meet to elect a chairperson and vice chairperson and to establish the rules governing its operation. The advisory council shall meet at the call of the chairperson and shall meet not less than quarterly.

(d) Each councilmember shall be compensated at a rate per day the same as that rate per day provided by law for members of the General Assembly serving on interim committees and shall be reimbursed for any necessary expenses; provided, however, that any full-time state employee on the council shall draw no

compensation but shall receive necessary expenses. The commissioner is authorized to pay such compensation and expenses from department funds.

32-6-75.2. Roadside Enhancement and Beautification Fund; dedication of certain revenues

There is established a special fund to be known as the "Roadside Enhancement and Beautification Fund." This fund shall consist of all moneys collected under Code Section 32-6-75.3, any appropriations by the General Assembly to the fund, revenues derived from the sale of any special and distinctive wildflower motor vehicle license plates issued pursuant to Code Section 40-2-49.2, any contributions to the fund from any other source, and all interest thereon. All moneys collected under Code Section 32-6-75.3 and manufacturing fees for any special and distinctive wildflower motor vehicle license plates shall be paid into the fund. All balances in the fund shall be deposited in an interest-bearing account identifying the fund and shall be carried forward each year so that no part thereof may be deposited in the general treasury. The department shall administer the fund and expend moneys held in the fund in furtherance of roadside enhancement and beautification projects along public roads in this state and administration of the tree and vegetation trimming permit program under Code Section 32-6-75.3. In addition to the foregoing, the department may, without limitation, promote and solicit voluntary contributions, promote the sale of motor vehicle license tags authorized under Code Section 40-2-49.2, and develop any fund raising or other promotional techniques deemed appropriate by the department. Contributions to the fund shall be deemed supplemental to and shall in no way supplant funding that would otherwise be appropriated for these purposes. The department shall prepare, by February 1 of each year, an accounting of the funds received and expended from the fund. The report shall be made available to the members of the State Transportation Board, the Senate Transportation Committee, the Transportation Committee of the House of Representatives, and to members of the public on request.

32-6-75.3. Application for tree trimming permit and annual renewal; forms; application fees; evaluation; criteria for trimming trees or vegetation

(a)(1) For purposes of this Code section, the term:

(A) "Removal" or "removed" means the elimination of trees or other vegetation from a viewing zone.

(B) "Trimming" or "trimmed" means the pruning of excess limbs or branches from trees or other vegetation which are not removed from a viewing zone.

(C) "Viewing zone" means a continuous 500 foot horizontal distance parallel to a state right of way and adjacent to or otherwise within the line of sight of an outdoor advertising sign.

(2) The General Assembly finds and declares that outdoor advertising provides a substantial service and benefit to Georgia and Georgia's citizens as well as the traveling public. Therefore, the General Assembly declares it to be in the public interest that provisions be made for the visibility of outdoor advertising signs legally erected and maintained along the highways in this state to provide information

regarding places offering lodging, food, motor vehicle fuels and lubricants, motor service and repairs, or any other services or products available to the general public. Recognizing, however, that the beautification of this state and the health of its environment are absolutely essential and equally as important to the traveling public, the General Assembly finds and declares that these needs must be balanced.

(b)(1) So as to promote these objectives and in accordance with the provisions of this Code section, the commissioner shall provide by rule or regulation for the issuance and annual renewal of permits for the trimming and removal of trees and other vegetation on the state rights of way within viewing zones with respect to outdoor advertising signs legally erected and legally maintained adjacent to said rights of way. Such rules and regulations shall include, without limitation, standards for survival of vegetation trimmed or planted.

(2) So as to ensure that no vegetation maintenance permits are issued for the purpose of creating new outdoor advertising signs, no owner of outdoor advertising signs erected after January 1, 1999, or such owner's agent, will be eligible to make application for vegetation maintenance for a period of five years from the date a new sign is permitted.

(c) Application for a tree or vegetation trimming or removal permit and the annual renewal thereof shall be made upon the forms prescribed and provided by the department and shall contain the signature of the applicant and such other information as may be required by the department's rules and regulations.

(d) An application fee shall accompany the application for each vegetation maintenance permit and both the application and fee shall be submitted to the department. There shall be an annual renewal of the permit for activities in the original scope of the permit. The department shall promulgate rules and regulations setting forth the application fees and renewal fees. Such application and renewal fees shall be established by the department in reasonable amounts in order to fully recover the costs of administering the vegetation maintenance program.

(e)(1) The department shall evaluate each application for a permit under this Code section and require as a condition of granting any permit under this Code section that the value of the landscaping to be either provided or paid for by the applicant is not less than the department's appraised value of the benefit to be conferred by the state upon the applicant by allowing the trimming or removing of trees or other vegetation as requested, which shall be the value of the trees or vegetation to be trimmed or removed; provided, however, that a permit may be granted to an otherwise qualified applicant in a case where the value of the landscaping to be either provided or paid for by the applicant is less than the department's appraised value of the trees or other vegetation to be trimmed or removed if, in addition, the applicant pays to the department an amount equal to the amount of the difference between the value of the landscaping to be either provided or paid for by the applicant and the department's appraised value of the trees or other vegetation to be trimmed or removed.

(2)(A)(i) No trees or vegetation shall be trimmed or removed under this Code section other than within a viewing zone.

(ii) No removal of any hardwood tree having a diameter outside bark of more than 8 inches at a height of 6 inches above ground level or any historic or endangered species tree or any tree planted as part of any local, state, or federal government project shall be permitted under this Code section.

(iii) All hardwood trees having a diameter outside bark of 8 inches or less at a height of 6 inches above ground level may be removed from within a viewing zone.

(iv) All nonhardwood trees may be removed from within a viewing zone for a combined total of 250 feet horizontal distance parallel to the right of way.

(v) All nonhardwood trees having a diameter outside bark of less than 12 inches at a height of 6 inches above ground level may be removed from within a viewing zone.

(vi) Pine trees having a diameter outside bark of 12 inches or more at a height of 6 inches above ground level shall not be removed from a viewing zone in such numbers as to reduce stocking to less than the minimum standard for full stocking for such trees, as determined by the Georgia Forestry Commission, over an area having a combined total of not less than 250 feet horizontal distance parallel to the right of way.

(vii) The provisions of divisions (iv) and (vi) of this subparagraph notwithstanding, in the case of any outdoor advertising sign erected on or before April 20, 1998, and which is less than 35 feet in height as measured from the top of the sign to the ground directly beneath or to the road level, whichever distance results in the best view or the greatest elevation, or which is subsequently lowered to such a height, the horizontal distance of the area within the viewing zone from which all trees, other than hardwoods having a diameter outside the bark of more than 8 inches at a height of 6 inches above ground level, may be removed shall be increased to 350 feet.

(B) Pruning or trimming of trees under a permit shall conform to industry standards as defined by the National Arborist Association, International Society of Arboriculture or ANSI A300 pruning standards as of January 1, 1999, or such later edition as may be adopted by rule or regulation of the department.

(3) An applicant's record of conduct regarding disturbance of trees or other vegetation on state rights of way shall be considered by the department as part of the evaluation process for any permit or permit renewal application.

(4) Prior to approving any permit application to remove allegedly diseased trees, the department shall verify that such trees are in fact diseased. Such determination shall be made by the department's landscape architect.

(5) A performance bond in an amount adequate for the requirements of the permit as determined by the department shall be required of each permittee.

(f)(1) No trees or other vegetation on state rights of way shall be trimmed, killed, or removed by any person other than in accordance with a permit issued under this Code section by any person other than the department or an authorized agent or contractor thereof.

(2) No outdoor advertising sign to which a permit under this Code section is applicable shall be unused for advertising for a period of six consecutive months or more.

(3) On and after July 1, 1999, no outdoor advertising sign to which a permit under this Code section is applicable shall be maintained in such a condition of disrepair as

to be unusable for advertising.

(4) (A) In cases where the department has reasonable cause to believe that a violation of this subsection has been committed by any person, the procedures provided under Code Section 32-6-95 shall apply the same as in cases wherein the department believes that a sign is being maintained in violation of this part.

(B) Following notice, hearing, and a finding that a person has committed a violation of paragraph (1) of this subsection, a civil fine of not less than \$10,000.00 nor more than \$20,000.00, and restitution in an amount equal to the appraised value of the trees or vegetation, or both, which were unlawfully trimmed or removed, shall be imposed on such person.

(C) Following notice, hearing, and a finding that a permittee under this Code section has committed a violation of paragraph (2) of this subsection, an order directing the removal of such unused sign, at the expense of the permittee, shall be issued.

(D) Following notice, hearing, and a finding that a permittee under this Code section has committed a violation of paragraph (3) of this subsection, an order directing the removal of such unusable sign shall be issued.

(E) The department or its authorized agents shall be authorized to enter upon private lands and disassemble and remove signs without civil or criminal liability therefor pursuant to an order issued in accordance with this paragraph and as provided by Code Section 32-6-96 for disassembly and removal of illegal outdoor advertising signs.

32-6-79. Permits for nonconforming signs; right of department to refuse to issue additional permits to persons maintaining illegal sign; appeal from department's decision

(a) On and after October 6, 1971, no person, firm, or corporation shall erect or maintain a sign authorized by paragraph (1), (4), or (5) of Code Section 32-6-72 without a permit issued by the department.

(b) On and after January 1, 1972, no person, firm, or corporation shall maintain a sign lawfully in existence on October 6, 1971, and which is authorized by this part without a permit issued by the department.

