Song Parody & Fair Use Laws

What is fair use?
The fair use of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching, scholarship, or research, is not an infringement of copyright.

How do I know if it's considered fair use?
The factors to consider:
- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- The nature of the copyrighted work;
- The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- The effect of the use upon the potential market for or value of the copyrighted work.

Give me some specific examples:
The courts might regard as fair use under the circumstances: “quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for clarification of the author's observations; use in a parody of some of the content of the work parodied; reproduction by a teacher or student of a small part of a work to illustrate a lesson...” (Library of Congress, Copyright Office)

Examples of Parody Cases
- Fair use. The composers of the song “When Sunny Gets Blue” claimed that their song was infringed by “When Sonny Sniffs Glue,” a 29-second parody that altered the original lyric line and borrowed six bars of the song. A court determined this parody was excused as a fair use. Important factors: Only 29 seconds of music were borrowed (not the complete song). (Fisher v. Dees, 794 F.2d 432 (9th Cir. 1986). (Note: As a general rule, parodying more than a few lines of a song lyric is unlikely to be excused as a fair use. Performers such as Weird Al Yankovic, who earn a living by humorously modifying hit songs, seek permission of the songwriters before recording their parodies.)

- Fair use. Comedians on the late-night television show Saturday Night Live parodied the song “I Love New York” using the words “I Love Sodom.” Only the words “I Love” and four musical notes were taken from the original work. Important factors: The Saturday Night Live version of the jingle did not compete with or detract from the original song. (Elsmere Music, Inc. v. National Broadcasting Co., 482 F. Supp. 741 (S.D. N.Y.), aff'd 632 F.2d 252 (2d Cir. 1980). (Stim, 2013)

Sources: