

LEGISLATIVE BILL 241

Approved by the Governor April 30, 1981

Introduced by Wesely, 26; Haberman, 44

AN ACT relating to zoning and planning; to amend sections 19-904.01 and 23-173.01, Reissue Revised Statutes of Nebraska, 1943; to provide compensation for the taking of outdoor signs as prescribed; to change provisions relating to compensation for nonconforming uses; to provide when alteration to become conforming shall be required; to provide when nonconforming use may be allowed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) Before an outdoor advertising sign, display, or device is removed, taken, or appropriated through the use of zoning or any other power or authority possessed by the state, a state agency, or a political subdivision of the state:

(a) The value of the sign, display, or device shall be determined by the taking entity without the use of any amortization schedule; and

(b) The owners of the sign, display, or device shall be paid the fair and reasonable market value for such removal, taking, or appropriation, which fair and reasonable market value shall be based upon the depreciated reproduction cost of such sign, display, or device using as a guideline the Nebraska Sign Schedule developed and used by the Department of Roads, except that, when feasible, the taking entity may elect to relocate such sign, display, or device, in which event the owners of the sign, display, or device shall be paid the actual and necessary relocation cost therefor.

(2) Subsection (1) of this section shall not apply to:

(a) Actions taken by the Department of Roads pursuant to sections 39-1320 to 39-1320.15; and

(b) The removal, taking, or appropriation of a sign, display, or device which (i) is insecurely fixed or inadequately maintained such that the sign, display, or device constitutes a danger to the public health or safety, or (ii) has been abandoned or no longer used by the owners for at least six months.

Sec. 2. If a nonconforming advertising sign, display, or device is located on premises leased or owned for the purpose of conducting a business or on commercial or industrial premises leased for the purpose of sign erection, such sign, display, or device shall be required to conform to existing codes and regulations, when such sign, display, or device is changed or altered as a result of either transfer of ownership of the premises or business or a change in the type of business or use of the premises. Such sign, display, or device may be allowed to remain as a nonconforming use subject to applicable normal nonreplacement and nonalteration standards as determined by the state, a state agency, or political subdivision of the state.

Sec. 3. That section 19-904.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-904.01. The use of a building, structure, or land, existing and lawful at the time of the adoption of a zoning regulation, or at the time of an amendment of a regulation, may, except as provided in this section, be continued, although such use does not conform with provisions of such regulation or amendment; and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. If such nonconforming use is in fact discontinued for a period of twelve months, such right to the nonconforming use shall be forfeited and any future use of the building and premises shall conform to the regulation. The municipal legislative body may provide in any zoning regulation for the restoration, reconstruction, extension, or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning regulations. The municipal legislative body may, in any zoning regulation, provide for the termination of nonconforming uses, either by specifying the period or periods in which nonconforming uses shall be required to cease, or by providing a formula whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery of amortization of the investment in the nonconformance, except that in the case of a legally erected outdoor advertising sign, display, or device, no amortization schedule shall be used.

Sec. 4. That section 23-173.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-173.01. The use of a building, structure, or land, existing and lawful at the time of the enactment of

a zoning regulation, or at the time of an amendment of a regulation, may, except as provided in this section, be continued, although such use does not conform with the provisions of such regulation or amendment, and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. If such nonconforming use is in fact discontinued for a period of twelve months, such right to the nonconforming use shall be forfeited and any future use of the building and premises shall conform to the regulation. The county board may provide in any zoning regulation for the restoration, reconstruction, extension, or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning resolution. The county board may, in any zoning regulation, provide for the termination of nonconforming uses, either by specifying the period or periods in which nonconforming uses shall be required to cease, or by providing a formula whereby the compulsory termination of a nonconforming use may be so fixed as to allow for the recovery or amortization of the investment in the nonconformance, except that in the case of a legally erected outdoor advertising sign, device, or display, no amortization schedule shall be used.

Sec. 5. That original sections 19-904.01 and 23-173.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.