(c) On and after March 4, 1977, no person, firm, or corporation shall erect or maintain a sign authorized by paragraph (1) of Code Section 32-6-73 without a permit issued by the department.

(d) On and after July 1, 1977, no person, firm, or corporation shall maintain a sign lawfully in existence on March 4, 1977, and which sign is authorized by paragraph (1) of Code Section 32-6-73 without a permit issued by the department.

(e)(1) It is the intent of this Code section to provide for a system of cataloguing and registering nonconforming signs in order to administer this part more adequately. The department is authorized to promulgate rules and regulations consistent with this Code section requiring the registration of nonconforming signs; and such rules and regulations shall inform the applicants of the procedures to make

application for nonconforming sign permits.

(2) From March 24, 1980, all persons, firms, or corporations who own nonconforming signs as defined in paragraph (12) of Code Section 32-6-71 shall have a period of one year during which time they shall be required to file application for nonconforming sign permits. Applications for nonconforming sign permits shall be made upon forms prescribed and provided by the department and shall contain the signature of the applicant and such other information as may be required by the department's rules and regulations. If the applicant files the application for a nonconforming sign permit upon the forms and according to the procedures provided by the department and within the specified time period of one year, the application shall be considered to have been filed timely and properly. An application fee of \$50.00 shall accompany the application for each nonconforming sign and both the application and the fee shall be submitted to the department. The money received from permit fees shall be used to help defray the expenses of administering this part, Code Section 48-2-17 to the contrary notwithstanding. The department shall have a period of two years from March 24, 1980, to process applications for nonconforming sign permits. If at the end of this two-year period the department has failed to approve or deny a proper and completed application, it shall be conclusively presumed for all purposes that the sign can be permitted as a nonconforming sign and the department must issue the permit within a reasonable time. Should the department deny the application for a nonconforming sign permit, the applicant may seek relief in accordance with Code Sections 50-13-13 through 50-13-18. In cases where the applicant fails to exhaust the procedures prescribed by Code Sections 50-13-13 through 50-13-18, the department's denial of the permit request will be final and the sign shall then become an illegal sign as defined by paragraph (6) of Code Section 32-6-71 and shall be subject to removal under the terms of this part.

(3) If the owner of the nonconforming sign fails to apply properly for a permit, it is conclusively presumed that the sign has been abandoned, and the sign shall then become an illegal sign as defined by paragraph (6) of Code Section 32-6-71, and the sign shall be subject to removal under the terms of this part.

(f) On or after March 24, 1980, the department shall have the right to refuse to issue any additional permits to any person, firm, or corporation who the department determines is maintaining or is allowing to be maintained an illegal sign or signs as defined by paragraph (6) of Code Section 32-6-71 on the interstate or primary highways in this state until such illegal sign or signs are removed. The refusal by the department to issue any additional permits shall not be considered a final denial. If the applicant does not believe the sign or signs designated by the department are illegal, the applicant may seek relief in accordance with Code Sections 50-13-13 through 50-13-18. Unless, within 120 days after the applicant has requested an administrative hearing, the department has issued a final agency decision that the sign or signs are illegal, the department may no longer refuse to issue permits because of a contention that an illegal sign or signs are being maintained.

32-6-80. Renewal of permits for nonconforming signs; transfer of permits for nonconforming signs

(a) After March 24, 1980, renewal of permits for nonconforming signs as defined in paragraph (12) of Code Section 32-6-71 and as authorized in subsection (e) of Code Section 32-6-79 shall be made to the department upon forms prescribed by the

department; shall contain the signature of the applicant and such other information as may be required by the department's rules and regulations; and shall be verified under oath by the person, firm, or corporation making the application. Permit renewals shall be issued and shall be valid only if the sign is maintained in accordance with this part during the 12 month period next following the date of issuance. The fee for the renewal of a permit shall be \$25.00. The money received from permit fees shall be used to help defray the expenses of administering this part. Upon receipt of a properly executed application and the appropriate fee for the maintenance of a sign which may be lawfully maintained pursuant to this part, the department shall, within 60 days, issue a permit renewal authorizing the maintenance of the sign for which application is made. Application for the renewal of a permit shall be made to the department not more than 90 days nor less than 60 days before the expiration date of the permit for which renewal is sought. If the department fails to receive the renewal application before the expiration date of the permit, the department will notify the applicant that the renewal application is overdue when the applicant's address is known or reasonably available to the department and shall give the applicant 30 days after the expiration date to send the department the renewal application. If the applicant does not send the properly executed application and the appropriate fee within the specified 30 day period, the sign shall then become an illegal sign. No permit shall be renewed if the application for the renewal thereof has not been made in accordance with this Code section.

