

28 Section 1. Section **72-5-104** is amended to read:

29 **72-5-104. Public use constituting dedication -- Scope.**

30 (1) As used in this section, "highway," "street," or "road" does not include an area  
 31 principally used as a parking lot.

32 [~~(1)~~] (2) (a) A highway is dedicated and abandoned to the use of the public when it has  
 33 been continuously used as a public thoroughfare for a period of 10 years.

34 (b) Dedication to the use of the public under Subsection [~~(1)~~] (2) does not require an  
 35 act of dedication or implied dedication by the property owner.

36 [~~(2)~~] (3) The requirement of continuous use under Subsection [~~(1)~~] (2) is satisfied if the  
 37 use is as frequent as the public finds convenient or necessary and may be seasonal or follow  
 38 some other pattern.

39 [~~(3)~~] (4) Continuous use as a public thoroughfare under Subsection [~~(1)~~] (2) is  
 40 interrupted only when:

41 (a) the regularly established pattern and frequency of public use for the given road has  
 42 actually been interrupted ~~Ĥ~~ → **for a period of no less than 24 hours** ← ~~Ĥ~~ to a degree that  
 42a reasonably puts the traveling public on notice; or

43 (b) for interruptions by use of a [~~manned~~] barricade on or after May 10, 2011:

44 (i) ~~Ĥ~~ → **if** ← ~~Ĥ~~ the person or entity interrupting the continuous use gives not less  
 44a than 72 hours  
 45 advance written notice of the interruption to the highway authority having jurisdiction of the  
 46 highway, street, or road; and

47 (ii) the [~~manned~~] barricade is [~~maintained~~] in place for at least 24 consecutive hours  
 47a ~~Ĥ~~ → **, then an interruption will be deemed to have occurred** ← ~~Ĥ~~ .

48 [~~(4)~~] (5) Installation of gates and posting of no trespassing signs are relevant forms of  
 49 evidence but are not solely determinative of whether an interruption has occurred.

50 [~~(5)~~] (6) If the highway authority having jurisdiction of the highway, street, or road  
 51 demands that an interruption cease or that a barrier or barricade blocking public access be  
 52 removed and the property owner accedes to the demand, the attempted interruption does not  
 53 constitute an interruption under Subsection [~~(3)~~] (4).

54 [~~(6)~~] (7) (a) The burden of proving dedication under Subsection [~~(1)~~] (2) is on the party  
 55 asserting the dedication.

56 (b) The burden of proving interruption under Subsection [~~(3)~~] (4) is on the party  
 57 asserting the interruption.

58 [~~(7)~~] (8) The dedication and abandonment creates a right-of-way held by the state in