(b) Permits shall be transferable. An application to have the permit transferred shall be made within 30 days of the change in ownership of the sign; shall be made to the department upon forms prescribed by the department; shall contain the signature of the applicant and such other information as may be required by the department; and shall be verified under oath by the person, firm, or corporation making application for transfer. Failure to comply in a timely and proper manner with this subsection shall be grounds for revocation of the permit.

#### 32-6-81. Revocation or withholding of permits for illegal or unauthorized actions against the department's property

(a) It shall be cause for the department to revoke a sign permit or refuse to issue a sign permit if any of the department's property on the rights of way, including but not limited to trees, vegetation, or fences, is destroyed, damaged, converted, or altered by or on behalf of a person, firm, or corporation who owns, erects, maintains, leases, or uses any sign which is controlled by this part. When the department believes that any of the aforesaid property has been destroyed, damaged, converted, or altered, the department shall make a preliminary investigation and based on its findings may:

(1) Revoke the permit or permits of any owner of a sign or signs if the department determines that the person, firm, or corporation who owns the land or who owns, erects, maintains, leases, or uses the sign or signs caused, hired, procured, or consciously or by design consented to any of the illegal acts described in this paragraph at or near the sign site, thereby depriving the sign owner of the permit to use that site; or

(2) Refuse to issue a permit or permits for a sign site or sites for a period not to exceed five years if the department determines that the applicant has caused, hired, procured, or consciously or by design consented to any of the illegal acts described in

this subsection on the department's rights of way within 500 feet on either side of that sign site or sites.

(b) Before the actions listed in paragraph (1) of subsection (a) of this Code section may be taken, the department shall give 30 days' written notice via certified mail or statutory overnight delivery to the permit holder; and this notice shall apprise the permit holder of a hearing that will be held in accordance with Code Sections 50-13-13 through 50-13-18. If the action described in paragraph (2) of subsection (a) of this Code section is taken, the department shall state this in its refusal to issue a permit, and the applicant shall have the right to an administrative review of this action as provided by Code Sections 50-13-13 through 50-13-18.

32-6-82. Acquisition by department of property rights in outdoor advertising which does not comply with requirements of part

The department is authorized to acquire by purchase, gift, or condemnation and to pay just compensation for any property rights in outdoor advertising signs, displays, and devices which were lawfully erected in compliance with the applicable laws in effect at the time of erection but which do not conform to this part or which fail to comply with this part due to changed conditions beyond the control of the sign owner. The department shall be limited to an expenditure of \$5 million for the state's portion of just compensation. The department shall be prohibited from paying more than 25 percent of any award for just compensation.

32-6-83. Acquisition by municipal corporation or county of outdoor advertising which does not comply with requirements of applicable ordinances, regulations, or resolutions

Any municipal corporation or county is authorized to acquire by purchase, gift, or condemnation and to pay just compensation for any property rights in outdoor advertising signs, displays, and devices which were lawfully erected but which do not conform with the provisions of any lawful ordinance, regulation, or resolution or which at a later date fail to comply with the provisions of any lawful ordinance, regulation, or resolution due to changed conditions beyond the control of the sign owner. No municipal corporation or county shall remove or cause to be removed any such nonconforming outdoor advertising sign, display, or device without paying just compensation. Such compensation shall be paid in accordance with the conditions stated in Code Section 32-6-84. For the purposes of this Code section, the term "devices" means light, lighting fixtures, or other fixtures which are permanently attached to an advertising sign or display.

32-6-84. Interests and losses which may be compensable under Code Sections 32-6-82 and 32-6-83

The compensation provided for in Code Sections 32-6-82 and 32-6-83 is authorized to be paid only for the following:

(1) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device;

(2) The taking from the owner of the real property on which the sign, display, or device is located of the right to erect and maintain such signs, displays, and devices thereon;

(3) The actual financial loss suffered by the lessee under a written lease expressly and solely permitting the erection and maintenance of a sign, display, or device (which was lawful on the date such lease was executed) because of the refusal by the department to issue a permit for the erection of such sign, display, or device, provided that the amount of compensation paid may not exceed the pro rata part of the entire rental paid and to be paid under such lease for the unelapsed portion thereof remaining on July 1, 1973; or

(4) The actual financial loss suffered by the lessor under a written lease expressly and solely permitting the erection and maintenance of a sign, display, or device (which was lawful on the date such lease was executed) because of the refusal by the department to issue a permit for the erection of such sign, display, or device, provided that the amount of compensation paid may not exceed the pro rata part of the entire rental paid and to be paid under such lease for the unelapsed portion thereof remaining on July 1, 1973.

32-6-85. Department's exercise of eminent domain power to acquire interests specified in Code Section 32-6-84

Whenever it is necessary, in the judgment of the commissioner, to acquire those interests specified in Code Section 32-6-84, the department may exercise the power of eminent domain in the manner provided in Article 1 of Chapter 3 of this title for the acquisition of real property needed for the construction of highways.